

## Activity 11.1 The constitution in Britain and the USA

### Item A The American constitution

#### Articles 1-5 (adapted)

All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives. The House of Representatives shall be composed of members chosen every second year by the people. The Senate shall be composed of two senators from each state chosen for six years. All Bills for raising revenue shall originate in the House of Representatives. Every Bill which shall have passed the House of Representatives and the Senate shall, before it becomes law, be presented to the President of the United States. If he approve, he shall sign it, but if not, he shall return it with his objections. If, after reconsideration, two-thirds of the House of Representatives shall agree to pass the Bill, it shall be sent, together with the objections, to the Senate, by which it shall likewise be reconsidered; and, if approved by two-thirds of that house, it shall become a law. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years. The President shall be Commander-in-Chief of the armed forces. He shall, from time to time, give to the Congress information of the state of the Union, and recommend

to their consideration such measures as he shall judge necessary and expedient. The judicial power of the United States shall be vested in the Supreme Court. The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid as part of this constitution when ratified by the legislature of three-fourths of the several states or by conventions in three-fourths thereof.

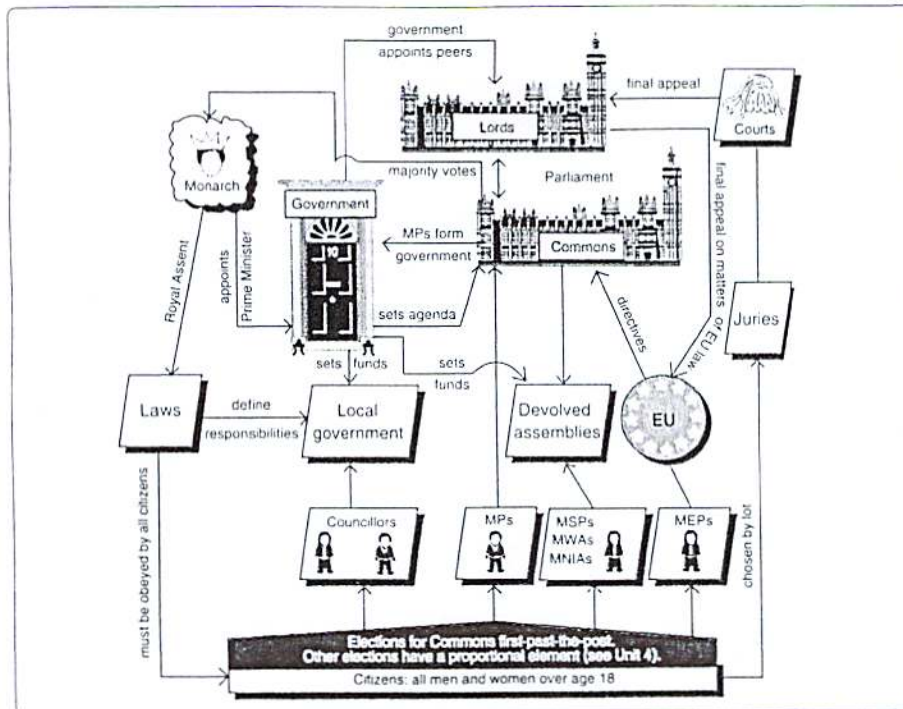
#### Amendment 1 (adapted)

Congress shall make no law respecting of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

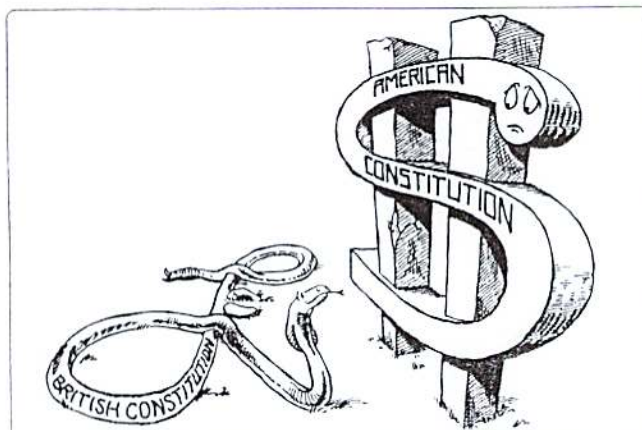
#### Amendment 6 (adapted)

In all criminal proceedings, the accused shall enjoy the right to a speedy trial by an impartial jury of the state and district wherein the crime shall have been committed.

