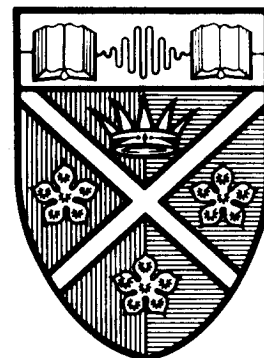


# STRATHCLYDE PAPERS ON GOVERNMENT AND POLITICS



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## *PARLIAMENTARY SELECT COMMITTEES IN ACTION:*

### *A SYMPOSIUM*

*Edited by  
Dilys M. Hill*

No. 24

1984

PARLIAMENTARY SELECT COMMITTEES IN ACTION:

A SYMPOSIUM

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Finally, we thank the secretaries in the Department of Politics, University of Strathclyde; Janet Lace, Grace Hunter and Linda Nicolson, for typing this collection of papers.

## Preface

The Workshop was opened by Professor Peter G. Richards who reminded us that while over the last twenty years reform proposals had flowed from the Procedure Committee and from academics, the ideas themselves could be traced back to the pre-war writings of Jennings and Laski. Laski had been particularly influential in foreshadowing the present concern with improving legislative scrutiny and influence (and other participants pointed to even deeper historical roots in nineteenth century committee experiments). Peter Richards also recalled his own expressed concern (in Honourable Members and elsewhere) that the success of such committees would depend ultimately on the answers to two questions: how would MPs find time; how far would committees work on party political lines.

It is clear from the papers in this Symposium that so far the answers to these questions have, overall, been favourable. The questions themselves remain on the agenda, however, as each new Parliament brings new Members, a new Executive and - potentially - new appraisals of the utility or dispensibility of the Committees. In the parliamentary time-span they are minors: vigorous maturity has not yet been wholly assured.



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## SELECT COMMITTEES IN ACTION

Dilys M. Hill

### Import and Impact

"Members will be aware of the many cases in which recent committee reports have directly affected Government policy or parliamentary debate. From the amendment of the 'sus' law to the sensitive debate on the Canada Bill, from efficiency in the civil service to 'misinformation' in the Falklands campaign, from the promenade concerts to Concorde and nuclear technology, and at countless other points, Members' attitudes have been affected by what committees have done".

First Report from the Liaison Committee Session 1982-83. "The Select Committee System", House of Commons, 2 December 1982, p.9.

The Liaison Committee Report's view, that the Select Committees have influenced policy and - by their effect on the attitudes of Members, Ministers and government Departments - the policy climate, is the theme explored in this Symposium. The deliberations of the Workshop reveal the dominance of certain factors: the variety of behaviour among the Committees and their independence in selecting topics of investigation; the 'opening up' of the policy debate and the amount of information which is made available to the House; the Committees' standing in the eyes of Ministers and civil servants; the 'accessibility' of Committees and the use which interest groups may make of them; the realities of legislative behaviour (no-one prescribes what MPs will be interested in and what Committees do remains dependent on what MPs themselves believe is important).

The debate began, however, with Gavin Drewry's exploration of the

constitutional importance of the Committees. He concluded that the assumption made by some people, both inside and outside Parliament, that relations between the Executive and the Legislature would be profoundly altered by the advent of the Committees, was misguided. The reform debate was introverted, redolent of that special parliamentarians' rhetoric devoted to constitutional questions and overly optimistic: MPs thought that, as members of a sovereign body, there was somewhere a magic key which would transform constitutional sovereignty into actual power. Drewry highlights the ways in which, however, Committees reflect and perhaps create a new set of understandings and expectations about Parliament's role. The discussion on Drewry's paper reflected this behavioural theme: the 'golden thread' running through the Committees was that of the consensual model but the basic constitutional reality - the Members' votes as the prime force - remained. The consensus model of committee work exists in an adversarial House. This fact has impelled some MPs to question the utility of such Committees and to call (if not for their abolition or benign neglect) for a more overtly adversarial style. In this view, the party lines in Committees would be reflected both in their work (separate Advisers for both sides, for example) and in their Reports (minority Reports are not possible in the present system). At the same time, it was argued, the Government has rejected any notion of an advisory role for Select Committees: it does not consult them or take them into its confidence. On the other hand it can be said that though the Government may occasionally use them as an alibi it has never tried to manipulate them. They remain independent.

The Committees' classic function is that of watchdog: they do not claim responsibility, do not see themselves as an alternative government, and are reactive rather than innovatory. But the belief of ten or fifteen years ago that an essentially adversarial legislature implied that such Committees could only work to a consensus if they kept to questions of 'administration' and did not stray into 'policy', has weakened. Nevertheless the dependency of that consensus building on the choice of topic remains clear: ideological divisions will quickly reassert themselves where Committees undertake certain enquiries (in the tax field for example). Consensus on a range of views, however, is a feature of most Select Committee work. As well as a generational change among MPs there has been an attitudinal change in which specialization - and potential policy input - is becoming as important as floor of the House debate and the adversarial contest (though dissenting MPs remain vocal). But such policy input by the Select Committees is severely inhibited because there is no administrative machinery for providing costed options or long-term costings and scrutiny by hindsight predominates. In spite of this, Select Committees have fulfilled expectations in that they exist and so far Committee members have not criticised their operations as unsatisfactory.

Some Workshop participants, however, disagreed with Drewry's view of a 'one-way ratchet' in Committee affairs; a new entry of post-election MPs might well be less consensual. Such a change would reflect adversely on the Committee's influence. The most formidable Committees are those which present consensus styles and reports.

What, though, does Committee consensus imply - a lack of partisan differences; taking positive steps to avoid overt disagreements; eventual cross-voting on the floor of the House? All, at one time or another have existed, but participants agreed that we need to know more about non-partisan disputes and their genesis. To this end, we needed to know more about the internal dynamics of Committees - how, for example, Chairmen may seek actively to avoid splitting, and how Members consider blocks of alternative texts rather than working towards Minority Reports. This process - considering alternative blocks of text - does not mean that dissentients are less alienated from the final report. The feeling is, rather, that such dissentients tend to 'write it off', having got their dissent on the record.

#### 'Territory', 'Constituency', and 'Policy Community'

The papers by Barry Jones and James Kellas, on the Welsh and Scottish Committees respectively, and that on the patriation of the Canadian constitution by Bruce George MP and Michael Woodward, offered very different insights into the influence of Select Committees on policy. The Committee on Welsh Affairs and the Committee on Scottish Affairs have to be judged against two sets of considerations: the measure of ambiguity which remains over the role which Committees should play in relation to policy (that is, over Executive/Legislative prerogatives and the meaning of 'scrutiny'); and the aftermath of the devolution debate and the nature of accountability in the Welsh and Scottish contexts. The first set of parameters, the policy inputs,

suggested that the Committees should act in a parliamentary manner, directing their attention to the House of Commons, influencing and informing it. But the Wales and Scotland context is a second and different kind of consideration since the Committees are impelled to act in an extra-parliamentary way, to direct their attention outside Westminster to public opinion and the media in their own countries. This last point was particularly important. The Committees educated public opinion as well as reflected it, and they had a higher profile with their countries' media than was enjoyed by other Select Committees. This made them qualitatively different from the Departmental Committees.

The importance of the territorial dimension came out in the papers. The Committee on Welsh Affairs' most fruitful activities have been in relation to the 'environment of opinion': Welsh public opinion is the Committee's legitimate and primary focus. Set beside this, the Committee's scrutiny of governmental and departmental activities is a second best, and one in which the Chairman has played a dominant part. Apart from the Chairman, a problem in pursuing the scrutiny function has been the Committee's relatively weak inquisitorial technique, together with the problem of internal specialization given the broad remit of the Welsh Office (though the Committee has seen more of the senior civil servants than is possible for other Select Committees). The Committee has nevertheless added an important dimension to the policy community in Wales because it has become a forum for Welsh interest groups. On the other hand, the 'Welsh dimension' to national policy remains

relatively underdeveloped and this in turn makes its future policy role uncertain. A more nationalistic stance by the Committee could increase potential policy outputs (and conflict with the Executive). A Labour dominated Committee facing a Labour government would produce the same effect. At present, however, what is remarkable is the broad consensus on the Committee.

If it is true that the Scottish and Welsh Committees are different from other Committees, it is also clear that they differ importantly from each other. Like its Welsh counterpart, however, the Scottish Committee has a wide remit and a weak inquisitorial style (in this case in part due to its large size and high turnover) and as a result its scrutiny of the Scottish Office can be faulted because of its unsystematic nature (a criticism which could, frankly, be applied to all Committees). It can be argued that Norman St. John Stevas' idea of what a Select Committee should be, was accepted in Scotland but not in Wales where there was still an impression that it was some form of surrogate Assembly. As the papers reveal, the legislative behaviour of the two groups of MPs also differs. Scottish MPs have, as a body, a high input into all aspects of Parliament's work as it affects Scotland - Bills, Committees, Question Time and so on. As a result Scottish MPs are well-known to each other and normally relations among them are based on familiar adversarial stances. To take them out of this familiar context and place them into what is supposed to be a non-adversarial, Select Committee environment, creates tensions. To overcome this problem, the Committee must find tasks which will avoid recreating the adversarial engagement. There



is evidence that, after some initial problems, the Committee has striven hard to do this - at the risk, however, of appearing peripheral to the political mainstream. The case of Scotland also raised an interesting point about continuity. There has been a high turnover among members, chairmen and advisers and this raised questions about the Committee's standing in the eyes of its members: a pathway to personal power, or a necessary 'Scottish constituency' involvement?

The Workshop discussion raised questions about the remit of the two Committees, particularly in the Scottish case, where the Committee had to extend its enquiries beyond the Scottish Office to other Departments of Government because of the topics they wished to investigate. In practice, informal liaison among all the Select Committees (rather than Liaison Committee adjudication) has avoided jurisdictional overlap and the country-specific Committees have not been hampered in their inquiries. Where there might be evidence of overlap and potential conflict (the question of the steel industry in which the Welsh, Scottish, and the Industry and Trade Select Committees were involved) the evidence has been that there was fruitful friction, in which more extensive investigations were pursued as a result. In one sense, however, it would be misleading to speak of the country Committees as having a policy community: they have, rather, territorial communities in which issues are very diffuse, and which are perceived by the MPs as being of fundamental political importance as country-constituency matters. At the other end of the spectrum, the picture of the relations between the Committees and

their respective Secretaries of States and Offices, is as yet incomplete. Committees have not emerged inevitably as supportive lobbies for their Secretaries; relations depend on personalities and politics, on elicited as well as overt contacts between Committees and Departments, and on opportunities for opening up divisions within the policy establishment (among witnesses from Departments, Quangos and agencies, for example).

The paper by Bruce George M.P. and Michael Woodward on the patriation of the Canadian constitution, and the Workshop debate which followed, raised important questions about policy inputs in a distinctive territory-constituency-community framework. The Foreign Affairs Committee was very much in a position to influence policy not merely to comment upon it: MPs and Parliament looked to the Committee as a view-forming body. The Foreign Affairs Committee became involved, uniquely, in the formulation rather than the examination of policy. This was due to the fact that Parliament had on this occasion a clear link in the chain of foreign affairs deliberations which normally it does not have. And, as the discussion revealed, the Committee's Report was highly successful in its impact on Parliament and it enhanced Parliament's and Britain's standing in Canada. This success stemmed from the Committee's careful, thorough and bipartisan handling of a complex issue which Parliament knew little about. Above all, the consensus on the issue enhanced the Committee's effectiveness; something which would be severely reduced on issues of high political contentiousness. It is clear that the Committee's work on the Canadian constitution had an educational function for

British MPs. But the Committee's internal deliberations raised several points which Workshop participants believed were more problematic: the impact of Advisers; the understanding of the Committee members, given Britain's centralist political culture, of the meaning and nature of federalism; and the Committee's role in articulating opinion at a point when the Government itself felt it could not formally do so. As a result the Committee came to enjoy a status which was not governmental but which was not just 'backbench murmurings' either. If the Foreign Affairs Committee was here dealing with a unique case, it nevertheless demonstrated that it had a role to play. Out of that of course arise wider and continuing questions of agenda setting and how interests focus upon, or may seek to 'capture', a Select Committee. A further point is that the House has a short memory: it is not the general repute of a Committee which makes for influence but the quality of particular reports. "The standing of a Committee might thus be said to be only as good as the perceived quality of its latest product", as one observer put it.

Policy Areas: the examples of Defence, Education, the Personal Social Services, Energy

In the case of defence, R. L. Borthwick's paper reveals that an important factor has been the continuity of the Defence Committee with the former Defence and External Affairs subcommittee of the Expenditure Committee. Defence policy differs from other areas because of the necessary secrecy which surrounds the subject and because it is much harder to influence governments' over these matters. But it is also different in that it involves a body of MPs

who share a common interest in the field and the Committee enjoys a form of consensus based on that shared concern. The internal workings of the Committee have helped this harmony: the existence of a virtual Deputy Chairman from the Opposition party, the experience of a 'partial' committee or informal sub-committee, and the - deduced - harmonious relationship between the Chairman and the Secretary of State. The Committee has explored some of the complex details of defence and sees its role, in the eyes of discussants, as explaining these complexities to fellow MPs (though not to a wider public per se except on the issue of 'value for public money'). The Committee has also seen itself as having a vital further function - one which all Committees, it had been hoped, would fulfill systematically and with vigour - of looking at the Estimates as part of the proper Parliamentary function of 'value for public money'. In both of these tasks the Committee's scrutiny was hampered not only by secrecy but also by the question of commercial confidentiality in procurement contracts which affects the examination of witnesses. Nevertheless it has been possible for the Committee to put a certain amount of pressure on the Ministry of Defence over the release, or the downgrading, of documents so that they come into the public domain. This is crucial to the Committee's very existence. Committee members questioned civil service witnesses hard - and service chiefs too on occasion - and the Committee appears to have gained respect in official circles.

A fascinating issue which emerged from the Defence discussion remained a matter for speculation: membership selection and security

vetting suggested that, while the Department would not comment on membership, the nature of evidence given to the Committee would change if MPs with extreme views were selected. A more pressing difficulty, however, has been that the Committee and its consensual ambit has been overtaken by a shift in the political climate. Defence has become much more controversial. It had to be acknowledged that there were cases, as with the Trident and Polaris issues, where the first draft of the report had been imposed by the majority on the Committee. This suggested that the erstwhile 'community of interest' on Defence in the House of Commons was in part a generational one (shared Wartime or National Service esprit) which can no longer hold up as the wider political and cultural consensus on defence matters is eroded.

Borthwick's paper also provoked a Workshop debate on whether the 'policy community' was more restricted and introverted in the case of Defence. To an extent this was bound to be so and there was some evidence that academics were not as prominent in this policy community as in others. (The Advisers to the Committee had included three ex-service personnel and a leading academic). Within the House there was a significant 'defence and foreign affairs club' and there was a feeling that to divide the two areas for Select Committee purposes was artificial. Two further interesting points emerged. First, there was the way in which Committee hearings might appear to be focussed on administration - on procurement for example - but in fact explored policy questions. Second, as the enquiry into the media's role in the Falklands showed, individual Committee members did a great deal of work and played a large part in the final report - something which in

other Committees and other issues may rest more with Chairmen and Clerks.

Michael Rush's paper on the Education and Social Services Committees gave the Workshop further opportunities to compare and contrast behaviour, styles and outcomes. The starting point here was that the two Committees both had Chairmen from the Opposition party; both Chairmen played their role vigorously and were relatively dominant in questioning witnesses; and both Committees had similar operating styles in which they undertook one major enquiry each session plus one or two smaller ones. Here, however, their paths diverged. Education, with its practice of using an informal 'subcommittee', had more small or subordinate inquiries. Rush stressed that the thrust of the paper was to pose the question: 'How, and by what criterion, should we judge the committees?' It is oversimplistic to judge them by their impact on governments; similarly, evaluating whether governments accept, reject or keep recommendations 'under review' is difficult because it involves subjective judgements about the importance of those recommendations anyway. Questions about the direction and force of influence are also complex. What has emerged, however, is that the Committees have had a positive influence in opening up policy discussion in the broadest sense. In particular, pressure groups have seen the Committees as an important focus of influence and have actively sought to exert pressure. The same attention has been shown by the specialised media. But it must also be remembered that the Committees are not locked into the policy process in any sense and their members have only had a

limited involvement with the experiment of the Special Standing Committees set up as preliminaries to certain Bills.

In the discussion on the paper it emerged that Advisers were used in many ways: to monitor government action and follow-up; as general dogsbodies; as research assistants; as a specialist 'on hand' rather than permanently involved.

Though the Committees have opened up the policy community their activity is marked by its unsystematic nature. And this is so precisely because they are not locked into the legislative system. One avenue which might have provided such an interlocking opportunity was the annual Expenditure White Papers. These have not in fact focussed attention in a systematic way (and the lack of effective alternative costings to which we have referred is important here) and there was debate among Workshop participants about the extent to which Committees delegated expenditure scrutiny to their Advisers.

Martin Burch's paper examined the internal operation of the Energy Committee and raised the important theoretical point about the available frameworks within which such activity could be analysed. Two areas of literature suggested themselves. First, there was the research on the Committees of the United States Congress. Congress's formal constitutional powers meant that its Committees were locked into the policy process. Because this was so, it could be argued that the Committees offered few relevant parallels for British experience, but the literature on Congressional Committees opens up the

interesting question of how committees can be manipulated by pressure groups, and the importance of committee chairmen in agenda-setting. The second body of research within which the Select Committees of Parliament might be examined is that which deals with the way organisations handle issues, and again the parallels with American experience are relevant.

The internal framework to the Energy Committee's work was the wide range of available topics. The Committee had to choose what to examine and had been influenced by the old select committees on National Industries and on Science and Technology. The paper also considered the important questions of how the Committee briefed its members, prepared to question witnesses (including the Minister), and prepared drafts of its report. Though Clerks and Advisers had a substantial role to play they did not run the Committee. Similarly, the Chairman was primus inter pares, not a supremo. Though it had emerged that the Committee had something of a slight bias to the demand side of energy policy its real bias was an operational, not policy, one. That is, the Committee had a strong non-partisan, consensual style, amounting almost to a kind of unwritten convention (which only broke down over the pit closures issue) and which was reflected most strongly in the topics which were not taken up for scrutiny.

When the question of the Committee's impact was posed the important fact to emerge was that, like the other Committees, Energy has developed a policy environment around itself - and one which is



dynamic, not static - and Departments have begun to take the Committees seriously. Energy, like the others, can also have an impact on questioning the way Departments receive advice and why other possible kinds of advice are not being received. In this way policy factions within Departments may be revealed. Impact, however, varies according to the political climate. In the 1979-1983 Parliament Conservative Party back-bench committees were, it was argued, very important channels for influence (and seen to be so by Departments) and there was overlap between them and the Select Committees' influence.

Energy also raised the general issue of whether Select Committees should mirror Departments since it was in part heir to the Nationalised Industries and Science and Technology Committees with their much wider briefs. There was something of a paradox here. If a Committee wanted to influence the policy community then the former, wider brief was appropriate. But if Parliament wanted to influence government then it had to mirror governmental structure. Workshop participants suggested that there was little evidence of Select Committees having a vested interest in the present Departmental pattern and they do have a critical concern in the machinery of government.

These questions led to a wider Workshop debate on the nature of policy studies in the Parliamentary setting. Though each Select Committee might plead that it was a special case, the important task was to examine in what ways issue-management and issue-development

were handled by Committees. Moreover, the study of the question: 'What are the special characteristics of different policy fields?' must go hand in hand with the study of what Parliament (through its Select Committees and other means) does about considering a policy field.

#### Procedural Questions: Advice and Advice-Giving

The scale of official evidence to Committees is both impressive and, for the civil service, a heavy and costly burden. Related to this aspect are the two wider issues of which organisations and individuals give evidence to Committees, and with what effect. The paper by Grant Jordan, Jeremy Richardson and Geoff Dudley explored these issues. The conclusions which emerged were that while there was no evidence that certain groups might be excluded, organisations appearing before Committees were familiar, professional and enjoyed a measure of standing in Department or policy circles. One result of this was that groups who already enjoyed a cycle of consultations with Departments may well use the Committees as a forum to address the media and the wider policy community.

It emerged from Workshop discussion that when replies to Parliamentary Questions were analysed it was possible to examine the extent of Ministerial and Civil Service appearances before Committees. In the Session 1979-1980, 36 Ministers (of both Cabinet and non-Cabinet rank) made 54 appearances before Select Committees and 156 officials appeared 259 times. The figures for 1981-82 were Cabinet

Ministers 42 appearances, other Ministers 48, and senior Civil Servants, 245 (First Report from the Liaison Committee 1982 - 3, p.10, footnotes 1 and 2). The amount of work spent by civil servants on written evidence and on briefing for Ministers and officials appearing before Committees, and its cost, is certainly high but can be seen as very inexpensive as a contribution to the improved Parliamentary scrutiny which it affords. The burden on some groups in the civil service who are also dealing with the issue in the 'real world' of decision-making - the central policy groups in some Departments for example - has been an onerous but not intolerable one. It has now been accepted that the work is properly part of the duties of central policy groups in Departments.

Just as parliamentary and political styles had emerged as vital factors in assessing Committee behaviour, so too the style of evidence-giving by groups and officials was seen as an evolving and important element in analysis. Civil servants can minute their arguments on paper but must not argue with Committees. The accuracy of both written and oral evidence is crucial since Committees do their homework, especially where you give them checkable facts. In the case of civil servants, formal groundrules are adhered to: an official witness can say to a Committee that he must go back and take the Minister's stance on the question. The civil servant is officially the mouthpiece of the Minister and, though there is clearly some latitude they will always be internally advised to go back and check with their Minister. Such committee behaviour patterns must be learned.

For groups, though the accuracy criterion has been the same as for official evidence-giving, the learning process has been different. For those groups which enjoyed close consultative links with departments, Committees provided both a 'second go' and a 'for the public record' opportunity which they have been quick to seize. But the open pressure of Committees brings different constraints from those of the closed, Departmental world. In closed consultations, groups might feel free to criticize Departments and Ministers. In the Committee forum, they themselves are open to questioning and scrutiny, and have to justify their position both to the Committee and vis a vis other groups in the field. Nevertheless, the Workshop concluded that it was difficult for Committees to get behind the 'charmed circle' of conventional consultation either to grass-roots opinions (the question of the representative nature of groups) or to less orthodox views.

A very different consideration of the advice-taking process was presented in Anthony Barker's paper. The underlying question of the paper was how a Parliamentary element in a particular field of policy - the big Public Inquiry - could be made far more visible to the public and much more useful than the present arrangements. It was important in this context, to consider what parliamentary procedures looked like from the outside. The parliamentary side of decision advice to Government must always be considered alongside the non-parliamentary procedures. In land-use planning and Inquiries we had a highly technical, and highly professionalised arena which amounted to a semi-private political system. But the system of Inquiries was governed by a natural justice, judicial style of fairness and not

being judge in one's own cause. Departments, civil servants and Ministers were often suspected by the public of having long-running policy commitments which did not bend to argument. Parliament, as an institution, was not seen in this way (even though it is controlled by the majority governing party). Would it be possible to bring Parliament into the advice procedure in the land-use planning field? The paper suggests that the whole of the Statutory Inquiry process be placed under the parliamentary process. The Inspector would be an employee and officer of Parliament instead of an employee or appointee of the Secretary of State. It was recognised that the contrary argument is that since the Minister is going to take the decision then inevitably he, not Parliament, would oversee the Inquiry system but this could be rejected in favour of a parliamentary ombudsman or Comptroller and Auditor General function to improve the decision advice process.

A telling point to emerge in discussion was to reiterate the importance of MPs own perceptions of their work and interests. It could be said that MPs would not welcome this additional function of shaping policy inputs, particularly in the context of Select Committees which many MPs see as scrutinizing government's policy not formulating their own. Nevertheless, it could be argued that, for the 'big' public inquiries, there was a case for Parliament to have a part in the process if the Minister were to disagree with an Inspector's report. Conversely, it was suggested, the political reality was that Governments do have policies and an enhanced parliamentary role in the inquiry process would make little difference to the outcome. Against

this, however, it was still worth pursuing the search for an innovatory procedure to encourage MPs (recognising that their concern had to be engaged and could not be forced) to develop newer interests. Support for this view came from Workshop participants who stressed that currently the same inquiry procedure was used for the whole range, from local site issues and neighbour-confrontation at one end to the national policy issue of Sizewell at the other. The two should be treated differently and the latter could well be a central matter for Parliament and Select Committees while the former remained a local and decentralised concern. Parliament would gain visible public standing in the debate since the Inspector's report of the Inquiry would be tendered to it and not to the Minister. This is not to suggest that Parliament should decide planning cases or hear Inquiries. Nevertheless, it was acknowledged that this was at the end of the process; Parliament still needed to be involved at the beginning of the policy process.

#### Thinking of New Roles: A Committee of Economic Affairs?

The final two papers in this Symposium invited us to look at alternatives to current practice. Though Alan Budd's paper was concerned with advice and advice-giving its main thrust was to offer a critique of current perceptions, and both his and Ann Robinson's paper question whether what the Treasury and Civil Service Committee was doing was the right job, not just whether it was doing it well or badly.

Alan Budd's paper recognised that it might not be fair to ask the existing Committee to carry out the two essential but different elements of legislative scrutiny: bringing in views from outside the Treasury, and getting the Treasury to explain what it is doing. The Committee is, after all, a politically expert body, not a collection of economists. Nevertheless, the Committee has greatly increased Treasury accountability: the Treasury spends considerable time worrying about how it will present its case to the Committee. The Committee's day to day monitoring, especially in the early days, was very good. Now, the Treasury is much better at coping with monitoring. The paper was much less impressed with the Treasury and Civil Service Committee's self-appointed task of discussing the great issues - monetary policy and International Monetary Arrangements. The point about these complex technical questions was not what the Committee thought about them but what the Treasury thought were the answers to the questions, and why. This the Committee failed to probe adequately, as a body of political experts: after all its real task was to find out what the Treasury was up to.

The Committee, and others involved in the field, have tended to take the - misguided - view that economists have different economic perspectives which tend to be matched by differences in political allegiances. Alan Budd's view was that, on the contrary, economists should not be used as Advisers in this way but as assessors who explained matters to the Committee and in certain areas may be experts in a specialised, apolitical sense. By having so many Advisers the Committee hoped that they would be advocates. This was wrong because

it internalised a debate which should be public: those with positional views should be witnesses, not Advisers.

The debate on the paper brought out the difficulty of finding the non-engaged economist since much economic debate was 'theological'. From this point of view it would seem that the Committee was not the best forum for the fundamentally important exercise of laying bare the real status of politicians' claims about what underlies their policies. Not everyone agreed: some felt the Committee should tackle this role. Other participants, again, saw such a role as politically as well as technically unrealistic. No politician wished to undermine his own or his party's policy stance by demonstrating that it was based on false or irrelevant underpinnings. The response to this was that there was room for policy advocates and policy Advisers. Here however a wider difficulty arose over the Committee's ability to pursue a Department's thinking. The powers of Committee's to "send for persons, papers and records" is subject to limitations. Some of these limitations have been codified by the Civil Service, where the "Memorandum of Guidance for Officials appearing before Select Committees" is available to staff. This tells civil servants not to disclose advice given to Ministers, or details of consultation between Ministers, or inter-departmental exchanges (First Report from the Liaison Committee, 1982-83, op cit, p. 17). Even so, while not expecting that critical internal Treasury papers would be released, it could be argued, from the radical viewpoint of the paper, that economists should be withdrawn from the Treasury and located elsewhere in the advice process where they could speak openly.



Ann Robinson's paper also took a radical stance: could the Treasury and Civil Service Committee do new things, and could it become a forum for prodding the Government to do new things?. Instead of following faithfully the Treasury's preoccupation with macro-economics and forecasting it could conceivably be more radical in its approach and pose the questions 'what is economics' and 'what is it that matters in economic policy'. Some Workshop members disagreed; the Committee was right to see its function as monitoring the Treasury, as Standing Orders imply, and not to act as an economic affairs committee - this was not the task of Parliament. In the context of this parliamentary function the Committee has, like the other Select Committees, increased accountability in the specific sense of requiring governments to render a more detailed account of their actions.

It was suggested that a central dilemma of both papers' desire to see a monitoring of the economy was the Executive's jealous guarding of its policy prerogative. The rejoinder was that the Select Committees too readily took the same old line of scrutiny in a narrow, reactive-to-government-initiatives stance. We should, properly, ask whether Select Committees could not now question whether there were other things that Departments should be doing. This was to examine ideas, not to claim an alternative government status. From this viewpoint, Select Committees could aid the 'public interest' as well as the 'party' stance which MPs could properly uphold. From the opposing position, such a notion of public interest was empty since it contradicted the political culture of parliament in which party and

party policy dominated.

The discussion revealed a general belief, however, that the scrutiny of the Treasury was a qualitatively different issue from those dealt with by other Committees. The adversarial framework of Parliament made such a task immensely difficult. Fundamental questions about the values underlying economic policy stance could not be accommodated easily in the same forum as judgemental decisions of the 'more or less' kind. Similarly, questions about the way a Committee looked at the economy depends on who the Advisers were and how that advice was handled. In this arena, Advisers might be seen from the outside as having aligned themselves with different elements of a Committee. A further, obvious, difficulty was that internal Treasury advice which has been rejected is not and cannot be referred to by witnesses. Ann Robinson's paper wants to highlight that, while econometrics and modelling dominate Treasury concerns and are also strongly reflected in the choice of Advisers, this could be seen as a bias in favour of macroeconomics which it would be proper to question and to suggest alternative concerns centring on the structure of the economy, micro-economics and taxation. Discussion of the possible alternatives for MPs to pursue in the Select Committee setting also reflected the political and time-dimensions involved. Members of Committees do work within an electoral time-frame; Members come onto a Committee at the beginning of a Parliament anxious to tackle current 'big' issues and looking for short-term action. This, potentially, inhibits a longer-term, more theoretical or 'ideas' approach.

