

The Reshuffle in Perspective

Now the dust has settled on the media furore and cry over the reshuffle in Cabinet, the outlines of the new Department for Constitutional Affairs (DCA) are beginning to take shape. The main thing to note is that relatively little has changed so far as Scotland and Wales are concerned. The only significant change is that the Scottish Secretary and Welsh Secretary are now part time, combining those functions with other Cabinet posts. Alistair Darling is very part time, devoting the bulk of his time to Transport, and only 10–15% to Scotland. Peter Hain divides his time more equally, and still seeks a high profile in Wales. Scotland seemed quite relaxed about the loss of their full time Secretary of State, while Peter Hain was at pains to reassure the people of Wales that the Welsh Secretary and Wales Office would still exist. Little had changed and for Wales it was business as usual.

Officials in the Scotland Office and Wales Office continue to report direct to the Scottish Secretary and Welsh Secretary, and are part of the Department for Constitutional Affairs only for pay and rations purposes. Lord Falconer is described as being responsible for the overall devolution settlements and government policy on devolution, but in the House of Lords he spelt out the limitations on his role: “I do not have the ability to override the Secretaries of State for Wales and Scotland. Not one part of their powers has been transferred to my department. All that has happened is that their officials have moved there...”.

What has been lost is the opportunity to take a holistic, strategic view of devolution by bringing together in a single post responsibility for devolution in Scotland and Wales, as recommended by the Lords Select Committee on the Constitution in their January 2003 report on Devolution. The new DCA still has four separate responsibilities for devolution, for Scotland, Wales, Northern Ireland and the English regions. And in one respect the fragmentation has grown slightly worse. Whereas after the 2001 election a single cabinet committee was created responsible for the Nations and Regions since the reshuffle that has been split into two separate committees, one on Devolution Policy (PD), chaired by Lord Falconer, and the other on English Regional Policy (ERP), chaired by John Prescott. (For details of the new Cabinet Committees, see page 7).

On the justice side of the new department, officials moved swiftly to publish impressively thorough consultation papers on the new Supreme Court and Judicial Appointments Commission (for details see page 9). For September is promised a consultation paper on the abolition of the office of Lord Chancellor. The real mischief was the Lord Chancellor wearing too many different hats, as a member of the government, head of the judiciary and speaker of the House of Lords. Once those different hats have been removed, it is not clear why the office has to go also.

Robert Hazell, r.hazell@ucl.ac.uk

In this issue:

Regional Government—Timetable for Boundary Reviews	2
Lords Reform Gets Perilous	2
Parliament	3
Devolution	4
Civil Service and Government	6
Elections and Parties	8
Freedom of Information & Data Protection	9
The Courts	9
European Union News	10
Overseas News	10
Publications	11



Regional Government— Timetable for Boundary Reviews

The Boundary Committee for England has been charged with the job of recommending new forms of unitary local government structure in the three northern regions (North-East, North-West, Yorkshire & Humber) which will vote for or against elected regional assemblies. Authorities have the option of submitting proposals for a unitary pattern of authorities by 8 September.

It is likely that, if all councils in a given area can agree on a unitary pattern, the Boundary Committee will consider that pattern favourably. The Committee is also obliged to take into account the results of the recent Comprehensive Performance Assessment, though it is not clear as yet how this should be done: nor is it clear how much influence the boundaries of other public bodies, such as Local Strategic Partnerships or Primary Care Trusts, will be taken into account in drawing new unitary authority boundaries. These bodies often exist at a scale between the county and district council at present.

The Committee must publish at least two options in each region; its draft recommendations will be pub-

