


these loans. In April a confirmed list of peers was finally announced, minus five of the original names (four Labour and one Conservative, all of whom were major lenders to their parties). A further twist came when the Metropolitan Police launched an investigation under the 1925 Honours (Prevention of Abuse) Act. This extended to allegations that academy school sponsors, as well as party donors have been rewarded with peerages. The Electoral Commission is also to investigate whether the political parties have breached the Political Parties, Referendums and Elections Act 2000.



The episode helped to move Lords reform back up the political agenda (see page 2). Concern about appointments boosts those campaigning for election to the upper house. But divisions in both main parties have prevented such a reform so far. Less attention has focussed on how the appointments process could be improved – despite most reformers accepting the likelihood of a partly-elected house. The Appointments Commission remains non-statutory and its role in scrutinising political appointments is limited and advisory only. Continuing confusion about whether a peerage is a job or an honour only worsens the problem. Both of these difficulties could be dealt with by relatively minor reform. The Labour nominations also raised questions about internal party democracy, with Labour peers being chosen by Number 10. In contrast, the Lib Dems (and Greens) now involve members in this process.

Lords Reform

The 'cash for peerages' row (see page 1) reignited debates about reform of the House of Lords. A proposed joint committee to consider reform options had been delayed due to Liberal Democrat objections to its remit, which government proposed should cover only powers and conventions rather than composition. To generate movement the government backed down and a new committee will now consider all related issues. Another free vote on composition is promised in the autumn and may have a greater chance of success than previously given the positions of the party leaders. David Cameron sees an opportunity in supporting a largely elected house whilst Tony Blair is said to have 'dropped his opposition' to a hybrid membership. Less often mentioned is that Iain Duncan-Smith took the same position as Cameron but failed to bring more than half his backbenchers with him in February 2003, whilst Blair had supported hybridity until that very point.

The DCA has a bill team in place to implement the manifesto pledges to define the Lords' powers in statute and remove the remaining hereditaries. But the opportunities for disagreement remain legion. Whilst agreement on composition has thus far proved impossible, powers have now also been added to the pot. And whatever the leaders propose there is heartfelt, albeit probably minority, opposition to elected members on both sides of the Commons. A

BROWN, CAMERON AND CONSTITUTIONAL REFORM

In a series of speeches and articles, Gordon Brown has been signalling his interest in constitutional reform. In an article in *The Guardian* on 27 February he wrote, 'As we prepare our manifesto for the next parliament, I am clear that it should be a priority that, across government, ministers come together to work out the detail of the next steps for both local democracy and long-term constitutional reform'.

What might be the priorities for a government led by Gordon Brown? Likely items include: Lords reform, a British bill of rights, reform to appointments procedures to reduce the role of the executive, and ending the state's role in appointing Bishops. Brown's interest in constitutional reform is longstanding, but not generally known: he was a supporter of Charter 88 and made a big speech to them in 1997, which was unreported at the time.

Meanwhile, under David Cameron, the Conservatives have been emphasising their own reformist credentials. Speaking on 6 February, Cameron declared it to be 'the right time for a serious, thoughtful programme of institutional and constitutional reform'. Aside from the existing commitments to a predominantly elected House of Lords and a ban on Scottish MPs voting on English business, clear policy commitments will probably have to await the report of the party's new 'Democracy Taskforce' (see below).

PREROGATIVE POWERS UNDER SCRUTINY

In March the House of Lords gave a Second Reading to Lord Lester's Constitutional Reform (Prerogative Powers and Civil Service etc) Bill. The bill provides a statutory basis for review by Parliament of executive powers generally, with specific requirements for approving treaties and going to war. The bill also achieves the same purposes as a Civil Service Act, codifying the fundamental principles of the civil service, and putting the Civil Service Commissioners and Commissioner for Public Appointments on a statutory basis.