### Activity, Action and Success

Two major features of Committee activity and action emerged from the Workshop debate. First, the Committees' activities can help to put topics on the political agenda; submit Ministers to a level of questioning not available in the House; provide a threat of scrutiny to a wide range of a Department's affairs; and give the opportunity to stimulate debate in the House and elsewhere. Second, and by contrast, the action of the Committees' remains that of fourteen different and disparate bodies who do not constitute a system of Select Committees.

The activities of the Committees reflect, moreover, important truths of parliamentary behaviour. MPs are masters of their own committee agendas; do not take well to being told what to do; and do not follow a set formula of examining estimates and expenditure. It is also the case that Select Committees and their activities are not linked in any formal way to the work of the House. The Committees have, nevertheless, worked with enthusiasm, Members' attendance has been high, and continuity of membership a feature. Though they lack a systematic link with the legislative activity of the House they do complement the House in a way which committees have not done in the past. They can feed the House with information, try and report in time for Debates and aim to relate much more than their predecessors did to the timetable of the House. In the case of the 'sus' law and the Canadian constitution, they did have a pre-legislative capacity. In the expenditure and estimates sphere, however, there is a total mismatch between the House and the Committees' timetables and thus the Committees' activities are useless for policy control.

The Special Standing Committees, SSCs, referred to in the Jordan, Richardson and Dudley paper, had not been able to sustain the original hope that they would be a way of linking Committees to the House's legislative timetable. There does not seem to be sustained pressure from MPs to repeat the SSC experiment. It is difficult to know what SSCs were meant to achieve. If the aim was to change legislation then they came rather later in the process. Were they meant to give outside groups access to the process, or to give MPs access to groups' views? In practice, the SSCs tended to see the same groups that Ministers had already seen. More importantly, the Bills which went to the SSCs were not those of party interest. If Bills were of central party importance then the role of the Whips would negate the value of the evidence sessions. In fact, even in the relative non-controversial atmosphere in which they existed, the SSCs were not true pre-legislative committees taking a close look at legislation before it got to the House, nor were they taking much new advice. The SSCs did, however, have an educative function for those MPs who took part. MPs learnt about the technical background to proposed policies and the reasoning on which they were based. These presentations were invaluable to MPs.

The new Select Committees have not felt constrained in their working by their terms of reference: there was little evidence of the 'turf wars' endemic among Congressional committees; they have made free use of their power to appoint Advisers; and a feature of several Committees' work has been their readiness to hold 'follow-up' meetings to assess the implementation of previous recommendations.

Nevertheless, Members of such Committees remain shrewd political laymen not experts and while they appear to welcome the opportunity which committee work provides for informing themselves and for criticizing Departments, this may also be seen as an outlet for MPs' frustration with the inadequacies of the procedures of the House. Without adhering to a conspiracy theory, the question can be posed: are they just devices to keep Members happy? The Workshop's conclusion was 'no'. The House is an evolutionary chamber and Committees are a successful development. As a development they remain, however, unsystematic, small, and with miniscule staff support by international standards. The 1977-78 Procedure Committee recommended a basic permanent staff of one Clerk, one Assistant and one Secretary for each Committee, with an additional Clerk for those Committees empowered to appoint formal sub-committees. This has been adhered to. All Committees can, if they wish, have a Temporary Committee Assistant, TCA, but the demand for these has not been as high as anticipated (six or seven have been appointed) even though all Committees initially claimed that they needed more staff.

Within this small organisational setting, however, the Committees have been willing to push at the boundaries of the "Memorandum of Guidance" as to their interrogatory powers, and their ability to organise informal subcommittees. The Committee behaviour of MPs is also evolving. Members have developed a habit of working together which has contributed to a distinction between 'floor of the House' men and committee men. Part of this evolving behaviour, and one where more research remains to be done, is the Janus nature of the

Committees' position between Departments and Parliament. Committees want cooperation from Departments in order to scrutinize, question (and support) them. But Committees also need to distance themselves from Departments in order to maintain their separate identity and their responsibility to Parliament. This is made more complicated by the fact that some of the most effective investigations have been the least visible: those which came before policy, or which looked at underlying policy, have had a greater impact within Departments than topical, 'bandwagon' investigations.

The success of the Committees lies, the Workshop discussions revealed, in those informing and scrutinizing activities which were always a part of Parliament's functions. They have enhanced this role, not altered it dramatically (or constitutionally) and in so doing they have strengthened the dialogue among the members of the policy community broadly conceived: Members, Ministers, civil servants, Departments, interest groups, academics and the informed media. Again, Committees can - though as yet they have not got the balance exactly right - develop current topics and longer-term inquiries. Evaluating success in terms of recommendations accepted or policy altered, as the papers have shown, is marginal, given that the British Parliament affords little measure of success in these terms. An important criterion, however, of the authority of Select Committees is the extent to which Members will support them on the floor of the House. This has not yet been fully put to the test, but we can point to occasions (over 'sus' and over vehicle licensing) where Committee members have been prepared to vote for what they have

said in Committee.

Clearly, too, Committees have been a success in altering the perceptions and behaviour of Whitehall. Though they are by no means a fierce threat to Departments - they have not done enough inquiries, or enough systematic inquiries, to achieve this - the evidence suggests that no big new policy will be made without Ministers and mandarins anticipating very carefully the information that Committees will seek. People are more aware that their decisions may be questioned and while this may not mean that the decision is changed it ensures that the surroundings to that decision are fully explored. It is a desirable outcome that civil servants themselves have had to expound on policies to Committees and have had to be capable of explaining the reasons behind those policies. The principle remains intact that in so doing civil servants are accountable to Ministers, not to the Committees themselves. The conclusion must be that the policy process has changed; whether policy itself has changed will have to await further study.

## THE NEW SELECT COMMITTEES - A CONSTITUTIONAL NON EVENT?

Gavin Drewry

The balance of advantage between Parliament and Government in the day to day working of the Constitution is now weighed in favour of the Government... We believe that a new balance must be struck.

Select Committee on Procedure, 1978.(1)

The attempt to create important committees, either of the House or of the parliamentary parties, is an attempt to fashion mock political institutions within a constitution which cannot tolerate real ones.

Henry Fairlie.(2)

Earthquakes are classified on the modified Mercalli Scale thus:

- I. Just detectable by experienced observers when prone.  
Microseisms.
- II. Felt by few. Delicately poised objects may sway.
- III. Vibration but still unrecognised by many. Feeble.
- IV. Felt by many indoors but by few outdoors. Moderate.
- V. Felt by almost all. Many awakened. Unstable objects moved.
- and so on, up to XII (Damage total. Vibrations distort vision. Objects thrown in air. Major catastrophe). Various opinions are held about the seismic significance of select committees, but the first four or five points on the scale are more than enough to encompass the credible range of such variations.

This paper discusses recent reform of Commons select committees



in terms of its constitutional significance. It considers in particular the claim that such reform can have, and may in fact have had, some measurable effect in correcting a perceived imbalance of power between Parliament and the Executive. This exercise is complicated by problems of defining and measuring the 'impact' of committees (upon whom, and to what ends?). The paper does not explicitly address itself to such problems, but they must be born in mind from the outset.

Returning to our seismological metaphor, the effects of an earthquake depend not only upon the intensity of the shock wave but also upon its location and direction, relative to the position of the observer and the stability of his vantage point. By the same token reform of Commons select committees may seem momentous to parliamentarians actually sitting at the epicentre but trivial to outsiders, particularly those who consider that Parliament itself is a marginal institution in the machinery of government (not necessarily the same thing as holding that it is constitutionally insignificant, formal sovereignty and actual influence being quite different attributes). We therefore begin by considering the problem from two different points of observation. How much does the perceived constitutional significance of change in parliamentary practice and procedure (and I shall argue later that changing attitudes and perceptions may hold one key to the problem) vary according to whether one is on the inside looking out or on the outside looking in? Which, of course, begs the question of whether parliamentary insiders do in fact look outside their institution when contemplating its

reform (in my belief they seldom do so) and of whether many outsiders have a coherent view about parliamentary procedure, or indeed any view of it at all.

One problem, as we shall discover, is to determine what meaning is to be attached to the rhetorical language in which parliamentary discourse on reform is conducted.

Parliamentary Reform and the Constitution: From the Inside, Looking in.

It is hazardous to generalise about MPs' attitudes towards procedural reform (see below). A few names crop up time after time in procedure debates, and many names never crop up at all. But a few tentative generalisations may be permissible:

1. The frequent usage by MPs themselves of the words 'constitution' and 'constitutional' in relation to procedural change, an extreme version being Sir Kenneth Pickthorn's oft-quoted observation that 'procedure is all the Constitution the poor Briton has'(3), echoed by Norman St. John Stevas in the debate on the motions to set up the departmental committees, opining that 'procedure is the best constitution that we have'.(4) There may be some doubt whether Mr. Stevas's use of the first personal plural should be equated with 'poor Britons' or with his fellow parliamentarians (see 3, below).(5) The word constitutional has cropped up in numerous procedural contexts - viz. its use by several speakers, from different parties, in the second reading debate on Mr. Stevas's Parliamentary Control of

Expenditure (Reform) Bill in the 1982-83 Session.(6) The question-begging word 'control' also appears frequently in the same contexts.

2. The sense in which parliamentarians associate their procedures with the constitution invariably involves an interpretation of the relationship between Parliament and the Executive and of how that relationship has changed; the latter is depicted, explicitly or implicitly, as having gained 'power' at the expense of the former. There is a broad consensus (which turns out on closer inspection to embrace a fairly wide spectrum of opinion - see below) that this is a bad thing and that something (often some kind of procedural reform) should be done about it.

3. Although procedural reform is widely seen as having a constitutional significance, it tends to be treated 'as essentially a House of Commons matter', (6) & (7) and as one into which 'outsiders' should not be allowed to intrude: this view was particularly marked in exchanges leading up to the establishment of the 1976-78 Procedure Committee inquiry,(8) and in the inquiry itself which took practically all its evidence from MPs and Clerks.(9) In procedure debates the front benches tend to cajole rather than bully their supporters; free votes are common; ministerial speakers stress their status as parliamentarians rather than members of the Executive. The Leader of the House is expected to give a virtuoso impersonation of Janus in such contexts.

4. In speaking of constitutional matters,(10) MPs tend to lay stress upon the virtues of flexibility and adaptability associated with an unwritten constitution. The constitution is an organic entity which

'evolves' - presumably under the benign guidance of a hidden hand, helped by the incremental nudging of experienced insiders. Little attention is paid to the possible relevance of foreign constitutional experience.

5. Similarly, the evolutionary and incremental character of procedural reform (even of those reforms depicted as having 'constitutional' significance in the sense described above) is stressed. This interpretation appears in the 1978 Procedure Committee Report on which the new committees are based, and in many of the speeches on the 1979 Motions - see below.

.... and from the Outside, Looking in.

It is still more hazardous to generalise about 'outsiders' views on the subject because little information exists; few people have much knowledge of, let alone 'views' about parliamentary procedures, and those who do are likely to have compromised their outsider-status to some degree. The following (necessarily subjective) comments on the points made in the preceeding section are proffered with some diffidence:

1. There is an element of self-agrandisement in making a simplistic equation between procedural change and constitutional reform, though it does also underline the point made earlier about earthquakes appearing more dramatic to those at the epicentre. Extravagant usage of words like 'constitutional' and 'unconstitutional' is a feature of political rhetoric in a system where constitutional parameters are a

matter of legitimate debate; but it is not extravagant to accuse one's political adversary of behaving 'unconstitutionally' when one means that he has not abided by the 'tacit understandings' governing political behaviour. We must bear in mind that the constitution has an attitudinal dimension - an aspect of the subject which we shall return to in due course. And it can hardly be disputed that procedure is an aspect of the constitution. We might plausibly adapt Sir Henry Maine's famous observation about substantive law (11) and say that the exercise of parliamentary sovereignty is 'gradually secreted in the interstices of procedure'. The question remains, how big an aspect? Should procedure and reform of procedure be regarded as the essence of the constitutional law of Parliament, or as the scaffolding that holds it up?

Thus the question asked in the title of this paper is answered with a guarded double negative; procedural reforms such as the recasting of investigatory select committees are by definition not 'a constitutional non-event' - though their magnitude as an 'event' is open to question. Marshall and Moodie recall that the 1959 Select Committee on Procedure split on party lines over the issue of introducing specialised select committees. The Conservative majority rejected the proposal as being 'a radical constitutional innovation', to which the Labour minority replied ('properly', say Marshall and Moodie):

Each one of our proposals suggests an innovation; every amendment of the procedure of the House falls within the wide ambit of constitutional law and a large body of opinion believes that reforms should be radical.(12)

How radical this reform has turned out to be in practice remains to be considered.

2. Allegations that Parliament has suffered from Executive invasion of its legitimate territory or has lost 'power' to the Executive raise familiar controversies about the nature of executive-legislative relationships in the past (variants upon the 'golden age' hypothesis) as well as equally familiar semantic disputes about the concept of 'power' (though the latter may be taken perhaps to mean 'powers', in which case the difficulty is side-stepped). It is also true, of course, that parliamentarians do not agree about the susceptibility of any such imbalance to correction by enhancing the range and scope of select committees; some, with a Chamber-centred view of Parliament's proper functions, regard committees as counterproductive - see below. But, given that so much of the debate about the rationale of new-style select committees have revolved around a widespread, if ill-defined, sense of unease about the relationship between Parliament and the Executive that operates in it - self-evidently a constitutional issue - then this aspect of the matter merits extended discussion, in a separate section.

3. The introspective, exclusive attitude of many MPs towards the workings of 'their' institution has been noted by several commentators; Walkland, for example, remarks upon the drawbacks of discussing parliamentary reform 'in a vacuum, or within the cosy confines of a political system adhered to by all the players of the game, as if it were a matter of internal Parliamentary consequence only, solely connected with procedural technique'.<sup>(13)</sup> I have argued

elsewhere that Richard Crossman's relatively high degree of impact as a reforming Leader of the House may be attributable to his undeferential attitude towards parliamentary mystique and to his willingness to cut procedural Gordian knots upon which parliamentary traditionalists delight in testing their skills.(14) If procedural reform really does have the high degree of constitutional significance that some MPs obviously think it has then it is worrying that they should be so possessive about discussion of the subject.

4. Crick observes that there is 'a great deal of cant from MPs in which the word "organic" mechanically figures'. (15) The concept of an organic constitution, evident in parliamentary discourse, echoes a tradition of constitutional analysis which distinguishes between 'flexible' and 'rigid' systems.(16) But the implicitly teleological undertones of the organic interpretation are intellectually dubious, and seem often to be based upon simplistic historical analysis - caricatured by Mr. Pym's airy observation (in a debate on the new select committees) that 'Parliament always has changed by a process of evolution, although there have been one or two historical hiccoughs'.(17) Even more dubious is the a priori assumption about the superiority of British constitutional arrangements - introspection, aggravated by smugness and a hint of xenophobia.

5. The gradualist (if not evolutionary) tempo of parliamentary reform stems inevitably from the nature and the limitations of the machinery used to revise procedures and from the need to balance the competing claims of different interests within the House itself. Reform of select committees (which has been debated, on and off, at

least since the first world war) epitomises this gradualist pattern. The thing that has kept the debate going has been the belief that committees may hold the key to constitutional adjustment of the relationship between Parliament and the Executive.

### Select Committees and the Balance of Power

In 1918 (18) the Haldane Committee observed that:

It would, we think, generally be felt that any improvement in the organisation of the Departments of State which was so marked as substantially to increase their efficiency should have as its correlative an increase in the power of the Legislature as the check upon the acts and proposals of the Executive.(19)

And that:

It has been suggested that the appointment of a series of Standing Committees, each charged with the consideration of the activities which cover the main divisions of the business of Government, would be conducive to this end. (20)

There was, of course, in the inter-war years, some post-Diceyan sensitivity to the prospect of Parliament being unable to keep abreast of the growing ramifications of a 'collectivist' State (and some of the recent debate about parliamentary reform carries distinct echoes of the concerns of this period).

Since Haldane there have been various proposals for the establishment of departmentally-related select committees,(21) many of them based more or less explicitly upon some variant of the balance of power (or powers, see above) argument. Richard Crossman, who



presided over what is sometimes (probably misleadingly) depicted as the genesis of a revolutionary era of committee development, often spoke and wrote about the need to restore Parliament's capacity to 'control' the Executive.(22)

The same line of argument appears, naked and unashamed, in the 1978 Procedure Committee Report which was the blueprint for the new committees:

The essence of the problem... is that the balance of advantages between Parliament and Government in the day to day working of the Constitution is now weighted in favour of the Government to a degree which arouses widespread anxiety and is inimical to the proper working of our parliamentary democracy. We believe that a new balance must be struck, not by changes of fundamental or revolutionary character in the formal powers of the institutions concerned, but by changes of an evolutionary kind, following naturally from present practices. We have approached our task not in the hope of making the job of Government more comfortable, the weapons of Opposition more formidable, or the life of the backbencher more bearable, but with the aim of enabling the House as a whole to exercise effective control and stewardship over Ministers and the expanding bureaucracy of the modern state for which they are answerable, and to make the decisions of parliament and Government more responsive to the wishes of the electorate.(23)

Promising that the Commons would have an opportunity to come to a decision on the Procedure Committee's proposals, the 1979 Conservative election manifesto suggested that 'the traditional role of our legislature has suffered badly from the growth of government over the last quarter of a century' and promised that the new government 'will see that Parliament and no other body stands at the centre of the nation's life and decisions, and... will seek to make it effective in its job of controlling the Executive'. Opening the procedure debate in June 1979, Mr. St. John Stevas spoke of 'the most important

parliamentary reforms of the century', intended 'to redress the balance of power to enable the House of Commons to do more effectively the job it has been elected to do'.(24) In its review of the first three years' work of the departmental committees, the Liaison Committee suggests that they have 'considerably extended the range of the House's activity, strengthened its position to that of the Government, and deepened the quality of its debates'. (25)

Not all debate about committee reform has been couched in terms of rhetoric about redressing the balance of power (or 'advantage'); Edward Du Cann, champion of strong committees and Chairman of the Liaison Committee, has publicly doubted whether the effects of the new committees can be described in such terms.(26) But the persistence of the notion that committees can have a macro-constitutional impact upon the relationship between Parliament and the Executive is such that it cannot be ignored in evaluating the new arrangements; before doing so we must also pay some attention to the nuances of meaning underlying the use of phrases like 'balance of power' in debates about procedural reform.

#### Balance of Power - Varieties of Meaning

And this is much easier said than done. 'Power' is a tricky concept; 'powers' is less tricky, but means something quite different; 'advantage' (viz. the Procedure Committee Report, above) implies something quite different again - the need to balance diverse interests within the House. Procedure debates are clouded by

rhetoric and rendered opaque to outsiders by the use (probably unconscious) of in-group codes. When a parliamentarian speaks of shifting the balance of power, what does he have in mind? Does he speak literally or figuratively? To whom is he addressing his remarks? Has he thought hard about the terminology he is using? Even if the analyst could find answers to such questions by stripping away the rhetoric his task would remain a difficult one; for each individual will have his own view about the optimum 'balance' of power/powers/advantage, and how best to achieve it. In practice a semblance of unity is achieved by elaborate fudging; other writers have noted the tendency for procedural reformers to side-step the essential task of articulating from the beginning the rationale and constitutional implications of what they hope to achieve. (27) Question-begging rhetoric about redressing an imbalance in the distribution of power (or about Parliament 'controlling' the Executive) is an ingredient of the fudge.

MPs' expectations about what can be achieved by reforming select committees are bound to vary and may in any case be hard to discover from the language used to articulate them. Writing about the establishment of the Expenditure Committee in the early 1970s, Ann Robinson notes a clustering of views around a 'moderate' position, occupied by those 'who believe that the Commons' role as a representative body is to act as lay critic of the Executive - to keep it from straying too far off the path desired by the electorate but not to presume to be an expert counter-executive trying to run the country'. (28) Associated with this position is a view of select

committees being permitted a limited role but not allowed 'to become so powerful that they try to take on Governmental duties for which they are unfitted'.

But the moderate position encompasses a significant range of individual expectations, leaning at one end of the scale towards a 'minimalist' standpoint (suspicious of committees as inimical to strong party government) and at the other towards a 'maximalist' view seeing strong committees as a means of consolidating Parliament's supposed position of supremacy in controlling the Executive). Ann Robinson doubts whether a raw 'maximalist' view of Parliament has ever had significant support either inside Parliament or among outside commentators. One may assume that the maximalist tone of the 'balance of power' argument has been a rhetorical device to lend dramatic impact to what are in fact recognised to be moderate (and 'evolutionary') proposals. Ann Robinson points out that the vagueness of the moderate position 'permits a great variety of interpretations of the precise limits to Parliament's power' (29) and provides an umbrella under which reformers can huddle together and find an agreed procedural formula.

#### New Committees, Old Constitution?

Given that all procedural reform has some constitutional significance, what order of significance can be attached to the new select committees? Have they effected any discernible change in the relationship between Parliament and the Executive? But perhaps this

is too stiff a test: even if committees have not been instruments of constitutional change perhaps they are products, or reflections of changes that have occurred for reasons that have nothing to do with procedural reform? We must remember, too, that the constitution is not just a matter of formal rules but also of attitudes and understandings, rooted in political culture.

It should perhaps be said at the outset that to ascribe major constitutional significance to the new committees would fly in the face of the prevailing weight of academic opinion. Stuart Walkland, for example, has argued persuasively that meaningful parliamentary reform cannot take place in the absence of prior political change, to break down the constraints imposed by the dead hand of two-party adversary politics.(30) David Judge develops a similar line of argument, noting the prevalence of party-orientated theories of representation which give little encouragement to a division of parliamentary labour along specialist lines.(31) Nevil Johnson opines that 'the expanded activity of committees has so far brought little genuine change in the manner in which Parliament operates, nor in the relationships between it and the Executive'.(32) Ann Robinson, writing in the mid-1970s, concluded her study of the Expenditure Committee by saying that 'the power relationships between Parliament and the Executive remain essentially what they were before the establishment of the Committee', (33) adding that 'we must recognise that the constitutional and political constraints under which it operates ensured from the start that it would never fulfil the greatest expectations of it - that it could redress the balance of

power between Executive and Legislature'.(34) Even Philip Norton, who is more optimistic than most about the potential for enhanced parliamentary impact upon government, is cautious about the conclusions to be drawn from the emergence of the new committees - 'there is', he says 'still some way to go'.(35)

Associated with the 'strong government', bipartisan, 'adversary politics' view of parliamentary life (which the 'moderate' interpretation of the rationale of select committees implicitly condones) is a widespread belief that the floor of the House is what really matters and that the cosy inter-party consensus fostered by select committees is both artificial and unhealthy. This has been evident over the years in the 'minimalist' opposition to extended select committees expressed by, among others, Michael Foot and Enoch Powell.(36) Herbert Morrison refers to the 'vital doctrine' of the responsibility of Ministers to Parliament as a whole (italics supplied).(37) Marshall and Moodie refer to a deep-rooted notion 'that when Ministers answer for policy they must answer to the House as a whole and not to any other body even if that body be a committee of the House of Commons'.(38) Nevil Johnson (echoing Redlich) notes as a decisively significant principle in the modern evolution of the House of Commons a notion of 'the equality of Members...which stands in the way of withdrawing matters of decision from the floor of the House, for only there does each Member have a voice and a vote'.(39) Even given that the new committees are concerned with scrutiny and advice rather than with 'decision', it seems clear that the constitutional soil into which they have been planted is not - in the

absence of laborious tilling and much added fertiliser - likely to encourage growth.

With some benefit from post-1979 experience are we now in any position to refute conventional and (moderate/minimalist) parliamentary wisdom about the constitutional marginality of select committee reform? On the face of it the answer must be emphatically in the negative. The new committees are much the same mixture as before. They are, it is true, laid out more tidily, on a departmentally-related basis, but a real sense of system is lacking since each committee has developed its own style and modus operandi. One obvious line of cleavage is the fact that initial inter-party bargaining has allocated half the chairmanships to government supporters and the other half to members of opposition parties. It is the case that, after an initial parliamentary row, the membership of committees is now determined by the Committee of Selection; but the whips are not far away (and if they have distanced themselves to any extent then this in itself bears testimony to the perceived marginality of the committees). There is no shortage of Members willing to serve on the committees, and those chosen seem generally to be assiduous in taking part in the proceedings; but there is little evidence that the committees are seen by the ambitious as an alternative career or as a route to political advancement.

What of the crucial linkage between committees and the floor of the House? The Procedure Committee's proposal for setting aside eight days to consider committee reports was not implemented. There

have been a few, but not very many, obvious instances of committee activity impinging upon the agenda of the House (two exceptional cases being the Home Affairs Committee report on 'sus', and the Transport Committee on HGV licensing). There may have been some less visible instances of interplay, though I am sceptical about whether, on the whole, there is enough evidence to justify the Liaison Committee's assertion that committees have 'deepened the quality' of debates. It seems clear, however, that disciples of the old floor of the House orthodoxy have found themselves pushed onto the defensive by the burgeoning of committees.

Impact upon government, as indicated by the content of published replies (admittedly an imperfect measure) has been slight. One obvious area of constitutional importance, in terms of Parliament's capacity and willingness to 'control' the Executive, is public finance. The departmental committees have so far shown only a patchy interest in public expenditure and it is hard to envisage (given the political and constitutional parameters within which they, and indeed Parliament as a whole, operate) how any of the recent proposals for involving them in a revised set of procedures for approving the estimates can be expected to given them a meaningful role in this context.

To digress slightly, there are two other areas which may be of special interest to students of the constitution. With regard to the first, devolution of powers to the constituent countries of the UK, the Scottish Affairs and Welsh Affairs committees were added to the



original list of departmental committees as consolation prizes, following the failure of the Labour government's devolution exercise; whatever one's assessment of their impact, their best friends could hardly regard them as more than a cosmetic substitute for real (or, as we are talking about the Callaghan package, unreal) devolution. The second area is the relationship between Parliament and the Courts. At the outset, the Home Affairs Committee was expressly precluded from investigating the Lord Chancellor's Department and the Law Officers' Department, on the specious grounds that to do so might jeopardise the independence of the judiciary. There was an early skirmish when the Attorney-General declined to appear before the Committee; but since then Law Officers have given evidence, and the Lord Chancellor himself evidently relished appearing before the Committee to give evidence in connection with its prisons inquiry. The Liaison Committee has recommended that the restriction be removed.(40)

Civil servants give much of the evidence, written and oral, that is taken by the departmental committees (the proportion obviously varies from committee to committee and from inquiry to inquiry); ministers quite frequently appear, and are sometimes aggrieved when not asked to do so. Committees cannot compel the submission of evidence, and there is no special process (as recommended by the Procedure Committee)(41) whereby ministers can be called to account by the House for withholding evidence - which is not, of course, to say that they are immune in the last analysis from political censure by the House. Mr. Stevas gave an undertaking when the committees were set up that ministers would cooperate.(42)

The memorandum begins by exhorting civil servants to 'be as helpful as possible to committees' and by suggesting that information should be withheld only in the interests of 'good government' or of national security. But it also sets out a dispiriting list of 'limitations on the provision of information', beginning with the statement that 'committees' requests for information should not be met regardless of cost or of diversion of effort from other important matters'. In the list of taboo areas perhaps the most telling paragraph reads as follows:

In order to preserve the collective responsibility of Ministers, the advice given to Ministers by their Departments should not be disclosed, nor should information about interdepartmental exchanges on policy issues, about the level at which decisions were taken or the manner in which a Minister has consulted his colleagues. Information should not be given about Cabinet Committees or their discussions.

Collective responsibility has been explicitly cited on more than one occasion by departmental witnesses as a ground for withholding evidence, one instance in the 1982/83 session being a clash between Mr. Heseltine and the Environment Committee concerning government policy with regard to Merseyside.

Another significant part of the Memorandum says that, as far as possible, official witnesses should 'confine their evidence to questions of fact relating to existing Government policies and actions'. It continued:

Officials should be ready to explain what the existing policies are and the objectives and justification, as the government sees them, for those policies, and to explain how administrative factors may have affected both the choice of policy measures and the manner of their implementation. It is open to officials to make comments which are not politically contentious but they should as far as possible avoid being drawn, without prior Ministerial authority, into the discussion of alternative policy. If official witnesses are pressed by the Committee to go beyond these limits, they should suggest that the questioning be addressed, or referred to Ministers.

The Liaison Committee describes the Memorandum as 'a fair statement of a not very satisfactory situation', (45) pointing out that the 1978 Procedure Committee Report version of the document was 'broadly unobjectionable'. (46) The fact that it did so, and that the Liaison Committee seems willing for the moment to shrug its shoulders about the restrictions further underlines the minimalist realities of the 1979 reforms. The Memorandum is indeed a full and explicit statement of constitutional parameters which have not in any material way been altered - at any rate not on the surface.

#### New Understandings?

Viewed in formal terms the 'new' select committees are not really new at all. They merit some textual revisions in post-1979 textbooks on constitutional law, but hardly a new chapter. But the story does not quite end here. A constitution is partly a matter of more or less formal rules and conventions and partly a matter of attitudes and mutual understandings about the rules of the game: It is, as Crick observes, 'what people with political influence ... accept as a proper way of reaching political decisions'. (47) May it not be the case

that the development of select committees in the last two decades, and the pressure that brought it about, is symptomatic of an adjustment in the tacit consensus about the proper way of deciding things?