Lords Reform Gets Perilous

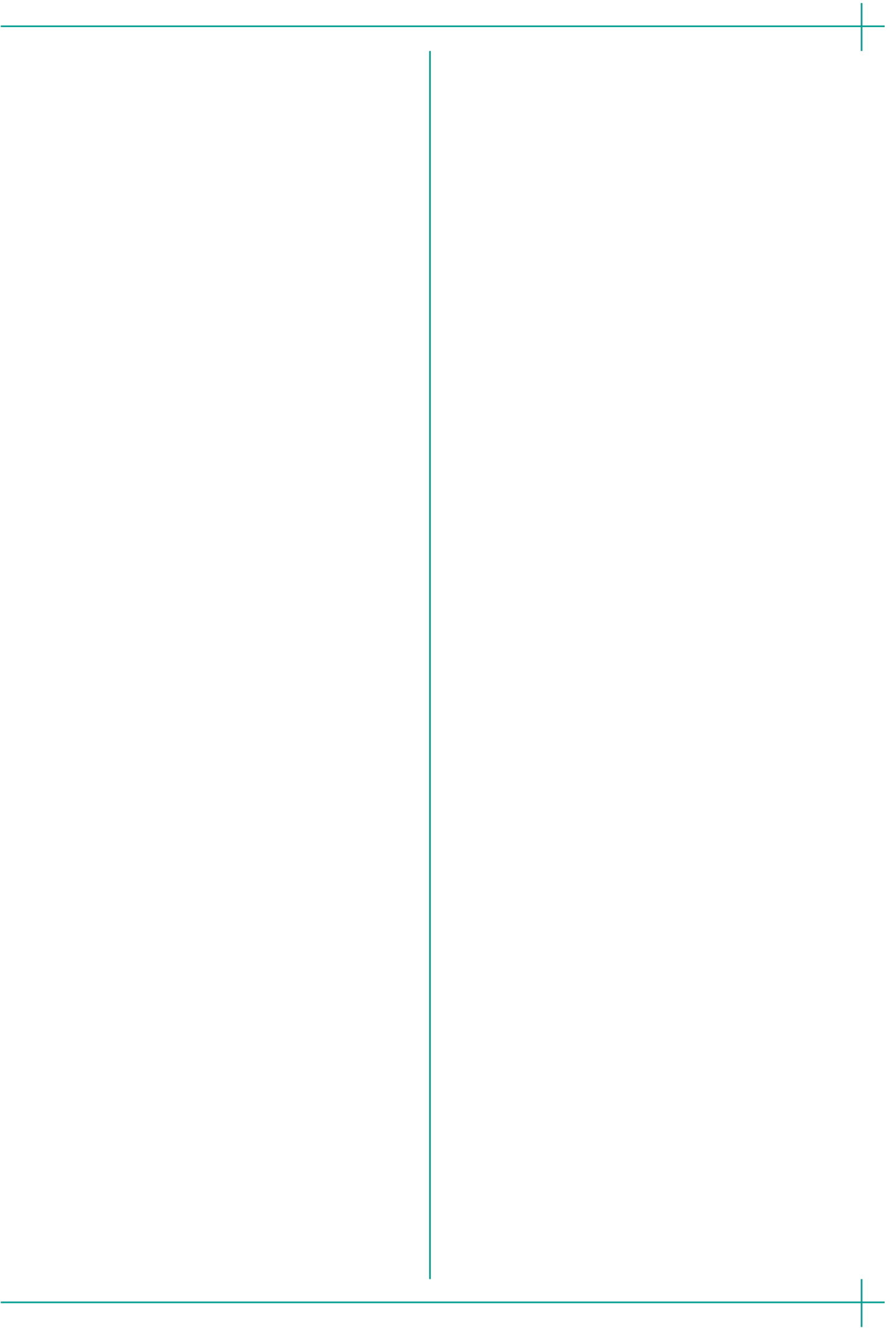
A chapter in the Lords reform saga has ended, and another looks set to begin. After years of debate about what proportion of the second chamber should be elected (dating to the Royal Commission's report in 2000), the Government has declared there will be no such elections. Despite its manifesto commitment to a "more representative and democratic" upper house, its reply to the Joint Parliamentary Committee on House of Lords Reform (see page 3) states that "there is no consensus about introducing any elected element in the House of Lords". This effectively closes the door to elections, at least within this parliament.

The bluntness of the government's reply is surprising. Not only does it signal the abandonment of a manifesto commitment, it also looks set to stoke further rows at Westminster. The first casualty is likely to be the Joint Committee itself, as the Liberal Democrats have issued a statement saying they must "consider whether we should play any further part in its proceedings". If they withdraw the committee will collapse, and cannot be recreated without their co-operation. The suggestion that there is 'no consensus' on introducing elections also disregards the fact that a majority of MPs voted in February for

a largely elected House, whilst a clear majority—325 to 247—rejected the all-appointed option preferred by the Prime Minister. Yet that is what we are now left with.

Indeed it appears the government wishes to cement this arrangement. The reply restates the commitment to remove the remaining 92 hereditary peers from the chamber, and promises a consultation on reforming the appointments process. Rumours at Westminster are that there will be a bill in the Queen's Speech to achieve these ends. Such a move could prove perilous for the Government.

