

HOUSE OF LORDS

Select Committee on the Constitution

4th Report of Session 2008–09

Annual Report 2007–08

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.

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Annual Report 2007–08

Introduction

1. The House of Lords Constitution Committee is appointed by the House “to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution”. Accordingly, we conduct bill scrutiny whilst simultaneously carrying out longer, in-depth policy inquiries.
2. This is the Committee’s fourth Annual Report: the first two reports covered the 2002–03 and 2003–04 sessions.¹ In the 2006–07 session we decided to resume the practice of making Annual Reports. In making such reports, we seek to:
 - summarise for the House and the public our work over the preceding session;
 - assess the impact of that work wherever possible; and
 - comment on any other general matters we consider to be important.

Bill Scrutiny

3. Before examining the bill scrutiny undertaken in the 2007–08 session, we take this opportunity to set out the broad principles and methods which guide the Committee. In carrying out our legislative scrutiny function, we seek to identify any issues of principle affecting a principal part of the constitution (the “two p’s” test).² Such issues may arise in bills which at first glance do not deal with matters of high constitutional importance, as well as bills where the subject matter obviously engages with basic elements of the constitution. As the Committee explained in its first Annual Report, a wide variety of matters fall within the rubric of “the constitution”.
4. Without seeking to narrow the broad remit entrusted to it by the House, the Committee observes that its attention is most likely to be engaged by significant legislative proposals that affect the relationship between the executive and the judicial system; the system of civil and criminal justice; the integrity of the legislative process; the democratic process (with specific regard to the electoral system and the use of referendums); the distribution of powers between the central executive, the devolved institutions and local government; public accountability; and fundamental principles relating to good government, liberty and the rule of law. Many legislative proposals arise from the United Kingdom’s obligations at the international level; where this is the case, the Committee seeks to understand the nature of those obligations when it examines the manner in which Parliament is asked to implement them.³
5. All Government bills introduced to the House of Lords, and those private members’ bills that have “a reasonable prospect of being enacted”,⁴ are subjected to scrutiny. If it is felt that a particular bill raises an issue of principle affecting a principal part of the constitution, a number of options are available to the Committee. These options are set out in the flowchart in Figure 1 below, which also incorporates the sift system that we have adopted to streamline the scrutiny process.

¹ 2nd Report (2003–04) (HL Paper 19) and 17th Report (2003–04) (HL Paper 194).