### Item B The UK constitution



### Item C The British and American constitutions compared



This cartoon compares the rigidity of the American constitution with the flexibility of the British constitution.

### Questions

- Judging from Items A and B, do you agree with the point being made in Item C?
- Using Item A, draw a diagram of the American constitution in a style similar to that used in Item B.
- Judging from Item B, would you say that the principle of separation of the powers is put into practice in the UK? Give reasons for your answer.
- The capacity of the UK's constitution to evolve is its major strength. Explain and discuss this statement.

*USA very segmented  
UK weak + disorganised*

## The UK Constitution:

These are the basics; you must understand all of this.

Constitutions are designed to set out the rules and regulations within which governments operate. They establish the composition, powers and functions of the institutions of the state, regulate the relations between these institutions, and enshrine the legal rights and duties of the citizenry.

An important distinction can be drawn between codified and uncoded constitutions. Codified constitutions are largely written, centred around a single document incorporating key constitutional provisions that are binding on all political institutions. They are usually 'entrenched', enjoying the protection of a higher or supreme court, and can only be repealed or amended by special provisions, beyond the ordinary legislative process. Examples of codified constitutions include the American Constitution of 1878, or the German Basic Law of 1949. Indeed, most constitutions are written and codified.

The United Kingdom is rare among liberal democracies in not having a codified constitution of this kind. The UK constitution is often described as an 'unwritten constitution', but it is best described as 'partly written and wholly uncoded' (Budge et al, 1998). It is derived from a number of sources. Its principal source is statute law, i.e., laws passed by the UK Parliament.

Statute law is particularly important for determining the powers and scope of government, and the conduct of elections. Examples include the Act of Union of 1707, which united Scotland with England and Wales, the various Representation of the People Acts, which extended the right to vote, and the European Communities Act of 1972, which took the UK into the European Community.

An array of conventions, or unwritten understandings and customs, also surround the rules of constitutional behaviour. Although not supported by law, these are considered to be binding. For example, it is a convention that the monarch signs Acts of Parliament

passed by both Houses, and that the government should resign after losing a vote of 'no confidence'.

Constitutional authority is also derived from common law, that is, the legal principles and 'precedents' established by judicial decisions. As a source of constitutional authority, common law has largely been replaced by statute law, but it remains important in the sphere of civil liberties, and in fundamental constitutional principles, such as the Royal Prerogative and parliamentary sovereignty.

A historic feature of the UK constitution, the Royal Prerogative gives the Crown (the monarch) special powers, including the power to declare war, to make treaties, to pardon criminals, and to dissolve Parliament. Today the role of the monarch in such matters is largely ceremonial, but the Royal Prerogative gives considerable powers to government ministers acting on the Queen's behalf.

"Government without a constitution is power without right"  
Thomas Paine, *The Rights of Man*, 1795

The single most important principle of the UK constitution is that of parliamentary sovereignty. Under this principle, Parliament can make or unmake any law on any subject whatsoever. No one Parliament is bound

by the decisions of its predecessors, nor can it bind its successors. There is no higher body, such as a supreme court, that constrains the legal authority of Parliament.

However, parliamentary sovereignty is now directly challenged by the UK's membership of the European Union. EU membership necessitates the 'pooling' of sovereignty over areas where the member states have agreed to act together. All laws passed at the European level are considered legally superior to domestic law, and are ultimately protected by a higher constitutional court, the European Court of Justice. Should European Community law and UK law conflict, EC law will prevail.

### Questions (answer in your own words):

1. What is a constitution? ✓
2. What is the difference between a codified and an uncoded constitution? ✓
3. What does 'entrenched' mean when referring to constitutions? ✓
4. What sort of constitution is the UK's constitution? ✓

5. Describe the different sources (influences upon) of the UK constitution? ✓
6. What is the Royal Prerogative? ✓
7. What is 'parliamentary sovereignty' and why is it important? ✓
8. What effect has EU membership had on parliamentary sovereignty? ✓



# Proportional Representation

**Devolution**

**Scotland**

If the election to the Scottish Parliament saw a seismic shift in the ground more slowly.



**Northern Ireland**

There were small percentage shifts in first-preference votes—the Assembly election is under the single transferable vote—and seats which consolidated the position of the principal ethno-nationalist parties, the Democratic Unionist Party (28 seats) and Sinn Féin (29) at the expense of the Ulster Unionist Party (16) and the SDLP (14). But the main mover was the small Liberal Alliance Party (8), whose first preferences rose by nearly half to 7.7 per cent.

