

Monitor 63 / June 2016



The forthcoming referendum on whether the UK should remain a member of the European Union or leave – to be held on 23 June – has raised many important constitutional questions.

In part, these concern the implications that a vote for Brexit would have for the constitution and the distribution of power in the UK and the EU. As reported elsewhere in this edition of *Monitor*, these issues have been addressed in a series of Constitution Unit [seminars](#).

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option), but only if bigger issues are settled. In line with [evidence to the committee](#) from the Constitution Unit's Meg Russell, PACAC suggested that this should be contingent on limits being placed on the size of the Lords and the Prime Minister's patronage powers. The government's response to October's tax credits defeat has hence caused quite a parliamentary backlash, raising bigger constitutional questions which are unlikely to go away.

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submitted on 13 June. The candidates are
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an amendment, its longstanding practice is to cite its

The government has also now committed to publishing more salaries of senior officials, as well as detailed statistics on how FOI is working, in the third [Open Government National Action Plan](#). This comes alongside the recent controversial (and possibly tricky) proposal to [publish details](#) of the salaries of senior BBC stars earning over £450k – though those supporting such change should beware, as [evidence shows](#) that salary publication can lead to upwards pressure and pay rises rather than cuts.

Following the 2015 election two measures were introduced with the potential to affect the funding of at least some parties. In July 2015 a [Trade Union Bill](#) was presented, which included a clause requiring trade unions with a political fund to operate a ‘contracting-in’ system rather than a ‘contracting-out’ system. This had been a Conservative Party manifesto commitment, but went to the heart of the Labour Party’s relationship with the trade unions.

The government’s majority meant that this aspect of the bill originally passed through the Commons relatively unscathed. However, it experienced trouble in the Lords on its second reading in January 2016. As a result, the Lords established a [select committee on Trade Union Political Funds and Political Party Funding](#) to examine the relevant clauses. Its report concluded that the re-introduction of ‘contracting-in’ could have a ‘sizeable negative effect’ on the number of union members participating in political funds and therefore on the income of the Labour Party. On 16 March, the government suffered a heavy [Lords defeat](#)

controversy over appointment of

The 2016 National Assembly for Wales election saw the Labour Party returned as the largest party once again, winning 29 of the 60 available seats – a net loss of only one since 2011, despite their constituency vote share falling almost eight per cent. The other major story was the election of seven UKIP AMs, the first time the party has gained representation in the Assembly.

Plaid Cymru returned 12 AMs and replaced the Conservatives as the official opposition in the Assembly, a position the party previously held from 1999 to 2007. Plaid's result included an impressive personal victory for leader Leanne Wood, who won the usually safe Labour constituency of Rhondda. However, this was the party's only gain. The Conservatives had a disappointing election, failing to build on 2015 general election gains in Wales and returning only 11 AMs, a net loss of three seats.

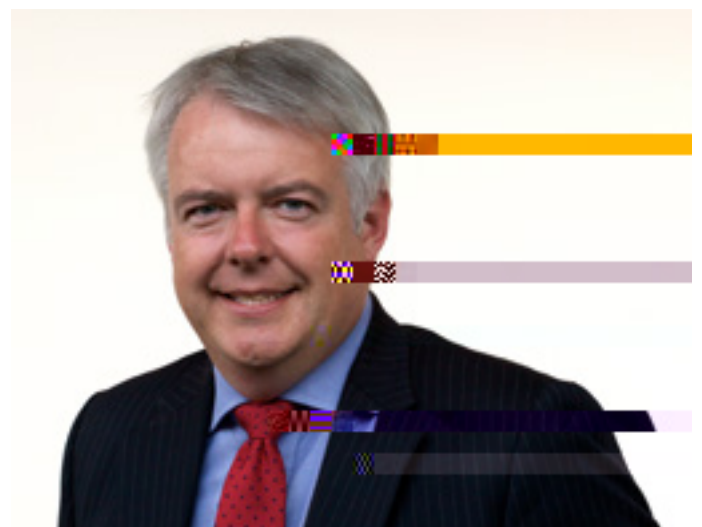
	vote share (%)	List vote share (%)	
Labour	34.7 (-7.6)	31.5 (-5.4)	29 (-1)
Plaid Cymru	20.5 (+1.2)	20.8 (+2.9)	12 (+1)
Conservative	21.1 (-3.9)	18.8 (-3.7)	11 (-3)
UKIP	12.5 (n/a)	13.0 (+8.4)	7 (+7)
Lib Dem	7.7 (-2.9)	6.5 (-1.5)	1 (-4)

National Assembly for Wales election result, 5 May 2016 (changes from 2011 shown in brackets). Source: [BBC News](#)

Less than one week after the election, Labour's failure to achieve a majority set the scene for one of the most dramatic days in the Assembly's short history. Both Labour and Plaid Cymru nominated their leaders, Carwyn Jones and Leanne Wood respectively, as First Minister. The result was a [tied vote](#), with Labour and the sole Liberal Democrat Kirsty Williams voting for Jones, and Plaid Cymru, UKIP and the Conservatives voting for Wood. The heated deadlock that ensued suggested that the tone of this Assembly will be more confrontational than those before it.