Issues with macro-constitutional significance - devolution, EEC membership, Bills of Rights, the future of the House of Lords - have been prominent on the agenda of political debate in recent years. Old 'certainties' have been questioned. A taste of minority government, and the emergence of the SDP have further encouraged such questioning. Perhaps the rigid constitutional boundaries that apparently set such narrow limits to what can be achieved by way of parliamentary reform are less rigid than we might suppose?

It is clear at any rate that procedural reform has sustained a considerable degree of momentum since the early 1960s - even if one is not entirely convinced that the reformers have had a clear and consistent idea of their ultimate destination. The parliamentary life-span of the new committees is written into the standing orders, and a government would find it politically very difficult to write them out again. Each successive stage in the development of select committees has pushed forward the base-line of MPs' expectations, and generated an audible click in the one-way ratchet of change. Members may not as yet be clamouring for much more than they now have, but would surely be unhappy to settle for less. Rising expectations may be the pre-condition for radical demands. As de Tocqueville wrote of pre-Revolutionary France: it happens most frequently that a people, which had supported the most crushing laws without complaint, and

apparently as if they were unfelt, throws them off with violence as soon as the burden begins to be diminished'.(48)

The process that has given rise to committee reform may be just one aspect of a pattern of growing assertiveness on the part of backbench MPs, accompanied by greater willingness to break free of the rigid embrace of two-party adversary politics. Philip Norton claims that 'parliamentary experience of recent years has demonstrated that collectively Members can exercise the political will necessary to provide the parameters within which Government can govern, albeit of necessity in a limited and generally negative way'. (49) Certainly there have been many instances of Conservative members of committees joining with opposition colleagues to criticise the Government, and at least a couple of cases of such members voting to defend the committee's position on the floor of the House.

The latest phase in the development of select committees has coincided with the advent of a government committed to improving bureaucratic efficiency. Ministers may sometimes see committees as useful monitoring devices, and as sounding boards, and not just as another obstacle to be knocked down or avoided. Departments may find committee investigations a useful device for keeping sensitive issues at arms length (the Home Affairs Committee's enquiry into the Representation of the People Act 1949 is probably a case in point). More crucially in this context, at a time when there is renewed speculation about the merits of partially politicising the civil service, senior civil servants are becoming much more public figures

through their appearances before committees.(50). Even given the constraints set out in the Memorandum of Guidance it is significant to have civil servants' views and interpretations set out in cold print for purposes both of current policy debate and future reference. This small dent in the minister's personal monopoly of departmental answerability to Parliament is probably the most important direct constitutional change arising out of the new committee arrangements.

As for the indirect changes effected by, and reflected in the new committees, we can only speculate. This paper makes no claim to have refuted conventional wisdom. The most that can be said is that reform has been based on a greater degree of constitutional realism (or defeatism) than maximalist rhetoric might sometimes suggest. Committees may produce some vibration, which causes delicately poised objects to sway and is felt by many indoors, but by few outdoors. Few are awakened. As Leader of the House, Mr. Pym took part in a debate on the new committees, a year after they started work. His speech included the following passage:

We must never forget the basis of our constitution, the principle upon which Parliament operates and the responsibility that Ministers have, individually and collectively, in the House. Nothing must be done to alter that. In any change that we make it is important not to graft onto our existing parliamentary system... a congressional or other system that will make it difficult or impossible for Ministers to fulfil their proper responsibilities - to be answerable at this Dispatch Box.(51)

We have heard this before, somewhere - and no doubt we will hear it again.

## FOOTNOTES

1. First Report From the Select Committee on Procedure, 1977-78, HC 588-I, paras. 1.5 and 1.6.
2. Henry Fairlie, The Life of Politics (Methuen, 1968) p. 229. The passage is discussed by John P. Mackintosh in Specialist Committees of the House of Commons: Have They Failed? (Edinburgh University, Waverley Papers, reprinted 1980, pp. 52 ff.
3. HC Deb., 8 February, 1960, col. 70.
4. HC Deb., 26 June, 1979, col. 38.
5. Though perhaps both speakers had the same thing in mind?
6. HC Deb., 28 January 1983, cols. 1157 ff.
7. Merlyn Rees, HC Deb., 26 June 1979, col. 49.
8. See for example HC Deb., 7 July 1975, col. 23; in the major procedure debate the following February (HC Deb., 2 February, 1976, cols. 964 ff.) the first seven backbenchers who spoke opposed the inclusion of 'outsiders' in the inquiry, though four or five subsequent speakers were in favour of some outside participation. It is in fact not easy to envisage a form of proceedings (other than a Royal Commission - which raises other difficulties) in which MPs and outsiders could work together; it is the vehemence of opposition to the idea in principle which is relevant here.
9. 1977-78. HC 588.
10. See for instance a debate on the British Constitution, initiated by John Stokes, HC Deb. 10 April, 1981, cols. 1213 ff.
11. Sir Henry Maine, Dissertations on Early Law and Customs (1883).
12. Geoffrey Marshall and Graeme C. Moodie, Some Problems of the Constitution (Hutchison, 4th Edn. 1967) p. 160.
13. S. A. Walkland, 'The Politics of Parliamentary Reform', Parliamentary Affairs, xxix, 1976, 190-200, at p. 199.
14. G. Drewry, 'The Outsider and House of Commons Reform: Some Evidence from the Crossman Diaries', Parliamentary Affairs, xxxi, 1978, 424-35.
15. Bernard Crick, The Reform of Parliament (Weidenfeld, 2nd Edn., 1968) p. 10.

16. Originated by James Bryce: see K. C. Wheare, Modern Constitutions (Oxford University Press, 1966) pp. 16 ff.
17. HC Deb., 16 January 1981, cols. 1695-6.
18. Nevil Johnson observes that, prior to 1914, select committees were not seen in the context of a debate about 'reforming' the House of Commons: 'Select Committees and Administration' in S. A. Walkland (ed.) The House of Commons in the Twentieth Century (Clarendon Press, 1979) p. 430.
19. Report of the Machinery of Government Committee, Cd. 9230, 1918, para. 48.
20. Ibid., para. 53.
21. Conveniently outlined in The Hansard Society, Parliamentary Reform (Cassell, 2<sup>nd</sup> Ed. 1967) chapter III.
22. See Drewry, loc cit.
23. 1977-78, HC 588-I, paras. 1.5 and 1.6.
24. HC Deb., 25 June 1979, cols 35 and 36.
25. First Report from the Liaison Committee, 1982-83, HC 92, para. 6.
26. HC Deb., 16 January, 1981, col. 1663.
27. Eg. Ann Robinson, Parliament and Public Spending (Heinemann, 1978) p.41 and quoting John P. Mackintosh.
28. Ibid., p. 43.
29. Ibid., p. 44.
30. Walkland (1976) loc. cit.
31. David, Judge, Backbench Specialisation in the House of Commons (Heinemann, 1981) chapter 7.
32. Nevil Johnson, 'Select Committees as Tools of Parliamentary Reform Some Further Reflections' in S. A. Walkland and Michael Ryle (eds.) The Commons Today (Fontana, 1981) p. 228.
33. Ibid., p. 154.
34. Ibid., p. 160.
35. Philip Norton, The Commons in Perspective (Martin Robertson, 1981), p. 233.
36. See Judge, op. cit., pp. 160-1; Robinson, op. cit., p. 42.



37. Lord Morrison of Lambeth, Government and Parliament (Oxford University Press, 3rd Edn., 1964), p. 171.
38. Op. cit., p. 101.
39. (1979) op. cit., p. 472.
40. 1982-83 , HC 92, para. 24.
41. 1977-78, HC 588-I, para. 7.25.
42. HC Deb., 25 June 1979, col. 45.
43. CSD Geb 80338. See Comments by David Judge, 'Ministerial Responsibility', The House Magazine 26 November 1982.
44. Letter to The Times 24 May 1980.
45. 1982-83, HC 92, para. 46.
46. 1977-78, HC 588-I, para. 7.12.
47. Op. cit., p. 28.
48. Alexis de Tocqueville, On the State of Society in France before the Revolution of 1789 (1856 translation) p. 322.
49. Op. cit., pp. 247-8.
50. Perhaps even 'star quality' - viz. Peter Hennessey's description of Peter Middleton giving evidence to the Treasury and Civil Service Committee, The Times 5 April 1983. A feature article by David Lipsey, Sunday Times 27 March 1983, described a team of officials, headed by Frank Cassell, 'effortlessly despatching some loose bowling' from the same Committee. Sir Frank Cooper's appearances before the Defence Committee also achieved much prominence.
51. HC Deb., 16 January 1981, cols. 1695-6.

LIMITED POWER AND POTENTIAL INFLUENCE:

THE COMMITTEE ON WELSH AFFAIRS AND THE

POLICY PROCESS\*

J. Barry Jones

The House of Commons has been jealous of its traditional functions and powers, reluctant to delegate either to subordinate bodies. However, the unique balance of political forces in the 1974-79 Parliament in which a Labour government was obliged to form a 'Lib-Lab Pact' and became increasingly dependent upon the votes of Scottish and Welsh nationalists, created the conditions conducive to a reassessment of the relationship between the executive and parliament. This was variously expressed; predictably by a series of back bench revolts but most notably by the Select Committee on Procedure's recommendations in August 1978, that departmental committees be established. It was in the wake of this development and in the aftermath of the Labour government's abortive devolution plans that the Committee on Welsh Affairs (C.W.A.) was set up. Thus the role played by C.W.A. must be viewed within an environment which is altogether more constitutionally complex and politically demanding than that within which the other departmental committees have to operate.

The concern of this paper, to examine C.W.A's input to the policy process, is confronted by serious problems. The most critical arises from the fact that Parliamentary reformers and in particular those who

pressed for the establishment of specialist select committees, have betrayed an ambiguity as to the role which such committees might play in the policy process. Crick, arguably the most influential of the recent reformers, advocated fifteen 'Advice, Scrutiny and Investigation' committees but expected them to adopt a rather limited role, not so much as counterweights to the power of government as a means of improving government by making it more open.(1) In hypothesising a maximalist position for his proposed committees Crick speculated that eventually, if they became sufficiently specialised in scrutinising the work of departments, "one would expect them to be used more and more by Ministers as sounding boards for further legislation".(2) However serious doubts have been raised whether backbenchers would be able to acquire the specialist knowledge necessary, if the committees were to discharge this particular task,(3) and Johnson has argued that the prospects of getting Select Committees "nearer the policy rests upon a degree of wishful thinking". He goes on to point out that "in the British political context, policy is a highly political word; it refers most often to those issues to which Ministers are committed politically, regardless of their intrinsic importance".(4) In these circumstances it seems unlikely that Select Committees, even if they were capable, would be allowed to intrude into the policy process.

Others, less sympathetic to the reform movement have suggested that reformers in making a case for specialist committees "watered down their proposals with the specific intention that they should deny specialist committees any intervention in policy"(5) presumably in

recognition that this area was the preserve of the executive. It has been argued by some that specialist committees would not only be ineffective but positively counter productive. Sir Laurence Helsby, head of the civil service in 1965, expressed the opinion that specialist committees might become "burdensome on departments"(6) from the point of view of providing information and giving evidence. Butt warned of another danger; that a "cozy communion of expert committees" would become more sympathetic to and less critical of the government.(7) Indeed, this particular apprehension would appear to have been realised in the late 1970s when the Defence Sub-committee was perceived to have developed a close and sympathetic relationship with the Ministry.(8) Because of these and other concerns many, then and now, would agree with Taylor's narrowly drawn but essentially correct definition:

"The proper function of a Select Committee is to do the work of informing the House - not the public - on a certain matter, that is the finding out of the facts of a case; the examining of witnesses; the sifting of evidence; the drawing up of reasoned conclusions".(9)

Thus the general debate on the role which specialist committees could play in the policy process, tended to the view that it was either undesirable or, in the case of those who advocated the new committee system, most unlikely to be significant.

This brief review of the limited policy role perceived for the new departmental committees is necessary because it provides the context within which the Committee on Welsh Affairs was established. However, C.W.A. had other antecedents which granted it different and

novel opportunities but which further compromised a satisfactory definition of the role it should play in the policy process.

In the course of the Welsh devolution debate (1975-79) there emerged a consensus on both sides that the evolution of Welsh administrative machine had not been matched by a commensurate degree of public accountability; that an hour of Welsh questions once every three weeks, an occasional adjournment debate and three or four Welsh Grand Committee sessions a year were insufficient for proper democratic control. John Morris, the Labour Government's Welsh Secretary was one of the foremost critics of the system:

"On an All Wales level of authority we already have a host of nominated bodies exercising enormous powers. Other decisions, some of them in great detail are taken by myself and while I am answerable to Parliament no one would pretend that Parliamentary scrutiny of the Welsh Offices' activities is adequate".(10)

Whereas the Labour Government argued that public accountability should be attained by an elected Welsh Assembly, the Conservatives were firmly convinced that proper and sufficient accountability was possible within the framework of the Westminster Parliament, by means of a Welsh select committee. This linkage between devolution and the Welsh committee was further emphasised when the new Conservative government chose to announce the setting up of the Select Committee on Welsh Affairs on the same day (26 June 1979) as the repeal of the Wales Act.

C.W.A's remit was to examine the expenditure, administration and policy of the Welsh Office and associated public bodies. Some doubts

had emerged the previous day (25 June) concerning the scope of the enquiries undertaken by the departmental committees. The Leader of the House Mr. St. John Stevas had revealed then that the committees might extend their enquiries beyond their respective departments to associated public bodies. He added: "the test in every case will be whether there is a significant degree of ministerial responsibility for the body concerned".(11) This classification for the original twelve departmental committees was inadequate for C.W.A. Following the Welsh Secretary's announcement Donald Anderson (Labour, Swansea E.) demanded an assurance that C.W.A's responsibilities would cover the whole range of government in Wales regardless of St. John Stevas' 'test'.(12) Alex Jones (Labour, Rhondda) complained that the projected membership of eleven was too small to supervise the activities of a multi-functional department such as the Welsh Office. He suggested, no doubt mindful of Labour's strength in the Principality, that the new Welsh Committee should include all 36 Welsh MPs noting that this would permit a comprehensive sub-committee system.(13) Predictably the government declined to respond. One of Labour's most noted anti-devolutionists, Leo Abse was also critical. He anticipated the committee would be manned by "Tories panting for Office", that it would act as a shield for the Welsh Office and would be incapable of developing an inquisitorial role because of a deficiency in support services.(14) Although all critical in varying degrees, the responses of Welsh Labour MPs both pro and anti-devolutionists exhibited a common aspiration; to ensure that the Committee on Welsh Affairs would operate effectively with a broad remit, an efficient organisational structure, an appropriate level of

technical support and an autonomous status.

The reactions of the Welsh backbenchers also revealed that a significant number regarded C.W.A. as an alternative to the elected Assembly rejected in the March 1st referendum. This point of view was particularly prevalent amongst anti-devolutionists who had a vested interest in providing that the problems of Wales, so assiduously catalogued during the referendum, could be resolved without recourse to devolution. Thus half of Labour's 'Gang of Six' who had campaigned to such a great effect against their government's devolution proposals were founding members of C.W.A. A similar viewpoint was held by the Welsh media who, having prepared for the comprehensive coverage of the proposed Welsh Assembly now directed their resources towards the next best thing; The Committee on Welsh Affairs. The very activities of the Welsh media heightened the public's consciousness of C.W.A. and contributed to the establishment of another institutional expression of the Welsh political identity.

This uniquely Welsh political background invested C.W.A. with the considerable advantages of a natural constituency, with the Welsh media and public opinion geared to the activities, discussions and recommendations of the committee; an advantage - with the exception of the Scottish Committee - denied the other departmental committees. Yet this Welsh political background also created problems. The representational basis of the committee, upon which its political legitimacy is at least partly based, was seriously flawed. The Conservatives, who held only 11 of the 36 Welsh parliamentary seats,

naturally as a governing party, had a majority on the committee. Industrial South East Wales with 75% of the Welsh population had only four representatives on the eleven man committee and Plaid Cymru still a political force of some significance despite its set back in the 1979 general election, was denied a seat; the minority party's seat going to Wales's lone Liberal MP. Furthermore, the multi-functional character of the Welsh Office inhibited the development of specialisation by C.W.A., one of the perceived objectives of the new departmental committee system.

From the outset C.W.A. was activated by two considerations. The first shared by all the new departmental select committees presumed that C.W.A's primary role would be parliamentary; relating their activities so as to influence the Commons and hence the executive. Such a consideration would determine the kinds of issues chosen, the range of witnesses called and the tone of the report produced by the committee. However, the Welsh context consideration required a different extra-parliamentary role. Topics chosen, together with the committee's style of operation, needed to be related to the Welsh media and public opinion. This paper seeks to show how C.W.A. has attempted to satisfy both these considerations, the one parliamentary and the other territorial, while at the same time attempting to acquire a policy role.

The problem of assessing the Committee on Welsh Affairs in the policy process is exacerbated because C.W.A. has so far exhibited what Johnson has described as "broad gauge" characteristics. The



Committee has adopted 'Royal Commission' type approach, consulting a wide range of interests but has exhibited a weak discursive method of investigation. Johnson concludes:

"(Such committees) can hardly be said to aspire regularly to a precise and identifiable influence, despite the fact that their reports can often contain recommendations which could in principle lead to specific decisions different from those taken or in prospect. Instead they hope to contribute to the environment of opinion within which policy evolves and to remind those with executive responsibilities that there are interests and opinions in Parliament and outside which should be taken into account".(15)

Taking note of this stricture, which on the evidence available clearly applied to C.W.A., the paper suggests that the policy impact of C.W.A. may be measured in two ways. First with reference to the committee's specific recommendations where the policy impact is formal and direct and secondly with reference to C.W.A.'s ability to influence the "environment of opinion" where the committee's impact may be described as informal and indirect.

The formal and direct approach is the most obvious means of assessment; the particular recommendations of the committee are measured against those specifically accepted by the government. At the time of writing C.W.A. had produced two major reports and one interim report. The first report, "The Role of the Welsh Office and Associated Bodies in Developing Employment Opportunities in Wales", (16) was published on 31st July 1980. The report made 38 recommendations mostly concerned with extending regional aid schemes and increasing government incentives. It called into question the monetarist policies which the government was pursuing not only in

Wales but throughout the United Kingdom. The report could be interpreted as a frontal assault upon the central philosophy of the governments' economic policy. Possibly because of this the government accepted only two of the committee's recommendations; that the Welsh Office should give greater publicity to the full range of incentives available to industry in Wales; and that the Welsh Development Agency's target rate of return on investment should be reduced.(17) Thus C.W.A's impact on the policy process could be judged as marginal in the extreme.

The second report, "Broadcasting in the Welsh Language and its implications for Welsh and non Welsh speaking Viewers", (18) displayed a quite different philosophy. It made no attempt to influence the government's policy on a Welsh fourth Channel - that had already been changed as a result of extra-parliamentary pressures in Wales.(19) Instead C.W.A. concentrated on the more detailed aspects of policy implementation, throwing considerable light on the financial and technical problems of providing a Welsh language fourth channel. The Committee made eleven recommendations. However, the government, accepted only two, (20) one of which, an agreement to conduct research into the long term effects of the new T.V. arrangements upon the Welsh language, was clearly in harmony with the government's existing long term policy preferences. Yet again C.W.A's impact on policy was perceived as limited.

The third subject chosen by the committee, "Water in Wales" was potentially a highly political topic. However the interim report

"Welsh Water Authority: Establishment of Local Consumer Advisory Committees"(21) avoided the overtly political issues and concerned itself with the more mundane matter of representation of local interests on the proposed consumer committees. Fourteen recommendations were made, but none were of a contentious nature and none raised substantive policy issues. The government was quietly congratulatory of the committee's efforts and accepted the vast majority of the recommendations.(22) Thus in the course of three reports, C.W.A. appeared to have moved from a concern with central policy issues to narrow administrative matters. Even allowing for the conceptual problems of differentiating administration from policy, the evidence suggests that the formal direct measure of C.W.A.'s impact on policy was slight.(23)

As assessment of C.W.A.'s informal and indirect influence on policy making is more problematic. It carries with it two presumptions; that C.W.A. has the capacity to influence the Welsh environment of opinion by means of committee discussions and public hearings; and that this environment can in turn establish parameters within which government feels obliged to operate. In short, the suggestion is that the government's policy initiatives are in some degree constrained if not by the committee's recommendations, then by its activities.

The tactics adopted by C.W.A. suggest that the committee's primary objective was to appeal to public opinion in Wales. Significantly Leo Abse decided to hold C.W.A.'s inaugural meeting in

Cardiff not in the Welsh Office at the invitation of the Welsh Secretary, but on neutral ground in Cardiff Castle where Abse announced his intention that the committee would wage war on the mandarins.(24) In continuing pursuit of publicity C.W.A. has chosen highly topical but rather open ended issues and has operated in the fashion of a committee of enquiry. The Committee's first chairman Leo Abse employed his undoubted propagandist skills to gain the attention of the general public. Throughout the committee's first report on Welsh unemployment there are numerous examples of the chairman's style of rhetoric. For example, in its conclusion the report asserted, "that - there exists not a jobs gap but jobs chasm in which the economic and social structures of Wales are in danger of falling".(25) Furthermore the report gave credence to the evidence of some witnesses who warned of "very real possibilities of disorder"(26) unless there was a change in government policies. At the press conference Abse went beyond his brief and in emotive terms emphasised: "If condemned to suffer the worklessness of the 'thirties, Wales is unlikely to respond with apathy and despair these days".(27) His words designed to capture the attention of the media were spectacularly successful and the report was front page news not only in the two Welsh dailies, the Western Mail and Daily Post but also The Times and The Guardian.

There is no effective way of measuring C.W.A's influence on government policies in this particular area. Certainly the unanimous nature of the first report indicating that all six Welsh Conservative members had attached their signatures to a document highly critical of

the government's economic policy, was acutely embarrassing. But it failed to produce any variation in the central thrust of the government's overall policy. However, Mr. Abse is firmly convinced(28) that the committee's report which deplored "the continued emasculation of steel capacity in Wales"(29) together with the attendant publicity was instrumental in forestalling government plans for the total closure of the Llanwern and/or Port Talbot steel strip mills. Understandably the claim is not amenable to a satisfactory method of verification.

There are other more persuasive indications that C.W.A. was able to exert some influence on government policies. Thus although C.W.A's recommendation that government agencies should pay attention to the development of cooperatives (para. 64) was ignored by the government in its formal reply in December 1980, the Welsh Office provided the major funding for the establishment of the Wales Worker Co-operative Development and Training Centre in April 1983. Another recommendation rejected by the government was that the Development Corporation for Wales should cease its promotional activities in the United Kingdom which should be primarily the responsibility of the Welsh Development Agency. (para. 89). C.W.A. discovered that although the Development Corporation for Wales received 76% of its funds from the W.D.A. it had only one representative on the Corporation's Board of 26. The Committee regarded this as an inadequate basis for public accountability and voiced its disquiet in a particularly riveting session with the Development Corporation's Chairman, Mr. Douglas Badham. The following is a typical example of

the interrogation style.

Myer: "Had it not occurred to you - to have a much more tightly drawn system of accountability than appears to be available at present?"

Badham: "I am afraid it had not. We have felt that through our set up and through having John Clement from the Welsh Office and Ian Gray from the W.D.A. on our board and Policy Committee, our books were open to everybody".

Abse: "But that is bureaucrats being accountable to bureaucrats".(30)

The evidence presented the Development Corporation in a poor light and the publicity in the Welsh media was particularly damaging. Nevertheless the government declined to take up C.W.A's suggestion in its reply published in December 1980. However some two years later, in January 1983 the Welsh Secretary of State took the opportunity of the imminent retirement of the Development Corporation's chief executive to announce the demise of the Corporation and the transferral of its functions to the W.D.A. and the Welsh Office.(31) He went to great pains to emphasise that this policy change had nothing to do with C.W.A's earlier recommendations and emphasised that the new policy was the product of new circumstances. However it is difficult to avoid the conclusion that C.W.A's recommendation and the media publicity surrounding the examination of the Development Corporation witnesses were at least partly responsible for the government's change of mind.

The enquiry into Broadcasting in Wales was, as indicated earlier, overtaken by political events. Nonetheless C.W.A. in gathering evidence was able to remove several of the misconceptions surrounding the establishment of a Welsh language television channel and one in particular. The central apprehension of the English speaking Welsh community, that Channel Four Wales would deny Welsh viewers English language programmes broadcast by U.K. Channel 4, was shown to be ill founded. The Association of Welsh Broadcasters gave evidence to C.W.A. demonstrating that the vast majority of U.K. Channel 4 programmes, could also be broadcast in Wales utilising the 'wrap around' schedule; a technique subsequently employed by the Channel 4 Wales Authority.

C.W.A. might claim another success in effecting a policy shift. In the early stages of its third enquiry into Welsh water, the Committee was highly critical of the Welsh Water Authority's intention to rent the Elan Valley treatment works and reservoir to the Severn Trent Water Authority for a peppercorn rent of five pence a year. Many individuals and organisations giving evidence to C.W.A. complained at the high level of water charges in Wales and were also critical that these water facilities in Mid-Wales should be written off so cavalierly. Coincidentally, or perhaps not so, at the end of March when C.W.A. was striving to reach agreement on the final draft of its report, the Welsh Water Authority announced that the Elan Valley facilities had been sold to the Severn Trust Authority for £29.3 million, sufficient to generate an annual income of £700,000 and equivalent to a 50 pence subsidy for each Welsh consumer per year. It

was a move welcomed by most sectors of Welsh public opinion, not least by C.W.A. who had been instrumental in highlighting the Authority's original intentions.

The central theme of the debate on specialist Select Committees has been that increased specialisation would promote a more effective scrutiny of departmental activities and consequently enhance the committee's influence on the policy process: C.W.A. has not accorded much importance to this role although all the departments and divisions within the Welsh Office have given evidence. At the committee's inaugural session in Cardiff Castle the Permanent Secretary at the Welsh Office inadvertantly revealed the government's forecast for Welsh unemployment.(32) Otherwise, however, little in the way of fresh information was adduced from Welsh Office sessions. Nor is this altogether surprising. C.W.A.'s broad remit has inhibited specialisation and the limited number of MPs from which C.W.A. can draw its membership has resulted in a weak inquisitorial style. But the real reason is that C.W.A. has not taken this particular role seriously. Evidence sessions with Welsh Office departments and Welsh Quangos were undertaken while the chairman was drafting the major reports. In such sessions the committee operated under a variety of 'acting' chairmen and with only a limited number of members attending, a reflection of the fact that scrutinizing the nuts and bolts of the administration is not particularly newsworthy. It attracts less media attention and is consequently less able to influence public opinion; the prime consideration for the Committee on Welsh Affairs.



The choice of topical subjects, the use of emotive language in reports and the obvious attempts to use - and exploit - the media, all reflect the avowed intent of the majority of C.W.A. to relate primarily to Welsh public opinion. Nor is this preference altogether surprising. We noted earlier that the majority of C.W.A. was composed of anti-devolutionalists; three of the "Gang of Six" which campaigned so energetically and successfully against the Labour government's devolution proposals were founding members of the committee; their leading spokesman, Leo Abse, was the committee's first chairman. Their experiences during the referendum campaign provided convincing evidence of the efficacy of by-passing traditional representative institutions and processes to make a direct appeal to the general public. That task was facilitated by judicious use of the media and by establishing close relationships with various organised interests in Wales. A similar ploy is apparent in the workings of C.W.A. The present chairman notes that:

"the evidence sessions have forced organisations to clarify their standpoints and submit them to critical scrutiny and the reports have brought home to the House and to government in a formal way the particular needs and requirements of Wales. In addition, these form fairly comprehensive reference works for opinion formers in the Principality."(33)

The anti-devolutionist majority of C.W.A. in both private and public statements have expressed the hope that the committee will be a success. No doubt it is an aspiration shared by the majority of the new departmental committee members. But if C.W.A.'s aspiration is quantitatively the same as other committees there is a qualitative difference. Whereas other committees are concerned with establishing

and maintaining a satisfactory balance between the executive and legislature, C.W.A. members are also animated by the desire to preserve the unity of the Kingdom. Predictably C.W.A. has been more "outgoing" and "extra-parliamentary" than other departmental committees. As a result, in taking evidence C.W.A. has attracted publicity and, by juxtaposing fact and comment in its discussions and later in its reports, has stimulated a growing public debate on a variety of different aspects of administration in Wales. It has revealed a concern to speak both to the people and to the government.

The anti-devolution majority on the committee has a political vested interest in ensuring that C.W.A. works as a "forum for ventilating major political issues" and as a means of enhancing the principle of accountability through its powers of scrutiny, realising that success in this area would seriously undermine what remaining strength there is in the argument for an elected Welsh Assembly. Consequently, the chairman's closing remarks in his report can be regarded as much an article of political faith as a statement of objective fact:

"(C.W.A.) is now firmly established on the political landscape of Wales and in the aftermath of the devolution debate is providing a democratic forum for the Welsh people at minimal financial cost."(34)

If the Welsh Committee is viewed from an extra-parliamentary perspective that includes the Welsh media, newspapers and broadcasting organisations, organised groups and various interests both public and private which operate at the Welsh level, it is possible to identify

the emerging vague outlines of a Welsh political system which has a unity, coherence and a qualified autonomy. It provides C.W.A. with a potential political dynamic which could invest the Welsh Committee with greater influence in the policy process than many of the more prestigious departmental committees which lack a politically identifiable constituency. C.W.A. has additional advantages in comparison with other departmental committees. Judge's criticism (35) that government patronage and powers of appointment can be used to subvert specialisation is less valid in the case of C.W.A. because of its limited pool of members. Similarly his contention that adversary politics becomes the mechanism for choice in policy matters is manifestly not the case in C.W.A.'s experience. In the first report on a highly contentious party issue territorial interests gained preference over partisan loyalties. To date, consensus has broken down on only one occasion and then on linguistic not party lines.