The new Conservative leader David Cameron has also announced a review of prerogative powers, to be considered by Kenneth Clarke's Democracy Taskforce.

But when announced the Conservative review appeared to exclude two of the most important powers, the power to appoint a new Prime Minister and the power to seek a dissolution. The latter is to be restricted by the new Conservative government there (see page 6).

Proposals for reform of prerogative powers are also the likely outcome of the Lords Constitution Committee's inquiry into war-making powers. As reported in the previous *Issue*, supporters of reform failed in October 2005 to push through Clare Short's private member's bill requiring parliamentary approval before military action is taken. Since then, the Constitution Committee has launched its inquiry examining the roles of all three branches of government in authorising military action. It is expected to publish its report on the subject in May.

MONARCHY, CHURCH AND STATE

The Queen's 80th birthday on 21 April gave rise to speculation about the future of the Monarchy and the succession. It is clear that The Queen will not abdicate, however demanding the role is for an older person: abdication has a traumatic history for the House of Windsor, and it would go against her Coronation oath. Should she become incapable of carrying out her monarchical functions, provision is made in the Regency Acts 1937, 1943 and 1953 for her functions to be carried out by a Regent or Council of State. The Regent is the person next in line to the throne, who would take over in the case of permanent incapacity of the sovereign. In the case of temporary incapacity a Council of State would be established, comprising the spouse of the sovereign and the four persons next in line of succession.

There was also speculation about the next Coronation, and loosening the links between Church and State. These go back to the constitutional settlement enshrined in the Bill of Rights of 1689, the Act of Settlement of 1701 and the Act of Union with Scotland of 1707. Fundamental to that settlement is the Protestant succession. On his accession Prince Charles will be required under the Accession Declaration Act 1910 to swear that he is a faithful Protestant and will secure the Protestant succession.

At the coronation there is a similar oath to maintain the Protestant religion, and to maintain the settlement of the Church of England. Prince Charles has indicated that he would prefer to be a defender of faiths, not Defender of the Faith, and may seek some modification of the oaths.

CONSTITUTIONAL WATCHDOGS INQUIRIES

The inquiry by the Public Administration Select Committee (for background see the January *Issue*) is now matched by a parallel inquiry by the Scottish Parliament. The Commons Committee visited Holyrood in April to learn more about the Scottish model, where six watchdogs are 'parliamentary commissioners', with a much closer relationship with the Parliament. Some, such as the Scottish Information Commissioner and Children's Commissioner, have a higher profile than their UK counterparts. This may in part derive from their greater independence from the executive, with the Scottish commissioners being appointed by and funded by the Parliament. But that close relationship has given rise to its own problems, especially over settling the budgets of the commissioners. The Finance Committee of the Scottish Parliament has initiated an inquiry into their financing and the Procedures Committee has produced a report on the appointments process.

These concerns have caused the Scottish Parliament to postpone debate on the Scottish Human Rights Commissioner Bill, which would add a seventh commissioner to the Parliament's portfolio. They may also cause the Commons Committee to think hard before recommending that the UK's constitutional watchdogs should come more directly under the Westminster Parliament. PASC has issued a questionnaire to the 15 watchdogs which are central to its inquiry, and will want to weigh carefully how a more direct relationship would be managed at Westminster, which committees would be involved, and the implications for their workloads. But some changes are likely, especially for the five watchdogs currently housed by the Cabinet Office (Committee on Standards in Public Life, House of Lords Appointments Commission, Civil Service Commissioners, Commissioner for Public Appointments, and Advisory Committee on Business Appointments).

PASC will also report on the new Civil Service Code, a simpler, livelier document produced by the new Cabinet Secretary Sir Gus O'Donnell in consultation with the Civil Service Commissioners. With the Prime Minister's lack of interest in a Civil Service Act it is likely to be the main protection for civil servants. But following the Tessa Jowell affair, the Prime Minister has finally responded to another PASC recommendation by appointing an Adviser on Ministerial Interests, to advise Ministers about compliance with the Ministerial Code. The first Adviser is to be Sir John Bourne, the Auditor General.

