

# Monitor

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*In this issue:*

The Con



Having announced in the Queen's Speech its intention to legislate for House of Lords reform in this parliamentary session, the Government unexpectedly abandoned its Bill before it was published. The Bill, to remove the remaining 92 hereditary peers and put the Appointments Commission on a statutory footing, had been expected since late 2003 and its publication had been rumoured in the press on an almost weekly basis through January and February 2004. In the end the cabinet decided to ditch the proposals on 18 March.

There were a number of reasons for this. Firstly, there were growing concerns about the Government's ability to get the bill through the Lords, and the longer it was delayed the more problematic this got. The government had been unable to secure an agreement with the Liberal Democrats, who remained implacably opposed to removing the hereditaries without a firm promise of further reform to introduce elections. Without their support it was unlikely to pass. The Government had already been hit by significant defeats in the Lords, which is increasingly showing its muscle in its 'semi-reformed' state. Most significantly, it was defeated on 8 March over the Constitutional Reform Bill (see page 2), which the Lords chose to send to a select committee for detailed consideration.

The Government had also been forced to withdraw an 'ouster clause' in the Asylum and Immigration Bill, which would have removed rights of appeal from asylum claimants, following Lords opposition. Lord Chief Justice Lord Woolf had expressed concerns and it was rumoured that former Lord Chancellor Lord Irvine would lead a revolt. The Lords also later defeated the government five times over the Local Elections (Pilots) Bill (see page 9), though it finally backed down. In this climate it was increasingly difficult to envisage a Lords reform bill getting through. Additionally, the Government had realised—at a very late stage—that it would be impossible to draft a bill that would not be amendable to introduce elections. With supporters of a largely elected upper house in all main parties (the proposal for

an 80% elected chamber failed by just three votes in the House of Commons in February 2003) the government could also have been vulnerable to Commons defeat, or at least to a sizeable backbench rebellion.

The loss of the Bill means that some of its more laudable elements—notably the statutory requirement that the balance of appointments to the chamber reflect vote shares at general elections—have also been lost. Had the government wished to it could have stated a commitment to this principle on a non-statutory basis, and indeed could have given greater powers to the non-statutory Appointments Commission to ensure this, but it chose not to do so.

Instead attention has shifted to policy for the next Labour manifesto, and the next parliament. Government ministers are increasingly frustrated with the Lords' interventionism, and there have been suggestions from both Commons Leader Peter Hain and Lords Leader Baroness Amos that the chamber's powers should be cut. It is hard to see, however, how government could win public backing for a proposal to formally weaken parliament, and such a bill would almost certainly be rejected by the Lords. Ministers have taken to stating statistics about the number of Lords defeats under Labour and Conservative governments, to indicate that the Lords retains an innately anti-Labour bias. What this overlooks, of course, is that no Conservative government has yet faced the semi-reformed house. As party numbers are now roughly at parity, the Conservatives would almost certainly face equal problems. Labour, ironically, will see the benefit of its own reforms only when back in opposition.

Labour peers' frustration at the Government's abandonment of the bill, and at this 'anti Lords' rhetoric, has led them to create their own group to consider the role, functions and powers of the upper house. It is chaired by former minister Lord Hunt of Kings Heath, and aims to feed into the manifesto for the next General Election.



## Devolution

### Scotland

On 9 February Alistair Darling (Secretary of State for Scotland) announced that an advisory commission on Scotland's constituency boundaries would be established. On 25 May Sir John Arbuthnott, former Principal of Strathclyde University, was named chair of the Commission on Boundary Differences and Voting Systems. The Commission will confront unresolved issues around electoral systems. Concern has been expressed that the four different electoral systems operating in Scotland will lead to confusion.

In a related development, the Scottish Executive secured support for its proposals for a new electoral system for Scottish local government. Two Labour MSPs voted against the proposal and six others abstained at Stage 2 of the legislation's progress through the Scottish Parliament. With a majority of 95:19, it was clear that Labour opposition had fizzled out despite the opposition of a significant number of Labour councillors around Scotland including some senior figures. The Single Transferable Vote (STV) is set to become the system adopted in Scottish local elections from 2007.

Meanwhile, in June the European elections will use the 'list system' of proportional representation. Voters will be asked to select from closed party lists, with seven seats (down from eight before the accession of new EU members in May) available on a Scotland-wide basis. Though there has been little media coverage, reflecting the limited effort put into these elections by the parties, there has been speculation as to the implications for the UK general election (which, of course, uses the traditional first-past-the-post system).