The potential for C.W.A. to influence policy exists not so much in its formal relationship with Parliament nor in the specific recommendations of its reports, but in its ability to stimulate and activate Welsh public opinion. So far that potential has not been fully realised. C.W.A.'s political profile in the Principality is lower than it might have been because of the reluctance of members to hold meetings in Wales. Indeed, after the much publicised first session of the committee in Cardiff Castle in March 1980, C.W.A. has only held one formal session in Wales. Difficulties posed by the transport infrastructure is only part of the answer. Too high a political profile for the committee might stimulate expectations of a

nationalist character which could not be satisfied and so undermine the political credibility of the committee. A similar discretion on the part of C.W.A.'s anti-devolution majority might be behind the move from confrontational reports (which irritate the government and could be counter productive) to more limited and technical critiques. Similarly, C.W.A.'s collective determination to persevere with broad ranging "royal commission" type issues likely to produce diffuse recommendations might betoken a reluctance to produce sharply defined reports which more easily admit to popular judgements of success or failure. In short, the anti-devolution majority are reluctant to put too much strain on the committee's powers. However, a differently composed committee with a nationalist presence and a Labour majority, holding regular sessions in Wales and willing to exploit Welsh public opinion more ruthlessly, would come closer to realising the committee's potential role in the policy process. But such a political shift in Wales would have implications beyond the role and powers of House of Commons select committees.

#### FOOTNOTES

\* This paper is derived from a research programme conducted by myself and Dr R A Wilford, (Queen's, Belfast) and funded by the Nuffield Foundation.

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## DEVOLUTION UNROLLED: THE COMMITTEE ON SCOTTISH AFFAIRS

James G. Kellas

In April 1982, Mr. James Prior, Secretary of State for Northern Ireland, introduced the White Paper 'Northern Ireland: A Framework for Devolution' (Cmd.8451). In it, the Government proposed to return devolved government to the Province by a process of 'rolling devolution' ('as some have described it'). This was to be a progressive movement towards full devolution of legislative and executive powers, but only with the agreement of at least 70 per cent of the membership of the Northern Ireland Assembly. The implication was that both the 'majority' and 'minority' communities must concur. So far, the minority parties have not even taken their seats in the new Northern Ireland Assembly, and devolution under this 'rolling' scheme in Northern Ireland is just an aspiration.

In Great Britain, devolution has also been halted, this time by the votes cast in Scotland and Wales in the Referendums of 1979. In the case of Scotland, a majority of votes favoured the Scotland Act, but the threshold set by Parliament (against the wishes of Government) of 40 per cent of the electorate was not met. Both the Scotland and Wales Acts were produced by the British Government and Parliament, and a fully-formed devolution package was presented to the peoples of Scotland and Wales. There was no attempt at 'rolling devolution' along the lines of the 1982 Northern Irish proposals.

In the light of the Referndum results, what had to be done after 1979 was to 'unroll' the legislation of 1978. This was technically easy, for the Acts were repealed in July 1979. But politically it was not so easy, because devolution remained a demand of the majority of Scots, and all the parties in Scotland were in favour of at least the principle of devolution or self-government. Yet this principle meant different things to different parties, and to the electorate as well. What the Conservative Government (especially the Prime Minister) wanted to achieve was the 'unrolling' of Scottish devolution in a political as well as a legal sense, so that "Scottish affairs" could be handled by the Scots without an Assembly.

One way that this could be done was through the reform of Scottish parliamentary business. Thus, 'all-party' (not including the SNP) talks among MPs were held on this in 1980. The result was a change in the operations of the Scottish Grand Committee. The House decided that it could now sit in Edinburgh; be divested of its 'added' non-Scottish Members; and have more days to debate Scottish 'Matters'. While these were largely symbolic changes, the symbols they related to were strongly redolent of devolution. The Grand Committee eventually met (15 February 1982) in the abandoned 'Assembly' buildings (renamed 'The Crown Office Building'), amidst considerable media attention. While the Conservative MPs seemed pleased with the result, the other parties were clear that this drama was no substitute for devolution. Devolution, they said, was about an elected Assembly, not a Committee of the House of Commons, and devolution remained a strong (indeed stronger) demand of the Labour Party in Scotland now that it was in



Opposition. Labour saw more clearly that with a majority in Scotland, it would have dominated a Scottish Assembly, and might have prevented some of the Conservative policies being applied in Scotland, especially those relating to housing, education, and local government cutbacks.

Because of a strange conjunction of forces, before the Grand Committee could be reformed, the Select Committee on Scottish Affairs was established (31 October 1979). It is important to understand that the process which led to the former was to begin with to be the same as that dealing with the latter. In other words, the post-repeal of the Scotland Act 'all-party talks' were originally to cover both the reform of the Grand Committee and the setting-up of the Select Committee on Scottish Affairs. The whole package was seen by the Conservatives as their answer to Scottish devolution.

However, this was not to be. The process leading directly from the Select Committee on Procedure's Report of July 1978 to Mr. Norman St. John Stevas's advocacy of Select Committees within the Conservative Government elected in May 1979 reached a decision very quickly thereafter, which set up a comprehensive system of Select Committees to monitor all government departments. This was of course a different process (and a different political environment) from that concerned with Scottish and Welsh devolution. That process was to lead to the 'all-party talks' and to the reform of the Scottish Grand Committee. The 'Select Committee process' was not about devolution at all, but about parliamentary 'scrutiny and control' of the Executive.

However, because at first these two processes were seen as combined in the case of Scotland, the original announcement of the setting-up of the new Select Committees did not include the Scottish or Welsh Committees. The Welsh Committee did follow the next day in a separate motion, but the Scottish Committee had to wait until 31 October 1979. The delay in the establishment of the Scottish Committee reflected the ambiguity of the Government's approach to it. At first, they hoped to extract it from the Select Committee process and add it to the post-devolution settlement for Scotland (the Welsh were to get no such settlement because of their strong anti-devolution vote in the Referendum, but in time they reaped a quite separate and considerable reward in a Welsh TV Channel). But the Government were unable to hold this 'carrot' back from the Scots until the all-party talks were concluded. Scottish MPs felt cheated that they alone had no Select Committee, and it was clear that such a committee would in any case represent no concession to Scottish devolution demands. Not to be given one, however, was a denial to Scotland of a parliamentary power which everyone else in Great Britain (not Northern Ireland, of course) was to obtain immediately. And so, belatedly, the Scottish committee (idiosyncratically called the 'Committee on Scottish Affairs', not the 'Select Committee on Scottish Affairs') came into being, and was nominated on 26 November 1979.

Its peculiar beginning was matched by its character. It was the largest Committee of all (13 members), to take account of its wide range of subjects, and its remit was broader than that of a single

department. It covered not only the Scottish Office but 'associated public bodies'. This could mean bodies 'linked' to the Scottish Office like the Scottish Development Agency, or it could mean any other parts of British administration concerned with Scotland. In practice, the latter interpretation has been followed, leading to some difficulties with regard to its scope compared with that of the other Select Committees. For example, the inquiry into the Steel Industry in Scotland had to confine itself (in theory) to the 'likely economic, social and industrial consequences of a further rundown of the steel industry in Scotland', and not cover the BSC's corporate plan, which was a matter for the Select Committee on Industry and Trade. Nevertheless, that corporate plan was at the root of the problem, and the Committee heard evidence privately from Mr. Ian MacGregor, the BSC Chairman, and from other BSC officials. (Mr. MacGregor gave evidence publicly to the Industry and Trade Committee and to the Welsh Committee. Neither of these Committees agreed with the Scottish Committee about what should be done about the Steel Industry, for they tended to sympathise with Mr. MacGregor's hostile attitude towards Ravenscraig Steelmill. Here we have an example of Select Committees engaged not in checking the Executive but in checking each other).

Other examples of the Scottish Committee looking into non-Scottish Office affairs are the Prestwick Airport Report, the inquiry into BBC cuts in Scotland, and Youth Unemployment. In each case, while there is a Scottish Office interest (the Secretary of State for Scotland is held responsible, some say, for everything that happens in Scotland), the main responsibility lies elsewhere. This is reflected

in the fact that other Select Committees have dealt with such subjects, in their general aspects, and have perhaps wielded a greater influence on the departments with whom they are linked. Indeed, there is not much evidence that the Scottish Committee has felt very strongly about the Scottish Office's activities as such. It has tended instead to take up current issues in Scottish politics, which are more often than not outside the remit of the Scottish Office (the latest inquiry, into Dampness in Housing, seems to involve local government at least as much as the Scottish Office).

Apart from its very wide remit, the Scottish Affairs Committee is peculiar in that it operates within a rather special environment, that of 'the Scottish political system'. That system is not just a parliamentary system but a system of politics covering the party system in Scotland, Scottish organised groups, the Scottish local authorities, and the Scottish media. Other Select Committees (including the Welsh), operate essentially in the parliamentary system alone. Their members move more freely among Members of Parliament generally, and are not 'bottled up' in a group of territorially-based Members whose activities are circumscribed by Scottish Committee work, Scottish debates, and Scottish Question-Time. Moreover, these non-Scottish Members have no 'political system' back home to which they must refer, except their own constituencies. Scottish MPs have their constituencies, of course, but they also have the Scottish local government system (with its own Rate Support Grant), the Scottish educational system (with its own agenda of reforms), the Scottish legal system (ditto), and they face (and seek) exposure on Scottish TV

programmes, the Scottish press, and at Scottish party conferences, seminars, etc. They are 'Scottish' MPs as well as Glasgow/Edinburgh/Argyll etc., MPs.

What this means for the Scottish Committee is two-fold. In London, all the members of the Committee are 'colleagues' (with all that that means in parliamentary terms). They know each other only too well, and have worked together on many Bills, Committees and Question-Times. If they seek 'office', they are direct competitors with one another, for the prospects for Scottish MPs are usually linked to the Scottish Office or the Scottish law department. Only a few Scottish MPs seek to leave the Scottish political system through office outside the Scottish Office, and those that do take the risk that they lose touch with what their constituents think is important. (There is a paradox here. What is considered important by most voters in Scotland is outside the scope of the Scottish Office, as mentioned earlier. Nevertheless, those MPs who attach themselves to 'GB' departments lose exposure in the Scottish media, for the 'news' in Scotland is highly parochial, and only the very top party leaders make the news in British TV network terms).

Membership of the Committee is thus not much of a mystery, rather it is a foregone conclusion. Whoever the Scottish political system can spare from its stock of front-bench MPs will be on it, unless they have deliberately opted out. In the case of the Conservatives (with only 21 MPs in 1983)(1) that is not much, and there are now passengers on the Conservative side of the Committee who should not be there, and

would not be if there were more Conservative MPs available. On the Labour side, the 42 MPs have quite a bit of 'fat', and they operate a system of election to the Committee, underwritten by the Committee of Selection. On top of that, they provide the Chairman, by agreement with the Whips. Nevertheless, the turnover of members on both sides has been exceptionally large (only three of the original members remain, and there have been three Chairmen). Many members, elected for the first time in 1979, who joined the Committee, have moved on to 'higher things'. This is testament to the prestige which Committee membership has in the eyes of the party leaders. It is a good showcase for any potential minister or front-bench spokesman (Liberals, SNP and SDP Members have not joined the Committee, however). But the effect on the Committee is potentially (and no doubt actually) bad. No one who has had ministerial experience or who has ministerial potential serves on it for long (or even attends, to be more accurate in the context of 1983). What this leaves behind is a shifting membership who sense being 'birds of passage' with little commitment to the Committee as such. Perhaps this is exaggerated, and it is difficult to tell whether a constant infusion of new blood is worse than a stale and despondent set of time-servers. But there is a problem, recognised on all sides: manning the Committee is a strain on the limited resources of the parliamentary end of the Scottish political system.

The other end of that system (the Scottish end) is the second environment in which the Committee works. Unlike the Welsh Committee (for reasons which ought to be explained), the Scottish Committee

spends a lot of its time 'back home'. It has held frequent sessions and visits in Scotland, not only in Edinburgh and Glasgow but in many other places such as Aberdeen, Arran, Islay, Newton St.Boswells, Shetland, Ayr, etc. Members of the Committee have also been abroad, to Ireland, West Germany, the United States, and Norway. Some of these visits have been on an informal basis, involving only certain members of the Committee, and Minutes are not always taken. The number of the meetings in Scotland indicates how the Committee sees its function: to be in touch with the grassroots of Scottish politics and to project into Scotland itself the parliamentary part of the Scottish political system. Unlike the projection of the Scottish Grand Committee into Edinburgh in 1982, the Select Committee's proceedings, especially those held in Scotland, have been taken seriously by the media and by witnesses. Expectations have been high that such a 'powerful all-party committee' would produce results in the form of favourable responses from Government. Whether such expectations have been, or could have been, fulfilled is another matter.

For the Government to respond positively to an 'all-party' Committee Report it is probably necessary for that Report to be in fact 'all-party'. It must at least be supported by the MPs on the Government side, although a purely partisan division of opinion is not effective since it denies the 'objective' aspects of scrutiny and control espoused by the legislative branch over the executive. Whether politicians can be objective (released from party loyalties), or should be, is not clear. When the Committee divided along party

lines in its Report on Inward Investment(2) in the face, some said of its Evidence, the Scotsman editorialised:

...committee members entertained a Press conference with a 50-minute exhibition of party politics - and concluded it with the claim that party politics had no part in their report. Such artlessness only serves to damage their already limping credibility. (3)

Dr. Henry Drucker of Edinburgh University also felt that a Report "which showed MPs divided along party lines on key issues could be a big setback for the committee"(4). But Dr. Michael Keating of Strathclyde University wrote to the Scotsman in reply to Drucker that "political parties reflect real differences about the way to organise public affairs", and that the Select Committee ought to show this. He opposed "the promotion of a phoney consensus, whether through the Select Committee on Scottish Affairs or by other means...Only by tackling the big issues and opening up the closed doors of government can the Select Committee show that it has a real place in the government of Scotland"(5).

Actually, Dr. Drucker and Dr. Keating are not so far apart in their assessment of the Committee. On BBC Radio Scotland (13 December 1982), Dr. Drucker complained that the Committee had had very little impact. When asked if that was because the MPs on the Committee were deciding among themselves that because they were hopelessly split politically on the major issues of employment, industry, and housing they would just avoid looking at these subjects, Dr. Drucker replied:



Yes, quite. You mention housing. A very good case. We had a very controversial piece of housing legislation in this Parliament. Why has the Select Committee not looked at its operation? What is the effect of the forced sale of Council housing? Nobody knows actually. The Select Committee is an ideal instrument for finding out, but it has not looked at it. Instead it has looked at things which are not exactly in the mainstream of public debate.

In a sense, then, the Committee cannot win. If it takes up the 'big issues' (which it should), it divides politically (which it should not if it is to have an impact). If it seeks a 'phoney consensus' (which it should not), then it might have an impact, but only in peripheral subjects. Ideally, it should deal with big issues in a non-partisan way, (a 'real' consensus), and seek to change Government policy through the weight of its agreement. But that requires a redefinition of politics so that major issues are extracted from party divisions. There are reasons to believe that in the Scottish political system such a solution is especially difficult, for the following reasons.

I have already referred to the close-knit nature of the Scottish political community of MPs. Their habits are shaped in the Scottish Grand Committee and on the floor of the House, in Scottish legislative debates and in Scottish Question-Time. These habits are essentially those of 'adversary politics'. The same MPs cannot easily translate this behaviour into nonpartisan, 'consensual', politics in the Select committee, at least not if the issues are to be the same 'big' issues which have exercised them already in the Grand Committee and elsewhere. Only if the issues are different (not necessarily 'peripheral', but not salient in party terms) can the Select Committee

hope to become united. This problem of behaviour does not affect the other Select Committees nearly as much, because the chances are that the members of such committees are less familiar with each other from other contexts than are the members of the Scottish Committee. A conflict of roles is therefore less noticeable: other Select Committee members are not so adversarial as are the Scots, and they are not as 'front-bench' oriented.

The Scottish Affairs Committee must therefore seek to avoid subjects which lead inevitably to a party division, yet take up issues which are not 'peripheral'. At first sight, it seems that the Committee has investigated the 'big issues' of employment, industry and housing, among its numerous topics. For example, it has reported on Youth Unemployment, Inward Investment, and the Steel Industry in Scotland. It is currently investigating Dampness in Housing. But with the exception of the Inward Investment Report already referred to, it has not split along party lines (except in certain parts of Reports). It has succeeded in finding issues which are not the most divisive in party terms, but which are still important. Of course, opinions will vary as to whether such issues are central to political life in Scotland. For example, it is true, as Dr. Drucker says, that the sale of council housing has not been investigated, nor has the rating system (this topic was proposed and carried by a temporary Labour majority on the Committee on 23 September 1981, but rescinded when the full (Conservative-dominated) Committee met on 3 December 1981). It is possible to make a case for the importance of the committee's topics, which have included:

The Rate Support Grant: Principles and Assumptions  
The BBC Cuts in Scotland  
Scottish Aspects of the Public Expenditure White Paper (three annual Sessions)  
The Proposed Increase in the White Fish Authority General Levy  
Inward Investment  
Financial consequences of the closure of Colleges of Education  
The Dispersal of Civil Service Jobs to Scotland  
Housing Capital Allocation  
Youth Unemployment and Training in Scotland  
Rural Road Passenger Transport and Ferries  
Prestwick Airport  
The Steel Industry in Scotland  
Dampness in Housing

The response of the Government to these Reports and inquiries has inevitably been mixed. Dr. Drucker, in the broadcast referred to, maintains that the Committee has not tried to push against its Ministry, as have other Select Committees. It has therefore been largely ignored. For example, the monitoring of the Scottish Office in the annual Public Expenditure White Paper sessions is seen as a low-key, amateurish affair.

Drucker: Now I have been at two of these, and quite frankly I don't know how he [the Secretary of State for Scotland] has prevented himself from breaking out laughing, because the Committee were falling into two pitfalls. First of all, they tended to ask constituency questions. They tended to treat it as if it were another Question-Time in the House of Commons, which it is not. That is presumably because they didn't before the meeting discuss what they were going to say. The other thing is that it was perfectly obvious that the Secretary of State had briefed three or four Conservative MPs that every time he got a few hard questions from the other side they would come in with some softball questions, and he could waste twenty minutes answering them. So they were falling into all the obvious pitfalls, and it was so one-sided it was almost embarrassing.(6)

I think there was more substance to the Committee's proceedings than that (and a fair amount of research was done by the Adviser on how the Scottish Office gets and spends its Grant), but it does illustrate the point that the habits of the Floor are too ingrained in

Scottish MPs to be easily cast aside in the Committee, at least in the context of a general discussion on public expenditure.

In any case, the public expenditure inquiries are untypical of the Committee's work as a whole. Most inquiries are on what some American political scientists call 'valence' issues, rather than 'position' issues. In other words, Members of all parties on the Committee agree that, for example, youth unemployment should be lower, inward investment encouraged, and rural transport improved. The question is how best to achieve these ends. In the Scottish context, they are even agreed that Ravenscraig Steel Mill should be kept in production and that the BBC Scottish Symphony Orchestra be saved (even if 'London' and most English or Welsh interests would disagree). This makes these issues 'position' issues as between Scotland and the rest of the country, but 'valence' issues within the Committee.

This is the nearest the Committee gets to being part of the 'Scottish Lobby'. On the whole, it does not act the part of a surrogate Scottish Assembly, and indeed its Members (even if devolutionists, as most of the Labour MPs are) do not wish to present a 'Scottish voice' as such. Nationalism is absent, partly because of the ever-present threat of seeming to pander to the SNP, but also because constituency interests predominate over 'Scottish' interests. Most of the subjects taken up by the Committee can be clearly related to the constituency interests of the Members, and there is a strong element of horse-trading in the selection of topics. The Welsh Committee, on the other hand, seems to be more concerned with national

and cultural affairs, less with constituency matters. Perhaps the explanation is that devolution is still very much on the agenda of Scottish politics, while it is not on the Welsh political agenda. Thus the Committee on Scottish Affairs gets on with a different job, pending actual devolution. The Welsh Committee seeks to speak for Welsh national interests through the Committee, since that it is the only credible Welsh outlet in politics (the Fourth TV Channel is another outlet for Welsh nationalism, of course, but it speaks only to Wales).

Evaluating the record of the Scottish Committee is not easy, especially as the criteria for doing so are not easily established. At the least it has provided a new organ for the Scottish political system, and it has mobilised a large number of pressure groups, local authorities, Ministers and civil servants into giving evidence. The value of this evidence is related to the working methods of the Committee. A strong, yet not dominating, Chairman is clearly a prerequisite. So too is a Clerk with initiative, and a set of expert Advisers with a good relationship with the whole Committee. Lastly, the Committee should have continuity of Membership, so that expertise is built up, a desire to work together, and a real interest in the subjects under discussion.

I believe that the Committee has done well on some of these counts, not so well on others. Despite the fact that the Whips agreed from the start that the Chairman be a Labour Member (facing a Conservative majority on the Committee), there has been no real

tension between Members about the Chair. To some extent this has been because the Labour Chairman has gone out of his way to accommodate the wishes of the Conservative Members, especially over the choice of subjects. The Clerks have been very good, as have the Advisers. But the latter have been appointed for particular inquiries, and so have not got to know the Committee as well as Advisers have in other Committees. This is perhaps inevitable. The nature of the Committee's remit is very wide, since it covers the functions of several 'Whitehall' Departments. No one Adviser could advise on RSGs, rural transport, the steel industry, and dampness in housing. But the disadvantage is that Advisers may see their job as a temporary assignment, and do not get to know the Committee. It is also not clear to me if they have had much success in briefing the Committee, and their importance in drafting the Report may leave the Committee members in a 'reactive' rather than a 'creative' position.

In any case, the turnover on the Committee, which is very substantial, inhibits continuity of effort. I do not think it destroys interest in the inquiry in hand, but if the Committee is meant to monitor the Scottish Office qua department, over time, there is little sign that the members have done this, or are very interested in the task. The Public Expenditure White Paper sessions with the Scottish Secretary have already been mentioned. Despite a lot of detailed work by the Adviser, these sessions are more like Question-Time than the proceedings of the Treasury and Civil Service Committee.

The other topics are often 'subject' topics rather than 'Scottish

Office' topics. Indeed it is not at all clear in many cases what the Scottish Office could do about some of them even if it followed the Committee's Reports. The closing of steel mills, the future of Prestwick Airport, and the causes of youth unemployment, are well outside the powers of the Scottish Office. The Committee seems to be addressing other Government departments on these as much as the Scottish Office. It is not surprising that these departments do not particularly want to heed the Scottish Committee (have they not got their own Committees to worry about?). In some cases the Committee is 'preaching to the converted', for the Scottish Office is anxious to get what it can for Scotland as is the Committee (the Ravenscraig Steel Mill is the most obvious example). There is therefore a lack of credibility or force outside Scotland in much of what the Committee says. It is easily dismissed in London as part of the 'Scottish Lobby'.

This leaves its position with regard to the Scottish Office. In areas which are definitely within the Scottish Office's functions, has the Committee made an impact or produced a change of policy? The Scottish Office is certainly very aware of the Committee's activities, and is constantly being called before it for evidence. I think this is all for the good, since Scotland possesses a very large bureaucratic edifice in Edinburgh, which most commentators consider is relatively free from Parliamentary scrutiny. The Scottish Committee is a check on this, although it is not a match for it.

The Secretary of State for Scotland has replied quite promptly to

the Committee's Reports. There was an early success for the Committee regarding the White Fish Authority Levy. The Government took the Committee's Report seriously and altered its proposed increase in the Levy. It also made changes to the legislation on the fishing industry (most of which it was about to do anyway). Then the Inward Investment inquiry, although leading to party divisions at the Report stage, did influence the Government. It was actually the (Labour) Minority Report which found most favour, especially as it seemed to accord with the evidence presented. The Scottish Development Agency retained its function of attracting overseas investment to Scotland despite the opposition of the Foreign Office, and the Scottish Office established a 'Locate in Scotland' body to coordinate the activities of promotion bodies.

The Committee persuaded the Government to adopt a new site for Government offices in Glasgow to accommodate the dispersal of Ministry of Defence civil service posts. It may have helped to save the BBC Scottish Symphony Orchestra. (But according to Dr. Drucker in the broadcast quoted it was the Education Select Committee which settled the dispute between the BBC and the musicians). It gave some valuable support to the Scottish Secretary in his fight to save Ravenscraig, and incidentally boosted his constituency interests in Prestwick Airport (the Government is now considering the Committee's suggestion that it be made a Freeport). Some of the Committee's proposals on Rural Transport have been taken up by the Government, but not the main one of 'Road Equivalent Tariff' (Chairman Lambie replied to the Scottish Secretary on 27 October 1982 that the Committee was



not satisfied with the Government's reactions).

The lengthy inquiry into Youth Unemployment and Training reported just as the Government produced its own White Paper on the subject (December 1981). Thus by the time the Committee reported, the MSC had persuaded the Government to adopt its Youth Training Scheme. This seems to be an example of the Committee being in effect 'gazumped' by the Government, but the latter (the Scottish Office) promised that the 'views and recommendations of the Committee on Scottish Affairs will be borne closely in mind during the development of the new system'. (7) Although that system is different in Scotland in some respects, the power of the Scottish Office (and the influence of the Committee) to vary the YTS is limited, especially as the conditions and payments to young people undergoing training are uniformly 'British'.

Much the same can be said for the inquiry into the Steel Industry in Scotland. The Committee rushed out a Report in typescript in December 1982 to get in before the Government decided its stance on the BSC's corporate plan. While the Industry Secretary did concede at that point that Ravenscraig should continue, this was more the result of the Scottish Secretary's influence in the Cabinet than of any attention paid to the Scottish Committee. As noted earlier, the Trade and Industry Committee and the Welsh Committee were also dealing with the steel industry, and the noises coming from these quarters were much less favourable to Ravenscraig. What the Scottish Committee did point up was the unity between Conservative and Labour in Scotland on

the issue, and their uneasy relationship with party colleagues in England. At the end of the day, the effect on policy of the Committee's activities here (despite a good presentation of evidence) seems negligible. What counts is political weight: especially that of the Prime Minister, the Scottish Secretary and Mr. Ian MacGregor, Chairman of BSC. The Committee has little to offer here, except through the Scottish Secretary.

The overall political picture is clear when one compares the power of the Select Committee Chairman with that of other figures in British (or Scottish) politics. Mr. David Lambie and his predecessors are not political leaders, nor are they decision-makers. They neither lead nor decide. Their Committees can be safely ignored unless they uncover scandals. Even the House can ignore them, as is evident in the Chairmen's Reports to the Liaison Committee.(8) Like some other Chairmen, Mr. Lambie has asked for a power to appoint Sub-Committees. In the case of the Scottish Committee, there is a pressing need for these, since the Committee is the largest of all at thirteen Members; these Members are very busy on other parliamentary business (a feature of being a Scottish MP), and have a lot of travel to do on behalf of the Committee and for constituency work. Says Lambie, "It is impossible to sustain that level of activity for more than a short time." No wonder, then that there is such a turnover on the Committee. But the Liaison Committee is not impressed, and the Committee struggles on without a Sub-Committee.

Lambie then asks for a reduction in the size of the Committee (anticipating the rejection of the Sub-Committee). Although it was Labour which originally insisted on increasing the size of the Committee, Lambie states that

Members will be prepared to devote the necessary attention and preparation to Select Committee work only if they feel that they can exert a significant degree of influence on the direction of questioning in evidence sessions and the decisions of the Committee in deliberation sessions. With a Committee of thirteen this is well-nigh impossible to achieve...(9)

He concludes that the size and quorum of the Committee on Scottish Affairs should be reduced to the same level as other Departmental Select Committees. But action has not followed.

Has the Committee got a life of its own? The Welsh Committee has tried to "act as a forum for Welsh political activity within Westminster. Furthermore, it has had to establish itself as a new, and it is hoped healing, force in the Principality in the immediate aftermath of a highly divisive devolution debate." (Report to the Liaison Committee by Welsh Committee Chairman, Mr. Donald Anderson MP).(10)

No such functions are sought for the Scottish Committee. The Committee's frequent visits to Scotland are meant to "enable the Committee to appreciate at first hand the problems which are the subject of inquiry and to discuss them with a far wider range of people than would otherwise be possible."(11) In contrast, Anderson comments, "The reason why the (Welsh) Committee has not met more often in Wales is that the transport infrastructure makes it easier to

travel to London than to travel within the Principality."(12)

Dr. Samuel Johnson told James Boswell that the "noblest prospect which a Scotchman ever sees is the high road that leads him to England." The Scottish Committee has "unrolled" this perspective in parliamentary terms, while being itself a witness to the "unrolling" of Scottish devolution. The Committee has a life of its own in Scottish politics, but unlike the Welsh Committee it does not maintain that "in the aftermath of the devolution debate (it) is providing a democratic forum for the Welsh people at minimal financial cost."(13) All Scots know that devolution and democracy are something else entirely, and may be costly. In the meantime, there is another job to be done in the Scottish Committee.