Scotland

Not since Glasgow Govan in 1988 has a by-election caused as much hubbub as did the Dunfermline and West Fife Westminster contest on 9 February. Caused by the death of MP Rachel Squire, Labour, with neighbouring MP and Chancellor Gordon Brown leading the campaign, was expected to defend easily her 11,562 majority. But Liberal Democrat Willie Rennie took the seat on a 17 per cent swing with an 1,800 majority.

This, the first LibDem Scottish by-election win over Labour in the post-WW2 period, was a massive boost, coming amidst the imbroglio of the UK LibDems' scandal-struck leadership election. Voters complained of Labour neglect over various local issues, but dissonance between Brown and Jack McConnell, Scotland's Labour first minister over Forth Road Bridge tolls caused major party ruptures. Smarting from Brown's interference in a devolved responsibility, McConnell declared he would no longer automatically toe London's line in UK matters which affected Scottish interests.

The domestic agenda was dominated by agency and quango problems. The Scottish Arts Council, troubled by failure to control costs at Scottish Opera, is to lose control of that and other national companies and be merged with Scottish Screen, which handles film funding. On a positive note, the new Scottish National Theatre was launched with an innovative drama programme.

Ministers resisted calls for a public inquiry into the Scottish Criminal Records Office after the Executive awarded £750,000 compensation to a former police officer who was tried and acquitted on perjury charges after a murder scene fingerprint was identified by the SCRO (wrongly) as hers. Significant legal and public disquiet about the integrity of the justice system remains.

Alan Alexander, chairman of the publicly-owned Scottish Water, resigned after failing to assure ministers he could deliver their required investment programme. Jack Perry, chief executive of Scottish Enterprise, the main economic development agency, came under pressure when it emerged that the agency had overspent its 2005-06 budget by £30m.

Following a record medal haul at the Commonwealth Games, the nation distinguished itself by accepting a ban on smoking in public places with remarkable equanimity. Introduced on 26 March, it was the most significant public health measure of modern times.

Northern Ireland

It was another period of political uncertainty in Northern Ireland and, as so often, punctuated by a violent event – in this case the murder of the republican-turned-spy Denis Donaldson – which destabilised the always shaky efforts of London and Dublin to restore devolution to the region.

After so many 'deadlines' for progress had come and gone, this time the two premiers, Tony Blair and Bertie Ahern, appeared to mean it when they stipulated that November 24 was – finally – to be it.

The assembly, they agreed in April, would be reconvened in May for an initial six weeks. Going into recession to accommodate the peculiar Northern Ireland 'marching season' of July and August, it would reconvene for a further 12 weeks in the Autumn. If the parties werETBT/TT0 1 Tf9 0 0 9 211.6535 424.30,

the fact that this was very much a National
Assembly event with the Welsh Assembly