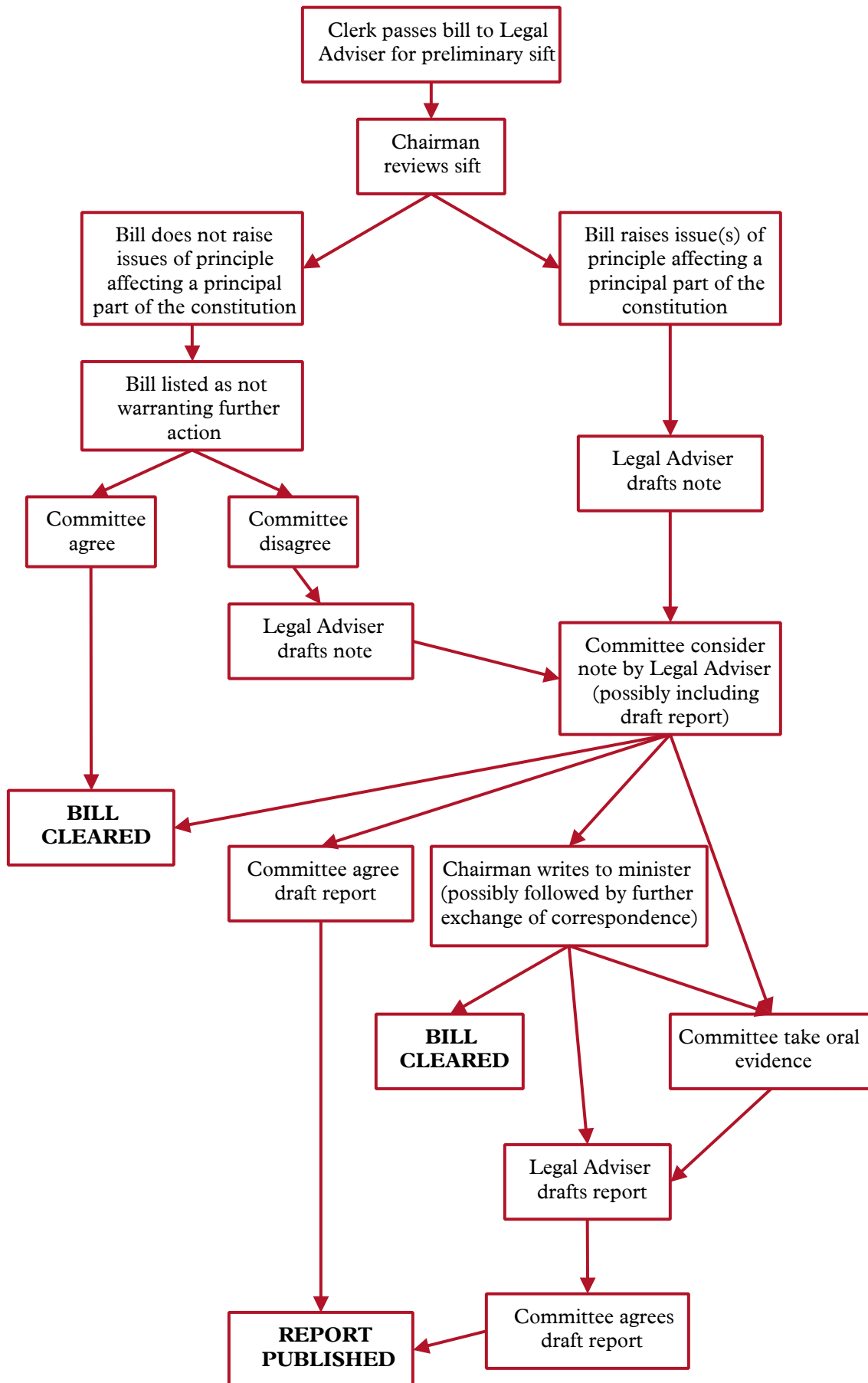
² Constitution Committee, 1st Report (2001–02): *Reviewing the Constitution: Terms of Reference and Method of Working* (HL Paper 11), paragraph 22.

³ 2nd Report (2003–04) (HL Paper 19), paragraph 6.

⁴ 17th Report (2003–04): *Annual Report 2003–04* (HL Paper 194), paragraph 2.

FIGURE 1

Flowchart: Bill Scrutiny



6. In some cases, as the flowchart indicates, the Committee considers that the constitutional principles engaged are of sufficient import to warrant a report to the House. The purpose of scrutiny reports is to ensure that informed debate on a bill's constitutional implications takes place during its legislative stages. We endeavour to publish any such reports before the bill in question receives its Second Reading in this House, although this is not always possible. Any scrutiny report published in advance of the bill's Second Reading is cited alongside the Second Reading entry in *House of Lords Business*, thus increasing members' awareness of the report. Where publication of a scrutiny report before a bill's Second Reading is not possible, the report is cited alongside the bill's Committee stage entry in *House of Lords Business*.
7. In some cases, the Committee's scrutiny reports simply highlight the constitutional implications of the bill in question without expressing a view on the merits of the provisions, but in other cases we feel it necessary to conclude that particular provisions, if enacted, would breach one or more key constitutional principles.
8. It is clear that the Committee's bill scrutiny reports over the years have had a significant impact on the House's deliberations. However, it is equally clear that our concerns about a bill can on occasion disappear from view before detailed consideration of that bill takes place during Committee and Report Stages. Often this is because our concerns cannot be addressed without fundamentally altering the policy thrust of the bill. On other occasions, though, some or all of our concerns can be resolved through relatively simple amendment to the bill. Accordingly, we have adopted the occasional practice of tabling amendments in the Chairman's name (and sometimes in the name of other Committee members) on behalf of the Committee, which seek to improve clauses that threaten to breach one or more key constitutional principles. This not only ensures that the Committee's concerns are fully debated in the House, with the participation of our Chairman or another Committee member, but can also result in the bill being improved from a constitutional perspective. An example of this was the Regulatory Enforcement and Sanctions Bill, which is discussed below.
9. We now examine in detail the bill scrutiny conducted during the 2007–08 session. In total the Committee considered the constitutional implications of 23 Government bills. We made five scrutiny reports to the House, dealing respectively with the Regulatory Enforcement and Sanctions Bill, the Child Maintenance and Other Payments Bill, the European Union (Amendment) Bill, the Criminal Evidence (Witness Anonymity) Bill and the Counter-Terrorism Bill. We also corresponded with ministers on several other bills.⁵ A table summarising bills examined can be found in the Appendix.

