

~~The Electoral Commission has launched an inquiry into the elections, and is due to report in January. This is only likely to compound the negative assessment; the commission has already said that it disagreed with several decisions taken by the government on the poll, notably not providing a free mail shot to candidates and the highly unusual decision for the Home Office to run its own public awareness campaign.~~

~~The elected commissioners look likely to experience difficult times ahead, too. They only have until 31 January to submit their financial plan for the year, as well as to lay out strategies for the Chief Constable. This very short time frame stems from the government's decision to hold the poll in November, rather than in the spring as originally intended.~~

Electoral Registration and Administration Bill and the boundary review

~~The Electoral Registration and Administration Bill, which provides for a new system of individual rather than household voter registration, was home to a dramatic amendment in the Lords in January. Back in October, an opposition amendment was tabled at Committee stage which sought to change the publication date of the Boundary Commission's report on new constituencies from October 2013 to October 2018. The government suspended proceedings, explaining that there were concerns that the amendment was inadmissible on the basis of not being relevant to the bill. The new registration system is due to be introduced in 2014, in time for the 2015 general election.~~

~~When the Committee returned in January, the clerks ruled that the amendment was inadmissible. Labour's Lord Hart of Chilton moved it nonetheless, paving the way for the first formal split coalition vote in either House: the Conservatives whipped to vote against and the Lib Dems for (see Lords changes, p.3). Heated exchanges took place between coalition peers, with Clegg accused by Conservatives of 'double-crossing' and 'gerrymandering the constitution'.~~

~~The amendment played to the ongoing tensions around the boundary changes, particularly over how the new electoral register is likely to influence them. There is widespread concern that if the changes go ahead as planned (due to be implemented in time for the 2015 election) they will be based upon artificially low numbers of voters as a result of the drop off effect under individual registration. For Labour, who fear they will lose out significantly from the disenfranchisement of lower socio-economic groups, the amendment can be seen as an attempt to stave off the risk of unrepresentative registers making for unrepresentative constituencies. For the Lib Dems, supporting the delaying amendment was a means of following through on Clegg's announcement in September that his party would not back the proposed boundary change timetable as a result of Conservative failure to deliver on Lords reform.~~

~~Cameron will attempt to reverse the decision when the Bill returns to the Commons later in January, but success will rely on support from the nationalist parties.~~

COURTS AND THE JUDICIARY



Votes for prisoners and the new model Lord Chancellor

In November the Justice Secretary and Lord Chancellor, Chris Grayling, introduced a draft bill on the vexed topic of votes for prisoners. It offers Parliament three options: first, a ban on voting for prisoners sentenced to

four years' imprisonment or more; second, a ban on those sentenced to more than six months; third, re-enactment of the existing blanket ban. Mr Grayling introduced the draft bill just 24 hours before a deadline imposed by the European Court of Human Rights. The third option—to re-enact the current ban—would breach the Court's judgments in the *Hirst*, *Greens* and *Scoppola* cases. Introducing the draft bill in the Commons, Mr Grayling cited Lord Hoffman in the House of Lords judgment in *ex parte Simms* that 'Parliamentary sovereignty means that Parliament can, if it chooses, legislate contrary to fundamental principles of human rights'. In evidence before the Lords Constitution Committee the previous day, Mr Grayling had stated more directly that 'certainly ... we have an obligation to comply with the rulings of the European Court but, as we also know, parliamentary sovereignty supersedes those rulings.' These are bold statements, but the Lord Chancellor needed to reassure his backbenchers, and he could do so confident that the Council of Europe is anxious to avoid a direct conflict with the United Kingdom.

In his speech to the Commons Mr Grayling drew a distinction between his position as Lord Chancellor, the government, and Parliament. He noted that the government (and in particular the Lord Chancellor) is obliged to uphold the rule of law and is required by the *Scoppola* judgment 'to bring forward legislative proposals for Parliament to consider'. Being sovereign, Parliament could refuse to pass these proposals. In an interview with Andrew Neil on BBC *Sunday Politics*, he put his position more succinctly: 'We've said to Parliament, "Right, this is the legal position. We're under an obligation to do that, you're not."'

The overall approach—three options and a long consultation process—suggests that the government is anxious to delay a decision on the matter as long as possible, and to avoid responsibility for whatever decision is ultimately made. It may be that the Lord Chancellor and the government are hoping that Strasbourg will blink first rather than create a rift with a United Kingdom that has been a leading member of the Council of Europe. The Lord Chancellor's approach to the bill also suggests that his formal duty to protect the rule of law—hitherto taken for granted—is becoming more important as the nature of the office changes. Mr Grayling acknowledged to Andrew Neil that he may be unable to vote for the government's own bill if the final draft contains the third option.

CHURCH AND STATE

Female bishops, Parliament and Church Establishment

~~On 21 November, the Church of England rejected proposals to create female bishops (see Unit blog). Subsequently, the Commons agonised about the situation on 12 December and could agree only that it had 'considered the matter of the Church of England vote on women bishops'. This limp conclusion at least negated parliamentary voices wishing to legislate for women bishops against the wishes of the Church's Synod. The government's announcement of its gay marriage proposals in early December provoked some further Anglican dismay. For many—if they noticed—the Church's continued struggle with gender and human sexuality issues epitomised the doubtfulness of its continuing relevance to a much changed society.~~

~~Unsurprisingly, calls for disestablishment resurfaced upon publication of the Succession to the Crown Bill on 13 December. The government propose to abolish one, but one only, of the remaining constitutional disabilities imposed on Catholics: under the bill, while a person will be able to marry a Catholic and remain in line to the throne, the rule that the monarch may not themselves~~