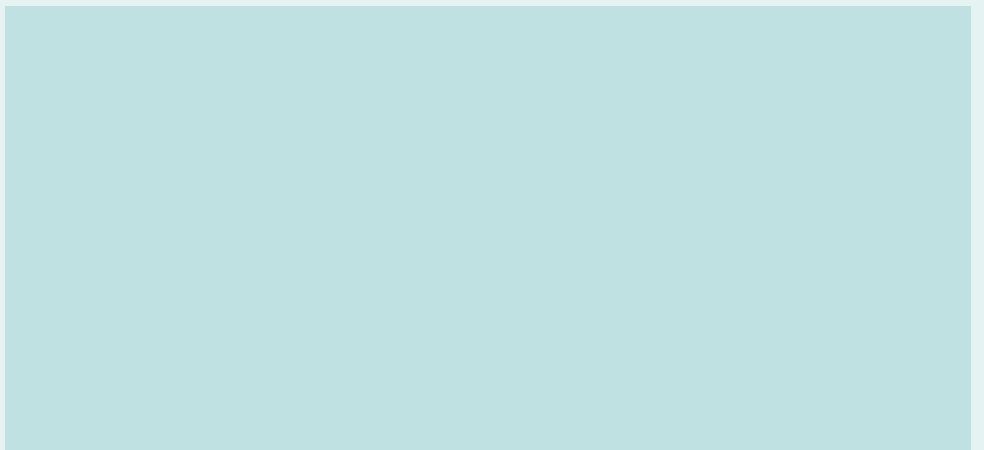
ICO Survey

According to a survey of 500 public authorities conducted for the Information Commissioner's Office (ICO), the majority say that the FOI Act is beneficial and is helping to create a culture of greater openness in the public sector. Three out of five respondents said that their

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Church and State

In April the Unit published a major report by Bob Morris. It is a mapping exercise which carefully analyses the relationship between the Church of England and the British state. The report also contains detailed appendices by Frank Cranmer about the relations between Church and State in other European countries, particularly in Scandinavia where they also have a long history of an established church; and by John Lucas about the process of disestablishment in Ireland and Wales. The latter do not provide viable models for disestablishment in England, because neither had to confront the core of the constitutional settlement fashioned between 1688 and 1707.

This stage one report does not consider the merits or demerits of disestablishment or other options for change. That is to be done in stage two of the project, which will include a conference at St Katharine's in London in July. The government's position has been that establishment is primarily a matter for the church, and it is for the church to make the first move. But that may start to alter if the Bishops do not retain their seats in the next round of Lords reform, or if (as reported) Gordon Brown favours divesting the state's patronage to appoint Bishops and other senior church appointments.

Governance of Parliament

As part of the ongoing Governance of Parliament research project, the Constitution Unit recently published an 'issues and questions paper' entitled *How the Commons manages its business*. The purpose of the paper, authored by lead researcher Dr Meg Russell and assistant Akash Paun, is to stimulate discussion on and invite responses to a range of questions relating to how the Commons manages its business and organises its internal structures and procedures. To view the paper and to submit a response, please visit the project homepage at: www.ucl.ac.uk/constitution-unit/research/parliament/governance-of-parliament.html.

Lords Project Update

Meg Russell and Maria Sciara presented a paper at the Political Studies Association, entitled 'Why does the Government get defeated in the House of Lords?'. This looks at the contribution of Labour

- **FOI Live 2006** takes place on **25 May 2006** at the Millennium Conference Centre, London. Organised by the Constitution Unit, this event has been described as 'the foremost event on information rights issues in the UK'. Details at: www.foilive.com.
- **Sir William McKay** of Aberdeen University speaks at the Institute of Historical Research on **30 May** at 5:15pm. The subject is '**Westminster and Washington: legislative sisters under the skin**'. Full details at www.history.ac.uk.
- On Tuesday **6 June** (1pm), the Constitution Unit holds a seminar on **The New Commission on Equality and Human Rights**. The speaker will be **Sarah Spencer** of the Centre on Migration, Policy and Society, University of Oxford. Book your place at www.ucl.ac.uk/constitution-unit/events.
- On **7 June**, the Constitution Unit is hosting a book launch and seminar on **The English Question** at the Houses of Parliament. Speakers will include Lord Baker of Dorking, proponent of 'English votes on English laws'.
- On **16 June**, the Political Studies Association Parliaments and Legislatures Specialist Group holds its first conference at Sheffield University on the theme of **Reinterpreting Parliament**. Details at www.psa.ac.uk.
- The Department for Constitutional Affairs/Constitution Unit seminar series continues on **21 June** with **Lord Woolf of Barnes** discussing **Reform of the European Court of Human Rights**. Phone 020 7210 1383 to reserve.
- On Monday **25 September** at 1pm, **Ken Clarke** MP will speak at the Constitution