Regulatory Enforcement and Sanctions Bill⁶

10. The Committee's report on the Regulatory Enforcement and Sanctions Bill drew the attention of the House to three constitutional issues in respect of Part 3 of the Bill. Part 3 sought to allow ministers to introduce (by affirmative resolution) schemes empowering certain regulatory authorities to punish individuals and companies determined to have committed criminal

⁵ All such correspondence is available at <http://www.parliament.uk/hlconstitution>.

⁶ 1st Report (2007–08) (HL Paper 16).

offences by levying fixed or variable monetary penalties. The report concluded as follows.

- The arrangements in the Bill risked being too complex and inaccessible to conform to one of the most basic facets of the rule of law: that laws ought to be reasonably certain and accessible. It was also undesirable that ministers would be permitted to suspend legal powers conferred on regulators by issuing directions rather than by order.
- The scheme envisaged in the Bill would enable the transfer, on an unprecedented scale, of responsibilities for deciding guilt and imposing sanctions away from independent and impartial judges to officials.
- The lack of a requirement for a notice of intent or an opportunity to make representations where a regulator wished to impose a fixed monetary penalty risked excluding a basic common law principle of natural justice: *audi alteram partem* (hear both sides before making a decision).

11. We considered that some of our concerns could be remedied by relatively simple amendments to the Bill. The Chairman therefore tabled amendments at Committee Stage that would have required regulators, before issuing fixed monetary penalties, to provide the accused person with a notice of intent and an opportunity for that person to make representations. He tabled further amendments that would have required ministers to pass an order before suspending legal powers conferred on particular regulators. These amendments were initially rejected by the Government, but at Report Stage they successfully put forward their own amendments—very similar to those originally tabled by the Chairman—which introduced a notice of intent stage and a right for the accused person to make representations in respect of fixed monetary penalties. These amendments satisfied the most important of our concerns about the Bill.

*Child Maintenance and Other Payments Bill*⁷

12. The Committee's second scrutiny report concerned the proposed power in the Child Maintenance and Other Payments Bill for the new Child Maintenance and Enforcement Commission (CMEC)⁸ to make an order under which a parent failing to pay child maintenance would be “disqualified from holding or obtaining a travel authorisation” (i.e. a British passport or UK identity card). These orders would have been made administratively by civil servants—or, in the event of contracting out, employees of a business or other organisation—without any reference to the courts. The report concluded as follows:

“The freedom to travel to and from one's country is a right of great significance and should only be curtailed after a rigorous decision process. We can therefore see no justification for granting CMEC the right to remove a person's passport and identity card without reference to the courts; as with the other sanctions in this bill, CMEC should be required to obtain an order from the magistrates' courts”.

13. Accordingly the Chairman tabled an amendment at Committee Stage that would have required CMEC to obtain a court order before removing a

⁷ 3rd Report (2007–08) (HL Paper 27).

⁸ CMEC would replace the Child Support Agency.

person's travel documents. Although the Government initially rejected the amendment, they reversed their position at Report Stage and tabled their own amendments that satisfied all of the Committee's concerns about the Bill.

European Union (Amendment) Bill⁹

14. The longest and most in-depth scrutiny report of the session concerned the European Union (Amendment) Bill, which aimed to implement the Lisbon Treaty. Our main intention in looking at the Bill and the Treaty behind it was to assess their likely impact on the UK constitution; unlike other committees, we were not concerned with the EU's institutions and processes accept insofar as any changes to them would have an impact on our constitution. We also considered Parliament's control over amendments to the treaties governing the EU.
15. To aid our consideration of the Bill and Treaty, we sought written evidence from a range of academic experts from across the UK. Nine academics made submissions.¹⁰ We also received written evidence from the Government. Our final report made a large number of conclusions and recommendations, and we do not intend to summarise them all here. However, we do set out our main findings.
 - We welcomed the provisions of the Bill requiring parliamentary approval before the Government could agree to amendments to the founding Treaties, or to changes in procedure, under the 'ordinary revision procedure' or the 'simplified revision procedure'. We expressed support for the establishment of parliamentary control over Government decisions to agree to changes under the *passerelle* mechanisms,¹¹ although we made some suggestions as to how the proposed procedure could be improved.
 - We favoured the Lisbon Treaty's attempt to set out with greater clarity the demarcations of responsibility between Member States and the EU.
 - We concluded that the change in status of the Charter of Fundamental Rights from political document to having the force of a treaty was less radical than it might at first have seemed, because the Charter was declaratory of rights already available to the UK citizen.
 - We found that the continued existence of citizenship of the EU in and of itself had no constitutional implications for UK citizenship.
 - We concluded that the Treaty would make no alteration to the relationship between the primacy of EU law and parliamentary sovereignty.
 - We recommended that the Bill be amended so as to require the Government to obtain approval from both Houses of Parliament before using their power to opt in or opt out of any particular EU initiative.
 - We called on the Government to lay before Parliament an annual report on their assessment of the impact on the UK of the relevant rulings of the European Court of Justice and the European Court of Human Rights.