The subsequent result was an agreement between Labour and Plaid Cymru that allowed Carwyn Jones to resume First Ministerial duties, Wood's candidacy having been withdrawn, on 18 May. The agreement – '[The Compact to Move Wales Forward](#)' – will have potentially long-lasting consequences. A series of policy commitments were announced, including the establishment of three liaison committees, focusing on legislation, finance and the constitution. These will each comprise a Labour minister and a Plaid Cymru representative and be staffed by the civil service. In a further nod to the need to work with other parties Kirsty Williams [was appointed as Education Secretary](#) in the new cabinet.

The constitution will have particular significance during the early stages of this Assembly, after the [Queen's speech](#) confirmed the UK government's plans to pass an updated Wales Bill. Plans to implement the draft Wales Bill published last year were [put on hold by Stephen Crabb](#), then Secretary of State for Wales, in February after widespread criticism of the bill, outlined in [_____ 62](#) (pages 8–9). In March 2016 the Welsh government released its own [alternative bill](#), calling for powers beyond those proposed by London, including the devolution of policing and crime, as recommended by the Silk Commission, the creation of a Welsh legal jurisdiction, and the devolution of air passenger duty and (subject to a two-thirds Assembly majority) income tax. Whether the UK government's revised bill will meet these demands is yet to be seen.



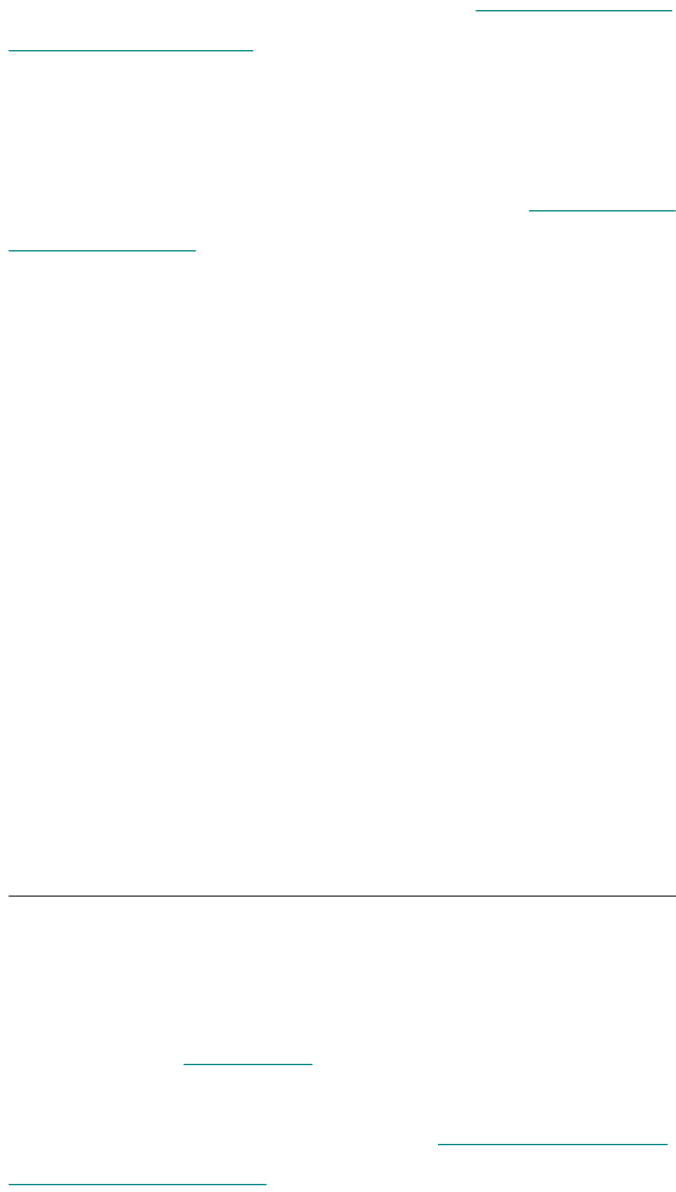
Carwyn Jones. Credit: [National Assembly For Wales / Cynulliad Cymru](#)

The Assembly election on 5 May ostensibly changed little. The DUP, UUP and Alliance neither gained nor lost seats. For the DUP this exceeded expectations, and was a triumph for its new leader Arlene Foster; the

The [agreement](#) between Prime Minister Cameron and

Ireland: minority government takes office

The Irish election on 26 February, analysed [here](#), led to a hung Dáil. Fine Gael (FG), which led the last government, declined seriously, though it narrowly remains the largest party; its partner Labour did worse. Fianna Fáil (FF) made a strong comeback; Sinn Féin grew markedly, though less than it had hoped. A large contingent of independents was returned.



