



The Construction Unit

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playing at the margins. With their task pre-empted by the Prime Minister, they want to hand the problem back to the Government after delivering a final report in March or April.

On the Government side Lords reform looks dead for a long time. The Prime Minister has lost interest, and any legislation would need to be introduced by the Lord Chancellor, who retains the policy lead within government. Now these two senior figures have come out in favour of an all-appointed House, the spotlight will shift back to the appointments system. The Prime Minister says he wants to give up his power of patronage, but shows little sign of doing so. The Government White Paper emasculated the Appointments Commission proposed by Wakeham, and proposed in its place a Commission which would appoint only the independent cross benchers.

Party nominees will always be liable to be criticised as 'Tony's cronies'. The prototype Appointments Commission has not fared much better. The first and only list of cross benchers put up by Lord Stevenson's new Appointments Commission in April 2001 was mocked in the press as being little different from previous lists of the great and the good. It was not the list of 'People's Peers' and hairdressers which No 10 had led the press to expect.

The Government may be tempted to find a new chairman, or to put the Appointments Commission on a statutory basis simply to give it a fresh start. But that would re-open the whole issue of appointment versus election. It would also expose the awkward issue of how, simply through a process of appointment, the House of Lords can be made more 'democratic and representative', which Labour promised in their manifestos of 1997 and 2001.

Parliament

Inquiry on the Royal Prerogative and the honours system

The Public Administration Committee announced this latest examination of prerogative powers on 12 February and it is due to report later in 2003.

Parliamentary allowances

The Speaker of the House of Commons has announced that details of individual MPs' expenditure on parliamentary allowances will be made public from 2004. This will bring the Commons into line with practice in the Scottish Parliament and the Northern Ireland Assembly, which have already published details of individual allowances. (The Assembly in Wales has concerns about data protection, which should be resolved after the May elections). The Commons will be publishing information retrospectively, back to 2001-2. MPs and staff have a year to prepare, but the system is already under examination following the Standards Commissioner enquiry into Michael Trend MP's claims for allowance in February 2003. Sir Philip Mawer's report (HC435) made clear that the payment of allowances is not covered by parliamentary privilege, so serious abuses could end in criminal prosecutions. It also suggested that the Commons authorities could do more to offer advice and make more effective checks on payments to MPs.

By-election for hereditary peers

Details of the by-election to replace the deceased

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This event was only one manifestation of difficulties created by the dispute. Education Minister Cathy Jamieson was criticised for not being 'on message' but the relations between London and Edinburgh on the fire dispute and the crisis in the Scottish fishing industry proved a running sore during the quarter. Calls were made for the Scottish Executive to negotiate a separate pay agreement with the Fire Brigades Union. An attempt by the Executive to quietly pass an amendment to 1947 legislation which would have empowered it to close fire stations was defeated when Cathy Craigie, a Labour whip abstained 'by mistake'. John Prescott's statement at Westminster that London might impose a settlement provoked criticisms of the Executive for failing to differ with this policy and raised questions about the degree to which London had consulted Edinburgh prior to Prescott's announcement. The UK negotiating position on European fisheries policy and the Scottish Executive's input also came under scrutiny. Temperatures were raised given that the Scottish fishing industry faces collapse as a consequence of decisions made in Brussels. The Scottish Executive's involvement in this had been marginal.

Both the fire dispute and fishing highlight tensions in London-Edinburgh relations which are particularly sensitive in the months leading up to elections in May. The added prospect of war with Iraq only highlights the inability to isolate devolved and retained matters especially in the context of an election campaign.

Wales

Top-up fees for students attending University are set to cause the biggest stand off between Cardiff and Westminster since devolution, threatening the National Assembly's budget and highlighting tensions over its limited powers. The Assembly controls higher education spending and in theory could prevent the introduction of the top-up fees of up to £3,000 a year proposed by the English Education Secretary Charles Clarke in his White Paper at the end of January. However, the Assembly does not control student support. It is estimated that refusing to impose top-up fees could cost it around £80 million a year, half of which could be a subsidy to English students studying in Wales.

It had been widely trailed ahead of the White Paper that powers would be devolved to allow Cardiff to go its own way on the question. Instead, however, the issue was left unresolved following an inter-departmental argument in which the Wales Office

under the new Secretary of State Peter Hain sided with the Education Department, in arguing the case for Welsh discretion with the Office of the Deputy Prime Minister, and the Treasury. Clarke declared that no decision had been made on the "complex" negotiations. However, Welsh First Minister Rhodri Morgan was more forthright. "We've got the drains up at the moment," he said in early February. "Any solution has to find the extra cash Cardiff in particular would need to compete for the best academic staff against fee-charging Bristol and Bath just across the Bristol Channel. It's going to be a major test of how well we can work with Westminster. It is an issue of huge significance."

Welsh Education Minister Jane Davidson AM is on record as favouring a graduate tax. But before deciding a definitive policy the Assembly Government is awaiting the outcome of a European legal test case on the Scottish Parliament's abolition of top-up fees for Scottish students.

The issue is sure to play into the forthcoming Assembly election on 1 May 2003. It is giving Welsh Labour an opportunity to distance itself from the Blair government, perceived as becoming increasingly unpopular in Wales.

Northern Ireland

It was another quarter of 'logjam' and 'impasse' talk in Northern Ireland as the fourth suspension of the Assembly stretched to four months—the longest since power was transferred in December 1999. The crisp 'act of completion' (aka IRA disbandment) demanded from republicans by the Prime Minister in October, to restore plummeting Protestant confidence in the Belfast agreement, blurred into the further 'inch by inch negotiations' with Sinn Féin—other parties now reduced to onlookers—Mr Blair had abjured.