⁹ 6th Report (2007–08) (HL Paper 84).

¹⁰ Their names are listed in paragraph 5 of the report.

¹¹ See paragraphs 32–41 of the report.

16. At Committee Stage of the Bill, the Chairman tabled amendments which would have required the Government to obtain approval from both Houses of Parliament before using their power to opt in or opt out of any particular EU initiative. The amendments were rejected by the Government. Subsequently, the Chairman and Viscount Bledisloe held discussions with the Leader of the House, Baroness Ashton of Upholland.
17. At Report Stage, the Chairman called a division on his amendments. The amendments were rejected by 227 votes to 196. Nonetheless the Government did agree during proceedings on the bill to enhanced arrangements for the scrutiny of opt-in proposals. The Government's proposals, as set out above, will take effect if the Lisbon Treaty comes into force.

Criminal Evidence (Witness Anonymity) Bill¹²

18. This emergency bill was prompted by the ruling of the Appellate Committee of the House of Lords in *R v Davis* [2008] UKHL 36 on 18 June 2008 which clarified the common law rules in respect of witness anonymity. Lord Bingham held that "By a series of small steps, largely unobjectionable on their own facts, the courts have arrived at a position which is irreconcilable with long-standing principle".¹³ The Government therefore felt it necessary to introduce emergency legislation to abolish the common law rules and replace them with broader statutory rules allowing trial judges to grant witness anonymity orders provided that they are satisfied on three counts: the necessity of making an order to protect personal safety, prevent serious damage to property or "to prevent real harm to the public interest"; that in all the circumstances the measures will be consistent with the defendant receiving a fair trial; and that the interests of justice require the witness to testify and that the witness will not testify if an order is not made.
19. Since this was an emergency bill, we had very little time to scrutinise it before its legislative stages in this House. However, we did agree a short report setting out the common law background to the issue and analysing the proposed statutory rules. We also examined the retrospective nature of the Bill, the use of emergency legislation and sunset clauses, and the media coverage of the Davis appeal.

Counter-Terrorism Bill

20. The Counter Terrorism Bill was most well known for its proposal to permit, by order, an increase in the period of pre-charge detention for terror suspects from 28 to 42 days. In getting the controversial Bill through the House of Commons the Government had made concessions by which the bill created a decision-making process that would have required Parliament and the judiciary to ask and answer similar questions within a short space of time. The Committee found that the Bill risked confusing the roles of the legislature and the judiciary and would require Parliament to make decisions it was institutionally ill-equipped to determine. Our report pointed out that asking Parliament to take decisions on the circumstances surrounding particular cases said to require extended pre-charge detentions could be

¹² 9th Report (2007–08) (HL Paper 147).

¹³ *R v Davis* [2008] UKHL 36 paragraph 29.

controversial and highly political debate had the potential to undermine an individual suspect's right to a fair trial.

21. The Committee also criticised provisions in the Bill that would allow minister to order that an inquest be held without a jury, arguing that it was inappropriate for the Government to intervene in judicial proceedings—particularly given that some inquests may concern deaths caused by agents of the state. The Committee argued that such a decision should appropriately be taken by a judge independent of political pressure.
22. The Committee also recommended that the Lord Chancellor, not a Secretary of State, should be responsible for appointing and revoking the appointment of “specially appointed coroners”. We called upon the Government to think again (as they did in relation to the Legal Services Bill where the minister responsible was initially the Secretary of State before the Government conceded that the Lord Chancellor was the appropriate minister). The Chairman tabled a set of amendments on behalf of the Committee seeking to give effect to this recommendation. However the Government withdrew the clauses of the Bill relating to holding inquest without a jury before these amendments were considered.