EU Fisheries policy has been a recurrent issue this quarter as a consequence of the draft EU Constitution and the European elections. With Tony Blair declaring that there would be a referendum on the new constitution, the SNP has seen this as an opportunity to demand that the Prime Minister include the fisheries element amongst his 'red line' issues in negotiations with EU partners. Relations with the EU are reserved to Westminster, but the issue has persistently been raised in the Scottish Parliament by the SNP in particular. This has

caused discomfort for the Liberal Democrats, who have significant representation in fishing communities in North-East Scotland, Orkney and Shetland.

Law and order has proved a running sore for the Executive despite First Minister Jack McConnell's assertions that it was his first priority. Attention has focused on the privatised prison escort service. The company involved has had a poor record in ensuring that prisoners appear before the courts, releasing a number of prisoners prematurely. This has given rise to concern, and led to demands that the details of the contract agreed with the Executive be released to the public. The Executive's reluctance to do so looks set to become a test of the openness of Scotland's politics.

### Wales: *The Richard Commission*

The National Assembly will gain primary legislative powers along the lines of the Scottish Parliament, with 80 members elected by STV, if the recommendations of the Richard Commission are adopted.

Published at the end of March, the Commission's report highlights the extent to which the relationship between the Assembly and Westminster has evolved over the past five years. As Lord Richard put it, "My feeling is that the Assembly is very rapidly outgrowing the existing structure." The result of an 18 month investigation, the report's main recommendations are:

There should be a new Wales Commission to advise the Assembly on all matters relating to the Assembly's powers and the relationship between the Assembly and Westminster.



instance of a wider souring of Protestant opinion evident in the Northern Ireland Life and Times Survey.

The fourth, also apparent in the NILTS data, was a rather less positive retrospective in the public mind on the devolution experience. Across the board, fewer than before felt the administration had made a difference.

The fifth was unexpected, yet in a way the most telling. It emerged that as part of the failed pre-election ‘choreography’ of last October, Dublin had agreed a side-deal with the republican movement that the IRA killers of Garda Jerry McCabe in 1996 would be released. Outrage among the Gardaí was only assuaged when the justice minister made clear this deal—conditional on an end to IRA paramilitarism—would not be effected for the foreseeable future.

The official view, in London and Dublin, is that progress is on hold until the autumn, following the European elections and the ‘marching season’. It could be a lot longer.

### *English Regions*

With referendums in the three northern regions now just five months away, Deputy Prime Minister John Prescott continues to press the case for regional assemblies. The three northern regions hosted the ‘Your Say’ hearings, aimed at sounding out the public (along with invited attendees from the regions) on what powers and functions they would like to see.

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### *Project News: Study of Overseas Caseloads for the Information Commissioner's Office*

In this three month study, The Constitution Unit undertook comparative research on five jurisdictions to estimate the likely volume, sensitivity and complexity of his casework under the Freedom of Information Act 2000 and the Environmental Information Regulations for the UK Information Commissioner.

