



Government Response to the House of Lords Constitution
Committee's Report Fifteenth Report of Session 2005-06:

Waging War: Parliament's role and responsibility

**Presented to Parliament
by the Secretary of State for Constitutional Affairs and Lord Chancellor**

**By Command of Her Majesty
November 2006**



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Government Response to the House of Lords Constitution Committee's Report. Fifteenth Report of Session 2005-06 – "Waging War: Parliament's role and responsibility" (CM 6923)

1. The Government is grateful to the Committee for the work that it has undertaken in its inquiry on the use of the royal prerogative powers by Government to deploy the United Kingdom's armed forces abroad. It recognises the continued interest in this subject and acknowledges the importance of the recommendations that the Committee has proposed.
2. The Committee was appointed to "examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution". Within this remit it has examined various options in relation to the means by which Parliament's ability to challenge the executive would continue to be protected and strengthened.
3. The scope the Committee's inquiry was set out in its report of 28 July "*Waging War: Parliament's Role and Responsibility*". The Committee's report deals broadly with three options:
 - Legislation to create statutory constraints on the prerogative powers
 - A Joint Parliamentary Committee to oversee the armed forces
 - A new convention determining the role Parliament should play in making decisions to deploy forces outside the UK

The Government's position

4. The Prime Minister made clear at the Liaison Committee on 7 February 2006 "The fact of the matter is that I cannot conceive of a situation in which a Government... is going to go to war – except in circumstances where militarily for the security of the country it needs to act immediately – without a full parliamentary debate". The Government is not presently persuaded of the case for going beyond that to establishing a new convention determining the role of Parliament in the deployment of the armed forces. The existing legal and constitutional convention is that it must be the Government which takes the decision in accordance with its own assessment of the position. That is one of the key responsibilities for which it has been elected. But the matter needs to be kept under review.

Existing constraints on the exercise of prerogative powers

5. The ability of the executive to take decisions flexibly and quickly using prerogative powers remains an important cornerstone of our democracy. However, it is important to note that when exercising these powers, Ministers remain accountable to Parliament. Whilst, the Government could in theory deploy the armed forces overseas without the support of Parliament, it would be almost impossible to identify a set of circumstances, which would allow the Government to act without parliamentary support. Ministers are and will continue to be accountable to Parliament for all of their decisions. Adequate mechanisms for intense parliamentary scrutiny of executive actions are already in place, these include the vote of censure or no-confidence, adjournment debates, debates on a motion, parliamentary questions, ministerial correspondence and scrutiny by select committee.

6. For example, Parliament has been scrutinising the UK's deployment of armed forces in Afghanistan. The Secretary of State for Defence made two statements on the deployment in January 2006, there have been 168 Parliamentary Questions and there have been four debates. The House of Commons Defence Committee has also been conducting an inquiry into Afghanistan. In relation to the conflict in Iraq there have been 13 debates in both Houses and 30 Ministerial statements.

7. The Government does not maintain that the prerogative powers should not be subject to review and investigation. For instance in 2004 the Government accepted the Public Administration Select Committee's (PASC) conclusions that in many respects the prerogative is a historical anachronism and there may be individual circumstances when it is desirable to replace it with statute or conventions on parliamentary scrutiny. Examples of this include the Interpretation of the Communications Act 1985, The Security Service Act 1989 and the Intelligence Services Act 1994. But, as the Government explained during the evidence gathering session in March 2006, it believes on balance that the flexible approach offered by the present arrangements remains at the moment the right one.

8. The Government recognises that this subject will continue to be of wide public interest and acknowledges that the report of the Lords Constitution Committee "Waging War: Parliament's role and responsibility" is a significant contribution to the public debate. The Government will of course continue to listen to views about the deployment of the armed forces and keeps its policies under review.



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ISBN 0-10-169232-3



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