#### FOOTNOTES

1. Figures for MPs refer to the 1983 situation prior to the General Election.
2. HC 769 - I-II, 1979-80.
3. The Scotsman, 29.8.1980.
4. The Scotsman, 25.8.1980.
5. The Scotsman, 28.8.1980.
6. BBC Radio Scotland, 13.12.1982.
7. HC 184, 1981-82, p.15.
8. Liaison Committee, 1st Report: The Select Committee System, HC 92, 1982-83.
9. Op. cit, pp.109-110.
10. Op. cit, p.129.
11. Op. cit, Lambie, p.107.
12. Op. cit, Anderson, p.129.
13. Op. cit, Anderson, p.131.

THE FOREIGN AFFAIRS COMMITTEE

AND THE PATRIATION OF THE

CANADIAN CONSTITUTION

Bruce George MP

and

Michael Woodward

INTRODUCTION

The new departmental Select Committee structure of the House of Commons represented a response to a number of ultra- and extra-Parliamentary pressures, but most directly to the First Report from the Select Committee on Procedure, 1977/1978.(1) This had characterised the existing committee "system" as 'unstructured', 'unplanned', 'piecemeal' and 'patchy', and had pointed out that:

'The unsystematic character of the present system has arisen largely because the House has at no point taken a clear decision about the form of specialisation to be adopted.'(2)

In the context of foreign affairs, the widely-held view(3) of relative Commons impotence in an area traditionally regarded as being principally within the Executive's competence, has been supported by the historical tendency for the Commons to approach such matters on an ad hoc basis. Thus, select committees since the 16th century have considered issues such as overseas trade,(4) treaties,(5) diplomatic relations,(6) human rights,(7) inquests into military failure,(8) colonial government and legal systems,(9) and the grievances of British subjects abroad,(10) but never in a systematic manner. By the

late 19th century, the frequency and importance of such committees had diminished, and their role became one of deliberation rather than administration.(11) Foreign affairs did remain within the purview of Financial Committees such as Estimates and Public Accounts,(12) if somewhat tangentially; and the Defence and External Affairs sub-committee of the Expenditure Committee(13) concentrated largely on purely defence issues.(14)

The dissatisfaction with the limited impact of Parliament on foreign affairs extended outside Westminster to a number of locally-based foreign affairs groups throughout the country,(15) and to groups such as the Union for Democratic Control.(16) The Labour Party, from its inception, disliked the elitism and secrecy inherent in foreign policy-making, and as early as 1921 recommended the establishment of a Foreign Affairs Committee.(17) Similar pressure from MPs, within the wider context of calls for procedural reform of Parliament,(18) culminated in the reforms announced in the House on 25 June 1979.(19) The objectives of this paper are to briefly describe and analyse the newly established Foreign Affairs Committee (FAC) in terms of its powers, composition, internal workings, enquiries and reports, and to specifically examine one enquiry that may have been the most significant of all Select Committee enquiries in the last Parliament: that into the patriation of the Canadian constitution.

Established under S.O.86-A the new committee of 11, under the Chairmanship of Anthony, later Sir Anthony, Kershaw, is empowered

"to examine the expenditure, administration and policy of the Foreign and Commonwealth Office and of associated public bodies"

which include the British Council, BBC External Services and Crown Agents.

Whether the mildly optimistic aspirations of reformists have yet been realised is doubtful; the then Leader of the House, Norman St. John Stevas believed,

"they have altered the whole balance of power between Westminster and Whitehall."(20)

But it is more realistic to attribute to the Committee the plaudits it deserves for having provided a great deal of information that otherwise may not have been made public, thereby improving the quality of debate in the House and elsewhere, and of enabling the House to improve upon its hitherto modest degree of accountability secured. We shall briefly examine how successful it has been in discharging its responsibilities of examining "expenditure, administration and policy", which, of course, are closely integrated. Expenditure provides the resources for the formulation and implementation of decisions, administration concerns the process and structure of decision-making, and policy is the result or the output of the decision-making system. It must be repeated that these committees are purely advisory; many recommendations are ignored, but on occasions they have been crucially influential.

The FAC possesses the powers normally associated with Select Committees, to send for persons, papers and records; to sit notwithstanding any adjournment of the House; to adjourn from place to place, to report from time to time and to appoint specialist advisers.



It is only one of three committees with a sub committee, Overseas Development, which reports to the main committee and not directly to the House.

### Makeup

The main committee of 11 had a Government majority 6:5, the sub committee membership ranged from 3 to 10; members are theoretically chosen by the Committee of Selection, though the omnipotent power of the Whips may from time to time be seen. Despite the initial traumas accompanying the selection of committees on the Labour side, membership is eagerly sought. The annual turnover provides a measure of satisfaction of members; up until March 1983, the main committee had seventeen members with a turnover rate, and (attendance rate) as follows:(21)

	1979/80	1980/81	1981/82
<u>main</u>	0 (81)	1.8 (69)	18 (84)
<u>sub</u>	25 (45)	17 (75)	33 (84) (per cent)

These figures compare very favourably with the other 13 committees, although session 1980/81 saw difficulties in maintaining members on the Conservative side of the sub committee. It must be noted that the burden of membership is particularly acute for those in effect on two Select Committees.(22)

Of crucial importance to a Committee, in addition to the

stability and interest of its members as a whole, is the quality of its Chairman, Sir Anthony, a distinguished backbencher and former Junior Minister, is highly regarded by Members and has played a major role in preventing the internal strife that has affected operations of some committees. That does not imply a cosy consensual approach, eschewing controversy. The Committee is relatively 'expert' on foreign affairs. Through overall hard work, shrewd (and considerable) use of advisers, good working methods, able chairmanship and reasonable, though "formal", "proper" relationships with the FCO (what one member called one of "independent cooperation") the committee has established a high reputation in the House, and to an extent both nationally and internationally.

#### Staffing

The staffing of the new committees is light years away from the "counter bureaucracy" alleged to prevail in Congressional Committees. The FAC staff comprises two elements, those drawn from the Clerks Department and the temporary advisors. It has not taken advantage of employing Select Committee temporary assistants, appointed full-time but working on short contracts.

The clerks, of which there are two, assisted by a Higher Executive Officer, are in many ways the backbone of the committee structure, providing administrative support, drafting skills, procedural "know-how", some specialist advice, liaison with Ministers and other committees, and, on foreign visits, nurse-maiding the

Members.

The committees have been given unlimited power to appoint specialist advisers, and each committee determines its own policy, decides numbers, chooses the personnel and decides how best they may be used. To date the FAC has proven to be, by Commons standards, one of the more extensive users of advisers having to date employed, for varying periods, twenty-five.

Total Costs of Specialist Advisors and No. of Days Paid

<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
£11,295 (243)	£19,832 (376)	£19,337 (366)

Total Cost of Financing and Administering the FAC

<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
£42,136	£61,761	£68,983

The principal adviser has been David Watt, lately Director of the Royal Institute of International Affairs, who also advises on advisers. There are two semi-permanent advisers, one for each committee and an ex-civil servant hired for the annual audit based inquiry. For the rest, they are generally recruited from Universities/Polytechnics, Policy Institutes, and used for specific inquiries.

The FAC has established much stronger ties with institutes of higher education, than say Defence, and this brings "outsiders" nearer the centres of policy than is normal in the UK and of course provides

considerable expertise aggregating the academic approach with the more political, and, MPs might say, realistic approach. The method of proceeding varies between Committees and indeed differs within a Committee.

The FAC is one of the more industrious committees, though none remotely bears comparison with the demands on Congressional Committee membership.

Percentage attendance and number of meetings held

<u>79/80</u>			<u>80/81</u>		<u>81/82</u>	
Attendance(%)		Number of Meetings	att.	Number of Meetings	att.	Number of Meetings
<u>FAC</u>	81	43	69	38	84	36
<u>Sub</u>	45	23	75	30	84	34

Put slightly differently, from the beginning of the last session, 1982/83, it held 88 (54 and 34) formal evidence sessions; only two Committees, held more, Treasury (and its sub-committee) 93, and Home Affairs (and its sub-committee) 98.

These figures do not take into account the extensive commitment to foreign travel, which would put it with defence as the most onerous (in some respects) of Committees.

Number of visits and cost

<u>79/80</u>			<u>80/81</u>		<u>81/82</u>	
Number of visits	cost		Number of visits	cost	Number of visits	cost
<u>FAC</u>	2	£22,322	6	£33,680	3	£42,582
			(Including 1 within UK)			

These visits were, for the main committee 1980 Bahrain, Oman, Thailand, Jordan; 1981 Gibraltar, Madrid, USA; 1982 Caribbean and Central America, USA; 1983 Falkland Islands.

Critics may charge the committee with junketing, but it would be a remarkably impotent Select Committee of Foreign Affairs that did not embark on overseas visits. A study of the Reports would give a good idea of the work involved. The sub committee has visited Africa in the main. The Liaison Committee determines finally whether a committee will travel and how much it will spend; that committee recently reported travel by all committees has been rather less than with its predecessor committees. Visits may be related to inquiries or be general fact finding, or in some cases a combination of both.

Choice of Inquiry

The terms of reference laid down provide few inhibitions in terms of choice or subject, unlike the Expenditure Committee and its sub committees that found trespassing into policy sometimes difficult. Members chose subjects, some committees adopting a two track decision

of one big, one small inquiry plus a look at the Estimates. Even though the Procedure Committee 1978/79 advised against Royal Commission type inquiries, the FAC has mounted lengthy inquiries, notably into the Caribbean and Central America, and the controversial inquiry into the Falklands. The first method of classifying inquiries then is according to length, on the one hand the protracted and substantial inquiry, on the other the "quickie" sometimes mounted with an eye to topically and publicity.

One could classify according to the degree of political controversy. The FAC has generally eschewed politically controversial subjects, that is, those that divide on party lines. There are of course many votes, but often the divisions cut across the normal party boundaries. This might lead to the charge of establishing a cosy consensus, but it can strongly be argued united Reports increase the likelihood of influencing decisions. The Olympic Games Report was politically controversial yet most have avoided a markedly partisan approach

It is possible to divide inquiries into those that were related to policy, administration and expenditure, those, as we pointed out earlier, often are intertwined. There is the annual examination of the estimates, but up until now, despite several reprimands to the FCO, financial "control" is largely illusory for all Committees and the House as a whole, though in the last session of Parliament there was some experimentation to improve upon scrutiny of the estimates. The Procedure Committees of Supply and Finance recommended that Select

Committees devote time each year to "their" Department's estimates, which most did anyway, and also that eight days be set aside as Estimates Days, for debate and possible vote by the Commons. A free vote subsequently endorsed the Government proposal of three days, with the subject to be determined by the Liaison Committee in the light of representations from various sources, including the Select Committees. It was hoped that such debates, which began with an issue of foreign affairs wherein government policy had been severely criticised by the Foreign Affairs Committee,(23) might enhance Parliamentary scrutiny and control. The experiment remains embryonic, such that conclusions at this stage would be premature.

The FAC has not been preoccupied with examining administration and decision-making though its first inquiry into FCO Organisation (1979-80) was more for the purposes of self-education as a preliminary to further studies. The sub-committee membership was really a collective transplant from its predecessor committee so did not need to look at organisation again, though it has examined the ODA's Development Divisions, and the Commonwealth Development Corporation.

The FAC's main focus has been policy. In its report on FCO organisation it set as its goals "a serious analysis of British foreign policy, stimulating a greater public debate on international concerns, and allowing as much evidence as possible to be made public". It announced there is intention to "hold both short and long inquiries and to vary (its) programme as necessary to deal with current issues". Afghanistan, Central America, Canada and the

Falklands have all been policy orientated, immediate, medium and long term; where there has been a study in the past, it has been with a view to making proposals for the future.

Some reports may be forced by events such as the invasion of the Falklands, an event that produced a veritable cottage industry of inquiries including the Defence Committee's and the Franks Report.

In the life of a Parliament a Committee may produce a wide variety of reports, varying in approach, length and of course, quality. Some of the FAC's Reports have been meticulously researched and drafted, very much in the style of the Nineteenth Century Select Committees. The Report on Canada must rank as one of the best and most influential of its endeavours.

### Relationships

The effectiveness of a Committee depends on a combination of factors: chairman, advisers, staff, choice of subjects, internal cohesion, and to a large extent on its interactions with the Government, particularly as an "opposite number", the House as a whole and the public.

That does not imply a 'client status' with a Department, the FAC in no way deserves that stigma. Relations are normally good, it is in both's interest that this remains so, and the relationship has been variously described as "formal", "proper", "arm's length", and one of



"independent cooperation". There have been low points in the relationship and harmony may be disturbed, though never permanently. The FAC has not always been satisfied with a memorandum or a FCO reply, but this is inevitable, and occasionally the bitterness may spill over into the Chamber.

As to the extent of the contact, as distinct from its nature, the FAC has been less hesitant to call Ministers than its predecessor committees. During the 1970-74 Parliament only seven ministerial appearances took place before all six Expenditure Committee sub-committees. The figures below show the transformation.

Secretaries of State appear fairly regularly either in a specific inquiry or for a tour d'horizon; Lord Carrington made six, his successor, Francis Pym, two appearances.

Number of (a) Cabinet (b) non Cabinet Ministers

(c) senior civil servants to have appeared before the FAC

(the figures in parentheses relate to number of appearances)

	Cabinet Minister	Non Cabinet Minister	Open Structure Civil Servants
<u>1979/80</u>	1(2)	4(9)	24(51)
<u>1980/81</u>	2(3)	3(4)	12(16)
<u>1981/82</u>	2(3)	1(1)	10(21)

(main committee only)

Not only has the extent of contact increased between committee and the political and permanent executive, the number of written

memorandum is impressive in comparison with the other committees:

	<u>1979/80</u>	<u>1980/81</u>	<u>1981/82</u>
<u>main</u>	51	53	49
<u>sub</u>	25	37	28

The overwhelming majority of these memorandums submitted by the FCO. Unlike the Defence Committee which receives most of its memoranda from the MOD, the FAC solicits documentation from a wider variety of sources.

The principal function of the FAC is to inform the House. Only a handful of all reports by all Committees have been the subject of specific motions debated in the House (2%) but four of its Reports have been referred to on the Order Paper as relevant to a debate and its Reports are regularly referred to by Committee Members in debate and by others. As might be expected both the domestic and international media have given wide coverage to specific reports, indeed Sir Anthony Kershaw became something of an international celebrity in Canada following the "Kershaw Committee" Reports.

The Liaison Committee Report referred to the problems of overlap, and it is with the Defence Committee where the potential for overlap, duplication or conflict may emerge. A defect of the existing Select Committee structure is the rigid compartmentalism and one of the authors proposed, in a paper submitted to the Political Studies Association, that at some future date cooperation might take place between the FAC and Defence Committee either by a joint subcommittee, through joint inquiries or through coordination by a supra or super

National Security Committee. Evidence for a more coordinated approach might be derived from the Committees' independent considerations on the Falklands.

The paper will now proceed to an analysis of the FAC's role in one particular issue, which will illustrate its structure, modus operandi and, most importantly, its potential for fulfilling a viable Parliamentary dimension in the field of foreign affairs.

The involvement of the FAC in ostensibly Canadian constitutional matters in the period 1980/81 arose as a consequence of an expected request from the Canadian Federal Parliament that a Bill be laid before the United Kingdom Parliament to amend the Canadian Constitution in a number of respects, notably by terminating the remaining responsibility of the UK Parliament for amendment of that Constitution, and conferring the relevant powers of amendment on Canadian institutions: the act of 'patriation' as it came to be known.(24) It was the residual responsibility of the UK Parliament, occasioned by the failure of the Canadian Federal and Provincial Governments to agree on a suitable alternative procedure for amendment since at least 1927, that provided the point of departure for the FAC's consideration of the issue, and indeed its very raison d'etre. As such, it is important to stress that here was witnessed the FAC in a very clear position to influence policy-making, rather than being in a position of hindsight, merely commenting on implications for Britain of faits accomplis. Thus, although historically it may be true to say that "the appearance of debate and activity often serves to mask

the ineffectiveness of Parliament in holding the Government to account in foreign policy matters or in influencing policy"(25) the anachronism of a continued Parliamentary role in Canadian constitutional affairs was to justify an independent exertion of authority by the FAC on this issue. The question is, of course, whether this was a unique function of circumstance, or the precursor of a viable legislative role in foreign affairs for Parliament.

The more immediate background to the FAC's deliberation is provided by Prime Minister Trudeau's publication of his proposed constitutional plan of action on 2nd October 1980 (26), and the respective positions of the Canadian and British Governments as to the implications thereof for the British Parliament. An explanatory memo attached to the 2nd October resolution included the opinion that

"The British Parliament or Government may not look behind any federal request for amendment including a request for patriation of the Canadian constitution. Whatever role the Canadian provinces might play in constitutional amendments is a matter of no consequence as far as the UK Government and Parliament are concerned."(27)

The British Government's historic stance on the issue had confirmed this opinion albeit in slightly vaguer terms:

"...if a request to effect such a change (to the Constitution) were to be received from the Parliament of Canada it would be in accordance with precedent for the United Kingdom Government to introduce in Parliament, and for Parliament to enact appropriate legislation in compliance with the request."(28)

The British Governmental attitude was non-partisan reflecting historic tradition, such that inter-governmental dealings between Britain and Canada on this issue reflected a mutual acknowledgement of sovereign independence as a state, the constitutional reality was such

that independence was necessarily conditional on a remaining power vested in the UK Parliament.(29) As such, it was perhaps somewhat premature for the governments to commit themselves to an approach based on precedent, while being entirely unaware of how Parliament might view these precedents, if indeed they were considered at all relevant.

The opposition of six Canadian provinces to P.M. Trudeau's plans was made known on 14 October 1980 by their decision to oppose him in court. A facet of this opposition was the so-called "London lobby" initially led by Quebec, which functioned in a manner that first raised MPs awareness of the issue, until then limited to a small handful of Members, and then sought to translate that awareness into support for the Provincial cause.

An embryonic native peoples' lobby had also been established in London, which framed its opposition to patriation in more specific terms.(30) Thus, although initially the issue of patriation was viewed as a constitutional matter and hence somewhat arid - if it was considered at all - the growing groundswell of opinion against Mr. Trudeau's initiative, and conflicting interpretations of the British Parliament's role began to bode ill for Anglo-Canadian relations, with clear foreign policy implications.(31) Hence the issue clearly came within the FAC's ambit. The interest of members was no doubt further stimulated by their consultation of the leaked Kirby Memo (32) an outline of Canadian Government strategy with respect to patriation, which, among other things, envisaged pushing the package through

Westminster with enough speed to forestall legal challenge to the move in Canada.(33) Thus, despite certain misgivings as to the right of the FAC who, in accordance with precedent wanted to give Canada full independence whatever the constitutional position, the Committee formally decided on 5th November, 1980, that a study should be made of 'The British North America Acts: the Role of Parliament'.(34)

In recognition of the dichotomy between Canadian sovereign independence as a state, and the anachronism of a British residual responsibility in the Canadian constitution,(35) the Committee determined only to hear British witnesses, and to receive evidence in a written form - including from Canadian sources - only in so far as it related to the UK Parliament's legal and constitutional responsibilities.(36) Although the written evidence was cited by the Committee as helpful, (37) it is apparent that the oral sessions of evidence were by far the most important. There are at least two reasons for this, of which the second to some extent follows from the first.

Thus, an important influence on the FAC was its contact with the FCO representatives, especially the Minister responsible, Mr. Ridley, whereupon the 'in accordance with precedent' argument was put to the test. Although Mr. Ridley did not give evidence to the FAC until 10 December 1980, his likely attitude had been revealed in Parliament a week previously:

"It would be constitutionally improper for me to comment on the substance of any request that might be made or on any events that are taking place within Canada."(38)

A reworking of the FCO's memo to the FAC on the question of H.M. Government's advice in Parliament:

"...no request has yet been received from Canada. The FCO could not anticipate, in advance of such a request, the recommendations which Ministers would wish to make to Parliament in the light of it."(39)

Such statements effectively gagged Mr. Ridley when he appeared before the FAC, in that his attitude was one that he couldn't say anything about the evidence to the FAC since it bore directly on the Government's decision. Thus his opening statement closely mirrored his House of Commons position:

"It would be wrong or anyway premature in this public forum for me to engage now in a detailed discussion on the merits of possible arguments one way or another on a case which remains at this stage hypothetical."(40)

Since the whole point of the FAC investigation was to analyse just how the evidence would bear on that decision and to balance competing hypotheses, the attitude is somewhat strange. Although the FCO issues policy statements that are the responsibility of the House as a whole to interpret the FAC does not accept these policy statements at face value, but examines and scrutinises them in minute detail. Only by so doing can the Committee maintain strict independence from the FCO in carrying out its responsibilities to the House of Commons in the field of foreign affairs. Hence it expects Ministers, who are regularly invited to attend, to be somewhat forthcoming on questions of policy formulation. Perhaps Mr. Ridley's attitude can be explained in the light of the corner he had backed himself into, or been backed into by the Canadian Government, by way of the precedent argument, such that to address the wider audience than the FAC represented might be seen in Canadian circles as

unwarranted interference in internal matters. In essence there is a confusion between political expediency and constitutionality: a refusal to acknowledge the legitimate interests of Parliament for fear of offending Canadian political susceptibilities.(41)

Whatever the political reasons for the FCO attitude, it fairly successfully alienated certain members of the FAC (42) such that they more readily embraced their chosen legal witnesses, whose evidence tended to favour those opposing the patriation proposals. Because the inquiry was legal and constitutional in nature far more than political the FAC came to rely on its specialist adviser, Dr. John Finnis,(43) and their legal witnesses to a greater extent than in other Reports. Thus Professor Wade's arguments on the legal and political responsibility of the British Parliament for upholding the federal constitution of Canada and the rights of the provinces, supported by Dr. Marshall and Mr. Lauterpacht were seen as crucial.(44) None the less, the ratio of deliberative to evidence-gathering sessions in the Committee's work was higher than normal, with the presence of the same people at the deliberative sessions creating a de facto drafting sub-committee.(45) Although the inquiry itself was short, the Report itself was long and well-documented, as a reflection of the quality and quantity of evidence gathered. Dr. Finnis was indeed significant in the drafting of the Report in the light of its constitutional complexity, yet this is not to undervalue the contribution of the Members. Further, the less political nature of the subject-matter fostered a non-partisan approach on the FAC, which it has not always been able to maintain, its Reports on the



implications for British participation in the Moscow Olympic Games of the Soviet invasion of Afghanistan, and on the Caribbean and Central America being perhaps the prime examples. Nonetheless, an inability to distinguish between the politics and constitutionality of the issue has led to criticisms being made of the FAC even taking an interest in this matter.

Edward McWhinney's all-embracing criticism of the Committee is that it violated a prime principle of constitutional law: self-restraint in regard to great political issues.(46) This neglects the central reason for the FAC's interest: it was precisely the lack of restraint implicit in the Canadian Federal Government's attitude to the British role in patriation, and the angry opposition that this provoked, that made apparent the need for a fuller appreciation of the nature of the issue among British Parliamentarians. The Committee itself recognised that an improper exercise of the UK's anachronistic power would be interference, hence the need to fully inform MPs through the Report.(47) Indeed, by fulfilling a primarily informative role, the FAC can be congratulated on engendering restraint, by moderating the views that MPs were receiving from the Provincial lobby, and in the post from Canada.(48) The work of the committee was crucial in ensuring that patriation and its implications were correctly appreciated by the British Parliament, and hence that the 'great political issue' was treated as such, rather than in a simplistic and superficial way, wherein perhaps even greater dangers lay for Anglo-Canadian relations. Indeed even the FCO had reason to be grateful to the FAC in that its Report, in opposing the Federal

position, channelled criticism towards itself which might have been directed at the FCO had Mr. Trudeau blamed Governmental inadequacy for the thwarting of his plans. Indeed, the FAC possibly did the job that the FCO wished to do, but couldn't, due to the constraints of the precedent model.

The Report of the FAC itself, in representing a resolution of conflicting forces bearing on its deliberations, with the result of legitimising the arguments of the opposition, served to reinforce that position.(49) Whether its conclusions are right or wrong is to some extent irrelevant; proper concern is only with the substance of those conclusions, particularly since, given the low level of awareness of the issue among British MPs at this stage, such conclusions might be expected to be view-forming. Thus, the conclusions that the British Parliament could refuse a request for patriation that did not convey 'the clearly expressed wishes of Canada as a federally structured whole' for lack of 'a sufficient level and distribution of Provincial concurrence' (50) stood in direct contrast to the Canadian Federal Government's view (51) and, by implication, that of the British Government. Fundamental to the Report was the very fact that Canada had not officially asked Westminster to consider a set of proposals, nor was the issue yet settled in the Canadian Parliament.(52) Thus the Report was most clearly an element of policy formulation, rather than policy inspection and as such had the potential to make a profound impact on those MPs previously neutral or undecided on the issue, in legitimising an opposition previously founded largely on Provincial objections.

As such, it is meaningless to consider the role of the FAC in isolation from the wider context of British involvement in the patriation issue. Although at the time of its initial consideration of the issue in November 1980, the FAC was undoubtedly in the forefront of Parliamentary opposition to the measure, a certain amount of extra-Parliamentary opposition had already been generated, along with isolated pockets of resistance coalescing around certain MPs, although they largely laboured in vain. The effect of the FAC was first to rationalise this opposition in terms cognizable by the British Parliament, and then to provide a foundation upon which that opposition might be more securely based and legitimised.

As outlined above the provincial lobby remained embryonic while the FAC was considering its first Report, but became more visible and more cohesive as several Provincial delegations followed Quebec's lead in late 1980 and early 1981. An initial lack of co-ordination, arising from conflicting objectives and a difference in perception of means to achieve them, was overcome once the FAC provided a point of contact for the Provinces with the British Parliament. The Committee's dismantling of the 'precedent' model allowed the provinces to make far greater inroads into Parliament than would have been the case had their pressure remained external, rather than the internalisation that the Committee achieved in its conclusions. This internalised pressure was duplicated by the activities of the All Party Committee on the Canadian Constitution (APC), chaired by Jonathan Aitken and George Foulkes, which complemented the FAC proceedings to the extent that it acted as a forum for British and

Canadian speakers to discuss patriation, and hence raised awareness among Parliamentarians in a manner entirely similar to the FAC Report. However by providing an outlet for oral Canadian testimony, it closed that particular gap left by the FAC.

Both the FAC and APC aroused the ire of the Canadian Federal Government. The APC was criticised as a 'front' organisation for the opponents of patriation, but only became so due to the self-imposed restraints of the 'precedent' model. Thus invitations to speak sent to the Federal Government and its supporters received the standard reply that dealings in the matter were purely intergovernmental, and that Parliament should seek the information needed from the British Government. Thus the APC, decidedly neutral in conception, became an important channel for directing opposition to the patriation proposals, with the Provinces and other interest groups - especially Canada's native peoples (53) - making full use of the opportunity to directly address Parliamentarians, to reinforce the indirect access granted then by the FAC Report. From the point of view of the British Government, represented at the ALC by their Whips, the disturbing fact was the regular attendance at these meetings of a number of leading Conservative backbenchers together with several members of the House of Lords. This was to necessitate a tempering of public support for their Canadian counterparts with private warnings reflecting the increased nervousness of Mrs. Thatcher and her colleagues, and a transmission of some of the mood reflected by Parliament to Ottawa via British Ministers.(54)

Likewise, the FAC's Report constituted an important element in relations between the Canadian and British Governments; and as such influenced policy in that regard, despite Mr. Trudeau's continued insistence on rigidly separating the Parliamentary and Executive dimensions of the British political system, a separation entirely misplaced in this context:

"I do not know whether it (the FAC) is ad hoc or select but I know it is not the position of the British Parliament or the British Government....I have her (Mrs. Thatcher's) word, and I still have her word that she will make this a government measure and she will put on a three-line whip to pass it through the House of Commons."(55)

Just as it was to refuse to send representatives to the APC, the Canadian Government had considered it "inappropriate for the executive government of one nation to offer advice to a committee of a Parliament of another nation"(56) despite the obvious constitutional link between them; yet proceeded to criticise the adequacy of the Committee's evidence in its rebuttal of their Report.(57) In essence, the Canadian response was a predictable consequence of the fundamental position on the issue, that the British Parliament should not look beyond any Federal request; and in turn, the FAC's response in its Second Report (58) was an act of self-defence and self-justification. The positions were diametrically opposed: the Canadian resting on a precedent more imagined than real, that acted as a political expedient; the FAC, the fountainhead of opposition to Trudeau's plans, taking a wider view based on constitutionality.

In a sense, the FAC and APC were dependent: the former providing a quasi-official justification for the postures adopted in the latter, and as such they were mutually reinforcing. Overall, the effect was

to make any argument founded on precedent still less tenable and, in effect, irrelevant, since the circumstances of this particular opposition were entirely unprecedented.

The conclusions of the FAC Report were important in Labour Party policy on the issue. A researcher at the Party's Headquarter's International Affairs Division had prepared a memo on 'Canada and the Constitutional Question' prior to, and independently of, the FAC Report, which came to broadly the same conclusions:

"The present situation is unprecedented yet constitutional conventions must induce us to support the valid interests of the Provinces in so far as they, in the majority, oppose the actions of the Trudeau Government."(59)

However, the confirmation of this view by the FAC, which made a broader Parliamentary opposition likely, ensured that the Labour Party was less likely to reject the FAC's conclusions without there being a very good reason for so doing. Further, as an Opposition, certain Labour backbenchers were as much concerned with using patriation as a time-wasting exercise to threaten the Government's legislative timetable, hence the Party encouraged Parliamentary disquiet on the basis of the FAC Report, without ever officially opposing the proposals for fear of prompting a Conservative response, possibly in the form of a three-line whip, and, as far as senior Labour leaders were concerned, out of deference to Canada's sovereign independence: a politically astute course for a party aspiring to future Government. Using the FAC Report as a foundation, the Labour Party, in informal alliance with the Provinces, especially Saskatchewan (60) carried opposition to patriation along in Parliament throughout 1981,

and as such contributed still further to the dismantling of the precedent model.

