



# The Constitution Unit

# Contents

Contents

Key Points

- 1 Devolution and Westminster
  - 1.1 House of Lords Debate on the Constitution
  - 1.2 New Breakaway Conservative Party
  - 1.3 House of Lords Constitution Committee
  - 1.4 Regional Assemblies (Preparations) Bill
  - 1.5 Parliamentary Questions to the Wales Office
  - 1.6 The Work of the Territorial Select Committees
  - 1.7 The Work of the Grand Committees
  - 1.8 Select Committee on the Lord Chancellor's Department
  - 1.9 Minority Party Representation on Select Committees
  - 1.10 Barnett Formula
  - 1.11 House of Lords Reform
- 2 Devolution and Whitehall
  - 2.1 Edwina Hart accuses Whitehall of obstructing National Assembly
  - 2.2 Helen Liddell Announces Decision on MSP Numbers
  - 2.3 The Future of the Territorial Offices
- 3 Intergovernmental Relations
  - 3.1 Meeting of JMC (Europe)
  - 3.2 British-Irish Council Summit
  - 3.3 Meeting of the British-Irish Council Environment Group
  - 3.4 Meeting of the British-Irish Council Drugs Group
  - 3.5 UK Government and the Devolved Bodies Launch the Animal Health and Welfare Strategy Consultation

## Key Points

- Assembly Finance Minister Edwina Hart criticises Whitehall civil servants
- Lord Norton debate on the British Constitution in the House of Lords
- Helen Liddell announces that the number of MSPs will remain at 129 in the outcome of the consultation on the size of the Scottish Parliament.
- House of Lords Constitution Committee publishes Devolution: Inter-Institutional Relations in the United Kingdom
- House of Lords debate on the Barnett Formula
- Second Reading and Committee Stage of the Regional Assemblies (Preparations) Bill
- Seven options for Lords Reform fail to gain a majority.
- Establishment of the Select Committee on the Lord Chancellor's Department
- The British-Irish Council holds its fourth Summit meeting in New Lanark
- Third Meeting of the British-Irish Council Environmental Group
- Meeting of the Joint Ministerial Committee on Europe
- Meeting of the British-Irish Council Ministerial Meeting of the Misuse of Drugs Sectoral Group

# 1 Devolution and Westminster

***Figure 1: Chronology of Events at Westminster (November'02-February'03)***

4 December	Oral questions to the Wales Office
5 December	Meeting of the Welsh Grand Committee
10 December	Meeting of the Scottish Grand Committee

constitutional change.' The current

- More use should be made of formal mechanisms for intergovernmental relations such as the JMC
- A substantive press release should be issued after every JMC meeting
- The UK Prime Minister should make a statement to Parliament after each annual plenary meeting of the JMC
- Concordats and other agreements should be deposited in the Parliamentary library
- The Government should consider merging the positions of the Scottish and Welsh Secretaries of State into one Cabinet Minister with responsibility for intergovernmental relations
- The Government should consider merging the devolution teams in the Scotland and Wales Offices with those in the ODPM. The ODPM team should be strengthened so as to provide for a strong co-ordinating centre.
- Information relating to changes in public spending for England and hence the devolved areas through the Barnett Formula, should be made available
- When the Barnett formula is reviewed an independent and impartial body should conduct it with representatives from the devolved administrations and the UK Government.
- Intergovernmental relations should be reviewed at least once a Parliament
- Measures should be taken to improve Westminster legislation affecting the National Assembly in Wales. Westminster should show Greater consistency when it legi

The report attracted widespread media attention and perhaps unsurprisingly, most of this focused on the recommendation to consider merging the Scottish and Welsh Cabinet posts. BBC News picked up on the recommendation, to which Helen Liddell responded that 'My job is a matter for the Prime Minister...those who argue against having a Scottish voice in the cabinet are arguing to reduce Scotland's influence.'<sup>3</sup> In an interview in the Guardian on 27 January 2003, when asked about the Constitution Committee's recommendations, Helen Liddell said that:

'the members of the Lords Committee involved people like John McGregor and Ian Lang' whom she described as 'retreads, whose enthusiasm for devolution is not particularly marked.'<sup>4</sup>

#### **1.4 Regional Assemblies (Preparations) Bill**

The Regional Assemblies (Preparations) Bill had its Second Reading on 26 November 2002. For a detailed analysis of its Parliamentary progress please see the Devolution and the English Regions Monitoring Report for November-February at <http://www.ucl.ac.uk/constitution-unit/leverh/monitoring.htm>.