The Conservatives and Liberal Democrats have declared themselves opposed to a bill to remove the hereditaries. Without their support such a bill cannot get through the House of Lords. Labour reformers (notably Robin Cook) have also declared themselves opposed, meaning it would not get through the Commons without a fight. It would allow the opposition parties to claim the high ground, seeking to amend the bill to include elections—an attractive prospect to many Labour backbenchers. They would also remind the government that the hereditaries were effectively hostages, kept in the chamber on the promise of stage two reform. What



Council meetings with the Queen and associated

The national media gave the announcement scant attention, but where it did greeted the proposals with almost universal hostility.

The Centre

The June reshuffle saw the end of full time Cabinet positions for the Scottish and Welsh Secretaries. Peter Hain retained the post of Secretary of State for Wales, combining it with his new responsibilities as Leader of the House, while Alistair Darling was appointed Secretary of State for Scotland in addition to being Transport Secretary. Scottish and Welsh questions will go on as before, and there will continue to be separate Scottish and Welsh Affairs Select Committees.

The Government defended the move insisting that since devolution had bedded down successfully there was “no longer a requirement for full-time

Civil service reform and values

In 2003 three constitutional watchdogs have voiced concern about the growing threats to the impartiality and integrity of the Civil Service. The Wicks Committee on Standards in Public in its Ninth Report (Cm 5775, April 2003) called for new arrangements to regulate ministerial conflicts of interest, a stronger role for the Civil Service Commissioners, and for Special Advisers to be a new category of government servant distinct from the civil service. The Civil Service Commissioners (June 2003) have warned of the risk of core civil service values being eroded at a time of rapid change and greater outside recruitment. The Public Administration Committee has called for a Civil Service Act, to give Parliament a role in protecting civil service values, and limit the number of special advisers.

In the annual report of the Civil Service Commissioners (June 2003) Baroness Prashar fired a warning shot against further politicisation of the civil service. She said that ministers should not be able to pick departmental press officers or senior civil servants, if the principles of appointment on merit and civil service impartiality are not to be eroded. In evidence to Bob Phillis' review of the Government Information and Communication Service, Baroness Prashar said that Alastair Campbell should no longer give orders to press officers outside Downing Street. That was also a recommendation of the Wicks Committee. The government's response to Wicks' ninth report is expected in September.

Public Administration Select Committee: Opening up the Patronage State

PASC's latest report on Government Appointments was published on 10 July (HC 165). It has two objectives: to ensure that any remaining taint of cronyism and patronage is removed from the system, and to open up the world of public appointments to a wider range of people.

To remove the taint of patronage, the report proposes removing ministers from routine appointments to public bodies, and giving these to a Public Appointments Commission, accountable to Parliament. ‘Depoliticisation’ of public appointments has already happened in the NHS, which now has an independent appointments commission. Ministers could still have the final say in relation to key appointments, such as the chairman of the BBC. Here the committee propose confirmation hearings by the relevant parliamentary select committee, to provide a safeguard against the abuse of ministerial patronage and strengthen public confidence in the system.

The appointments commission would also bring greater professionalism and focus within government for recruiting people to public bodies. The report criticises Whitehall for its unimaginative approach to public appointments, and its narrow recruitment base: what Dame Rennie Fritchie has characterised as ‘male, stale and pale’. The committee believe that there need be no conflict between merit and diversity, if there is a new competency-based approach to capture the full mix of skills and experience that are required on public bodies.

People on the Move

Alastair Campbell announced his resignation as Director of Communications at Number 10 on Friday 29 August. His replacement is David Hill although he will not have the same powers over civil servants as his predecessor. Instead, a new post of permanent secretary with responsibility for “communications across government” will be created.

Other changes in Number 10 were announced on Tuesday 3 September. Geoff Mulgan, former head of the Strategy Unit is to be the new Downing Street head of the Policy Unit. Andrew Adonis, former head of the Policy Unit is to be the Prime Minister’s senior adviser on education, public services and constitutional reform. Matthew Taylor, Director of the IPPR, will join the Policy Directorate on secondment to take responsibility for the next manifesto.

Steve Bundred, head of the Local Government Improvement and Development Agency, to be Controller of the Audit Commission, in succession to Sir Andrew Foster.