This enabled the party to a seat in the Executive, formed using the D'Hondt proportionality rule, at the expense of the UUP, in addition to the justice ministry held for another year at least under special arrangements by the party leader, David Ford. That meant a make-up of four DUP and three SF ministers, in addition to the returning first and deputy first minister couple of Peter Robinson and Martin McGuinness respectively, with two for Alliance and just one each for the SDLP and UUP—whose ministers already felt marginalised in the preceding term.

The big story of the election was an extraordinarily slow-moving and inefficient count. But perhaps the biggest story was the one really large shift since the last assembly poll—the precipitate fall-off in turnout. At 54.5 per cent of registered electors, this showed a nine-point drop on 2007. This despite the campaign by the DUP to get out the Protestant vote to stop SF prevailing and McGuinness taking the first-minister position. A televised leaders' debate in the week of the election attracted just one in 20 registered voters. There are three reasons for this, none of which bodes well for the new Assembly term. First, the big claim for power-sharing devolution for Northern Ireland—which only Alliance unequivocally backed before the Belfast Agreement—was that it would be an antidote to paramilitary violence. Yet the move from relatively impartial if remote rule from Westminster to contested sectarian governance has seen violence perversely rise during both periods of devolution (1999-2002 and 2007-present).

This is remarkably mirrored in popular confidence. Every year while falling during the direct-rule interregnum. The Office of the First Minister and Deputy First Minister last autumn negotiations between the DUP and SF—was withdrawn after it was founded criticised by experts and reconciliation practitioners for fatalistically accepting sectarian division.

The second problem is that, while this was widely billed in the media as a bread and butter issues campaign, none of the parties with the exception of Alliance—whose manifesto ran to 150 pages—offered much beyond populist proposals to keep down the regional rate (the only locally variable revenue source), to defer (again) water charges and to urge a reduction in corporation tax (based, like the parallel Celtic tiger). Defined by their communal affiliations rather than along a left-right spectrum, they offered voters no significant policy choices.

The short term future seems clear. The SNP goes on with a clear mandate for a referendum on independence and to continue its wider policy agenda (for example, by returning to its aim to set a minimum price for a unit of alcohol). Scottish Labour will elect a new leader in the Autumn, following a root and branch review initiated by Iain Gray before his departure; the Liberal Democrats work to distance themselves from their electorally-toxic UK counterparts.

## Account

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**Conservatives**

Dr Paul Cairney, University of Aberdeen

Now, they are reduced to keeping an eye on the SNP, the budget). From 2007-11 they often popped up the SNP, securing small policy concessions for support on key votes (most notably on Parliament). The SNP's role in the Scottish independence debate has been a peripheral role in the Scottish and the Conservatives may return to a peripheral role in the Scottish independence debate. The Liberal Democrats work to distance themselves from their electorally-toxic UK counterparts.

## Measure

**Change to Labour - take everything into account**

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And the third, and related, problem is that devolution is making no difference—except in a negative sense. The inability of the executive to manage public services effectively—including its refusal to raise the necessary additional revenue—has seen hospital waiting lists also rise under both periods of Stormont rule, having similarly been brought down when London took over.

In education, there has been deadlock ever since the former executive collapsed in 2002 over the continuation of academic selection at 11—Protestant parties support it, Catholic parties (and most educationalists) oppose, leaving a chaotic and unregulated transition through private examinations. Meanwhile there are 80,000 empty school places because of the unworkings of the main parties to integrate the education system, as the all-too-brief 1974 power-sharing executive decided.

Finally, the recession has hit Northern Ireland hard. The economy was identified as the priority in the early 2008 Programme for Government—which was not annually reiterated, as the Belfast Agreement required, despite the onset of a global capitalist crisis—executive still without a policy when the election took place. Meanwhile, unemployment nearly doubled in the four-year term.

**Wales**

The first months of 2011 have seen a flurry of activity that will define how devolved government in Wales works for some years to come. Dr Robin Wilson is an Honorary Senior Research Fellow of the Constitution Unit and author of *The Northern Ireland Experience of Conflict and Agreement: A Model for Export?* (Manchester University Press, 2010).

