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**Constitutional issues**

**Note by Peter Owen**

Members of the Constitution Society have become increasingly concerned that statements by the Home Secretary in relation to extradition and the Lord Chancellor’s proposals for restricting the scope of judicial review indicate a readiness by the government to curb the independence of the judges to an extent that could undermine the established consensus about the roles of the Legislature, dominated by the Executive, and the judiciary.

Richard Gordon and Nat LeRoux have been considering ways in which the Constitution Society might initiate a serious debate with a view to encouraging a deeper and more measured consideration of the issues. They would welcome a short discussion with the Executive Committee about handling: what is the best means of taking matters forward, and who should be involved? (One option that is under consideration is a dinner with knowledgeable and influential political figures - for example Jack Straw.)

Concern about the independence of the judiciary is one of a number of areas where government action risks upsetting the traditional pattern of checks and balances that underpin our unwritten constitution. We have recently published Christopher Foster’s paper, and submitted evidence to PASC, on the importance of preserving the political impartiality of the civil service. We have met Sir Alan Beith to discuss the government’s unwillingness to consider measures to reinforce accountability to Parliament, particularly with respect to the quality of legislation, and have urged the Liaison Committee to push back.

On a related topic, Dr Meg Russell of the Constitution Unit is arguing that a Private Member’s Bill allowing retiring Peers to enter the Commons could transform the character of the House of Lords and turn it into a training ground for professional politicians.

In addition to advising on the handling of the Constitution Society’s initiative on judicial independence the group may wish to consider the part the BGI should play in the developing debate. Although it is not part of our remit to take a principled stand on constitutional matters, there are obvious interactions that can affect the quality of governance. Hence, for example, our concern to maintain the rigour of accountability to Parliament for the quality of legislation and the freedom of the civil service to provide unbiased advice to ministers.

The Executive Committee will wish to consider:

* What advice to offer the Constitution Society on the handling of their initiative on judicial independence;
* Whether the BGI should consider a future publication specifically focused on the impact of government action on the constitutional balance;
* Whether we wish to ally ourselves with other parties in developing these themes.

PFO

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