#### **1.5 Parliamentary Questions to the Wales Office**

On 4 December 2002 the Conservative Shadow Secretary of State for Wales, Nigel Evans MP asked the Secretary of State whether he would hold a referendum in Wales, if the Richards Commission recommended further powers being transferred from Westminster to the Assembly. Peter Hain MP responded by saying that no decision would be taken until the Richards Commission had reported in late 2003.<sup>5</sup>

#### **1.6 The Work of the Territorial Select Committees**

##### ***The Scottish Affairs Committee***

On February 11 David Hamilton MP (Midlothian) replaced Mark Lazaowicz MP (Edinburgh North and Leith) on the committee.

The Scottish Affairs Committee continued to take evidence on the following enquiries; *Homework's in Scotland and the Minimum Wage*, *The Work of Citizens Advice in Scotland* and *Future Skills in Scotland*. In addition it also

---

<sup>3</sup> BBC Online—<http://news.bbc.co.uk/1/hi/scotland/2660583.stm>.

<sup>4</sup> The Guardian, 27 January 2003.

<sup>5</sup> See

[http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021204/debtext/21204-02.htm#21204-02\\_spnew13](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021204/debtext/21204-02.htm#21204-02_spnew13).

published its first report of the 2002-03 session on *The Work of the Scottish Affairs Committee in 2002*<sup>6</sup> and its first special report on *Scotland Office Expenditure*.<sup>7</sup> The reports and oral evidence can be viewed at <http://www.publications.parliament.uk/pa/cm/cmsscotaf.htm>.

### ***The Northern Ireland Affairs Committee***

The Northern Ireland Affairs Committee launched an inquiry into the operation of the PEACE II programme in Northern Ireland on January 16. Northern Ireland receives Objective 1 funding from the EU through this initiative. The inquiry should shed light on the operations of the North-South Ministerial Council, as they administered the allocation of PEACE II funds. The committee has also announced that it is going to take evidence on Electoral Registration in Northern Ireland following the implementation of the Electoral Fraud (Northern Ireland) Act 2002.

It has also published a series of reports in this quarter. On 21 January it published its first report on *The Impact in Northern Ireland of Cross-Border Road Fuel Price Differentials: Three Years On*<sup>8</sup>, its second report which was its *Annual Report* was published on 21 January<sup>9</sup>. On January 28 its third report was published on *The Police (Northern Ireland) Bill*<sup>10</sup> and on February 4 it published its fourth report on *The Control of Firearms Northern Ireland and the Draft Firearms in (Northern Ireland) Order 2002*.<sup>11</sup> Details of the new inquiry and published reports can be found at <http://www.parliament.the-stationery-office.co.uk/pa/cm/cmniaf.htm>.

### ***The Welsh Affairs Committee***

The Welsh Affairs Committee has finished taking evidence on its inquiry into the *Primary Legislative Process as it affects Wales* and is expected to publish its report in early March. The Committee has published two reports this quarter—its second report on 13 January on *Transport in Wales*<sup>12</sup> and its third report on 6 February, *Work of the Committee in 2002*.<sup>13</sup> The reports can be

---

<sup>6</sup> HC 197

<sup>7</sup> HC 199

<sup>8</sup> HC 105-I

<sup>9</sup> HC 271

<sup>10</sup> HC 233

<sup>11</sup> HC 67-I

<sup>12</sup> HC 205-I

<sup>13</sup> HC 263







an amendment to remove Rt Hon Alan Beith MP from the committee and replace him with the UUP's Lady Hermon MP. Peter Wishart MP insisted that the purpose of the amendment was:

'purely political' and 'moved in order to address the continuing exclusion of the minority parties from the vast majority of select committees.'<sup>18</sup>

The SNP believe that the Liberal Democrats are over-represented on select committees and that the minority parties are under-represented. Indeed, Alex Salmond pointed out that the SNP are under-represented by two and the Liberals are over-represented by 2. John McWilliam MP (Chairman of the Committee of Selection) insisted that it was wrong to reflect the composition of the whole House on a committee whose competences do not cover the whole of the UK. To counter this claim the SNP suggested that Lady Hermon MP should be put on the committee as the LCD still covers Northern Ireland and because of her legal background.