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Following the election, Labour announced it intended to govern alone without a coalition or other partner. Labour has experience of trying to govern with just 30 (it did so after the 2003 elections), and knows how easy it is to lose a majority and how tough that can be in any event. Carwyn Jones, re-elected as first minister, was keen to emphasise he would govern without triumphalism or tribalism. Labour's decision has followed discussions, and may change in the coming months. Lord Elis-Thomas, presiding officer in the first three Assemblies, did not run for a fourth term, and was succeeded by Rosemary Butler from the Labour Party.

How the new government will proceed is an open question. Until 2010 Labour had held office in both Cardiff and London, and that greatly facilitated the practical working of government. The referendum on legislative powers was a result of Labour seeing a much more difficult situation in Westminster on the horizon. The legislative proposals in its manifesto were thin, however, and the main commitment was to 'stand up for Wales' and focus on delivery. The big question will be whether they can in fact do so.

The executive has now been renamed as the 'Welsh Government'. It has seven ministers and three deputy ministers, so is slightly smaller than the outgoing coalition (which had eight ministers and four deputy ministers). While Jones refreshed his administrative and promoted some former junior figures, most of the ministers were previously in Cabinet and two key ones—Leighton Andrews at Education and Jane Hutt at Finance—kept their posts. Lesley Griffiths is the new health minister. There is no formally-designated deputy first minister, and the Counsel General is to be an outside appointment and announced later.

**Courts And The Judiciary**

<http://devolutionmatters.wordpress.com/>

Alan trench is author of the 'Devolution Matters' blog.

The Human Rights Act (HRA) is having a bad time of it. There have been a sequence of criticisms of the Act and its operation from within the Conservative side of the coalition government and elements of the print media. In November, Prime Minister David Cameron declared himself to be 'physically ill at the prospect that prisoners should be allowed to vote because of decisions by the European Court of Human Rights. Together with Home Secretary Theresa May, he said he was appalled at the Supreme Court decision in February that convicted sex offenders should be entitled to apply to remove themselves from the Sex Offenders Register. Most recently, there has been outcry about 'super-judgments'. These are a particularly sore point within the media, against whom these instruments are primarily directed. (The Times expressed its dissatisfaction with one such injunction by running a redacted version of the prohibited story under the heading 'Premiership footballer \*\*\*\*\* wins new gag over \*\*\*\*\* with TV star').

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## Devolution

Devolution is the statutory granting of powers from the central government of a Sovereign state to government at a subnational level, such as a regional, local, or state level. It differs from federalism in that the powers devolved may be temporary and ultimately reside in central government, thus the state remains, de jure, unitary.

Any devolved parliaments or assemblies can be repealed by central government in the same way an ordinary statute can be. Federal systems, or federacies, differ in that state or provincial government is guaranteed in the constitution. Australia, Canada and the United States have federal systems, and have constitutions (as do some of their constituent states or provinces). They also have Territories, with less power and authority than a state or province.

The devolution can be mainly financial, e.g. giving areas a budget which was formerly administered by central government. However, the power to make legislation relevant to the area may also be granted.

### United Kingdom

In the United Kingdom, devolved government was created following simple majority referenda in Wales and Scotland in September 1997. In 1998, the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly were established by law. The move came eighteen years after similar proposals were defeated in qualified majority referendums in Wales and Scotland in March 1979, though in Scotland's case a slim majority of those voting had backed the proposal.

The issue of Irish home rule was the dominant political question of British politics at the end of the 19th and beginning of the 20th century.

The home rule demands of the late 19th and early 20th century differed from earlier demands for Repeal by Daniel O'Connell in the first half of the nineteenth century. Repeal meant the repeal of the Act of Union 1800 and the creation of a separate parliament not subservient to the British parliament and only sharing a head of state or crown between Great Britain and Ireland whereas home rule meant the creation of autonomous region with its own parliament within the United Kingdom. The home rule parliament would be subservient to the British parliament.

From the late 19th century, leaders of the Irish Parliamentary Party under Isaac Butt, William Shaw and Charles Stewart Parnell had demanded a form of home rule, with the creation of a subsidiary Irish parliament within the United Kingdom (replacing the Irish parliament that existed up to the Act of Union in 1800). This demand led to the eventual introduction of four Irish Home Rule Bills, of which only the last two were approved by the British Parliament, the third Government of Ireland Act 1914 after a prolonged parliamentary struggle, receiving Royal Assent then suspended with the outbreak of World War I. Only the final one was subsequently enacted: the Government of Ireland Act 1920.

