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CONSTITUTIONAL RENEWAL (CONT'D)

The impetus for this has come from a variety of sources. The tabloid campaign against the HRA, as ill-formed and inaccurate as it may be, seems to have generated political interest in drawing up a charter of basic rights that is seen as more genuinely 'British' in origin. The renewed debate on integration and the perceived need to encourage shared and distinct national values has also had an impact, with both Gordon Brown and David Cameron arguing in recent months that a bill of rights could help define such values. The Liberal Democrats for some time have supported including a British bill of rights within a written constitution, on the basis that it would reinforce, entrench and extend rights protection.

However, the difficulties of drafting a bill of rights should not be underestimated. For example, what would such a bill say about equality, diversity and multiculturalism in British society? Would it be confined to listing the classic civil and political rights, such as the right to freedom of expression, or would it also set out basic social entitlements, such as access to free health care and education? What would it say about jury trial, privacy rights, or the rights of non-citizens?



There are also complex issues about the design and content of any such document. A British bill of rights could be similar to that of the US in providing for full judicial override of executive and legislative acts that violate fundamental rights. Alternatively, it could be a purely declaratory document setting out shared values with no legal standing at all. Or it could lie somewhere between these poles. Also, difficult questions exist as to how a British bill of rights would interact with the existing HRA and ECHR. David Cameron has suggested replacing the HRA with a more authentic British set of rights than those in the ECHR. However, the ECHR was largely drafted by British lawyers to reflect the rights enjoyed in the UK legal system, and the UK would in any case continue to be bound by the Convention even if the HRA were repealed.

At present, the political discussion lacks real substance, even if a British bill of rights is now established on the constitutional reform agendas of all the major parties.



a draft agreement being put to the parties in August. On trade unions, it was again proposed that affiliation payments be seen as individual rather than collective contributions. Again, there were proposals about greater transparency, but the principal change was the removal of the apparent threat of 'contracting in'. For party expenditure, it was proposed that spending controls would now apply to the whole Westminster electoral cycle and that the differentiation between 'national' and 'local' spending should effectively disappear. Instead, a single overall limit would apply to each party, including all its constituent organisations throughout the electoral cycle.

Neither proposal was accepted. Labour continued to argue that this proposal would threaten their relationship with affiliated unions, whilst the Conservatives claimed the proposals on local expenditure would be needlessly bureaucratic, and would entrench the so-called information advantage enjoyed by incumbents (despite the fact that the use of MPs' allowances for electioneering is prohibited). However, the revelations of November 2007 have put party funding reform



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by a Cabinet minister, some of the committee's bolder suggestions were rejected by the government in its October response. Thus proposals for the reinstatement of providing time for debate on private members' motions and for a 30-minute weekly debate on a recent committee report fell by the wayside. Changes that were approved included a new facility for weekly 90-minute 'topical debates', and the division of departmental question times into 'closed' and 'open' periods. In the latter, members will be able to ask questions on any subject relating to the work of the department in question.

October also saw the launch of a Constitution Unit report, *The House Rules?* (further details on pp. 7-8), which advocated a more extensive range of reforms to give backbench members and committees greater influence over parliamentary business. The major recommendation was for the creation of a 'Backbench Business Committee' to schedule a weekly 'House Business' slot. Items of business to be taken in this period would include debates on committee reports and procedural reform, time for members' bills and motions, and general debates that are currently scheduled at government discretion. Crucially, the proposed new body would have the power to determine whether debates take place on substantive motions which, among other things, would have enabled backbenchers to force a vote on those Modernisation Committee proposals not favoured by government.

Parliamentary Petitions

The right of citizens to petition parliament is an ancient liberty exercised in England for at least 700 years. Prior to timetable reforms in 1842 thousands of petitions were lodged each year and several hours per day were devoted to their consideration. Since then the public petition has all but disappeared as a meaningful part of Westminster life, despite occasional calls for its revival.

In July 2007, the latest such appeal was made in Gordon Brown's *Governance of Britain* green paper, which called upon parliament to review its petitioning process, and create an 'e-petitions' facility similar to that on the Number 10 website. This, the government claimed, 'would provide a modern mechanism for the public to engage with Parliament and would allow Parliament to demonstrate that it actively listens to the views of those it serves' (*Governance of Britain*, Cm 7170, p. 47). Subsequently, the Commons Procedure

Committee launched an inquiry into e-petitions. Part of this is an 'e-consultation' inviting public responses to three questions: whether respondents would consider signing an e-petition, what role MPs should play in the petitioning system, and what result respondents would expect a petition to have (at: <http://forums.parliament.uk/e-petitions>).

Although the method of consultation adopted is innovative, the committee is an unlikely champion of direct democracy. In an earlier inquiry it rejected ideas such as a dedicated petitions committee, direct petitioning of parliament by the public (bypassing MPs), and a requirement that select committees respond to petitions falling within their remit (*Public Petitions and Early Day Motions*, HC 513, May 2007). On the other hand, the committee did propose that 'there should be a regular opportunity for Members to initiate a debate on a specific Petition' (ibid, p. 33),

Yet asked which factors are most important to determining the legitimacy of the House of Lords more people prioritise careful legislative scrutiny, trust in the appointments process, and acting in accordance with public opinion than prioritise inclusion of elected members. Full details can be found in a briefing on the Unit's Lords project website.

Lords personnel

The membership of the House continues to develop incrementally. Since September two new Crossbench members have been added by the Appointments Commission: Professor

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BULLETIN BOARD

CU PUBLICATIONS

- Better Government Initiative, *Governing Well* (October 2007). Available at: www.bettergovernmentinitiative.co.uk.
- Bourn, John, *Public Sector Auditing: Is it value for money?* (Chichester: John Wiley and Sons Ltd, 2007)
- House of Commons Modernisation Committee, *Revitalising the Chamber: The role of the back bench Member*, Session 2006-07, HC 337 (London: House of Commons, 2007)
- Jowell, Jeffrey and Dawn Oliver (eds.), *The Changing Constitution*, Sixth edition, (Oxford: Oxford University Press, 2007)
- Justice, *A British Bill of Rights: Informing the debate* (London: November 2007).
- King, Anthony, *The British Constitution*, (Oxford University Press, 2007)
- Ministry of Justice, *Freedom of Information Act 2000: Designation of additional public authorities*, Consultation Paper CP 27/07, (London: Ministry of Justice, 2007).
- Ministry of Justice, *The Governance of Britain: Judicial Appointments*, Cm 7210 (London: The Stationery Office, 2007).
- Ministry of Justice, *War powers and treaties: Limiting Executive powers*, Consultation Paper CP 26/07, Cm 7239 (London: The Stationery Office, 2007)
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