The only area where the FAC did not directly mesh with the general level of opposition was with respect to the native peoples of Canada. They had exhibited a presence in Britain since July, 1979, claiming that a residual legal responsibility for their status in Canada lay in this country, by virtue of treaties signed with the British Crown in the 18th and 19th centuries. However, on consideration of this aspect of patriation, the FAC, although sympathetic to Provincial objections, had stated:

"We know of no reason to doubt the FCO's evidence that the UK has no treaty or other obligations to Indians in Canada: 'All treaty obligations in so far as they still subsisted because the responsibility of the Government of Canada with the attainment of independence at the latest with the Statute of Westminster.'" (61)

The fragmented approach of the natives to the FAC, (62) which remained characteristic of their London lobby, was perhaps irrelevant to this determination. However, the natives were still able to benefit from the FAC Report, in that its support for Provincial grievances necessarily allowed them more time to gain Parliamentary support, albeit on a more individual basis than was allowed by the blanket endorsement of the Provincial case by the Committee. Thus certain MPs, including Bruce George, undertook the hopeless task of convincing Parliament of the relevance of historical injustices, under the smokescreen provided by the FAC's conclusions. Again then, as a further element provoking Parliamentary disquiet, the natives contributed to patriation's difficulties.

The weakness of relying on precedent was that the attitude of the British Parliament had made it abundantly clear that there was no political consensus as to whether the patriation proposals were unprecedented or not. The attitude of the Canadian Government put the British Government in an extremely difficult position politically, in that they were unable to publicly recognise opposition to patriation for fear of breaching precedent and tarnishing Anglo-Canadian relations. The FCO stance at the FAC was symptomatic of this, reflecting an attitude that the matter was hypothetical until a request was received from Canada. This Executive inertia (63) compounded Parliamentary unease over the issue and reinforced the difficulty of maintaining diplomatic propriety with respect to Canada. But it was the very fact that the FAC had insisted on constitutional propriety that created this situation; the Government being stymied allowed Parliament, led by the FAC, to move to centre stage on this particular aspect of foreign affairs.

The FAC's own analysis of its role, revealed in its Third Report, (64) explains such inertia in terms of the Government's attempt to maintain impartiality, but that impartiality was necessarily dependent on the UK Parliament fulfilling its constitutional role, and of the very fact that the situation was unprecedented. Only when the FAC had clearly identified Parliament's constitutional responsibilities, without taking Government assertions for granted, could the policy of impartiality be related to realistic circumstances, those of Parliamentary unease over the manner of patriation.



That the issue was a constitutional one intensified this Parliamentary involvement. Recent Parliamentary experience with constitutional matters - House of Lords reform, devolution, the European Community and, most recently, the mini-revolt over Northern Ireland proposals - has shown the British MP at his most individual, free from the party line:

"It is hazardous to a degree to give assurances to our friends in Canada at this early stage on the attitude likely to be adopted by our Parliament here in London. This House is never less predictable than when it comes to constitutional issues. It is all too possible to misread the mood of this House of Commons and miscalculation is surprisingly easy."(65)

This is merely a specific example of a general rule posited by Sir Ivor Jennings:

"...the real question which is presented to a government is not whether a rule is a law or a convention, but what the House of Commons, will think about it if a certain action is proposed."(66)

That the FAC and Parliament in general recognised this simple truth, but that the Canadian Federal Government underestimated its import, was the crucial conceptual difference that underlay the patriation 'crisis' in Britain; the opposability of constitutional propriety and political expedience. Whatever the legal merits implicit in relying on precedent, the point remains that all government action is ultimately dependent on its acceptance by Parliament, which body determines the degrees of political expediency. The problem with the Canadian Government's reliance on precedent was that the particular precedent chosen reduced the British Parliament to an irrelevancy which, for practical purposes, due to the anachronistic constitutional link, it could never be. Despite being forced into a defensive position by the insistence of the Federal Government, the

British Government remained fully aware of the political importance of the British Parliament, as is manifest in its reply to the FAC Report:

"Para. 13 While the Government accepts that there is never an exact precedent for a particular constitutional amendment, the consistent practice has been to act in accordance with the request and consent of the Federal Parliament. The force of this consistent practice cannot be ignored. This does not mean the UK Parliament is under some legal obligation automatically to enact whatever Canadian proposals are put before it; but it does point overwhelmingly in the direction of acceding to an agreed request for patriation."(67)

Since the two major concerns of the FAC Report were whether such an automatic legal obligation existed, and what constituted an 'agreed' request, with respect to the nature of Provincial concurrence,(68) the Government's tacit acceptance of the FAC's conclusions in these respects represents a mild rebuke for the Federal Government's position. As such, it concedes an effective role for Parliament in the policy-making process leading up to patriation, albeit if only by default, in that the Government was rendered impotent by Federal insistence on a diplomatically convenient, yet constitutionally unrealistic, position.

That the FAC and the British Parliament were indeed policy-makers in this situation was recognised by the Canadian Supreme Court's decision on the Constitution, handed down on 28 September, 1981:

"The one constant since the enactment of the BNA Act in 1867 has been the legal authority of the UK Parliament to amend it."(69)

"There is nothing... that casts any doubt in law as to the undiminished authority of the Parliament of the UK over the BNA Act."(70)

This colonialist view of affairs is softened by a recognition of the political unattractiveness of the decision, hence the endorsement elsewhere of Canadian political sovereignty. However, it is apparent

that the sharp distinction between legal theory and political reality, recognised by the FAC, lies at the very heart of the majority decision. This distinction, underlined by Canadian Provincial objections, British Parliamentary unease, and the Supreme Court decision, finally forced an appreciation by the Federal Government of what was far more an imagined than a real politico-legal basis to their attitude, and paved the way for the 'November accords' that in effect removed the basis of contention that had provoked concerted British parliamentary involvement in this area of foreign policy.

It will forever remain hypothetical whether the British Parliament could have brought down Mr. Trudeau's plans prior to November, 1981. A Federal spokesman has cleverly turned the issue around:

"...had Mr. Trudeau not been willing to come to London supported only by Ontario and New Brunswick he would never have achieved the consensus that was reached last November 5th."(71)

However, whichever way one views the patriation issue, the central role in it of the FAC cannot be denied. The constitutional and political circumstances were such that the British Parliament necessarily became the fulcrum on which the issue turned; and in guiding Parliamentary consideration of patriation in the manner in which it did, the FAC became fundamental to the formulation of policy and the unravelling of events. Certainly, the FAC chairman remains in no doubt as to the validity of his Committee's work:

"It is difficult to assess the value of such Reports to the House or to the public, but there can be no doubt that one series had a very evident impact. I refer to the Reports on the British North America Acts. The first of these in particular not only made an important contribution to the "patriation" debate in Canada, and, I believe, contributed significantly to changing the Canadian Government's approach to the subject, but also influenced HMG's thinking. Moreover, this series fulfilled the primary purpose of such Reports in that when the Canada Bill came before the House, the First and Third Reports were relied upon heavily in debate by both Government and backbench Members."(72)

One cannot with any precision say what would have happened to patriation had not the First FAC Report come out as it did. It legitimised opposition and magnified it, provoking greater interest among MPs and more pressure on Ministers. It assisted the opposition in Canada and supported the FCO and Canadian High Commission who must have been warning the Canadian Government of the unease in the British Parliament; had there not been the 'November accords', the Bill would undoubtedly have had a rough passage, and may have faced defeat. The care and thoroughness with which the Report was prepared, and the bipartisan support for its conclusions within the Committee, allied to the timing of its deliberations, meant that Parliament had to consider the issue, however much the Governments of both Britain and Canada denounced the relevance of its findings. The Committee's proven record in performing its core functions with a certain degree of consensus and relatively little partisanship created an influence and standing vis-a-vis the Commons that facilitated this outcome. Simplistically, a decision had to be made, and the Committee contributed powerfully towards that end, illustrating the potential for Parliamentary involvement in foreign affairs that the Reformists had hoped for. The question must remain, however, as to how much of the potential in this issue arose from specific, and unique political and constitutional circumstances.

#### FOOTNOTES

1. HC 588-I-II-III, 1977-8.
2. Ibid.
3. P. Norton, The Commons in Perspective, p.178; D. Vital, The Making of British Defence Policy, p.48; J. Barber, Who Makes Foreign Policy?, Chapter 4; W. Wallace, The Foreign Policy Process in Britain, Ch.4; J. Frankel, 'Defence Public Opinion and Parliament' in Perspectives upon British Defence Policy 1945-1970, University of Southampton. See also by same author, British Defence Policy 1945-1973, p.26; P.G. Richards, Parliament and Foreign Affairs, p.164.
4. 1628 Turkey Company, 1722 Burgoyne's Select Committee on the State of the East India Company; 1806 Newfoundland Trade, 1840 China Opium Trade, 1851 India, China and New Zealand: Committee on Steam Communication.
5. 1712 Walpole instigated an inquiry into the Treaty of Utrecht.
6. Most frequent in the aftermath of civil war; 1851 Kaffir Tribes.
7. 1826 Slave Trade in Mauritius, 1847-48 Select Committee on the Slave Trade. 1836-37 Select Committee on Aborigines (British Settlements)

The last named Committee set an interesting precedent for the recent consideration of Canadian 'Aborigines' by the FAC, in recognising that the protection of indigenous peoples was a matter

"particularly belonging and appropriate to the Executive Government as administered either in this country (Great Britain) or by the Governors of their respective Colonies. This is not a trust which could conveniently be confided to the local legislatures."(at p.77)

However, constitutional and political developments was to be such as to entirely reverse the situation by 1980.

8. See B. George and K. Pieragostini "The Making of British Defence Policy: A Role Again for the House of Commons?" Paper presented to the American Political Science Association, 4 September 1981. For a detailed history of inquiries into military failure; P. Flournou, Parliament and War 1927, M. Cooper, Committees of No-Inquiry in the House Magazine July 2, 1982.

The number of inquiries by Committees into war departments, military and naval matters into thousands.

9. 1783/3 Burke's Select Committee on the Administration of Justice in Bengal; in this period many inquiries into East India Company.  
1828 Select Committee on State of Civil Government in Canada.  
1889 Colonisation.
10. 1828 Report on Grievances of Inhabitants of Lower Canada. For longer accounts see S. Lambert, House of Commons Sessional Papers of the Eighteenth Century; P.D.G. Thomas, The House of Commons in the Eighteenth Century and of course the extensive indexes of the House of Commons.
11. Alphaeus Todd, Parliamentary Government in England, 2 vols. 1887, vol. 1, p.381.
12. V. Flegman Called to Account. The Public Accounts Committee of the House of Commons 1965-66 - 1977-78 says the 23 Public Account Committee inquiries into financial control over expenditure on overseas services in the period under study could be grouped into (a) overseas and (b) overseas services. "The Overseas Services have not been one of the major dispensers of public funds during the last 13 years, though they have earned the doubtful distinction of having provided one of the best known examples of mismanagement of public funds during this period." p. 104. L. Normanton, Accountability and Audit of Governments.  
  
N. Johnson, Parliament and Administration: The Estimates Committee 1945-65 notes 12 Reports on Foreign and Commonwealth affairs during this period.
13. Anne Robinson, Parliament and Public Spending  
Masood Hyder, "Parliament and Defence Affairs" - Public Administration, Spring 1977.  
H.C. First Report of Procedure Committee 1968-69, p.viii.
14. Those that were concerned with foreign affairs include:  
Diplomatic Staff and Overseas Accommodation 1971-72  
Accommodation and Staffing in Ottawa and Washington - 1973-74  
Diplomatic Man Power and Property Overseas - 1974-75, 75-76  
Progress towards implementation of the Final Act of the Conference on Security and Cooperation in Europe - 1976-77  
The Central Policy Review Staff Review of Overseas Representation 1977-78.
15. Asa Briggs, Victorian People, p.80.
16. For an excellent though incomplete description of the movement for Parliamentary Reforms and specifically for a Foreign Affairs Committee, see P.G. Richards, Parliament and Foreign Affairs, Ch. 8.
17. The Labour Party - Control of Foreign Policy - Labour's Programme (1921).

18. E. Jenks, The Government of the British Empire (5th ed, pp. 235-237). Note his comments in first edition, 1918. R.T.R. Loreburn, How the War Came (1919), pp. 307-310. A.A.W.H. Ponsonby, Democracy and Diplomacy (1915) pp. 83-92. J. Bryce, Modern Democracies Cll p. 420, H.R.G. Greave's Parliamentary Control of Foreign Affairs (Fabian Pamphlet). Philip Morrell, "The Control of Foreign Affairs: The Need for a Parliamentary Committee", Contemporary Review 1912, Vol. Cll, S. Low, The Government of England, 14th ed. 1927. D. Goldsworthy, "The Debate on a Parliamentary Committee for Colonial Affairs" in Parliamentary Affairs Vol. XIX 1965-66.
19. HC Deb. Vol. 969, 25 June 1979.
20. Inside Parliament, 4th May, 1980.
21. Statistics and information on the FAC and other Select Committees are to be found in Parliamentary Questions put, with one exception, by B. George, to be found in Hansards of 18.11.82 and 17.12.82.
22. Specific details of turnover, and other FAC data, is contained in a pamphlet by the Clerk of the Committee, K.J. Brian, No. 13, March 1983.
23. HC Deb, 14 March 1983, c.42-61, and documents cited therein.
24. For a more detailed analysis of the British dimension to patriation see: George and Woodward, The United Kingdom and the Canadian Constitution: The Politics of Patriation (forthcoming), Woodward and George, "The Canadian Indian Lobby of Westminster 1979-82", forthcoming, Journal of Canadian Studies, Fall, 1983.
25. W. Wallace, op. cit. at p.92.
26. Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada. Issued by the Canadian Prime Minister and Government, 2nd October 1980.
27. Reprinted in: House of Commons, First Report from the Foreign Affairs Committee, Session 1980-81, British North America Acts: The Role of Parliament, Volume II Minutes of Evidence and Appendices (HC 42 I and II); at p.48. Hereafter cited as Evidence.
28. Hansard, 5th Series, Vol. 912, 10th June, 1976. Written answers c.719. See also, Hansard, 5th Series, Vol. 971, 27th July, 1979. Written answers c.499.
29. For judicial confirmation of this point, see the remarks of Lord Denning, in R v the Secretary of State for Foreign and Commonwealth Affairs ex parte The Indian Association of Alberta and others (1982) 2 W.L.R. 641 at 652.

30. See below.
31. See, for example, Hansard, 5th Series, Vol. 991, 30th October, 1980, c. 706, Mr. George to Mr. St. John Stevas.
32. Report to the Cabinet on Constitutional Discussions, Summer 1980 and the Outlook for the First Ministers' Conference and Beyond. For Ministers' Eyes Only. 30th August 1980. Especially pp. 50-53.
33. The FAC indirectly replied to this document in: House of Commons, First Report from the Foreign Affairs Committee, Session 1980-81, British North America Acts: The Role of Parliament, Volume I Report (HC 42); at para 123:

"... we do consider that it would be constitutionally questionable as well as politically undesirable for the processes leading to UK legislation to be hastened so as to pre-empt the decision of Canadian courts."

Hereafter cited as Report.

34. The Times, 6th November 1980. The decision was made privately on the 29th October, and the FCO were asked to supply a memorandum in a letter from the Clerk of the Committee to the Parliamentary Commissioner and Committees Unit of the FCO on 30th October. See Evidence, p.2.
35. The Committee's recognition of this fact is evident by its approval of Dr. Marshall's opinions on the subject. Report, p. xl iii, para. 80.
36. Report, para. 1.
37. Report, para. 10. Some 100 submissions are acknowledged, apart from those printed in the body of evidence, of which only 13 emanated from Britain. N.B. A number of submissions are entered more than once in the Report's listing.
38. Hansard, 5th Series, Vol. 995, 3rd December, 1980, c.377.
39. Evidence, p.6.
40. Evidence, p. 122.
41. The FAC recognised a precedent for this confusion in the BNA Act amendment of 1946. See Report, p. xl, fn. 2.
42. The Times, 11th December 1980.
43. Reader in the laws of the British Commonwealth and the United States, Oxford University, and Fellow of University College, Oxford.



44. See Sir A. Kershaw, "The Canadian Constitution and the FAC of the UK House of Commons, 1980 and 1981", The Parliamentarian 62 (3) July 1981, pp. 173-182, passim.
45. See Report, Votes and Proceedings, pp. lxxii - lxxxii.
46. E. McWhinney, Canada and the Constitution 1979-82, University of Toronto Press, Toronto, 1982, p.60.
47. Report, para. 7.
48. The FCO had received 1200 letters by 1 December 1980 (Hansard, 5th Series, Vol. 995, 1st December 1980. Written answer c. 126), and the Prime Minister 2223 in a five-month period (Hansard, 5th Series, Vol. 996, 15th January, 1981. Written answer c. 574.
49. The Report achieved a considerable publicity, particularly in Canada, where the shorthand "Kershaw Committee" achieved a wide political usage. Estimate of the sales of the Reports are: First Report - 1900 copies (Volume I), 850 (Vol. II); Second Report - 1200; Third Report - 850.
50. Report, para. 14, sub-sections 9 and 10.
51. See above.
52. Indeed, the FAC compressed its deliberations in the belief that the Canadian Joint Parliamentary Committee on the Constitution was to report on the 9th December. Only on the 3rd December was this deadline extended to the 6th February 1981.
53. See below.
54. This was most clearly indicated by the visit of Mr. Pym, then Defence Minister, to Ottawa on 19th December 1980, where it was made clear that whatever the precedent, patriation could not be dealt with that way politically, at least the way the proposals were at the time.

However, the British Government maintained strict propriety with respect to formal requests by individual MPs for a transmission of that mood. Thus a letter from Jonathan Aitken, dated 13th February 1981, requested that Mrs. Thatcher re-arrange a planned visit to the USA to include a trip to Ottawa in order to clarify the situation. The Prime Minister's reply of 23rd February underlined the delicacy of the situation, and expressed the fear "that a visit at this time could well be misinterpreted as trying to interfere in Canadian affairs, and would be likely only to exacerbate the situation."

55. Canadian Hansard Debates, 29 January 1981.

56. House of Commons, Second Report from the Foreign Affairs Committee, Session 1980-81, Supplementary Report on the British North America Acts: The Role of Parliament (HC 295); at p.v. Hereafter cited as Second Report.
57. "The Role of the United Kingdom in the Amendment of the Canadian Constitution". Background Paper published by the Government of Canada, March 1981, at p.24.
58. Second Report., op.cit.
59. Labour Party Headquarters, International Affairs Division, Canada and the Constitutional question, n.d., at p. 7.
60. At that time Saskatchewan had New Democratic Party government, and hence was alone perceived as a fellow socialist.
61. Report, para. 117.
62. See, for example, a footnote to the natives' submission to the FAC:  

"The Committee have now been informed that since the submission of this memorandum, the views of the three organisations have diverged. It therefore no longer represents their joint view."

Evidence, p. 345, fn. 1.
63. A further example was the breaching of the Parliamentary convention that Government replies to the Select Committee Report are published within two months of the Report. In view of the continuing proceedings in the Canadian Parliament and Courts, the FCO felt unable to reply; the FAC agreed to a delay and in the event the response was not published for almost a year.
64. House of Commons, First Report from the Foreign Affairs Committee, session 1981-82, Third Report on the British North America Acts: The Role of Parliament (HC 128); especially paras. 11-14.
65. Michael Hamilton, Hansard, 5th Series, Vol. 996, 19 December 1980, c.1043.
66. Sir Ivor Jennings, The Law and the Constitution, 5th edition University of London Press, London, 1960; p. 132.
67. First Report from the Foreign Affairs Committee Session 1980-81, British North America Acts: The Role of Parliament, Observations by the Secretary of State for Foreign and Commonwealth Affairs, December 1981, Cmnd. 8450.
68. Report, par. 6.

69. Reference re Amendment of the Constitution of Canada (Nos. 1, 2 and 3) (1981) 125 D.L.R. (cl) 1; at p. 50.
70. Ibid., at p. 44.
71. R. Haggan, Address to the Royal Commonwealth Society, 24 February 1982, p. 8.
72. Sir Anthony Kershaw, Report to the Liaison Committee in: First Report from the Liaison Committee, Session 1982-83, The Select Committee System, December 1982 (HC 92); at p. 79. Further, on the point of the FAC's stance, see Mr. Denzil Davies' question to Mr. Richard Luce, Hansard, Oral Answers, 18 November 1981, c.274.

## APPENDIX I

### Publications of the FAC

#### Session 1979-80

AFGHANISTAN: CONSEQUENCES FOR BRITISH POLICY OF THE SOCIETY INVASION  
First Report and Evidence (Olympic Games Aspect), HC 490;  
First Special Report (Government reply to above), HC 697;  
First Report and Evidence (whole subject), HC 745,  
(Government Reply, Cmnd. 8608).

#### FCO ORGANISATION

Second Report and Evidence, HC 511  
(No Government Reply required).

OVERSEAS STUDENTS' FEES: AID AND DEVELOPMENT IMPLICATIONS  
Third Report, HC 553,  
(Government Reply, Cmnd. 8010)

#### DEVELOPMENT DIVISION

Fourth Report, HC 718  
(Government Reply, Cmnd. 8130).

EVIDENCE was also published, without a Report, on:

Council of Europe (HC 362 -xiii);  
FCO and British Council Estimates (HC 362 - xviii);  
Government Response to the Brandt Commission Report (HC 362-xx).

The Committee's MINUTES for the Session was published as HC 843.

EVIDENCE was published by the Sub-Committee on:

Energy Implications of the Brandt Commission Report (HC 407 -xiii and  
xiv).  
Brandt Commission Report: Poorest Countries (HC 407 - xv)

#### Session 1980-81

#### BRITISH NORTH AMERICA ACTS: THE ROLE OF PARLIAMENT

First Report, HC 42  
Evidence, HC 42 I and II  
Second Report, HC 295  
(Government Reply, Cmnd. 8450)

#### TURKS AND CAICOS ISLANDS: HOTEL DEVELOPMENT

Third Report, HC 26 I and II  
(Government Reply, Cmnd. 8386)

#### SUPPLY ESTIMATES 1981-82 (Class II, Votes 1, 2, 3, 5 and 6)

Fourth Report, HC 343 I and II  
(Government Reply, Cmnd. 8366)

MEXICO SUMMIT - THE BRITISH GOVERNMENT'S ROLE IN THE LIGHT OF THE  
BRANDT COMMISSION REPORT

Fifth Report, HC 211 I and II

(Government Reply, Cmnd. 8369)

ZIMBABWE: THE ROLE OF BRITISH AID IN THE ECONOMIC DEVELOPMENT OF  
ZIMBABWE

Sixth Report, HC 117

(Government Reply, Cmnd. 8438)

GIBRALTAR: THE SITUATION OF GIBRALTAR AND UK RELATIONS WITH SPAIN

Seventh Report, HC 166

(Government Reply, HC 374. Produced as First Special Report,  
1981-82).

EVIDENCE was published, without any Report on:

Foreign Affairs (General) (HC 21-i and v)

Afghanistan (HC 41 - ii)

Poland (41 - iii)

Arms Sales (41 - iv)

Namibia (41 - vi)

The Committee's Minutes for the Session will be published as HC 482.

Evidence was published by the Sub-Committee on:

Overseas Students Fees: Monitoring Effects on Aid and Development (HC  
421 i and ii).

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BRITISH NORTH AMERICA ACTS: THE ROLE OF PARLIAMENT (THIRD REPORT)

First Report, HC 128

EVIDENCE has been published on:

Caribbean and Central America (HC 47 - i, ii, iii, iv, v and vi)

Foreign Affairs (General) (HC 48 - i)

EVIDENCE has been published by the Sub-Committee on:

Commonwealth Development Corporation (HC 71 i, ii and iii)

SUPPLY ESTIMATES

Second Report, HC 330

Third Report, HC 406

Session 1982-83

WILTON PARK

First Report, HC 117

TURKS AND CAICOS ISLANDS: AIRPORT DEVELOPMENT ON PROVIDENCIALES  
Second Report, HC 112

WILTON PARK: SUPPLEMENTARY REPORT  
Third Report, HC 250

(Source: First Report from the Liaison Committee, Session 1982-83, HC  
92, pp. 81-82.)

## THE DEFENCE COMMITTEE: CAN IT HOPE TO AFFECT POLICY?

R. L. Borthwick

The terms of reference of the new select committees indicate something of the breadth of their responsibilities: they are appointed "to examine the administration, expenditure and policy of the principal government departments and associated public bodies...". Such a specification inevitably raises the familiar problem of whether policy can be distinguished from administration and whether either is clearly separable from expenditure. A second general problem arises in approaching the new committees from the angle of their impact on policy: namely the extent to which it is sensible to distinguish between different levels of policy in terms of their generality or specificity.

In addition to these general, and probably tedious, considerations there are a number of others which would seem to affect particularly the field of defence. The first of these is simply that defence matters are likely to be more secret than most other areas of government and, to the extent, less easily influenced by relative outsiders (or even insiders).(1)

A second problem may be that much in the defence field, especially for a country like Britain, is a matter of agreements with and obligations to other states. Commitments of that kind are likely to be less easily influenced by committees of the legislature. A

third consideration, which may follow from the previous two, is that defence differs from the domestic scene in the sources of information and inputs which a committee of the representative assembly is likely to encounter. Not only is a much higher proportion of the information (facts as opposed to opinion) likely to be in the hands of the government and its officials but also the field is one where interest groups are less likely to provide the variety of viewpoints that are evident in other fields. A related problem is that a great deal of the subject matter of defence is technical in nature and this may serve to inhibit comment and criticism from non-experts.(2)

A further consideration is that, and perhaps especially for a country like Britain, defence policy may be largely an extension of foreign policy. If this is true then in so far as the ends are prescribed, choices in defence may be limited to the fulfilment of those ends. The opposite point of view that "Small nations do not have a foreign policy. They have defence policy."(3) would, on the face of it, seem less applicable to the British case. Whichever of these is more accurate there is the additional argument that defence is at the heart of the state looked at from a Hobbesian point of view. Along with the need for internal stability and order, protection against external aggression is fundamental and to that extent criticism may be more difficult than in other areas. If the external threat appears not to be immediate there may be no great difficulty; if the reverse is true then any committee is likely to feel inhibited in its advice or comment.



Finally in this rather arbitrary list there is the point that with defence there is a particular difficulty for parliamentary investigation. This is that comment is difficult without information but the acquisition of that information may make comment more difficult. In other words defence represents one of the classic dilemmas of the desire to control the executive: the constraints of secrecy without which useful knowledge may not be acquired may become the restraints on criticism without which the exercise may not be useful.

That these kinds of problems are not peculiar to Britain is suggested by some foreign experience. Two examples are offered. The first, from a country where defence is an inescapable part of daily existence - Israel, suggests that the part that a committee of the legislature can play is strictly limited. Most of the work of the Defence and Foreign Affairs Committee of the Knesset, for example, is ostensibly secret and the Committee publishes little of its activities.(4) On the other hand the record of the US Congress, usually held out as a model for committee scrutiny and investigation, suggests that, even where the threat is less immediate than it is in Israel, scrutiny of defence policy is not easy. The classic statement of this (though perhaps less valid than it used to be) was that the House of Representatives Armed Services Committee was "primarily a real estate committee".(5) A more recent study suggests that Congress can indeed have an impact on important aspects of policy in the defence field but that also this impact is limited by two considerations: first "Even with institutional powers and expert

research assistance the committees can survey in depth and influence only a small part of the defence budget" and secondly, "Members of the House and Senate Armed Services Committees have long been pro-defence, have been particularly responsive to service needs, and have usually represented constituencies with substantial defence interests."(6)

How do these considerations affect the operations of the House of Commons Defence Committee? Perhaps the starting point is to consider the Committee itself. Its membership of 11 (currently 6 Conservative, 4 Labour and 1 SDP) could be said to reflect some broad consensus about defence. This is achieved (or at least aimed for) in a number of ways. The first and most obvious is that "the spectrum of opinion on defence in the House is not fully represented" on the Committee.(7) I have no means of know whether individuals have been kept off the Committee because of their views or behaviour but it is arguable that the Committee can work only if there are some understandings about the limits of differences of opinion and, more seriously, if the Committee is seen as responsible. Since most of the Committee's investigations involve matters with a security element, those investigations would be impossible were that security breached. Because the work of the Committee is inevitably closely bound up with the Ministry of Defence, the Committee cannot help but be aware that co-operation from that quarter would be less forthcoming if information made available were misused.

These factors are reinforced by the style of the Committee's working which seems to stress co-operation within the Committee and a

desire for consensus whether this be in the choice of topics for investigation or in the Reports eventually arrived at. An important element in this has undoubtedly been the style of chairmanship which, although in the hands of three very different individuals so far, has aimed to achieve good working relations on the Committee.