The study is published on the Com-missioner's website, <http://www.ico.gov.uk>

### *Assessment of Readiness of Countryside Agency*

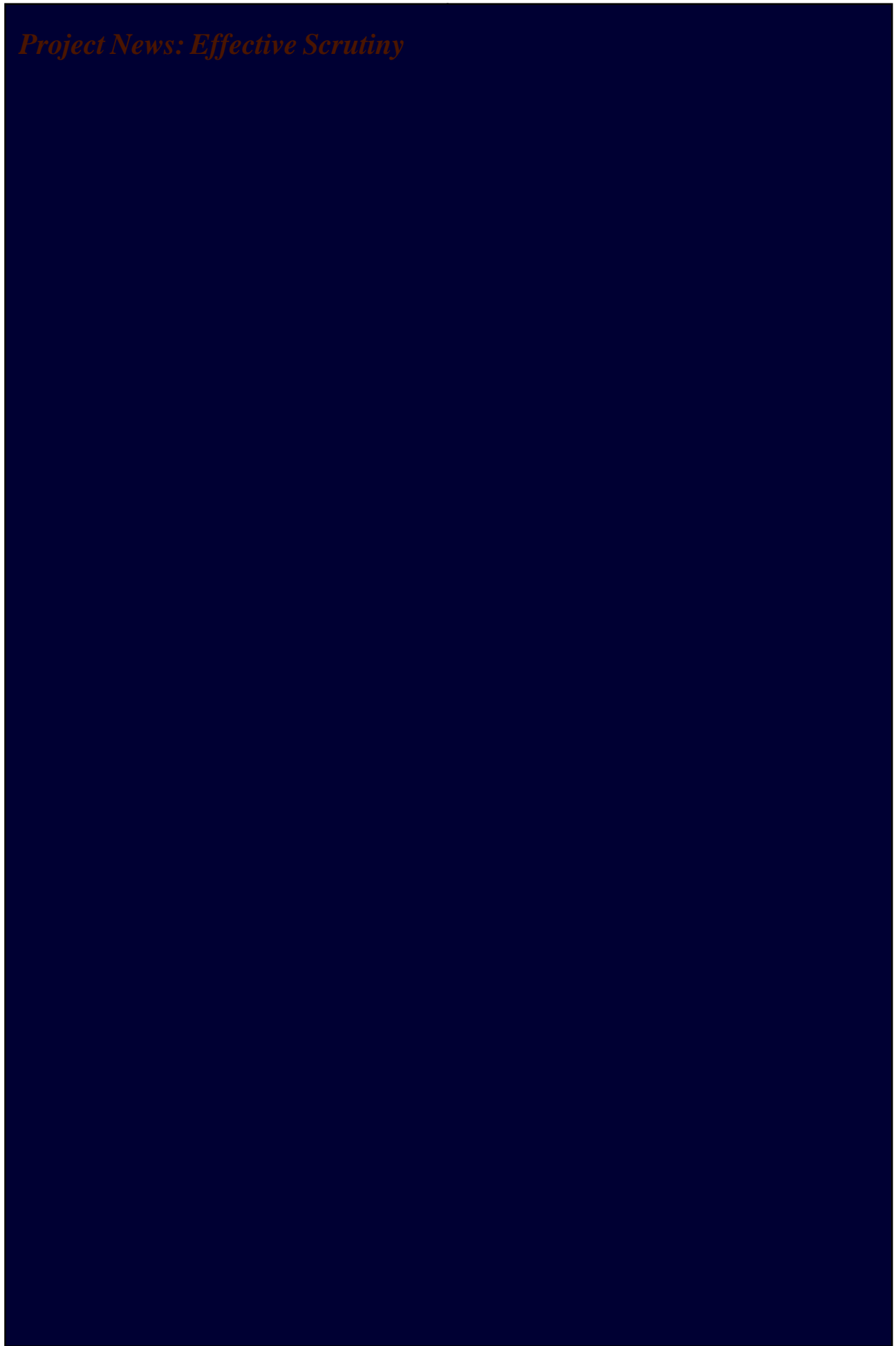
In this two month study, The Constitution Unit assessed the Countryside Agency's readiness to implement the Freedom of Information Act 2000 (Fol Act) fully in January 2005 and recommended the actions needed to achieve this. We analysed the Agency's policies, planning and practice in fields relevant to Fol implementation and assessed the awareness of Fol and staff attitudes to openness.

## *Elections and Parties*

### *Electoral Pilots*

The European and local elections in four regions—the East Midlands, North East, North West and Yorkshire and the Humber—will be

*Project News: Effective Scrutiny*



## Publications

### ***Review: How Parliament Works— 5th Edition***

***Robert Rogers and Rhodri Walters, Pearson,  
2004, 437pp, ISBN 0 582 43744 X***

Now in its fifth edition, 'How Parliament Works' is effectively a guidebook of the UK Parliament. It takes the reader through a tour of both chambers in terms of both their procedures and structures and introduces the reader to Parliament's inhabitants, both members and officials. It also maps Parliament's relations with the devolved institutions in the UK and with the European Union. The fifth edition covers roughly the same ground as the fourth, but it is a total recasting of the work, comprising completely new text. Although concise, 'How Parliament Works' contains an incredibly large amount of detail with well thought out examples and historical context. Its clear style makes it suitable for a wide range of audiences including civil servants, journalists, and students of politics and parliaments at various levels.

One of the most useful and unusual aspects of this volume is its use of graphics. Not only does it explain what the process of deciding the business of the House of Commons, it shows part of an order paper. Not only does it explain

the form of a bill and its passage through Parliament, it shows what a Bill looks like. Together with maps of the Parliamentary estate and seating plans for both chambers, select committees and standing committees, it gives a real taste of Parliament to the reader and a practical way of visualising and understanding how Parliament works.