Changes in the Shadow Cabinet: David Cameron MP is the new Shadow Deputy Leader of the House of Commons; Bill Cash MP is Shadow Attorney General and Shadow Minister for Constitutional Affairs in the House of Commons; Patrick Mercer MP is Shadow Minister for Homeland Security, a new shadow cabinet post with no equivalent in the Government.

Elections and Parties

Party funding

The Electoral Commission has published a review of the *Political Parties, Elections and Referendums Act 2000* (PPERA), the legislation that provides for the regulation of party funding. The review examined the case for reducing the legislation’s administrative burden; Labour’s annual accounts for 2002 suggested the regulations were discouraging local party volunteers. The Commission recommended that not all parties (of which nearly 300 are now registered) should be subject to the full terms of PERA; those that contest only local elections should be covered by more minimal rules. While the Commission also recommended that certain reporting requirements be loosened, it also called for greater enforcement powers, in particular the ability to levy fines for breaches of the rules.

The substance of PERA will be considered by the Commission as part of its imminent study into the

state funding of political parties, due to report in 2004. The Commission will also review election spending limits, although not until after the next Commons election.

Electoral administration

The Electoral Commission is currently consulting on whether to change the minimum age for voting (currently 18) and standing as a candidate (21). The main question is whether to reduce the minimum voting age to 16. The Commission is also consulting on local government election cycles, particularly whether the current varied arrangements for local elections—the frequency of elections differs considerably across the country—should be standardised. Submissions to both consultations are required by early October.

All the reports and consultation papers can be read on line at: www.electoralcommission.org.uk

European Union News

The European Parliament (Representation) Act

The *European Parliament (Representation) Act* secured Royal Assent on 8 May 2003 and was required so that the UK could meet two separate legal obligations.

Under the terms of the *Treaty of Nice*, the number of European Parliament seats will be reduced to accommodate the accession countries. Part 1 of the Act enables the UK to adjust the number of MEPs as and when required. It is expected that the number of UK seats will fall from 87 to 72.

In 1999 the European Court of Human Rights found the UK to be in breach of the European Convention

on Human Rights for excluding Gibraltar from elections to the European Parliament. Part 2 of the Act enfranchises Gibraltar by allowing it to become part of a UK ‘combined-region’ for European Parliament elections. In August 2003 the Electoral Commission announced that Gibraltar will be in a ‘combined region’ with the South West.

Useful Website

The fifth issue of the EU Constitution Project Newsletter, produced by the Federal Trust, is available on their website at: www.fedtrust.co.uk/constit_main.htm#newsletter

Overseas News

Electoral Quotas for Women in Italy

The Italian parliament has passed a constitutional change which will allow measures to be taken to improve women’s representation in elected office. Italy, where women’s representation in parliament still stands at only 9.2%, passed laws in 1993 to require

Publications

Review: Dawn Oliver, Constitutional Reform in the UK

Oxford University Press, 2003, 424 pp

This is Dawn Oliver's biggest and most important book so far. She is that rare animal, a constitutional lawyer with a serious interest in political science, and she has written a book of equal interest to law-

Unit News

Unit Project: Effective Scrutiny

A guide to scrutiny processes in the devolved institutions Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly will be produced in September. It is expected that a launch event will take place in Cardiff on 22 October 2003 (negotiations are still underway over venue). A review of scrutiny processes across the different institutions is also about to be published. Interviews with local government councillors and committee secretariats have just concluded, and will be written up into a report on local government scrutiny to be produced in October/November. For more information please visit our website at www.ucl.ac.uk/constitution-unit/scrutiny/index.htm

Journal Articles

Meg Russell, 'Is the House of Lords Already Reformed?', *Political Quarterly*, vol. 74, no.3, July 2003, pp.311–318.

Meg Russell, 'None of the above: The UK House of Commons votes on reforming the House of Lords', (with Iain McLean and Arthur Spirling), *Political Quarterly*, vol. 74, no.3, July 2003, pp.298–310.

Meg Russell, 'Positive Action to Promote Women in Politics: Some European Comparisons' (with Colm O'Coinneide), *International and Comparative Law Quarterly*, vol. 52, July 2003, pp.587–614.

BulletinBoard

Constitution Unit Seminar Series

'Changes to Electoral Law and Voter Turnout'

Sam Younger, Chair, The Electoral Commission

18:00, Tuesday 16 September

'What would a Supreme Court for the UK look like?'

Professor Andrew Le Sueur

18:15, Monday 13 October