Submission to the Joint Committee on the Draft Constitutional Renewal Bill

23. On 13 May 2008 the Joint Committee on the Draft Constitutional Renewal Bill invited the Committee to submit a memorandum on the constitutional implications of the provisions of the draft bill and the proposals in the White Paper on war powers.
24. The Constitution Committee's memorandum commented on five main areas of the draft bill. These were the process by which constitutional change was being implemented and the scope of the draft bill; the proposals in Part 2 of the draft bill on reform of the Attorney General; the proposals in Part 3 on judicial appointments; the proposals in the White Paper on war powers; and the proposals in Jack Straw's statement of 25 March 2008 in relation to the Law Commission.
25. The Joint Committee's report on the draft bill was published on 31 July 2008. The submission from the Constitution Committee was published as written evidence.

Scrutiny of Welsh Legislative Competence Orders

26. During the 2006–07 session the Committee agreed to conduct pre-legislative scrutiny on proposed Legislative Competence Orders (LCOs) under section 95 of the Government of Wales Act 2006 for an initial 12-month trial period. This scrutiny was to complement the similar scrutiny roles of the House of Commons Welsh Affairs Committee and the National Assembly for Wales. This request was in line with the recommendations of our scrutiny report on the Government of Wales Bill published during the bill's passage through Parliament, in which we suggested that pre-legislative scrutiny in this House should be carried out by either the Delegated Powers and Regulatory Reform Committee or by our own Committee.¹⁴

¹⁴ 8th Report (2005–06): *Government of Wales Bill* (HL Paper 142), paragraphs 23–24.

27. The purpose of LCOs is to enlarge the National Assembly for Wales' powers to make Measures and the powers of Welsh Ministers to make subordinate legislation. Proposed LCOs are subjected to pre-legislative scrutiny before being formally laid before Parliament for approval. The full LCO process is set out in detail in our second report published in the 2007–08 session.¹⁵
28. On 27 November 2007 we published a report, *Scrutiny of Welsh Legislative Competence Orders*. The purpose of this report was to remind members of the House (and other interested parties) what Legislative Competence Orders (LCOs) are and to explain how they would to be scrutinised at the pre-legislative stage and subsequently in both Parliament and the National Assembly for Wales.
29. During the 2007–08 session we examined and cleared four proposed LCOs.¹⁶ We decided in July 2008 to extend the initial 12-month trial period for a further period of 12 months. When this comes to an end we will consider whether we should continue this scrutiny role.

Policy Inquiries and Reports

30. In pursuance of the second part of our terms of appointment, “to keep under review the operation of the constitution”, the Committee conducts lengthy and in-depth policy inquiries into major constitutional issues. In the 2007–08 session we published a report on *Reform of the Office of Attorney General* and a follow-up report on *Relations between the executive, the judiciary and Parliament*, a topic which goes to the heart of our constitutional settlement. Most of our time in the 2007–08 session was spent conducting an inquiry into the constitutional impact of surveillance and data processing upon the privacy of citizens and their relationship with the state. The final report will be published in February 2009.

Reform of the Office of Attorney General¹⁷

31. In recent years, a debate has been taking place about whether—and if so, how—to reform the office of Attorney General (and consequently the role of the Solicitor General¹⁸). This debate was placed on a more formal footing when the Government released a consultation paper¹⁹ on the role of the Attorney General as part of the process set in motion by the Green Paper on *The Governance of Britain*.²⁰ The Law Officers carry out functions of great constitutional importance. The Committee therefore decided to take oral evidence on the role of the Attorney from the current holder of that post, Baroness Scotland of Asthal QC, and to seek written evidence from two

¹⁵ 2nd Report (2007–08): *Scrutiny of Welsh Legislative Competence Orders* (HL Paper 17).

¹⁶ Those relating to Social Welfare, Vulnerable Children, Housing and Red Meat.

¹⁷ 7th Report (2007–08) (HL Paper 93).

¹⁸ The Solicitor General is also a Law Officer of the Crown. The Law Officers Act 1997 provided that any function of the Attorney may be exercised by the Solicitor General, and the Solicitor is to all intents and purposes the Attorney's deputy. In recent years it has become customary to have one Law Officer in each House of Parliament.

