

/ October 2014

1-2

3-4

4

5-6

6-7

7

7-9

10

10

11

11

12

Director:
Deputy Director:

Email:
Phone:

Constitution
Unit Blog

www.constitution-unit.com

The **Constitutio**

 UCL

Anyone following UK (or indeed Australian) political news this summer cannot have missed the row over selection of the next House of Commons Clerk. That the appointment of a parliamentary official - even at this level of seniority - achieved such visibility was unusual, to say the least. Coverage resulted partly from the classic 'silly season' when there is little political news. However, it also reflected the seriousness of the questions surrounding governance of the Commons and the depth of some of the personal animosities involved - particularly surrounding Speaker John Bercow.

The vacancy resulted from retirement by Sir Robert Rogers as Clerk, announced in April. The Clerk is the Commons' most senior official, acting as both its chief procedural adviser and chief executive, heading a staff of roughly 1750. Rogers was appointed in 2011 following an advertisement open only to existing Westminster officials or officials from the devolved legislatures. In contrast, the appointment of his successor was, for the first time, an open competition. The selection panel was chaired by the Speaker, and included five other senior figures. In late July they passed the name of Carol Mills, a senior Australian parliamentary official, for approval as preferred candidate to Number 10. At this point briefing and counter-briefing began about the appropriateness of the process, and the candidate herself. Aside from personal clashes, arguments focused on the suitability of a non-clerk for the role, and the tensions between the procedural and managerial aspects of the job.

After much controversy, during which the Speaker's own role appeared to be under fire, matters were temporarily resolved in a [debate](#) on 10 September sponsored by Conservative backbencher Jesse Norman. Prior to the debate Bercow had [announced a 'pause'](#) in the appointment. The debate itself, facilitated by the Backbench Business Committee, agreed the establishment of a new select committee on House of Commons Governance - to be chaired by former Commons Leader and now Labour backbencher Jack

1 1 1 1 1
HK 3/4

l

m

lr

Soon after the argument about its Leader, the Lords again featured in the headlines due to a new round of prime ministerial appointments. The formal announcement came on 8 August, which from the government's point of view conveniently avoided parliamentary debate due to the summer recess. In total 22 new peers were named: twelve Conservative, six Liberal Democrat, three Labour and one Democratic Unionist Party. This takes the total size of the Lords to almost 850 (including those on leave of absence, etc.): some 180 higher than in 1999. Under the coalition alone, the chamber's size has grown by approximately 120. Immediately before the announcement Lord Speaker Frances D' Souza spoke out (for the second time) in _____ about the detrimental effects for the chamber of ever-increasing size. Her plea for some peers to retire (using the new provisions of the House of Lords Reform Act 2014: see _____) is unfortunately due to have marginal effects at best. Instead an agreed formula for the number and party-political balance of future Lords appointments is urgently needed.

David Cameron's reshuffle in July was notable for what was missing as well as what happened. There was no equivalent reshuffle of Liberal Democrat ministers. Reshuffles have been

standing in pocket for ongoing reshuffle. The forcing of the issue; I

In July the [General Synod of the Church of England](#) passed legislation to enable women to be consecrated as bishops. The draft [Bishops and Priests \(Consecration and Ordination of Women\)](#) Measure was backed by all three Houses of Synod (Bishops, Clergy and Laity), having earlier been approved by all of the Church's diocesan synods. A similar attempt to legislate for women bishops was [defeated in 2012](#), when the House of Laity fell just short of the required two-thirds majority.

The Measure must now be approved by Parliament. Shortly after the Synod vote, the [Ecclesiastical Committee](#), a cross-party committee of parliamentarians from both Houses that examines draft legislation from the General Synod, unanimously approved the legislation. The next step is for it to be considered by the Commons and the Lords, expected in October. If both approve, the legislation will receive Royal Assent. This would enable it to be formally enacted by the General Synod in November, at which point it would become legal to consecrate women bishops.

The Church of England has expressed a desire for the first women bishops to be fast-tracked to the House of Lords. At present [26 bishops](#) sit in the Lords: five by virtue of their diocese, with the remaining seats taken by the 21 longest-serving diocesan bishops. To prevent further delay in women bishops joining the Lords, the Church is seeking agreement with political parties on amending the eligibility criteria in the [Bishoprics Act 1878](#).

The Welsh government has sought to pre-empt one objection to a larger National Assembly by reducing the number of local councils (from 22 to 10) and elected councillors. This follows the report of a [Commission on Public Service Governance and Delivery](#), chaired by Sir Paul Williams, and will require two pieces of primary legislation, one in the next session. Work within the Welsh government is to be led by Leighton Andrews, who returned to [the Cabinet as part of the reshuffle in September](#) which saw three departures and a reshaping of ministerial responsibilities.

The failure of the UK Prime Minister to address any of the outstanding Welsh issues as part of his immediate response to the Scottish referendum result has led to [repeated calls from First Minister Carwyn Jones](#) for a UK-wide constitutional convention, which have been [taken up by the Labour Party more generally](#). Given the UK government's focus on Scottish and English issues, such a response is natural from a part of the UK which is being overlooked in the new constitutional debate.