Some of these considerations, and their limits, are shown in what has, so far, been the Committee's boldest excursion into the policy field, namely their investigation into Strategic Nuclear Weapons and specifically the question of a replacement for the Polaris system. The topic is one that the Government would probably have preferred the Committee not to have dealt with. On the other hand a Defence Committee which avoided the issue would undoubtedly have lost some of its credibility. Attempts were made at the outset to limit the Committee's terms of reference for this inquiry by excluding consideration of alternative forms of replacement and the costs involved. Had this attempt succeeded, the investigation would have been severely circumscribed from the start. A further effort to limit the inquiry was made towards the end of the Committee's investigation, when Parliament had approved the choice of Trident to replace Polaris, by trying to have the Committee's final Report confined to the implementation of that decision. Although this attempt was not successful in its full form, nevertheless the Committee found itself with a first paragraph for its final Report even though it had not quite finished taking evidence.

This inquiry reveals another problem for the Committee: that of

having an impact at the right time. The Committee decided to examine the replacement of Polaris in March 1980 and began work on this towards the end of June of that year. The Government's decision to adopt Trident as the replacement was announced in mid-July and thus the Committee's work was conducted virtually from the outset in the knowledge that the effective decision had already been taken. The actual approval by Parliament of this decision did not come until March 1981 but even so it was before the Committee had completed its work, though the Committee had by then taken the bulk of its evidence. In order to provide something for the debate the Committee published a Special Report drawing attention to the evidence already available. Thus at two stages it could be argued that the Committee's efforts were overshadowed by Government decisions and particularly in the second case, given that Parliament had already waited eight months to pass judgement on the Trident decision, it is hard to see why the Committee were not allowed to complete their Report before the matter was decided by the Commons.

In the event the Committee was, as expected, split along party lines in its final Report. Three Labour members produced in effect a minority Report which was critical of the decision to adopt Trident as well as drawing attention to areas of ambiguity over its financial implications. No doubt the sponsors of this proposed Report were in no way surprised when it was defeated and the formal Report of the Committee was one endorsed by its Conservative members. Not surprisingly either this 'majority' Report endorsed the choice of Trident though it too felt that not enough information had been

forthcoming about the effects of this decision on the rest of the defence programme or about the likely eventual costs of the Trident programme.

As far as impact on policy is concerned it could be argued that nothing is lost by having a divided committee. In one sense the only possible impact the Committee could have had was in the evidence it had gathered and published prior to the March '81 debate which endorsed the Government's decision to adopt Trident. To that extent majority or minority Reports later were irrelevant. On the other hand the topic is one which retains political importance and is likely to do so for much of the 1980s; viewed in that light not only the evidence gathered but also the two sets of arguments are matters which will no doubt form important elements in any future debates.

The Strategic Nuclear Weapons inquiry represents the Defence Committee operating at the highest level of policy. Other inquiries, in so far as they have a concern with policy, do so at somewhat lower levels. Examples of this would be aspects of procurement policy covered in the Committee's other major inquiry - into 'Ministry of Defence Organisation and procurement', or policy towards the dissemination of information as dealt with in the inquiries into the operation of 'The D Notice System' and 'The Handling of Press and Public Information during the Falklands Conflict'.

Very broadly and extremely impressionistically one might call these inquiries with a concern for middle level policy. In this category too might go investigations into 'Allied Forces in Germany' as well as

the annual (and sometimes very rushed) examinations of the Defence White Paper. At the risk of oversimplifying for the sake of neatness of categories there may be a third level where the concern is with even more technical issues; for example, the inquiries into Ammunition Storage Sites, RAF Pilot Training, and the Sting Ray Lightweight Torpedo.

What is one to make of all this? The Defence Committee is undoubtedly hardworking (especially given its inability to have formal sub-committees) and serious about its tasks. There is some evidence that a place on the Committee is prized, especially among Conservatives. Although there has been some turnover of membership, particularly over the past year or so, it is perhaps worth noting that the Committee retains a 'core' of seven of its founder members. Among specialist advisers a similar nucleus is evident of four established advisers who have been attached to the Committee since its first year.

The Defence Committee's predecessor, the Defence and External Affairs Sub-committee of the Expenditure Committee, was criticised for failing to achieve "either the goals it set for itself (to scrutinize value for money more effectively) or the more grandiose aspirations of the maximalists on the 1968/69 Procedure Committee (the control of executive policy-making)".(8) Another observer comes to a not dissimilar conclusion: "The need for consensus effectively prevents the Defence Sub-committee from being much more than a body that collects information on the Government's expenditure plans and casts a managerial eye over defence affairs."(9) Might the same be said of

the Defence Committee? Some parallels are apparent but it could be argued that the Committee has chosen a practical path given the political realities and the perceived need to aim for internal cohesion.

It is difficult to measure the effect of the Committee's work; in the words of one observer: "The Committee has been influential and shown that....'it can draw blood'." (10) Undoubtedly the Committee has had an effect beyond that represented by the, often rather brief, formal responses in the shape of Government Observations on its Reports. One is then in a hazy area talking of affecting the climate of opinion, of officials being mindful of the Committee and of debates in the House being influenced by the Committee's work. In all of these there is likely to be substance. The Chairmen of the Committee have tended to see its prime duty as being to inform the rest of the Commons about defence issues. Undoubtedly there is more scrutiny and more information available thanks to its work.

Inevitably the Committee is circumscribed - events, as we have seen, sometimes overtake its efforts and the timetable of Governments does not always assist the Committee's work. Its recent life has been dominated by the Falklands issues where it was, to some extent, elbowed off centre stage by the Franks Committee. Despite this the Committee has produced a useful study of the handling of information during the conflict and has virtually completed its study of the future defence of the Islands.

In the end one is forced back to question about the role of select committees in general; between, on the one hand, their acting as "the principal method of reasserting parliamentary control over the executive..." and, on the other, acting as "generators of advice and information...."(11) It seems to me to be no criticism of the Defence Committee that it has largely opted for the latter role.



#### FOOTNOTES

1. Witness the development of the Atom Bomb after World War II or perhaps more recently the Chevaline project.
2. This point, in relation to the US House of Representatives Armed Services Committee is made in L.A. Dexter, 'Congressmen and the Making of Military Policy' in R.L. Peabody and N.W. Polsby, New Perspectives on the House of Representatives (2nd ed.).
3. Moshe Dayan quoted in Y. Peri, Between Battles and Ballots p.20.
4. See Peri, Chap.8.
5. Dexter, p.180.
6. A. Cox and S. Kirby, 'Innovations in Legislative Oversight of Defence Policies and Expenditure in Britain and America' in The Parliamentarian Vol. LXI pp. 215-29. (p.219).
7. B. George, Select Committees of the House of Commons and National Security, paper presented of PSA Annual Conference, April 1982.
8. Cox and Kirby p.223.
9. M. Hyder, 'Parliament and Defence Affairs: The Defence Subcommittee of the Expenditure Committee' in Public Administration Vol. 55 pp. 59-78. (p.75).
10. George p.19.
11. N. Johnson, 'Select Committees as Tools of Parliamentary Reform: Some Further Reflections' in S.A. Walkland and M. Ryle, The Commons Today p.224.

DOES ACTIVITY EQUAL SUCCESS? - THE WORK OF THE SELECT  
COMMITTEES ON EDUCATION AND THE SOCIAL SERVICES.

Michael Rush

Introduction

In the debate leading to the establishment of the fourteen departmental select committees in 1979 Norman St. John Stevas, then Leader of the House of Commons, stated: '...we are embarking upon a series of changes that could constitute the most important parliamentary reforms of the century'.(1) Cynics might regard such a description as no more than government cant, the less cynical as hyberbole, but this does less than justice to St. John Stevas, who has continued his pursuit of parliamentary reform from the backbenches by introducing the widely-supported Parliamentary Control of Expenditure (Reform) Bill. The argument between those who see select committees as the key to parliamentary reform and those who see them at best as a sop to the reformers, at worst a distraction from, even a usurper of the Chamber as the proper focus of business, is a long-standing one. Those who support the extensive use of investigatory select committees regard the setting of the new departmental committee system as a major step forward and it is not difficult to see why they should take this view.

For the first time in its history the House of Commons could be said to have a system of investigatory committees covering the full

range of government departments, with the important exceptions of the Lord Chancellor's Department and the Law Officers' Department.(2) Of course, it can be argued that the immediate predecessors of the departmental committees, the specialised sub-committee's of the Select Committee on Expenditure, amounted to the same thing under a different guise, but the Expenditure Committee differed in at least two important ways. First, its coverage was less extensive and most of its sub-committees had to cover a much wider range of governmental responsibilities than each of the departmental committees. Second, as the direct successor of the Estimates Committee, the Expenditure Committee could never quite make up its mind how much it was scrutinising government policy in general as opposed to public expenditure in particular. Nonetheless, the Select Committee on Expenditure undoubtedly laid the foundations for the establishment of the new departmental committees and the advocates of a wide-ranging select committee system have achieved their aim.

The argument over their utility and effectiveness will continue to rage, however, and it could be argued that any attempt to assess the impact of the departmental committees is premature. After all, they were deliberately set up for the duration of a Parliament and not re-established session by session. Moreover, even a Parliament provides only a maximum of five years' experience and this is seen by some observers as too short a period over which to judge such a system. On the other hand, investigatory select committees are hardly a new phenomenon at Westminster and an interim assessment could prove valuable, not least because, whatever the outcome of the next

election, a decision about the future of the departmental committees will have to be made at the beginning of the next Parliament. A more serious limitation on this paper is that it is an assessment based on limited evidence in terms of both parliamentary sessions and the stage that the research concerned has reached.

There is one further limitation that must be mentioned and that is that the paper is based on two committees - Education, Science and the Arts and Social Services. It so happens that these two committees have some features in common, most obviously perhaps that both are chaired by Opposition MPs, but the similarity goes further. Both could be described as being amongst the busier of the fourteen departmental committees as measured by the number of meetings and number of major reports produced (see Table 1).

The figures shown in Table 1 are further reinforced by noting that the Education and Social Services Committees are amongst the committees with the highest annual expenditures, particularly on the employment of specialist advisers and printing and publishing costs.(3) In addition various patterns of behaviour relating to attendance and participation have emerged and, without comparable evidence relating to other committees, there is no way of knowing whether in this and other respects these two committees are typical of the departmental committees in general.

Nevertheless, bearing in mind these limitations, some useful observations can be made and, if definitive conclusions cannot

TABLE 1

Number of meetings of and major reports produced by departmental select committees, 1979-82.

Committee	No.of meetings ( <u>excl.</u> sub- comms.)	Rank order	No.of meetin ( <u>incl.</u> sub- comms.)	Rank Order	No.of major reports	Rank order
Agriculture	81	14	81	14	3	14=
Defence	123	3	123	6	8	7=
Education	140	1	140	4	13	2=
Employment	95	11	95	12	9	6
Energy	108	6=	108	8	7	9=
Environment	86	13	86	13	4	12=
Foreign affairs	108	6=	199	1	12	4=
Home Affairs	90	12	181	2	13	2=
Industry & Trade	100	8=	100	9=	12	4=
Scottish Affairs	97	10	97	11	7	9=
Social Services	125	2	125	5	8	7=
Transport	109	5	109	7	8	7=
Treasury & Civil Service	118	4	178	3	14	1
Welsh Affairs	100	8=	100	9=	4	12=
Mean	105.7		123		8.7	
Median	104		108.5		8	
Range	81-140		81-199		3-14	

Source: Annual select committee returns 1979-82 (HC 217, 1980-81 for 1979-80; HC 245, 1981-82 for 1980-81; and HC 183, 1982-83 for 1981-82) and Liaison Committee Report, 'The Select Committee System', Appendix to Part I (HC 92, 1982-83, pp. 29-33).

necessarily be reached, some of the important questions that need to be considered can be posed.

#### The Work of the Education and Social Services Committees

Both committees had predecessors amongst the sub-committees of the Select Committee on Expenditure, although to describe them as linear descendants of those sub-committees is stretching the evidence somewhat. Even so, some links exist: both the current chairman, Christopher Price (Labour Member for Lewisham West) of Education and Renee Short (Labour Member for Wolverhampton North-East) of Social Services, were members of the respective Expenditure sub-committees (Renee Short being chairman) and one member of the Social Services Committee (Nicholas Winterton, Conservative Member for Macclesfield) was also a member of the Expenditure Committee's Employment and Social Services Sub-Committee; and the first investigation carried out by the Social Services Committee was one started by its Expenditure Committee predecessor - an investigation into perinatal and neonatal mortality. It would be misleading, however, to suggest any significant degree of continuity, although some account of the investigations undertaken by the sub-committee was obviously taken into consideration when the new committees came to choose their topics of enquiry.

In general, therefore, both the Education and Social Services Committees can be regarded as basically new entities. Each committee has nine members - five Conservatives, three Labour (including the

chairman) and one Plaid Cymru member in the case of Education and five Conservatives and four Labour (including the chairman) in the case of Social Services. As noted earlier, it was intended that the new committees would be established for a full Parliament rather than session by session and members were appointed on that basis. Inevitably there has been turnover, though in the case of Education it has been very low: no changes in the first two sessions (1979-80 and 1980-81) and only one in the third (1981-82). Turnover on the Social Services Committee has been somewhat higher over the three sessions, involving four out of the nine members, but one of these can be discounted in that he ceased to be a member after only two meetings at the very start of the committee's life in the 1979-80 session, resulting in a turnover of 33.3 per cent - certainly lower than a number of other committees. Attendance has varied over the three sessions, as the figures in Table 2 show.

Within the attendance patterns shown in Table 2 there are significant variations in committee participation as measured by the questioning of witnesses. Both committees have very active chairmen who tend to dominate questioning to a considerable degree and detailed analysis of the 1979-80 and 1980-81 sessions shows that questioning in most evidence-taking sessions is carried out disproportionately, often resulting in a very high proportion of the questions being asked by only three or four committee members, including the chairman. The first two sessions also showed a tendency for Conservative members to participate more than Labour members, taking into account their proportionate membership of the committees.

TABLE 2

Rates of attendance at meetings of Select Committees on Education, Science and the Arts and the Social Services, 1979-82.

	1979-80	Session 1980-81	1980-82
	%	%	%
A. <u>Education Committee</u>			
Mean attendance	79.3	67.7	72.1
Median attendance	80.0	70.5	70.6
Range	55.6-95.6	40.9-95.5	43.1-98.0
Mean Conservative attendance	79.6	73.6	68.1
Mean Labour attend. ( <u>incl.</u> chairman)	86.7	56.8	91.5
Mean Labour attend. ( <u>excl.</u> chairman)	82.2	47.7	88.3
B. <u>Social Services Committee</u>			
Mean attendance	80.1	62.6	68.9
Median attendance	82.4	71.2	76.9
Range	58.8-97.1	27.3-98.1	30.8-92.3
Mean Conservative attendance	79.4	62.2	61.8
Mean Labour attend. ( <u>incl.</u> chairman)	81.0	63.1	79.4
Mean Labour attend. ( <u>excl.</u> chairman)	74.5	54.4	75.2

Source:

Annual select committee returns (HC 217, 1980-81 for 1979-80; HC 245, 1981-82 for 1980-81; and HC 183, 1982-83 for 1981-82).



However, whether these patterns are confirmed for the 1981-82 and subsequent sessions awaits further analysis. Moreover, they are not central to the theme of this paper, although they do demonstrate that the committees have developed discernible patterns of behaviour.

Of more importance to this paper is the use of the two committees have made of specialist advisers and the range of investigations they have undertaken. Quite apart from an increase in the provision of staff from the Clerk's Department, the new select committees have been allowed to make much greater use of specialist advisers than was the case with the Expenditure Committee or any of the earlier Crossman committees.(4) The Education Committee has made extensive use of specialist advisers, having appointed no fewer than eighteen, and has used them in a number of different ways. Thus one adviser was employed on an extensive part-time basis and does a good deal of the Committee's "donkey work", several others were appointed for the duration of the 1979-83 Parliament and were used on an ad hoc basis, and others have been appointed for specific investigations. Advisers have been used to guide the committee in preparing its reports. The Social Services Committee has made less extensive use of specialist advisers, having made appointments only in relation to specific enquiries, but, like Education, has found them invaluable in the preparation of questions and reports. In addition, the chairman of the Social Services Committee has said that the advisers have been helpful in 'transmitting the committee's work and concern to the world outside Westminster' and in monitoring 'the implementation of their

recommendations in particular areas.'(5) In interviews with the author both committee chairmen have expressed satisfaction with the provision of specialist advisers, but pointed out that there is greater pressure on the committee's administrative staffs.

Table 3 shows the range and number of topics investigated by the two committees in the three sessions from 1979 to 1982. The committees have adopted slightly different patterns of enquiry resulting in the Education Committee undertaking more enquiries per session than Social Services. This is partly because the former has adopted the practice of using an informal sub-committee to conduct an enquiry concurrently with the committee's main investigation of the session and partly because Education has shown a greater propensity to undertake topical enquiries at short notice. Education has, by the use of an informal sub-committee, circumvented the refusal of the government and the House of Commons to allow most of the new departmental committees to appoint sub-committees. However, if output is gauged in terms of printing as a measure of volume of evidence and reports, then Social Services has a somewhat larger output than Education in each of the three sessions.

The Education Committee has developed the practice of conducting one major enquiry a session, one lesser or subordinate enquiry through an informal sub-committee and a number of short, usually topical or reactive enquiries. In addition, the committee has held one or more general policy or scrutiny sessions with the minister and some of his

TABLE 3

Patterns of investigations by the Select Committees on  
Education, Science and the Arts and the Social Services,  
1979-82.

Session	Major enquiries	Subsidiary enquiries	Short enquiries
<u>A. Education</u>			
1979-80	The funding and organisation of courses in higher education	Information storage & retrieval in the British Library.	Overseas students' fees; The New British Library site; The future of the Proms; Scrutiny session.
1980-81	The secondary school curriculum & examinations (cont. in 1981-82).	Private & public funding of the arts.	University funding (UGC cuts); The future of the <u>Times</u> supplements; Govt. expenditure plans. Scrutiny sessions(2)
1981-82	The secondary school curriculum & examinations. Science policy.	Information technology.	The retention of works of art in the UK; The future of the Theatre Museum; The school meals service; Govt. expenditure plans. Scrutiny sessions(2)
<u>B. Social Services</u>			
1979-80	Perinatal & neonatal mortality (inherited from Expenditure Committee).	Payment of social security benefits.	Govt. expenditure plans.
1980-81	Medical Education	-	Govt. proposals on maternity benefits. Govt. proposals on sickness benefits. Govt. expenditure plans.
1981-82	Age of Retirement.	-	UGC cuts & medical services; Govt. expenditure plans.

senior officials each year and, since 1980-81, has also conducted an annual enquiry into the government's expenditure plans for education, science and the arts. The Social Services Committee has developed a similar pattern in that it normally conducts one major enquiry each session, together with short enquiries on topical matters and an annual examination of government expenditure plans for health and social security, but has not developed the practice of conducting a subordinate enquiry through an informal sub-committee.

It is clear that by whatever measures are applied both committees are very active and have sought to cover a wide range of topics within their departmental remits. Moreover, both have tried to deal specifically with government expenditure rather than using it merely as a hook on which to hang specific policy investigations or allowing expenditure to dictate the policies each committee investigates. To this extent both committees have probed more extensively and possibly more deeply than their immediate predecessors, if only because they have narrower remits and are more adequately staffed than the Expenditure sub-committees. It is less clear, however, whether these two committees and the other new departmental select committees have fulfilled the hopes of the reformers, or, if it is argued that any firm judgement is premature, whether those hopes are on the way to being fulfilled.

#### Does activity equal success?

There are a variety of ways in which the effectiveness of the new

departmental select committees can be judged. The most obvious is to ask whether the government accepts or rejects their recommendations by adopting proposals where none existed before, or substituting committee proposals for its own, or modifying its own proposals in the light of committee recommendations. An initial answer to this question can be found by looking at the formal responses made by the government to committee reports. The simple statistical results of such an exercise are shown in Table 4.

TABLE 4

Government responses to recommendations from the Select Committees on Education, Science and the Arts and Social Services, 1979-82.

Response	Committee					
	Education		Social Services		Total	
	n	%	n	%	n	%
Accepted	27	28.4	35	29.2	62	28.8
Keep under review	44	46.3	70	58.3	114	53.0
Rejected	24	25.3	15	12.5	39	18.1
Total	95	100.0	120	100.0	215	99.9

The Education and Social Services Committees could claim to be reasonably successful if the negative test of outright rejection is used, further bearing in mind that 'keep under review' covers a multitude of sins, but should not be regarded simply as a covert rejection. The Social Services Committee in particular can claim to have had a major influence on the Government's attitude towards lowering the retirement age, following the Committee's report on the

age of retirement.

Such an exercise, however, gives only a partial and somewhat simplistic picture of the success or otherwise of committees in influencing government policy. First, it is a quantitative rather than a qualitative exercise and a crude and often subjective one at that: much depends on the nature of the recommendations and those which are accepted. Committee recommendations may be primarily concerned with matters of detail or with broad policy directions or, as is more likely, a mixture of both, and committee impact and influence would need to be assessed in this respect. Is the government more likely to accept detailed rather than broad policy recommendations? Second, where the government openly accepts a committee recommendation influence may be properly assigned to the committee, but it is an assumption that the committee has been the only influence or even the major influence on the matter. A cynic might argue that at best the committee must have been pushing at an open door or at worst the government had already made up its mind, but wished the committee to think it had had some influence. Such may be the case in some instances, but it is just as much an assumption to assume that it is always thus. The development of policy and the decision-making process can be labyrinthine and governments are under no obligation to acknowledge who influenced them over what or disclose how a particular decision was reached. Nonetheless, if only because they publish evidence and issue reports, at very least committees can normally claim to be part of the policy input.

It is, in fact misleading to regard committees simply as an ad hoc part of a linear policy-making process in the sense that committees at least become part of such a process on those matters which they choose to investigate. As far as government policy is concerned committees sometimes investigate matters which are not government responsibility - the Education Committee, for example, investigated the future of the Promenade Concerts and the future of the Times supplements. In other cases committees investigate policies for which the government has only partial responsibility, particularly in relation to detailed matters - the Social Services Committee's investigations into the UGC cuts and medical services and into perinatal and neonatal mortality being cases in point. In some instances committees are reacting to specific government proposals in whose formulation they have not been involved, such as the Social Service Committee enquiries into the arrangements for the payment of various social security benefits. Committees also take major initiatives, however, such as the Education Committee's investigation into the funding and organisation of higher education and the secondary school curriculum and examinations, or the Social Services Committee's studies of medical education and the age of retirement. Whether such investigations result in major policy proposals needing legislation or a whole series of detailed recommendations, or both, varies from case to case.

The impact of committee enquiries and recommendations, however, needs to be judged not just by their influence on the government, but by their influence on other public authorities - the UGC and LEAs, for

instance, in the case of education and regional and area health authorities in the case of social services. In replying to committee recommendations the government sometimes undertakes to commend or draw to the attention of public authorities particular committee recommendations. In addition, committee reports may have an impact on those working or researching in the fields investigated and the chairmen of both the Education and Social Services Committees have claimed widespread interest in the activities of their committees amongst appropriate organisations and individuals.(6) The committees give such outside interests the opportunity to comment publicly upon issues and proposals, to suggest alternative policies and to publicise their views - an opportunity which appears to have been taken up with considerable enthusiasm. Thus whatever direct impact committees may or may not have on government policy, they certainly provide more extensive channels of information and publicity than previously existed, both for inputs from the community and for the dissemination of information to the community at large. The government thus finds itself in a more open policy-making process than previously existed.

That, however, is far from saying that the hopes of parliamentary reformers have been realised, since it remains very much a matter of opinion how much more open the policy-making process is as a result of the creation of the new departmental committees. The most obvious gap is in the area of legislation in that, unlike the standing committees of the Canadian House of Commons,(7) the departmental committees do not deal with the committee or any other stage of public bills, nor are they involved in any pre-legislative stage. In 1980



the Government did announce its intention of establishing ad hoc special standing committees which could hear evidence at the beginning of the committee stage, but these have been used sparingly. Two such special standing committees were used for bills that fell within the remits of the Education and Social Services Committees and in both cases the evidence-taking sessions were chaired by the chairman of the relevant select committee. These were the Education (Special Provisions) Bill and the Mental Health (Amendment) Bill in 1982, but in the first instance only one other member of the Education Committee was also a member of the special standing committee and in the second only two other members of the Social Services Committee were members of the special standing committee. More generally, it can be argued that the new departmental select committees still have a long way to go before they meet Bernard Crick's now famous definition of parliamentary control:

Control means influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiative; and publicity, not secrecy.(8)

Crick's definition raises the whole question of what exactly Parliament in general and select committees in particular should be doing. Most reformers have explicitly denied any desire to introduce a separation of powers, but in so doing they are demanding a greater subtlety than majoritarian parliamentary government in Britain has thus far shown itself capable of developing. Philip Norton has in effect argued that a degree of subtlety has developed in recent Parliaments, but he has yet to demonstrate that the 'Norton view'

dominates or constitutes the mainstream of parliamentary behaviour.(9) Indeed, David Judge has clearly demonstrated just how much parliamentary norms militate against specialisation amongst backbench MPs, surely a crucial prerequisite for the fulfilment of Crick's concept of parliamentary control?(10)

Yet if the fulfilment of Crick's concept is to be adequately tested and the performance of the new select committees to be adequately assessed, then a more subtle approach to the examination of the work of the committees is necessary. Account must be taken not only of the direct relationship between the committees and the government in the form of committee recommendations and government responses, but of their work in a wider context as forums of discussion, as channels of information and publicity, as scrutinisers of public policy in the widest sense, and as an important part of Parliament's means of ensuring that the government gives an account of its stewardship of public affairs. All too often committees are seen in a simplistic light: committees that disagree with the government are right; committees that agree with the government are weak. In some respects the policy-making process is straightforward enough, but in others it is tortuous, even amorphous, and in studying policy-making it is all too easy to concentrate on the tangible at the expense of the less tangible.

#### FOOTNOTES

1. HC Debs., vol. 969, 25 June 1979, c. 35.
2. The Liaison Committee of select committee chairmen recently recommended that these two departments be brought within the remit of the Home Affairs Committee (HC 92, 1982-83, para. 24).
3. See annual select committee returns - HC 217, 1980-81 for 1979-80; HC 245, 1981-82 for 1980-81; and HC 183, 1982-83 for 1981-82.
4. On the staffing of select committees see Michael Rush and Malcolm Shaw (eds.), The House of Commons: Services and Facilities, Allen & Unwin, London 1974, pp. 56 and 212-20 and Douglas Millar, 'Procedural Services and Select Committees' in Michael Rush (ed.), The House of Commons: Services and Facilities, 1972-82, Policy Studies Institute, London, 1983 (forthcoming).
5. Chairman's report on the Social Services Committee, para. 12 in Liaison Committee Report, 'The Select Committee System', HC 92, 1982-83, pp. 113 and 114.
6. Liaison Committee Report, pp. 47 and 112.
7. See John B. Stewart, The Canadian House of Commons: Procedure and Reform, McGill-Queen's University Press, Montreal, 1977, Chapters 6 and 7 and Michael Rush 'Committees in the Canadian House of Commons' in John D. Lees and Malcolm Shaw (eds.), Committees in Legislatures: A Comparative Analysis, Duke University Press, Durham NC, 1979, pp. 191-241.
8. Bernard Crick, The Reform of Parliament, 2nd ed., Weidenfeld & Nicolson, London, 1968, p. 80. original italics.
9. See Philip Norton, The Commons in Perspective, Martin Robertson, London, 1981, Chapter 9; Dissension in the House of Commons, 1945-74, Macmillan, London, 1975; Dissension in the House of Commons, 1974-79, OUP, London, 1980; and Conservative Dissidents, Temple Smith, 1978.
10. David Judge, Backbench Specialisation, Heinemann, London, 1981.

## INSIDE THE ENERGY COMMITTEE

Martin Burch

The Energy Committee's remit under SO No. 86A is to examine the expenditure, administration and policy of the Department of Energy and associated public bodies including similar matters relating to Northern Ireland. This remit covers the major nationalised energy supply industries (coal, oil, electricity and gas) and the United Kingdom Atomic Energy Authority. Throughout the 1979-1983 Parliament the committee was chaired by Mr. Ian Lloyd and has a membership of eleven of which, in June 1983, six were Conservative, four Labour and one SDP.(1) There has been a relatively high continuity in membership and in February 1982 the annual average turnover was estimated at 9 per cent which ranked the committee fifth amongst the fourteen new select committees.(2) By June 1983 seven of the original members remained, though there had been seven changes amongst the other four members.(3) Committee attendance reached a high 83 per cent turnout in the 1979-80 parliamentary session, declined to 72 per cent in 1980-81 and fell further to 53 per cent in 1981-82. This fall in crude attendance figures in fact disguises an increase in the number of meetings held, which in turn reflects a change in the informal operation of the committee for following their first major enquiry into nuclear power members generally divided into two informal, ad hoc sub-committees. This increased the output of the committee and ensured that members' time was used more effectively.

By June 1983 the Committee had produced fourteen reports and one major inquiry awaited publication. Five of these reports were either procedural or simply appended to evidence without containing any substantive comment.(4) The remaining ten fall into two categories. First, long term inquiries dealing with a subject in depth; these have included investigations into government policy on the nuclear power programme, North Sea oil depletion policy, energy conservation in buildings, combined heat and power and (not yet published) the Department of Energy's strategy for research and development.(5) Secondly, short, sharp inquiries often a topic of current and immediate interest and involving the examination of a limited range of witnesses and evidence. Into this category can be placed the reports on pit closures (an inquiry which took six weeks from initiation to publication), industrial energy pricing and the Department of Energy's 1981-82 estimates.(6) The committee has also undertaken follow-up investigations into the subjects of its earlier reports as in the case of the tax aspects of North Sea oil depletion and energy conservation in buildings particularly in the light of the 'Rayner' review of the government's administrative machinery for, and expenditure on, energy conservation.