¹⁹ *The Governance of Britain: A Consultation on the Role of the Attorney General*, Cm 7192.

²⁰ Cm 7170.

constitutional academics with divergent views on the subject: Professor Anthony Bradley²¹ and Professor Jeffrey Jowell QC²².

32. We considered the Attorney General's role:
- as a provider and co-ordinator of legal advice;
 - in individual prosecutions; and
 - as a Government minister.
33. The debate about reforming the office of the Attorney General was in part a response to three recent controversies which we considered in some detail. The first of these was the nature of the Attorney's advice to the Prime Minister over the legality of invading Iraq in 2003. The second concerned the decision to drop an SFO investigation into whether the British defence company BAE Systems had paid bribes to Saudi Arabian officials in order to secure a lucrative defence contract. The third controversy was the cash for honours scandal.
34. The report examined the Government consultation on the reform of the office of Attorney General and considered the main arguments for and against reforming the role of the Attorney in three distinct areas: legal advice; prosecutions; and criminal justice policy. Lastly we considered the implications of reform for the Attorney's accountability.
35. Our main aim in publishing this report was to provide members of the house with a 'handbook' to guide them through the continuing debate on the role of the Attorney.

Relations between the executive, the judiciary and Parliament: Follow-Up²³

36. In July 2007, we published a report on *Relations between the executive, the judiciary and Parliament* which analysed the evolving constitutional relationships between the three arms of the state and made a series of recommendations to both the Government and the judiciary.²⁴ The report in particular focused upon the impact of the Human Rights Act 1998, the Constitutional Reform Act 2005 and the creation of the Ministry of Justice, which occurred during the inquiry.
37. The Government response to the report was published on 17 October 2007 and the judiciary's response on 19 October.²⁵ We also held follow-up oral sessions with the new Lord Chancellor, Jack Straw MP, on 23 October 2007 and with the Lord Chief Justice on 6 December 2007 and 9 July 2008.²⁶ Our reaction to the responses by the Government and the judiciary were set out in the follow-up report which was published on 16 October 2008.

²¹ Emeritus Professor of Constitutional Law at the University of Edinburgh and a former legal adviser to this Committee.

²² Professor of Law at University College London.

²³ 11th Report (2007–08) (HL Paper 177).

²⁴ 6th Report (2006–07) (HL Paper 151).

²⁵ See <http://www.justice.gov.uk/docs/response-relations.pdf> and <http://www.parliament.uk/documents/upload/Judiciary%20Response.pdf>.

²⁶ See http://www.publications.parliament.uk/pa/ld200607/ldselect/ldconst/999/const231007_ev1.pdf and http://www.publications.parliament.uk/pa/ld/lduncorr/const061207_ev1.pdf.

38. In the original report the Committee criticised the then Home Secretary John Reid for making public statements about the sentence given in the Craig Sweeney case as well as Lord Falconer, then Lord Chancellor for failing to ensure that Ministers do not impugn individual judges. Based on that case, the Committee called for the Ministerial Code to be updated to make it clear to Ministers that such criticism is inappropriate. In the follow-up report we reiterated the importance of amending the *Ministerial Code* so that it gives clear and unambiguous guidance to ministers about how they should or should not comment about judges in public and undertook to review the position when the Government next update the Code.
39. The Committee also considered the establishment of the Ministry of Justice a move criticised in our original report as the Government failed to consult with the Lord Chief Justice or the Lord Chancellor prior to announcing the new department. In the follow up report the Committee stressed that any future constitution or machinery of government changes that impact significantly on the judiciary should include consultation with the Lord Chancellor and Lord Chief Justice at the early stages of the policy making process.
40. We also concluded that the posts of Lord Chancellor and Secretary of State for Justice should continue to be combined in future. Lord Chancellors in the future, with their responsibilities for the rule of law and the judiciary, should continue to have the authority necessary to fulfil their duties.
41. One of our key concerns in producing the original report was to ascertain how, under the new constitutional arrangements, the judiciary could remain accountable in what one of our witnesses termed the ‘explanatory’ (rather than ‘sacrificial’) sense. In the follow-up report we welcomed the judiciary’s express acknowledgment of the need for accountability in respect of their administrative responsibilities. We also welcomed the judiciary’s decision to appoint five judges to act as judicial spokesmen where appropriate.
42. The final part of the follow-up report considered the interaction between the judiciary, the media and the public. In the original report we had criticised the press for “distorted and irresponsible coverage of the judiciary” and urged them to “desist from blaming judges for their interpretation of legislation which has been promulgated by politicians”. In order to encourage more responsible coverage, we suggested that the Editors’ Code of Practice be regularly updated to reflect these principles. This recommendation was rejected by the Editors’ Code Committee, but in the follow-up report we re-iterated our calls for amendment of the code.
43. The two reports were debated together on the floor of the House on 18 November 2008.