The SNP reiterated their view that minority parties should be entitled to representation on non-regional departmental Select Committees. They also expressed concern at the lack of any minority party members on the Liaison Committee, given that no minority party member chairs a Select Committee. Peter Wishart MP said that he was also worried about minority party representation on Joint Committee's of both Houses, and especially since they were increasingly being used as vehicles for pre-legislative scrutiny, which he attached a great deal of importance to. Alex Salmond drew on examples from the Scottish Parliament's committee structure, where the Green, Scottish Socialist and independent individual members, are represented on committees despite not having enough representation.

The Deputy Leader of the House, Ben Bradshaw MP, gave the following figures for party representation on select committees.<sup>19</sup>

---

<sup>18</sup> See

[http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030128/debtext/30128-36.htm#30128-36\\_spnew10](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030128/debtext/30128-36.htm#30128-36_spnew10) Col 834

<sup>19</sup> The figures were quoted in the debate. See

[http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030128/debtext/30128-36.htm#30128-36\\_spnew10](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030128/debtext/30128-36.htm#30128-36_spnew10).

**Figure 3: Minority Party Representation on Select Committees**

Party	Proportional No. of Seats they should have	Actual No. of Seats
Labour	292	295
Conservative	116	115
Liberal Democrats	38	40
Ulster Unionist Party	4	5
Democratic Unionist Party	4	3
SDLP	2	2
SNP	4	2
Plaid Cymru	3	3

In the end Peter Wishart MP's amendment was defeated by 233 votes to 62.

### **1.10 Barnett Formula<sup>20</sup>**

In a Starred Question on 27 January, Lord Barnett asked:

'Whether [the Government] have any plans to scrap the Barnett formula with respect to the allocation of public expenditure?'

Responding for the Government, Lord McIntosh, said that the Government 'have no plans to change the Barnett formula.' He referred Lord Barnett to the report by the Constitution Committee on intergovernmental relations, which although critical of aspects of the formula, rejected abolishing it until there was a credible alternative in place. Lord MacLennan suggested that a commission should be established to review the workings of Barnett. Lord McIntosh dismissed this idea and defended the formula on the grounds that it 'works and is understandable, predictable and challengeable only on the grounds of different calculations of population.'

---

<sup>20</sup> The debate was part initiated by a Star Question by Lord Barnett. For a full transcript of the debate see

[http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds03/text/30127-02.htm#30127-02\\_star0](http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds03/text/30127-02.htm#30127-02_star0)

## **1.11 House of Lords Reform**

Following the failure of Commons to support one of the seven option for Lords

## 2 Devolution and Whitehall

**Figure 4: Chronology of Events in Whitehall (November'02-February'03)**

22 November	British-Irish Council Summit in New Lanark
5 December	Assembly Finance Minister Edwina Hart criticises Whitehall civil servants
18 December	Helen Liddell announces decision on MSP numbers
8 January	Government and the Devolved Administrations Launch the Animal Health and Welfare Strategy Consultation
16 January	Third Meeting of the British-Irish Council Environment Group
30 January	Meeting of JMC (Europe)
7 February	British-Irish Council Ministerial Meeting of the Misuse of Drugs Sectoral Group

### 2.1 Edwina Hart accuses Whitehall of obstructing National Assembly

In giving evidence to the Richards Commission on 5 December, finance minister of the Welsh Assembly, Edwina Hart AM suggested that the working relationship between some Whitehall departments and the Assembly had broken down. She said that:

'There is an absolute arrogance about the way they feel about devolved administrations, particularly Wales. I don't sense that at all with Scotland, which they see as much more of an equal relationship. We are like some sort of large local authority that is a nuisance to have to consult.'<sup>23</sup>