The third Act was opposed particularly by Ulster Unionists who raised the Ulster Volunteer Force and signed the Ulster Covenant to oppose the bill, thereby raising the spectre of civil war, Irish Nationalists not being prepared to grant any concessions or guarantees to alleviate Protestant minority fears. The fourth Act, dictated by Ulster, created the six county parliament of Northern Ireland and the twenty-six county parliament of Southern Ireland — although the latter did not in reality function and became the Irish Free State in 1922 after the Anglo-Irish Treaty, which in turn became the Republic of Ireland that exists today.

1886: First Irish Home Rule Bill never made it through the British House of Commons.

1893: Second Irish Home Rule Bill defeated in the House of Lords

1912: Third Irish Home Rule Act passed under the provisions of the Parliament Act 1911 (as the Government of Ireland Act 1914) but never came into force, due to the intervention of World War I (1914–18) and of the Easter Rising in Dublin (1916).

1920: Fourth Irish Home Rule Act (Government of Ireland Act 1920)

### Northern Ireland

Home Rule came into effect for Northern Ireland in 1921 under the Fourth Home Rule Act, an after-life of its legacies surviving there; however, it was dissolved in 1973. A devolved Assembly was created as a result of the 1998 Belfast Agreement. The Assembly was intended to bring together the different communities to govern Northern Ireland together.

From October 2002, it was not operational, due to a breakdown in the Northern Ireland peace process but, on 13 October 2006, British and Irish governments announced a "road map" to restore devolution to Northern Ireland.

On 26 March 2007, Democratic Unionist Party (DUP) leader Ian Paisley met Sinn Féin leader Gerry Adams for the first time and together announced that a devolved government would be returning to Northern Ireland. Power-sharing began on 8 May 2007.

### Scotland

Ever since the Parliament of Scotland closed down in 1707 as a consequence of the Acts of Union, individuals and organisations have advocated the return of a Scottish Parliament. The drive for home rule first took concrete shape in the 19th century, as demands for it in Ireland were met with similar (although not as widespread) demands in Scotland. The National Association for the Vindication of Scottish Rights was established in 1853, a body close to the Tories and motivated by a desire to secure more focus on Scottish problems in response to what they felt was undue attention being focused on Ireland by the then Liberal government. In 1871, William Gladstone stated at a meeting held in Aberdeen that if Ireland was to be granted home rule, then the same should apply to Scotland. A Scottish home rule bill was presented to the Westminster Parliament in 1913 but the legislative process was interrupted by the First World War.

201 governing itself

civil unrest

route to...

republicans + unionist could not work together.

post-WWI.

The demands for political change in the way in which Scotland was run changed dramatically in the 1920s when Scottish nationalists started to form various organisations. The Scots National League was formed in 1920 in favour of Scottish independence, and this movement was superseded in 1928 by the formation of the National Party of Scotland, which became the Scottish National Party (SNP) in 1934. At first the SNP sought only the establishment of a devolved Scottish assembly, but in 1942 they changed this to support all-out independence. This caused the resignation of John MacCormick from the SNP and he formed the Scottish Covenant Association. This body proved to be the biggest mover in favour of the formation of a Scottish assembly, collecting over two million signatures in the late 1940s and early 1950s and attracting support from across the political spectrum. However, without formal links to any of the political parties it withered, and devolution and the establishment of an assembly were put on the political back burner.

Support for the SNP reached 30% in the October, 1974 general election, with 11 SNP MPs being elected. In 1978 the Labour government passed the Scotland Act which legislated for the establishment of a Scottish Assembly, provided the Scots voted for such in a plebiscite. However, the Labour Party was bitterly divided on the subject of devolution. Despite officially favouring it, considerable numbers of members opposed the establishment of an assembly, and this division contributed to only a narrow 'Yes' majority being obtained and the failure to reach 40% of the electorate voting in favour of an assembly as required by an amendment to the Scotland Act that had been proposed by Labour MP George Cunningham who was shortly afterwards to defect to the newly formed Social Democratic Party (SDP). History took an ironic twist when the Labour Government led by James Callaghan lost an SNP-inspired vote of no confidence on the issue which ushered in 18 years of Conservative government under Margaret Thatcher and then John Major who both strongly resisted any proposal for devolution for either Scotland or Wales. The 1979 General Election also saw a collapse in the SNP's vote returning only two MPs.