APPENDIX 1: PROGRESS OF SCRUTINY

<i>Title</i>	<i>Bill Number</i>	<i>First discussed²⁷</i>	<i>Comments</i>	<i>Action</i>	<i>Cleared</i>
Queen's Speech		14/11/07			
Local Transport Bill	HL 1, 15, 19	14/11/07		NFA	X
Dormant Bank and Building Society Accounts Bill	HL 2, 17, 26	28/11/07		NFA	X
House of Lords Bill	HL 3	N/A	Lord Steel PMB		
Disabled Persons (Independent Living) Bill	HL 4	N/A	Lord Ashley PMB		
Powers of Entry Etc. Bill	HL 5, 71	N/A	Lord Selsdon PMB		
Human Fertilisation and Embryology Bill	HL 6, 25	14/11/07		NFA	X
Regulatory Enforcement and Sanctions Bill	HL 7, 31, 46	28/11/07	Concern about the complex nature of the schemes proposed by the bill, which include powers for ministers by means of "directions" to suspend and revoke suspensions of regulators' powers to impose sanctions; the extent to which it is constitutionally appropriate for regulatory authorities to make determinations as to whether a person has committed a criminal offence and to impose unlimited financial	Report published; agreed that Chairman would table amendments on behalf of the Committee; amendments tabled in Grand Committee; amendments tabled at Report; Government agreed to table their own amendments to reflect the Committee's recommendations; amendments agreed to.	X

²⁷ Date of discussion in Committee

<i>Title</i>	<i>Bill Number</i>	<i>First discussed⁷</i>	<i>Comments</i>	<i>Action</i>	<i>Cleared</i>
			penalties; and whether the procedural protections provided in the bill match up to the minimum standards of procedural fairness that a person accused of a criminal offence ought to have.		
Children and Young Persons Bill	HL 8, 20, 32, 42	28/11/07		NFA	X
Climate Change Bill	HL 9, 29, 44	28/11/07		NFA	X
Alcohol Labelling Bill	HL 10, 53, 64	N/A	Lord Mitchell PMB		
Kidney Transplant Bill	HL 11	N/A	Baroness Finlay PMB		
Child Maintenance and Other Payments Bill	HL 12, 35, 57	12/12/07	Concern that it is constitutionally inappropriate for a British citizen to be prevented from leaving the country by administrative action of the new Child Maintenance and Enforcement Commission (CMEC) rather than an order of the court, as the bill proposes.	Report published; agreed that Chairman would table amendments on behalf of the Committee; amendments tabled in Grand Committee; amendments tabled for Report Stage but withdrawn after Government agreed to table their own amendments to reflect the Committee's recommendations; amendments agreed to.	X
Employment Bill	HL 13, 49, 60	16/1/08		NFA	X
Crossrail (Hybrid Bill) Bill	HL 14, 61, 70	N/A	Hybrid Bill		X

<i>Title</i>	<i>Bill Number</i>	<i>First discussed⁷</i>	<i>Comments</i>	<i>Action</i>	<i>Cleared</i>
Criminal Justice and Immigration Bill	HL 16, 41, 51, 54	30/1/08	Concerns about the provisions changing the role of the Court of Appeal in appeals against convictions, and about the proposed Violent Offender Orders.	Wrote to minister; Court of Appeal proposals dropped; Committee agreed to commission paper on civil preventative orders in general.	X
European Communities (Finance) Bill	HL 18	23/1/08		NFA	X
Channel Tunnel Rail Link (Supplementary Provisions) Bill	HL 21	6/2/08		NFA	X
House of Lords (Amendment) Bill	HL 22	N/A	Lord Avebury PMB		
Retail Development Bill	HL 23	N/A	Lord Cotter PMB		
Sale of Student Loans Bill	HL 24, 55, 63	6/2/08		NFA	X
Safety Deposit Current Accounts Bill	HL 27	N/A	Earl of Caithness PMB		
National Insurance Contributions Bill	HL 28, 73, 78	20/2/08		NFA	X
Torture (Damages) Bill	HL 30	N/A	Lord Archer of Sandwell PMB		
Health and Social Care Bill	HL 33, 62, 68	2/4/08	Concern that the enforcement powers to be given to the CQC are different from any of those powers contained in Part 3 of the Regulatory Enforcement and Sanctions Bill. Concluded that this bill's scheme should be added to the RES Bill.	Wrote to minister; wrote to Pat McFadden MP to request that the scheme in this bill be added to the RES Bill.	X