The final chapter of the book asks 'what do we expect Parliament to do for us, and how could it do those tasks more effectively?'. It explains recent changes to Parliament's structures and procedures and sets out possible ways forward in increasing effectiveness. With the Commons, in the context of declining turnout at general elections, it focuses on reconnecting Parliament with the public, as well as looking at more traditional reform proposals. These include reform of select committees and the introduction of a business committee. In the Lords the focus is on the future of reform of the membership of the House of Lords and the government's proposed abolition of the position of Lord Chancellor, along with the working practices of the chamber. 'How Parliament Works' leaves us with the reminder that no parliament is perfect, but Parliament matters, and it matters that people understand how it works.

# BulletinBoard

## *Unit Publications*

You can now order our publications on line. Visit <http://www.ucl.ac.uk/constitution-unit/publications> for more information.

Lucinda Maer and Mark Sandford, *Select Committees under Scrutiny*, London, Constitution Unit, 2004, 43pp, £10

Catherine Bromley, Ben Seyd and John Curtice, *Is Britain Facing a Crisis of Democracy?* London, Constitution Unit, 2004, 17pp, £12

Mark Sandford and Lucinda Maer, *Issues of Importance: the scrutiny role of the London Assembly* London, Constitution Unit, 2004, 45pp, £10

Jim Amos, *Delivering Freedom of Information*, available at <http://www.lga.gov.uk/Publication.asp?lsection=0&ccat=28&id=SXAC5C-A7820404>

## *Constitution Unit Seminar Series*

Unless otherwise indicated these events are at the unit. Places are free and can be booked on line at <http://www.ucl.ac.uk/constitution-unit/events> or by contacting Matthew Butt, [m.butt@ucl.ac.uk](mailto:m.butt@ucl.ac.uk), 020 7679 4977

### *Can Regional Assemblies Deliver?*

Jane Thomas, Director, Yes4Yorkshire  
1pm, Wednesday 8 September 2004

### *The House of Lords, the Lord Chancellor and the New Supreme Court*

Lord Richard, Chair, House of Lords Select Committee on Constitutional Reform  
1pm, Wednesday 13 October 2004

### *The Referendum on the EU Constitution*

Sam Younger, Chair, Electoral Commission  
1pm, Wednesday 24 November 2004

### *Strategic Thinking and Cabinet Government*

Geoff Mulgan, former Director, Prime Minister's Strategy Unit

1pm, Wednesday 8 December 2004

## *Useful Recent Publications*

Richard Chapman, *The Civil Service Commission, 185–1991: A bureau biography*. London, Frank Cass, 2004. ISBN 0 7146 5340 3

Philip Coppel, *Information Rights*. 2004, London, Sweet & Maxwell. ISBN 0 421 77470 3

Oonagh Gay and Patricia Leopold, *Conduct Unbecoming: The Regulation of Parliamentary Behaviour*. 2004, London, Politico's Publishing. ISBN 1 842 75055 0

John McFadden and Mark Lazarowicz, *The Scottish Parliament: An introduction* 3rd Ed. 2004, London, Lexis Nexis. ISBN 0 406 96957 4

Derek Morgan Ed, 'Constitutional innovation: the creation of a Supreme Court for the United Kingdom; domestic, comparative and international reflections', a special issue of *Legal Studies*, Vol 24 nos 1&2. 2004, London, Butterworths. ISSN 0261 3875

Aharon Nathan, *Total Representation: A new electoral system for representative democracy*. 2004, London. ISBN 0 9547786 0 X

Robert Rogers and Rhodri Walters, *How Parliament Works*, fifth edition. 2004, Harlow, Pearson. ISBN 0 582 43744 X

Kelvin Smith, *Freedom of Information: A practical guide to implementing the Act*. 2004, London, Facet. ISBN 1 85604 517 X

Andrew le Sueur, *Building the UK's New Supreme Court: National and comparative perspectives*. 2004, Oxford, OUP. ISBN 0 19 926462 7

## *Events outside the Unit*

### *Federal Trust Conference on the future of Europe—Towards a European Constitution*

1–2 July, Goodenough College, London  
<http://www.fedtrust.co.uk/conference2004>