The Scottish referendum inevitably polarised the electorate. It also polarised Northern Ireland.

What Enoch Powell described as the 'great simplicities' of in-out referendums clearly appealed to both David Cameron and Alex Salmond. But it seems neither gave thought to how it might pollute Northern Ireland's already fractious political atmosphere.

The last time the UK government instigated a poll on Northern Ireland's status was in 1973. The vote was so obviously a sectarian headcount that the [vast majority of Catholics refused to take part](#). At the time it was decided a referendum on the reunification of Northern Ireland with the rest of Ireland would be repeated every decade. This was a concession to loyalist paramilitaries rendered jittery by revelations of talks between the then-Northern Ireland secretary, William Whitelaw, and IRA leaders.

But Whitelaw's successor James Prior wisely decided otherwise in 1983 and by the time Peter Brooke was Secretary of State in the early 1990s the commitment to hold periodic referendums appears to have been forgotten. It therefore did not resurface until the Belfast Agreement of 1998.

However, the Agreement specified that a referendum on reunification would only take place when the Secretary of State deemed a majority in favour likely. This is unlikely to happen any time soon. Just 15 per cent supported a united Ireland

In April the shadow Lord Chancellor Sadiq Khan invited Sir Geoffrey Bindman and Karon Monaghan QC to lead a review of how to improve diversity in the judiciary. They were encouraged to consider more radical measures such as positive discrimination and gender quotas. The Unit's Judicial Independence project organised a private seminar at Matrix Chambers on the legality and feasibility of gender quotas on 31 July. The recommendations from the review are expected in the autumn.

In November Jean-Claude Juncker succeeds José Manuel Barroso as President of the European Commission. Juncker's election is the first to follow the procedures set out in the Treaty of Lisbon. This requires the European Council to nominate a candidate taking into account the result of the EU parliamentary election. The nominee must then achieve a majority vote in the European Parliament (EP).

However, the Treaty does not specify the means and extent to which the Council shall take election results into account. For this reason, European political parties were urged to put forward a (lead candidate) ahead of the EP elections. The Council could then choose to nominate the of the most popular party following the elections. It was hoped that this process would create a link between the citizens' vote in the EP elections and the election of the President, in an [effort](#) to make procedures more democratic.

With the emergence of the European People's Party (EPP) as the largest party in the Council would nominate Ursula von der Leyen, the EPP's Spitzenkandidat (lead candidate) for the EP election. The EPP's lead candidate, Ursula von der Leyen, was elected as President of the Commission in July 2019.

It is worth noting that the process of electing the President of the Commission is a process

of the Council of Ministers of the European Union. The Council of Ministers is the main decision-making body of the EU. It is composed of the heads of state or government of the member states, and its members are appointed by the Council of Ministers. The Council of Ministers is responsible for proposing and adopting the EU's laws and budget. It also negotiates with the member states on international agreements. The Council of Ministers is also responsible for ensuring that the EU's laws are implemented. The Council of Ministers is also responsible for ensuring that the EU's budget is spent in accordance with the EU's financial rules. The Council of Ministers is also responsible for ensuring that the EU's policies are implemented. The Council of Ministers is also responsible for ensuring that the EU's institutions are functioning properly. The Council of Ministers is also responsible for ensuring that the EU's institutions are working together to achieve the EU's objectives. The Council of Ministers is also responsible for ensuring that the EU's institutions are working together to achieve the EU's objectives.



of allowing the Constituent Assembly to keep to its proposed timetable while also enabling it to see if there is a public consensus over any of the options under consideration.

On 22 July 2014 King Bhumibol Adulyadej signed Thailand's newest interim constitution into law. This was enacted by the National Council of Peace and Order (NCPO), Thailand's new ruling military junta which staged the coup d'état against the caretaker government in May 2014. This constitution is the country's 18th in 82 years. It has major consequences: the suspension of parliamentary rule, the centralisation of power in the hands of the NCPO (and its Chairman, General Prayuth Chan-ocha), and the marginalisation of former politicians and political parties.

Section 6 of the new charter establishes a fully appointed legislative body, the National Legislative Assembly, which has subsequently been filled with army officers and pro-coup loyalists. This facilitated the unanimous vote for General Prayuth to become the new prime minister on 26 August. Certain clauses have granted the General unprecedented legal and political power; Section 44 in particular gives Prayuth authority above the executive, legislative and judicial branches. The interim constitution also allows for the NCPO to direct the drafting of the upcoming permanent constitution without the usual requirement of a public referendum.

Despite this show of legal and political consolidation, it remains uncertain that the NCPO will be able to push forward its preferred constitutional arrangement. Any constitution promulgated must face the court of domestic and international opinion, an arena in which the junta has less control.

In the July reshuffle, Leader of the Lords departed to become EU Commissioner and was replaced by . became Leader of the Commons while succeeded him as Foreign Secretary. became Chief Whip, replacing who stood down from Cabinet. The reshuffle also saw resign from Cabinet.

replaces as Attorney General, and is the new Solicitor General.

In the Ministry of Justice, is Director General, Law and Access to Justice Group; is Director of Judicial Policy, Pay and Pensions; is Deputy Director of Foreign Affairs.