<i>Title</i>	<i>Bill Number</i>	<i>First discussed⁷</i>	<i>Comments</i>	<i>Action</i>	<i>Cleared</i>
Banking (Special Provisions) Bill	HL 34, 36	20/2/08	Concerns about lack of time for parliamentary scrutiny; use of negative rather than affirmative resolution procedure; scope of bill; use of public rather than hybrid bill; length of period before sunset clause takes effect; and Henry VIII clauses.	Wrote to minister; Committee opted to address the issues of emergency legislation and hybridity at a future date, perhaps as part of a follow-up report to Parliament and the Legislative Process.	X
Statute Law (Repeals) Bill	HL 37	2/4/08		NFA	X
House of Lords (Members' Taxation Status) Bill	HL 38	N/A	Lord Oakeshott of Seagroove Bay PMB		
Sunday Trading (Horticulture) Bill	HL 39	N/A	Earl of Courtown PMB		
European Union (Amendment) Bill	HL 40	12/3/08		Evidence taken; report published; amendment tabled at Committee Stage; amendment rejected at Report Stage; Government compromise.	X
Immigration (Discharged Gurkhas) Bill	HL 43	N/A	Lord Lee of Trafford PMB		
Iraq War Inquiry Bill	HL 45	N/A	Lord McNally PMB		
Housing and Regeneration Bill	HL 47, 67, 77	7/5/08		NFA	X
Borough Freedom (No. 2) Bill	HL 48	N/A	Lord Graham PMB		
Pensions Bill	HL 50	4/6/08	Concern about civil sanctioning powers.	Wrote to minister; reply received; copies distributed.	X

<i>Title</i>	<i>Bill Number</i>	<i>First discussed⁷</i>	<i>Comments</i>	<i>Action</i>	<i>Cleared</i>
Energy Bill	HL 52, 72	14/5/08		NFA	X
Planning and Energy Bill	HL 56, 75	N/A	Michael Fallon PMB		
Education and Skills	HL 58, 80		Concern about civil sanctioning powers.	Wrote to minister; reply received; copies distributed.	X
Special Educational Needs (Information) Bill	HL 59	N/A	Baroness Pitkeathley PMB		
Counter-Terrorism Bill	HL 65	11/6/08		Wrote to minister; reply received; copies distributed; Report published.	
Health and Safety (Offences) Bill	HL 66	N/A	Keith Hill PMB		
Planning Bill	HL 69	8/10/08		NFA	X
Finance Bill	HL 74	N/A		No scrutiny.	X
Criminal Evidence (Witness Anonymity) Bill	HL 76	9/07/08	Set out constitutional context of the emergency legislation.	Report published.	X

APPENDIX 2: RECENT REPORTS

Regulatory Enforcement and Sanctions Bill (1st Report of session 2007–08, HL Paper 16)

Scrutiny of Welsh LCOs (2nd Report of session 2007–08, HL Paper 17)

Child Maintenance and Other Payments Bill (3rd Report of session 2007–08, HL Paper 27)

Pre-Legislative Scrutiny in the 2006–07 Session (4th Report of session 2007–08, HL Paper 43)

Annual Report 2006–07 (5th Report of session 2007–08, HL Paper 44)

EU (Amendment) Bill and the Lisbon Treaty (6th Report of session 2007–08, HL Paper 84)

Reform of the Office of AG (7th Report of session 2007–08, HL Paper 93)

Pre-Legislative Scrutiny in the 2006–07 Session: Follow-up (8th Report of session 2007–08, HL Paper 129)

Criminal Evidence (Witness Anonymity) Bill (9th Report of session 2007–08, HL Paper 147)

Counter-Terrorism Bill (10th Report of session 2007–08, HL Paper 167)