The change was passed just in time for a rare 'double dissolution', [requested by Prime Minister Malcolm Turnbull](#) after the Senate repeatedly refused to pass government bills. Simultaneous elections to the House of Representatives and all Senate seats will be held on 2 July. Because double the usual number of seats are available, such Senate elections tend to favour more proportional outcomes, though there are clear counterpressures under the new system to reduce small party representation

[62](#) (page 12) reported on Senate reform in Italy. The bill has passed all its parliamentary stages, and a referendum will now take place in October. The [wide-ranging changes](#) would not only substantially reduce the Senate's powers and alter its membership, but also reduce the powers of the Italian regions (whose representatives would make up most members of the new second chamber). Prime Minister Matteo Renzi launched the 'yes' campaign on 3 May, and has raised the stakes by [indicating that he will resign if the reform is defeated](#) – making a politically charged campaign inevitable.

Seminars and briefing papers on the

Automated administrative decision-making

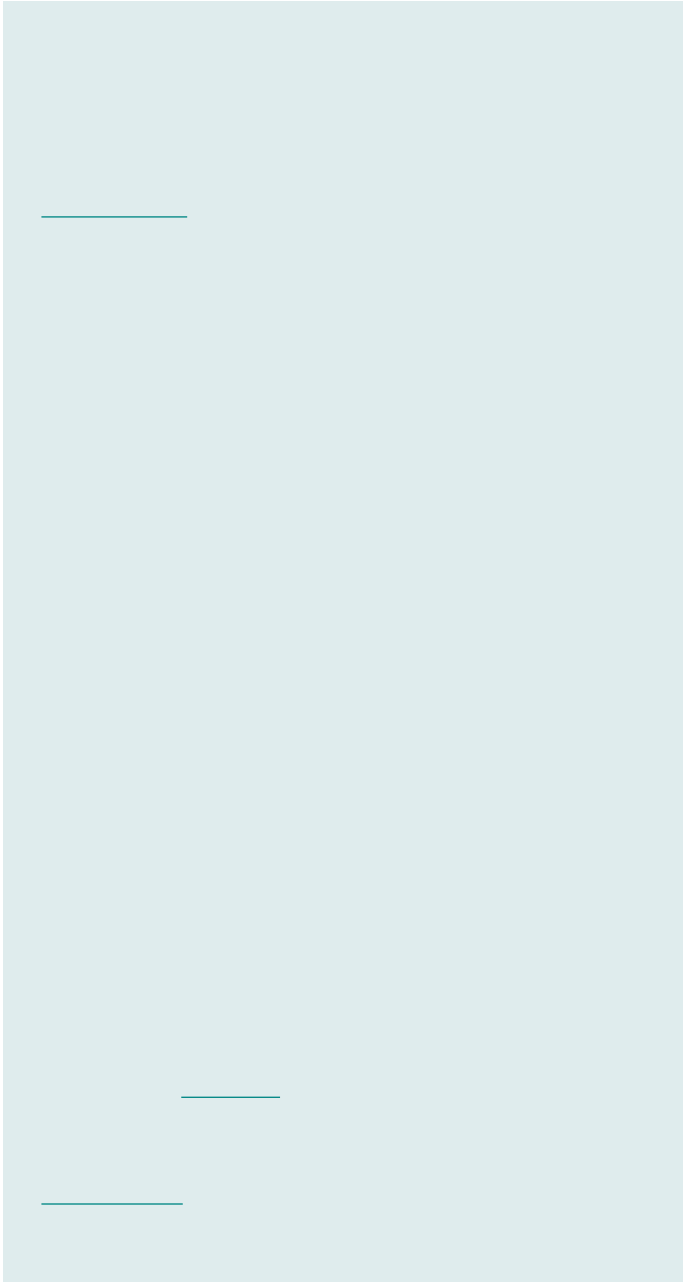
Andrew Le Sueur (Professor of Constitutional Justice
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English votes for English laws project

Michael Kenny (Professor of Politics at Queen Mary University of London and Director of the [Mile End Institute](#)) has been awarded a British Academy/Leverhulme Small Research Grant to analyse how the new system of 'English votes for English laws' is affecting the legislative process. The research is conducted with Daniel Gover. This new award follows on from funding received from the Centre on Constitutional Change (supported by the Economic and Social Research Council) which has enabled Michael and Daniel to conduct interviews with the architects of EVEL, those tasked with interpreting its rules in parliament, and politicians and advisers involved in its development under the previous coalition administration, as well as the current Conservative one.

Michael and Daniel aim to publish a detailed report on EVEL in early autumn, which will consider whether the current system could be rendered more transparent, accessible and politically consensual. They have reported interim findings in [evidence](#) to the House of Commons Procedure Committee, which is currently reviewing EVEL, and [elsewhere](#), and have delivered papers analysing constitutional and political aspects of EVEL at the annual meeting of the Political Studies Association and the Institut d'Estudis de l'Autogovern in Barcelona. The new award will enable them to extend their analysis to more bills in the current session, to consider the wider constitutional ramifications of this major reform for the practices and conventions of the Commons, and to reflect more fully on whether it fits or clashes with other changes to the UK's territorial constitution.

Bulletin Board



Matthew Flinders et al., _____

(Democracy Matters, April 2016).

Petra Schleiter, Valerie Belu and Robert Hazell, _____

_____ (Constitution
Unit/ University of Oxford Department of Politics and
International Relations, May 2016).

Robert Hazell and Bob Morris, _____