A new *de facto* 'deadline' (in the loose, Northern Ireland, sense) of St Patrick's Day was set for a deal which would allow the institutions to be restored and the assembly election to take place on 1 May 2003. The anticipated beneficiaries, the Democratic Unionist Party and SF, unsurprisingly insisted that the election go ahead anyway.

The suspension did not prove as debilitating to intergovernmental relations as had been expected. The British-Irish Council continued its (episodic) business as usual. And, to unionist chagrin, the north-south institutions in Ireland were effectively placed on an 'east-west' basis by London and Dublin to

ensure they would not atrophy. But poll data showed regret, particularly among Catholics, at the loss of self-government.

Direct-rule ministers, while wishing to be out of business at the earliest opportunity, kept the policy

Westminster MPs, and the Scotland Act will have to be amended. The necessary amendments will be

Fixing London

The Constitution Unit has published a new briefing, *Fixing London*, by Scott Greer and Mark Sandford. The briefing analyses the institutional capacity of the Greater London Authority to address issues of transport, economic development, infrastructure and modernisation. It argues that the tight financial limits on the GLA, added to the peculiar institutional structure under which the London Assembly and

the four 'functional bodies' work, are detrimental to the effectiveness of a strategic, enabling government. It recommends that the GLA should be permitted to issue bonds against future revenue, and that it should have greater power to switch funding between the functional bodies. This would enable more radical surgery to the transport and infrastructure of London without the need for transferring further functions from central government.

Big changes at the Lord Chancellor's Department

After the 2001 election we said the Lord Chancellor's department had become a Department of Justice and Constitutional Affairs in all but name. Now it

People on the move

Robert Behrens, formerly Director of the International Public Service Group in the Cabinet Office, succeeded Sarah Tyerman as Secretary of the Committee on Standards in Public Life on 24 February 2003.

Andrew McDonald has been appointed Director of Constitutional Affairs in the Lord Chancellor's Department, from 3 March 2003.

Scottish Local Government Elections Bill

The draft Local Governance (Scotland) Bill was unveiled on 4 February 2003 by Deputy Minister for Finance and Public Services, Peter Peacock. It proposes replacing the current first-past-the-post (FPTP) voting system with a single-transferable-vote (STV) regime. Most Labour councillors oppose PR and the Scottish party's ruling executive committee voted to reject electoral reform last July. The draft bill also contains plans to encourage more diversity among councillors, including a reduction in the lower age limit on eligibility for elections to 18. There are also plans to improve financial rewards for councillors and tie pay more closely to responsibility.

Equality legislation

On 14 January 2003 Lord Lester introduced his Equality Bill [HL 19 2003/03] in the House of Lords. The Bill is designed to pull together existing equalities legislation and to establish an Equality Commission for Great Britain to enforce implementation. The Bill proposes requirements that public bodies and employers take measures with a view to making progress towards achieving the goals of the promotion of equality of opportunity, the elimination of discrimination and the promotion of good relations between members of different racial groups. No date has yet been announced for the Bill's second reading.

Consultation on the Government's proposals for changes in equality laws ended on 14 February 2003 (on structural options) and 20 January 2003 (on legislative proposals). Updates on the Department of Trade and Industry's progress on reforms can be found at www.dti.gov.uk/er/equality.

Derogation from Article 3 of the ECHR raised by Blair

On 26 January 2003, speaking on the BBC's *Breakfast with Frost* programme, the Prime Minister raised the real possibility of Britain derogating from its commitment to the European Convention on

Consultation on entitlement cards ends

The Home Office consultation on entitlement cards ended on 31 January 2003. The Entitlement Cards Unit is now in the process of analysing the responses received.

The Information Commissioner published his response to the consultation on 13 February 2003. The Commissioner raised a concern about 'function creep', for legislation to 'include stronger effective restrictions against inappropriate demands on an individual to produce their card for inspection by others.' He also stated that any scheme and register should not be administered by a government department but by 'a new independent statutory

Human Rights (ECHR) in order to keep the numbers of people seeking asylum down. He stated that if current measures don't work, then 'we will have to consider further measures, including fundamentally looking at the obligations we have under the convention of human rights'. Article 3 bars the deportation of people to a country where they may suffer inhumane or degrading treatment, or torture. Under the Convention it is impossible to derogate from Article 3 as it is an absolute right, but some lawyers argue that Britain could withdraw from the ECHR completely and then re-enter with a clause attached to Article 3 allowing deportation when the nation was under threat.

EU accuses UK of human

body accountable to Parliament for the conduct of its functions'. Richard Thomas concluded that although he is of the view that 'it is not appropriate to take the stance that an entitlement card scheme should never be proceeded with on the grounds that there will always be insurmountable privacy and data protection obstacles... However, [I am] not satisfied that the current proposals would lead to establishing a data protection compliant scheme.'

Unit's first annual Access to Information Conference

The Constitution Unit, in association with Capita, is holding its first Annual Conference on Access to Information for the Public Sector on 14 May 2003. The keynote address will be given by Richard

Convention on the Future of Europe

Drafts of the first 16 articles of the proposed constitution for the EU were published on 6 February. The draft articles, produced by the president of the convention Giscard d'Estaing and his 12 member inner praesidium, deal with the EU's

Publication review

Parliament at the Apex

This pamphlet from the Hansard Society aims to take forward a theme developed in the Society's Commission on the Scrutiny Role of Parliament.

An array of independent regulators, commissions

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