



HOUSE OF LORDS

Select Committee on the Constitution

12th Report of Session 2008–09

Law Commission Bill

Report

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Select Committee on the Constitution

The Constitution Committee is appointed by the House of Lords in each session with the following terms of reference:

To examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution.

Current Membership

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Lord Morris of Aberavon
Lord Norton of Louth
Lord Pannick
Lord Peston
Baroness Quin
Lord Rodgers of Quarry Bank
Lord Rowlands
Lord Shaw of Northstead
Lord Wallace of Tankerness
Lord Woolf

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Publications

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Law Commission Bill

1. The Constitution Committee is appointed “to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution”. In carrying out the former function, we regard our main task as being to identify questions of principle that arise from proposed legislation and which affect a principal part or parts of the constitution. In carrying out the latter function, we take a particular interest in the operation of the legislative process as this lies at the heart of our parliamentary democracy.
2. In our June 2006 report on the Legislative and Regulatory Reform Bill, this Committee recognised the problem of non-implementation of Law Commission recommendations but said that we were “unconvinced that delegating order-making powers to Ministers to change the statute book and the common law is the most constitutionally appropriate way forward; certainly it is not the only one”.¹ The Government withdrew those proposals for an order-making power.
3. In February 2008, following proposals made by the Leader of the House, the Procedure Committee recommend the adoption, initially for a trial period, of new procedures for consideration of uncontroversial Law Commission bills, under which bills would be referred to a “Second Reading Committee” which will function like a Grand Committee, with unlimited membership, in the Moses Room.² Bills would then be committed to a Special Public Bill Committee, with powers to take evidence then consider the bill clause by clause and consider amendments in the usual way. The House approved these recommendations in April 2008.³ The Perpetuities and Accumulations Bill, introduced to this House on 1 April 2009, is the first Law Commission bill to follow this new procedure.⁴
4. The Law Commission Bill, currently before the House,⁵ is a further step in the developing processes for legislating on Law Commission proposals. Lord Lloyd of Berwick’s short bill will require the Lord Chancellor to make an annual report to Parliament on the implementation of Law Commission proposals. It will also make provision for the Law Chancellor and the Law Commission to agree a protocol about the Law Commission’s work.
5. **We welcome the reforms contained in the Law Commission Bill as enhancing the accountability and transparency of the relationship between the Government and the Law Commission.**

¹ 11th Report of 2005–06, HL 194.

² First Report of Session 2007–08 from the Procedure Committee, HL 63.

³ House of Lords Debates, 3 April 2008, col 1146.

⁴ See House of Lords Debates, 28 April 2009, col GC1 (Second Reading Committee).

⁵ For the Second Reading debate, see House of Lords Debates, 24 April 2009, col 1734.