Hart compared her experiences of the Treasury, with whom she said she had an excellent relationship, with that of the Home Office, whom she singled out as the most difficult department to deal with. In describing the relationship between the Assembly and the Home Office, she claimed that there are 'real problems at the heart of the system.' The head of local government and finance at the Assembly, Adam Peat, said that Whitehall departments 'resent having to keep us informed.' Although Hart and the Home Office have clashed over policy on police funding and asylum, the *Western Mail* reports that the Home Office were quick to issue a statement in which they said:

'We don't recognise what Edwina Hart said as representing the nature of the relationship between us the Assembly. All we can say is that things

---

<sup>23</sup> *Western Mail*, December 6, 2002.

are relatively new and that a change in culture is evolving...we recognise

and that it would also destabilise and disrupt the Parliament if it was to have to implement a reduction.

Former Scotland Office Minister, George Foulkes MP, warned that the government would create 'chaos and confusion' with the ending of coterminosity. While Labour MP, Brian Donohoe, argued that the best way round the problem would be to amend the Scotland Act to retain the 72 MPs in Scotland.

In a follow up to this announcement Helen Liddell was asked by Michael Weir MP on Tuesday 7 January 2003 whether she would support a provision to transfer the power to determine the size of the Scottish Parliament to the Parliament itself when she comes to amend the Scotland Act. The Secretary of State said that she would not support such a provision.<sup>26</sup>





## 3 Intergovernmental Relations

### 3.1 Meeting of JMC (Europe)

JMC (Europe) met on 30 January at the Cabinet Office in London. The meeting was supposed to be chaired by Jack Straw MP, but he was delayed in a Cabinet meeting. Peter Hain MP instead chaired the JMC. No communiqué was published after the meeting. The JMC discussed the prospect of the Greek presidency, and the issue of Europe and the regions with regards to the Constitutional Convention. Rhodri Morgan and Nicol Stephen attended from the devolved bodies. The full attendance is listed below.

Attendance of the JMC (Europe) held at No. 70 Whitehall on 30 January 2003

Agenda Items:        1) Prospect of the Greek Presidency  
                              2) Future of Europe: Europe and the Regions

Peter Hain (Chair)	Rhodri Morgan
Nicol Stephen	Anne McGuire
Angela Smith	Chris Leslie
Denis MacShane	Ruth Kelly
John Spellar	Margaret Hodge
Lord Whitty	Baroness Blackstone
Baroness Scotland	Ivor Caplin
Dr Lewis Moonie	

### 3.2 British-Irish Council Summit <sup>31</sup>

The British-Irish Council held its fourth Summit meeting in New Lanark on 22 November. The meeting was chaired by Jack McConnell MSP. The Irish and British Governments were represented by the Taoiseach, Bertie Ahern TD and the Leader of the House, Robin Cook MP. Rhodri Morgan represented the Welsh Assembly Government. Secretary of State for Northern Ireland Paul Murphy MP, also attended. A full list of the delegations can be found at <http://www.british-irishcouncil.org>.

The main focus of the meeting was the issue of social inclusion and, in particular, financial inclusion. The Scottish Executive and Welsh Assembly

---

<sup>31</sup> British-Irish Council meetings issue communiqués that can be found at <http://www.british-irishcouncil.org/>.

Government take the lead on these issues, and members reiterated their commitment to promoting social inclusion across the BIC administrations.

The Council were also updated on the work being undertaken by British-Irish Council groups in other policy areas—Drugs, Environment, Transport, Knowledge Economy, Health, Tourism, and Minority and Lesser used Languages. A communiqué from the meeting is available on the British-Irish Council website.

The Council noted that Northern Ireland and Wales are scheduled to host summits in 2003.

### **3.3 Meeting of the British-Irish Council Environment Group**

On 16 January the BIC Environment group held its third ministerial meeting. Taking place in London, Michael Meacher MP, Minister for the Environment, chaired the meeting. The Irish Government was represented by Martin Cullen TD, Minister for the Environment and Local Government. The Welsh Assembly was represented by Sue Essex AM, Minister for the Environment. The Scottish Executive did not send a ministerial representative, where they sent Mike Foulis, Head of the Environment Group. A full list of the delegation can be found at <http://www.british-irishcouncil.org/>.

Progress reports from the sub-groups on Waste Management and the Climate

i

O

x