In 1989 the Scottish Constitutional Convention was formed encompassing the Labour Party, Liberal Democrats and the Scottish Green Party, local authorities, and sections of "civil Scotland" like Scottish Trades Union Congress, the Small Business Federation and Church of Scotland and the other major churches in Scotland. Its purpose was to devise a scheme for the formation of a devolution settlement for Scotland. The SNP decided to withdraw as they felt that independence would not be a constitutional option countenanced by the convention. The convention produced its final report in 1995.

In May 1997, the Labour government of Tony Blair was elected with a promise of creating devolved institutions in Scotland. In late 1997, a referendum was held which resulted in a "yes" vote. The newly-created Scottish Parliament (as a result of the Scotland Act 1998) had powers to make primary legislation in certain 'devolved' areas of policy, in addition to some limited tax varying powers (which to date have not been exercised). Other policy areas remained 'reserved' for the UK Government and parliament.

Devolution for Scotland was justified on the basis that it would make government more responsive to the wishes of the people of Scotland. It was argued that the population of Scotland felt detached from the Westminster government (largely because of the policies of the Conservative governments led by Margaret Thatcher and John Major [1]PDF (44.8 KiB))

However, devolution for Scotland has brought to the fore the West Lothian question which is a complaint that devolution for Scotland and Wales but not England has created a situation where MPs in the UK parliament, including Welsh and Scottish MPs, can vote on matters affecting England alone but on those same matters Scotland and Wales can make their own decisions.

## Wales

The 1974-79 Labour Government proposed a Welsh Assembly in parallel to its proposals for Scotland. These were rejected by voters in the Wales referendum, 1979 with 956,330 votes against, compared with 243,048 for.

In May 1997, the Labour government of Tony Blair was elected with a promise of creating a devolved assembly in Wales; the Wales referendum, 1997 resulted in a "yes" vote. The National Assembly for Wales, as a consequence of the Government of Wales Act 1998, possesses the power to determine how the government budget for Wales is spent and administered.

Devolution for Wales was justified on the basis that it would aid in bringing government closer to the people in the nation. The population of Wales felt detached from the Westminster government (largely because of the policies of the Conservative governments led by Margaret Thatcher and John Major. In Wales the referendum on devolution was only narrowly passed, and most voters rejected devolution in all the counties bordering England, as well as Cardiff and Pembrokeshire. However, all recent opinion polls indicate an increasing level of support for further devolution, with support for primary law-making powers now commanding a majority, and diminishing support for abolition of the Assembly.

Critics of devolution believe that it will undermine the existence of the United Kingdom, but an alternative view is that it's the asymmetric nature of the current devolution settlement that presents the greater threat to the Union.

## England

England is the only country of the United Kingdom to not have a devolved Parliament or Assembly though a movement for the establishment of a single devolved English Parliament, the English Constitutional Convention, is backed by the English Democrats and Campaign for an English Parliament. Without its own devolved Parliament, England continues to be governed and legislated for by the UK Government and UK Parliament which gives rise to the West Lothian question. The question concerns the fact that, on devolved matters, Scottish MPs continue to help make laws that apply to England alone though no MPs can make laws on those same matters for Scotland. There is evidence that the idea of an English Parliament has a significant level of support. Within England, regional devolution has only extended to London where the Greater London Authority has greater powers than other local authority bodies. Proposals for other Regional Assemblies in England have been indefinitely postponed following the rejection in a 2004 referendum of proposals for the North East.



## Cornwall

There is a movement that supports devolution in Cornwall. Its strongest advocates in elections are the Mebyon Kernow party and the Cornish Liberal Democrats who aim to establish a regional Cornish Assembly. A proportion of Cornish devolution supporters such as the Cornish Stannary Parliament, Cornwall 2000, the Cornish Nationalist Party, Cornish Solidarity and the Cornish National Liberation Army support further devolution for Cornwall to become either a constituent country of the United Kingdom or even split from the UK entirely. Several Cornish Liberal Democrat MPs such as Andrew George, Matthew Taylor and Dan Rogerson are strong supporters of Cornish devolution.

## Crown Dependencies

Crown dependencies are possessions of the British Crown, as opposed to overseas territories or colonies of the United Kingdom. They comprise the Channel Island bailiwicks of Jersey and Guernsey, and the Isle of Man in the Irish Sea.

The dependencies do not form a part of the United Kingdom, being separate jurisdictions. Each has its own parliament and Chief Minister. However, as possessions of the Crown they are not sovereign nations in their own right and the British Government has historically retained a number of residual powers in relation to the islands. To the extent that these powers have been little used in recent years, there has been a de-facto measure of devolution. In addition, the States of Jersey Law 2005 established that all Acts of the United Kingdom and Orders in Council relating to Jersey are to be referred to the Island's parliament, and gave greater freedom of action to Jersey in international affairs.

## United States

### District of Columbia

In United States, the District of Columbia offers an illustration of devolved government. The District is separate from any state, and has its own elected government; in many ways, on a day-to-day basis, it operates much like another state, with its own laws, court system, Department of Motor Vehicles, public university, and so on. However, the governments of the 50 states have a broad range of powers reserved to them by the U.S. Constitution, and most of their laws cannot be voided by any act of U.S. federal government. The District of Columbia, by contrast, is constitutionally under the sole control of the United States Congress, which created the current District government by statute. Any law passed by the District legislature can be nullified by Congressional action, and indeed the District government could be significantly altered or eliminated entirely by a simple majority vote in Congress.

### United States

In the United States only the federal government and the state governments are recognized by the United States Constitution, so local governments are subdivisions of states. Theoretically, a state could abolish all local governments within its borders.

Local governments such as municipalities, counties, parishes, boroughs, school districts, and other types of local government and political subdivision entities are devolved. They are established, regulated, and subject to governance by the constitutions or laws of the state in which they reside. Many local governments are given some degree of home rule, depending on the state. U.S. state legislatures, in most cases, have the power to change laws that affect local government structures. In some states, the governor may also have power over local government affairs.

## Indigenous rights

Native Americans have some rights devolved to them by United States government. For example they are given a large amount of autonomous rule over their tribal lands. However, the tribal governments do not have independence from the federal government. Indian tribes also do not have the equivalent rights of the U.S. States under the U.S. Constitution. However, they are exempt from jurisdiction of some state laws and regulations, such as allowing gambling on their reservations, when similar activity may be illegal outside tribal lands.

## Questions

1. What is the difference between federal and devolved government?
2. Compare the powers of the Scottish, Welsh and Northern Irish parliaments / assemblies
3. What are the political debates and controversies surrounding devolution in the UK?
4. How is the USA constitutionally different from the UK in terms of where political power is located?

constitutionally assigned right. / powers can be repealed

→ constitution → states + people sovereign.



Answer TWO questions, ONE from Section A and ONE from Section B.

Section B starts on page 14.

## SECTION A

Answer EITHER Question 1 OR Question 2.

### 1 The British Constitution

Study the following passage and answer the questions that follow.

#### A Possible Codified Constitution for the UK

Jack Straw, the Justice Secretary, has used a visit to Washington to hint that Britain could finally get a codified constitution spelling out citizens' rights and codifying this country's political system. He is already working on a new Bill of Rights and Responsibilities, clearly defining people's relationship to the state, as part of a wide-ranging package of constitutional reform. But he has, for the first time, also said that the Bill could be a step towards a fully codified constitution to 'bring us in line with the most progressive democracies around the world'.

Britain's constitution has developed in a haphazard fashion, building on common law, conventions, case law, historical documents, Acts of Parliament and European legislation. It is not set out clearly in any one document. Nor is there a single statement of citizens' rights and freedoms. As Jack Straw put it yesterday: 'Most people might struggle to put their finger on where their rights are'.

Supporters argue that producing such a document could tackle disillusionment with politics, at the same time as setting new, clear limits on the power of the executive. Opponents of a codified constitution argue, 'If it ain't broke, don't fix it,' insisting that the existing arrangements, however piecemeal their development has been, have worked well in practice. There are, moreover, formidable practical problems to be overcome before such a document could be drawn up.

Source: adapted from an article by Nigel Morris in *The Independent*, 14 February 2008

1 (a) With reference to the source, describe **three** sources of the UK constitution.

ALWAYS

no extra knowledge unless a description aid

(b) With reference to the source, and your own knowledge, explain the arguments in favour of a codified constitution for the UK.

+ 3 analysis.

conclusion - definite, not repetitive, understand arguments.

(c) Make out a case against the adoption of a codified constitution for the UK.

- what an uncoded constitution is
- arguments for
- how a codified constitution would be bad for the good things.

(Total for Question 1 = 40 marks)

≠ 'Discuss arguments for & against cod.'

come: take a side,