Overall the first eleven reports published up to the end of the 1981-82 session amounted to 281 pages of report and recommendations, derived from 48 sessions of interviews with 73 major witnesses and 196 memoranda published in appendices. During this period the committee made seven journeys overseas and had the benefit of nine advisers. The bulk of this activity and indeed the first full year of the

committee, was taken up with the investigation into nuclear power which alone accounts for 61 per cent of the pages of report produced, 38 per cent of the witnesses heard and 52 per cent of the evidence sessions undertaken.

What can we make of these facts about one committee taken in isolation? There are at least two areas of interest which might be developed. On the one hand attention could be given to the substantive work the committee has undertaken including a consideration of what that amounts to in terms of achievement and influence. On the other, attention could be focussed upon the way the committee has gone about its business including the manner of its operation and the patterns of influence it has displayed. In this paper I concentrate on the latter approach by considering the procedural operation of the Select Committee on Energy, though, in the course of so doing, I shall also make some mention of the inquiries it has undertaken.

An approach to analysing the operations of the Energy Committee can be drawn from two linked sets of writings: those dealing with U.S. Congressional committee politics and those concerned with the politics of issue management and development. Studies of Congressional committees, though not wholly pertinent to the situation in the House of Commons, do offer some interesting and telling lines of inquiry. In particular they draw attention to the extent to which committees operate in a selective manner and are potentially open to manipulation by committee personnel and, sometimes, external interests. Hence the

attention given to the nature and style of chairmanships, the use of sub-committees and the operation of other devices of committee management such as topic selection, choice of witnesses, timetabling and the compilation of committee findings.(7)

Connected with this literature, indeed partly derived from it, are studies of the processes whereby agendas are set and issues developed in public agencies. These emphasise the way in which issues or topics for attention arise, how and why they are chosen and how they are dealt with thereafter. Interest is also shown in the operation of influence within the agency concerned as it is revealed through the handling of a particular policy issue.(8) Some investigations have gone further to emphasise the negative or less obtrusive aspects of issue politics by considering the question of whether certain issues are, either deliberately or fortuitously, excluded from consideration and whether such exclusion reveals a particular pattern, bias or tendency to consistently favour certain matters or interests at the expense of others.(9) Thus the literature on issue development, like that on Congressional committees, raises questions about topic choice, timetabling and so on, but it takes the matter further by analysing whether, to what extent and in what ways agencies reveal a particular, exclusive and partial way of handling business.

This paper attempts to draw on these two approaches by considering the internal operation and procedures of the Energy Committee. Particular attention is given to the way in which topics

are selected, reports written up and agreed to and to the role of the members, chairman, clerks, advisers and outside interests. An attempt is made to consider the pattern of influence within the Committee and to draw out from the analysis certain features of the Energy Committee which, while individually are not unique to it, taken together, produce a characteristic style of Select Committee operation.

### The Committee Process

To some extent each particular inquiry is handled in a marginally different fashion as a consequence of variations in subject matter, evidence and, sometimes, committee membership. The similarities in procedure are, however, substantial enough to allow useful generalisations to be made, but two points are worth keeping in mind: the distinction between long and short term inquiries and the marginal differences between full committee and informal sub-committee work.

Informal sub-committees operate within the existing standing orders (albeit without their express authority) so that, in the agreed absence of the chairman, an acting chairman (Mr. Palmer) takes over while at the same time Mr. Lloyd chairs a separate sub-committee inquiry. All members are free to attend any meeting of any sub-committee though in practice most have tended to specialise in the work of one sub-committee. These arrangements have meant that in effect there have been three different kinds of Energy committee: (1) the full committee which has considered such items as nuclear power, departmental estimates, pit closures and draft reports from sub-



committees; (2) Mr. Lloyd's sub-committee which has looked at oil depletion and energy research and development strategy; and (3) Mr. Palmer's sub-committee which has concerned itself with combined heat and power and energy conservation.

Despite differences in the length of inquiry and committee organisation all investigations follow a similar sequence of phases beginning with the selection of a topic and passing on to preparing for hearings, followed by the hearings themselves and concluding with the writing up and acceptance of the report. As we shall see each of these phases breaks down into a series of quite distinct sub-phases and each offers different opportunities for influence on the part of committee personnel.

#### 1. Choosing a Topic

The Energy Committee has never been short of topics for inquiry hence the necessity of choosing between one potential topic and another. How is this done?.

When the Committee was first established members drew up a list of about two dozen potential topics including nuclear power development, energy conservation, North Sea oil and gas, coal, energy research and development and government relations with the management of nationalised energy industries. This original listing has provided a framework for subsequent choice, though some topics, notably industrial energy pricing and pit closures, have arisen independently

as issues of current political debate. Within this initial framework and the broad remit laid down by SO 86A proposed topics are immediately derived from three sources: the members, advisers and clerks. Of course, their suggestions may reflect the concerns of external interests to whose lobbying all members are subject. Organised interests approach both individual members and the chairman and clerks directly, in the latter case the substance of their lobbying is almost invariably communicated to the whole committee. Particular pressure has tended to come from those groups and individuals who feel excluded from the established channels of communication which centre upon the Department of Energy. Such as those, for instance, pressing the case for renewable sources of energy. Sometimes individual companies have approached the committee as well as the consumer councils of the various nationalised energy supply industries. In general pressure has tended to come from individuals or relatively small scale groupings, rather than the larger, established and 'incorporated' pressure groups.

The choice of some topics, especially North Sea oil depletion and industrial energy pricing, were significantly influenced by external lobbying. In the former case the oil companies felt a clear sense of grievance against the Treasury's approach to North Sea oil taxation, while as far as industrial energy pricing was concerned this issue arose directly out of MPs correspondence and as a result of lobbying of industrial and trade organisations. By contrast pit closures was suggested by one Labour member, as a useful topical issue to explore, energy conservation was an obvious topic to develop and arose in the

initial list of potential inquiries as did combined heat and power which was also a special interest of one Conservative member, Mr. Peter Rost. The latter two topics were also pressed by the advisers, while the inquiry into research and development arose partly in response to the committee's consideration of the Departmental estimates which revealed 29 per cent of the Energy Department's budget to be allocated to this purpose.

Generally the committee has considered new topics towards the end of an existing investigation and about three times a year on average at special meetings called to discuss future strategy. The choice of topic has sometimes led to rigorous discussion as in the case of pit closures, but in every instance an agreed view has emerged and votes have never been taken. The chairman has not imposed topics on the committee and has usually made his own views known at the conclusion of the discussion, often agreeing with what has emerged. Though it is possible that the chairman has steered the committee in the choice of topic, he has not openly attempted to lead the committee or overtly manipulate it.

## 2. Preparing for Inquiry

Once a topic is chosen the task of preparing for inquiry is substantially delegated to the clerks and advisers and it involves drawing up schedules of witnesses, timetabling their appearance, collecting and circulating memoranda and preparing briefs of questions for the members. The procedure begins with the issue of a press

release in the form of a general notice outlining the proposed investigation to be undertaken by the committee. This is sent out to various organisations in addition to the press such as the Department of Energy, nationalised industries and certain pressure groups and, though it never specifically asks for submissions, it does make potentially interested parties aware of what is taking place and may result in witnesses coming forward or material being submitted.

In the case of long term inquiries the main choice of witnesses depends upon the advisers and the clerks who draw up an initial list or schedule of potential participants. Most sources of evidence are fairly obvious and uncontentious. For instance, the inquiry into North Sea oil depletion was bound to take evidence from the major oil-producing companies, BNOC, the Treasury and the Department of Energy. Consequently it is only at the margins that an element of discrimination has to be applied. In shorter inquiries involving one or two witnesses and a limited number of submissions responsibility falls mainly on the clerks. The chairman and other members do not normally play any direct part in drawing up initial lists of potential witnesses and sources of evidence, though the list is of course submitted to the committee for its approval and it can be, and sometimes is, altered and added to. Once the list of witnesses is approved the hearings have to be arranged and the order of evidence determined. The timetabling of sessions is left to the clerks and is primarily an administrative matter determined by the availability of the chairman, witness and committee members. Determining the order of evidence is usually a matter for the clerks and advisers. It is an

important task, for it often helps the work of the committee if a block of evidence is brought together. There appear to be three main criteria that are applied here: (a) when should witnesses from the Department of Energy be called? (b) which witnesses are likely to offer complementary evidence? (c) are there any witnesses which should be heard early on so that their evidence can help to set the background for later witnesses? In applying these criteria the clerks and advisers are attempting to assist the cogency of the proceedings and the efficiency of the committees, evidence-taking.

The next step leads up to the actual hearings themselves and is usually set in motion by the clerks about a week beforehand. It involves sending out to the advisers any relevant memoranda that have been submitted with a request for a written brief in the form of possible questions for witnesses. This brief covers both general and specific points and usually contains between twenty (and thirty) questions which can be used by members as a basis for cross-examination if they so wish. The brief is edited by the clerks, who sometimes make substantive amendments or additions of their own, and it is usually sent out to members with any relevant memoranda two or three days prior to the hearing. The committee members always meet privately fifteen to thirty minutes before the witness is present to determine, with the help of the advisers, which questions must be covered, the line of questioning to be pursued and, sometimes, the order of intervention and area of inquiry to be covered by each committee member.

### 3. The Hearings

Interviewing witnesses is a relatively straightforward process. The business is almost always conducted in public and the proceedings are recorded in full in the committee's published minutes.(10) The chairman introduces the witness, opens the questioning and calls upon the other members of the committee to make their contribution. The chairman does not dominate the proceedings and only intervenes in others' patterns of questioning in order to clarify a point of summarise what has been said. When Mr. Palmer is in the chair, the hearings follow a similar pattern. The examination of witnesses takes about one to one-and-a-half hours, the advisers are present and often pass supplementary questions through the clerk to the chairman. These may be taken up by the chairman or passed on to other members for their use.

Of course the Hearings are not the only source of evidence available to the committee. As already noted the committee receives a large number of written submissions and may undertake visits in pursuit of its inquiries. Also the clerks and advisers have, on the committee's behalf, held informal private meetings with experts in organisations such as the International Energy Authority and the European Economic Community. Once these sources of evidence have been brought together, the next stage is to compile them and the committee's thinking into conclusions and recommendations.

#### 4. Writing-up the Report

Initially the clerks and advisers produce a short summary heads of report paper for consideration by the committee. This is a two to three page skeleton outline in the form of sub-headings giving an indication of the evidence heard and the main lines of thought that have emerged during its consideration. This paper contains factual conclusions and some comment on possible substantive conclusions. In drawing up this paper it is the job of clerks and advisers to anticipate what is acceptable to the committee on the basis of the way the evidence has been handled, the line of questioning pursued and what has been gleaned about members concerns from informal conversations and pre-Hearing sessions.

The heads of report paper is considered at a private meeting of the committee and can be substantially altered as happened, for example, in the case of the nuclear power inquiry. Usually the meeting results in only marginal changes in emphasis and the paper is not a matter of lengthy debate. This was the case with the summary draft on North Sea oil depletion which was considered for about twenty minutes. Generally the clerks and advisers correctly anticipate the line of the committee wishes to pursue and their suggested conclusions may also be accepted at this stage. Though on this latter point there is some variation in terms of chairmanships with Mr. Lloyd preferring conclusions to emerge at a relatively early point and Mr. Palmer preferring them to emerge later.

The heads of report paper stage plays an important part in ensuring the effectiveness of the committee's deliberations. The paper highlights a number of items that will need to be featured on the basis of the evidence that has been heard; it acts as a kind of trigger for thinking and structuring conclusions once the evidence is finished. It may also indicate if there are any gaps in the evidence and, once accepted, serves as the basis for further drafting and thus provides an essential constraint on what could easily become a rather amorphous and long-winded exercise.

The next task is for the clerks and the advisers to produce a full draft. Usually the advisers draft the technical sections, but their contribution is often more substantial. For instance, advisers were responsible for a considerable proportion of the draft reports on nuclear power and energy conservation in buildings, while the draft on industrial energy pricing was mainly written by the clerks. In each case, however, it is the clerks who act as editors, since they are responsible to the committee for the draft. Once the draft is produced it goes to the chairman for comments and from thereon is known as the chairman's draft report. In theory the chairman could completely re-write the report at this stage, but as the line of development has already been determined by the heads of report paper, this is unlikely to take place and indeed has never happened. Both chairmen read the document with great care and attention, tend to make only occasional changes in the draft, and prefer any substantial re-drafting to take place in committee.



Once approved by the chairman the draft is placed before the committee who deliberate over the report at a series of private meetings. Initially the report is considered as if it were at a second reading stage in that the committee's concern is to look at the broad outline and the principles involved. Thereafter the draft is considered informally paragraph by paragraph, sometimes line by line and alterations may be made. The scale of re-drafting is not usually substantial, though members often produce amended passages sometimes after liaising with advisers. These meetings usually take up about three sessions, though in the case of nuclear power the committee spent some eight to nine sessions dealing with the document. The aim of these informal meetings is to reach some form of consensus on the committee before moving on to consider the draft report in formal session when minutes are taken and amendments proposed and, if necessary, voted upon. According to some members, by this stage 99 per cent of the report is already decided. However, there have been exceptions. Mostly notably the nuclear power report which was considered at two long meetings, involved eight recorded divisions and forty-nine (mainly minor) amendments. Of the ten other reports produced up until the end of the 1982 session only that dealing with industrial energy pricing policy involved either divisions (three) or relatively substantial amendments. After this final stage when the report has been formally read and agreed paragraph by paragraph it is ordered out of committee, placed before the House and thereafter published.

Overall, our review of the procedures followed by the Energy

committee reveals that in keeping with other Select Committees a substantial amount of activity takes place outside public sessions. As a rule select committees never deliberate in public. In the case of the Energy Committee much of the preparation for hearings and almost the whole of the writing-up stage takes place in private, though a great deal of the activity involved is purely administrative and essential to the effective operation of the committee. Moreover many of these initial and final stages of an investigation involve a close and informal liaison between the clerks and advisers. At first glance this suggests an important and potentially dominating role for the committee's advisory and administrative staff. But what precisely is the pattern of influence within the committee as between the chairman, members and the clerks and advisers? And has the committee revealed any predisposition towards a particular style of operation and a particular set of policy concerns?

#### Patterns of Influence

As already noted it is the clerks and advisers who draw up the initial list of witnesses, determine the phasing of evidence and the timetabling of the proceedings, subject to the general approval of the committee. The advisers in particular have an important part to play in briefing members for the hearings and on occasions they and the clerks have liaised with witnesses independently of the committee in order to clear up matters of fact or detail usually in relation to statistical matters. When it comes to writing-up, clerks and advisers together produce the heads of report and undertake the main

compilation of the chairman's draft. All these activities suggest a very substantial role for both clerks and advisers. There are, however, certain clear limitations upon their influence and these to some extent ensure that their activities are proscribed and controlled by the chairman and members.

The first limit is one of staff numbers, time and resources. There are only two clerks serving the committee and they are assisted by one secretary. The senior clerk has tended to concentrate on the work of the main committee and the sub-committee chaired by Mr. Lloyd, while the assistant clerk has been mainly engaged in the work of Mr. Parker's sub-committee. The advisers are only engaged on a part-time basis and have other employment, usually academic, to fulfil. Two of the nine advisers used by the committee (Mr. John Surrey and Mr. John Chesshire from the Science Policy Research Unit at Sussex University) have either singularly or jointly been involved in all the committee's major inquiries and might be seen as permanent rather than temporary part-time advisers. This has meant that they have been involved in the committee's ongoing decision-making to a greater extent than has been the case with advisers to many other select committees.

These two advisers in particular and the clerks have developed through their experience a close knowledge of the committee's interests and concerns. This helps them to tailor their advice and assistance in line with committee members' requirements and this 'knowledge of the committee's mind' and desire to conform to it constitutes a further limit on their potential influence. Moreover,

generally speaking, supportive personnel do not regard it as their proper function to put over their views on energy questions. The clerks are not lobbyists, their concern is to ensure the efficient operation of the committee. As for the advisers, they seek to be impartial, but if, as on one occasion has happened, an adviser pushes a particular line too strongly members will tend to remind the adviser that it is his function to interpret and assist and not to lead the committee towards one or another set of recommendations.

The most important limit on the potential influence of clerks and advisers, however, is provided through the committee's vetting of schedules and draft reports. The heads of report paper has to be acceptable to members and consequently has to conform to what the committee expects. The draft report is thoroughly read by the chairman (and where relevant, the acting chairman) and it is carefully scrutinised by other members of the committee. So it may be said that the clerks and advisers, while having a substantial part to play in the committee's activities, are limited in terms of their influence to the opportunities that members allow them to have. And this depends on the extent to which they are operating in line with members' own wishes and the extent to which the chairman and members keep fully on top of the material submitted to them. There can be little doubt, however, that the smooth operation of the system greatly depends upon clerks and advisers liaising together from an early point in the enquiry and taking on the bulk of the organisational, administrative and briefing aspects of the committee's work.

The chairman operates as the leader of a team. As already emphasised, he does not dominate or attempt to lead the committee. His approach is essentially democratic, allowing members to express and register their views on the selection of topics, witnesses and the amendment of draft reports. If he has a viewpoint to put over it is not primarily concerned with the substance of the inquiry but the manner of the approach to considering it. The central concern is to produce agreed reports that all members of the committee can support. This has so far been achieved with the single exception of the inquiry and report into possible pit closures which was opposed and voted against by one Labour (NUM sponsored) member. The chairman also extensively delegates to the clerks most administrative tasks and, unlike the chairman of some other select committees, avoids involvement in the organisational business of the committee. Indeed, except when hearings are taking place, the chairman and the clerks are usually only in contact on average about once a week during Parliamentary sittings and far less outside of them. When Mr. Palmer is acting chairman he tends to adopt a similar detached and neutral approach.

A major problem for the chairman, acting chairman and other members is simply to absorb the vast amount of reading material that is placed before them. This problem is not unique to the Energy committee, but there is undoubtedly a disparity amongst members in terms of the commitment and effort they put in to committee work. While calculating the time spent on committee work (attending meetings, preparation and background work) raises difficulties, the

range of time actually spent on average per week by each member varies widely from a maximum of twenty hours to a minimum of about four hours. Seniority also plays a part, for some members - Mr. Lloyd, Mr. Palmer, Mr. Rost, Mr. Leadbitter and Mr. Wainwright - have a long experience of select committee work through previous memberships of the earlier committees on Science and Technology and Nationalised Industries. Taking into account time spent on committee work and breadth of experience (the two are not wholly complementary) it is possible to speak about an 'inner core' of five or six committee members on whom the burden of work and involvement tends to fall.

The picture that emerges is that of a relatively balanced and settled committee in which clerks, advisers, chairman and members have together developed a particular 'consensual' style of committee operation. As we have seen the committee takes great pains to reach agreement and has pursued a non-partisan approach. Where differences have arisen they have not been on the basis of party. For example, of the eleven divisions recorded in the committee's first eleven reports only two can be even marginally defined as being along party lines. Moreover members have often supported reports that might be seen as going against certain aspects of their own parties' philosophies as for instance when the Labour members supported the relatively relaxed approach to oil taxation and government intervention in the North Sea oil depletion report and the Conservative members supported a more interventionist role for government concerning energy conservation in buildings.

This consensual, non-partisan emphasis is further revealed in the approach to chairmanship and it may in part be a product of the technical and factual nature of the subject matter considered by the committee. The subject of energy policy is not especially partisan and some members have referred to the extent to which viewpoints have actually been shaped or altered as a consequence of a detached perusal of the evidence. However, the desire to achieve consensus also reflects the view of senior members that the primary function of the committee is to establish facts and inform the House. Clearly this purpose is best fulfilled if the committee maintains a high measure of agreement.

The emphasis upon a consensual style appears to have arisen spontaneously within the committee and has become a kind of unconscious, inarticulated convention governing the committee's deliberations. It is most clearly revealed in the attempts that are made to reach agreement prior to the formal approval of the reports and it is also shown in the extent to which the committee has tended to avoid the pursuit of potentially disruptive issues of a party political nature. For example, the committee's report on the disposal of the Gas Corporation's interest in the Wytch Farm oilfield contains no substantive comment and simply reproduces memoranda from the Gas Corporation and the Department. This rather bland report covers over a certain amount of discussion which took place within the committee as to the sense of further pursuing an investigation which was liable to prove controversial on party-political lines. This coupled with the feeling that there was not time (given other work

priorities) to go into the matter of depth, led to the effective dropping of the investigation. For similar reasons a suggestion to investigate the privatisation of Britoil was not taken up. In both cases it was judged that, though any enquiries might ostensibly attempt to look at the mechanics of the sales, the discussion would inevitably spill over into party political arguments concerning the merits of the divestment of state holdings. The committee has also had some problem handling the issue of the coal industry. This came up as a potential topic in February 1981 and in June/July 1982. It was not proceeded with partly because it was thought liable to engender conflict, though on the later occasion it was known that the Monopolies and Merger Commission was about to undertake a report on the coal industry and it was felt that the committee should await their findings before proceeding. Moreover, as we have seen the report on pit closures was strongly opposed to one Labour member. These examples illustrate the extent to which the committee almost inadvertently operates on the principle of avoiding overtly contentious and partisan topics for inquiry and seeks a consensus in decision-taking.

As well as a predisposition towards a consensual, non-partisan approach towards business, the committee has also tended to favour certain viewpoints on energy questions, especially the promotion of energy conservation and the development of alternative energy sources. This partly reflects the interests and concerns of members of the committee, but more pertinently it is a direct response to the Department of Energy's leanings towards energy supply and the



interests of largescale, nationalised energy supply industries. For it can be argued that the Department, in terms of its structure and expenditure, tends to neglect both the demand side of energy questions and the proper consideration of alternative or new sources of energy supply.(11) Consequently any agency charged with monitoring the Department is bound to comment at some length on what appear to be neglected areas within the Department's responsibilities. So to the extent that there is a bias in the committee on subject matter and policy questions, it has to be seen as an almost inevitable reponse to the particular and more primary bias which appears to be inherent in the organisation and structure of the Department of Energy.

### Conclusion

There are three principal features of the Energy Committee which deserve emphasis: (a) its non-partisan, consensus seeking approach; (b) its neutral, non-interventionist and relatively non-manipulative chairmanship; and (c) its dependence on administrative and certain more or less permanent advisory staff to ensure its effective day-to-day operation. Overall the pattern of influence displayed within the committee appears to be well balanced as between the chairman, members, clerks and advisers. Though it is worth noting that the latter has a relatively substantial role to play compared to the situation in some other select committees. A good working relationship has developed between these four sets of personnel, and while ultimate control rests in the hands of the members its maintenance very much depends upon their assiduousness at certain key

points in the committee's operation - most especially when it comes to considering the heads of report and the chairman's draft.

The consensual approach to handling business and the neutral style of chairmanship produce some clear advantages. Agreed reports tend to strengthen the authority of the committee's findings, while a detached, non-partisan atmosphere can provide at least an impression of impartiality. This in turn may further strengthen the impact and value of the committee's conclusions. However, such an approach has its drawbacks. It may result in a lack of direction and despatch, and lead to a tendency to play safe and avoid taking up challenging issues. The work of the committee has in fact been criticised for being too long-term, academic and ephemeral, though the trend towards shorter sharper inquiries and follow-up investigations, suggests that this criticism has already lost some of its pertinence.

Indeed the committee has shown clear signs of learning from experience. Its first investigation into nuclear power was somewhat over-extended with perhaps too many witnesses and too much evidence and the report lacks a certain degree of coherence. Responding to these initial difficulties the committee has since tended to allow a greater element of sifting when it comes to choosing witnesses and evidence. At the same time committee members, especially those remaining from amongst the initial intake, have grown more familiar with their subject matter and each others' and the clerks' and advisers' ways of working. This has produced a more efficient and organised approach to committee business so that it can justifiably be

claimed that, following a rather poor start, the Energy Committee has made a useful contribution to the more informed discussion of energy issues and in some instances (such as the 1983 Budget changes in North Sea oil taxation and the government's approach to energy loss in public buildings) can claim a direct effect upon government actions.

From a more long-term point of view, however, perhaps the most important consequence of the committee's deliberations has been to emphasise the partial and supply oriented nature of the policy environment within which the Department of Energy operates. By highlighting the lack of balance within the Department and the narrowness of the range of policy advice to which it is subject, the committee has emphasised some very pertinent questions which may in turn contribute to significant changes in the organisation of energy policy in the UK.

#### FOOTNOTES

I would like to thank those members of the Energy Committee and those associated with it who kindly answered my questions on the subject matter of this paper.

1. Michael Ancram (C), Ednyfed Hudson Davies (SDP), Ted Leadbitter (L), Ian Lloyd (C), Robert McCrindle (C), Michael Morris (C), Arthur Palmer (L), Peter Rost (C), John Spellar (L), Tony Speller (C), Edwin Wainwright (L).
2. Written Answer, HC Debs, 25 February 1982, Col. 510.
3. Previous members have been, David Crouch (C), John Watson (C), Mark Lennox-Boyd (C), Michael Latham (C) and David Stoddart (L).
4. Sub Committees, HC (1979-80), 585, Isle of Grain Power Station HC (1979-80), 770; The Gas Industry in Northern Ireland, HC (1980-81), 463; The Disposal of the British Gas Corporation's Interest in the Wytch Farm Oil-Field, HC (1981-82), 138; Government Observations on the Second Report of the Committee, Session 1980-81 (Industrial Energy Policy), HC (1981-82), 169.
5. The Government's Statement on the New Nuclear Power Programme, HC (1980-81), 114; North Sea Oil Depletion Policy, HC (1981-82), 337; Energy-Conservation in Buildings, HC (1981-82), 401; Combined Heat and Power, HC (1982-83), 314-1.
6. Industrial Energy Pricing Policy, HC (1980-81), 422; The Department of Energy's Estimates for 1981-82, HC (1981-82), 231; Government Observations on the Second Report of the Committee (the Department of Energy's Estimates for 1981-82), HC (1981-82), 366; Pit Closures, HC (1982-83), 135.
7. See D. Cater, Power in Washington, Random House, New York, 1964; R. F. Fenno, The Power of the Purse, Little Brown, Boston, 1966; D. Price, Who Makes the Laws, Schenkman, New York, 1972; G. Orfield, Congressional Power, Harcourt Brace, New York, 1975, chapter 12.
8. See, J. L. Walker, 'Setting the Agenda in the U.S. Senate: A Theory of Problem Selection', British Journal of Political Science, Vol. 7, 1977, pp. 425-45; R. Cobb, J. K. Ross and M. H. Ross, 'Agenda Building as a Comparative Political Process', American Political Science Review, Vol. 70, 1976, pp. 126-38; J. J. Richardson and A. G. Jordan, Governing Under Pressure, Section II, Martin Robertson, Oxford, 1979; R. Cobb and C. Elder, Participation in American Politics: The Dynamics of Agenda Building, Allyn and Bacon, Boston, 1972; A. Downs, 'Up and Down with Ecology - The "Issue Attention" Cycle', Public Interest, Summer 1972.

9. See M.A. Crenson, The Un-Politics of Air Pollution, John Hopkins Press, Baltimore, 1971; E. E. Schattschneider, The Semi-Sovereign People, Holt Rinehart and Winston, New York, 1960; P. Bachrach and M. Baratz, 'Two Faces of Power', American Political Science Review. Vol. 56, 1962, pp. 947-52; P. Hall et al., Change, Choice and Conflict in Social Policy, Heinemann, London, 1975; M. Burch and B. Wood, Public Policy in Britain, Chs. 5 and 6, Martin Robertson, Oxford, 1983.
10. On one occasion evidence was heard in private. This was during the nuclear inquiry and concerned the experience of Rolls Royce and Associates with regard to the construction of PWR reactors for the Royal Navy's nuclear submarines. Edited minutes were published.
11. For a clear exposition of this point see, Select Committee on Energy, The Department of Energy's Estimates for 1981 82, HC (1981-82), 231, para. 13; also the Department's rather unconvincing reply in HC (1981-82), 366.

EVIDENCE TO PARLIAMENTARY COMMITTEES AS ACCESS  
TO THE POLICY PROCESS

A. G. Jordan,

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Introduction

Much has been written concerning the decline of Parliament and the importance of the Executive in British government. We ourselves have emphasised the importance of access to the permanent bureaucracy as a means of influencing both the formulation and the implementation of policy.(1) In suggesting that the primary characteristic of the policy process is the close relationship between Departments and groups, there is an assumption that Parliament is generally not an effective participant in the hundreds of policy communities centered upon Whitehall. Yet, despite its relatively weak position, Parliament has never been ignored by outside interests. Few, if any, groups are prepared to run the risk of having no Parliamentary contacts. Parliament is, therefore, still 'cultivated' by groups. The new Select Committees are no exception. Indeed, in so far as the Reports of the Select Committees may contribute to debate in specialised policy communities, then groups naturally try to influence the work of the Committees. Moreover the Committees themselves are to a significant degree dependent on outside information, in view of the low level of their staffing. Parliamentary Committees can, therefore, be seen as a potential point of access for those wishing to

influence policy in the UK.

The exercise described in this paper was originally intended to give some idea of the contacts between Departmental Select Committees and extra-Parliamentary organisations. It has been extended to include an examination of the work of the experimental Special Standing Committees for two reasons. Firstly, the Special Standing Committees provide another means of access for outside interests. Secondly, there is a blurring of functions between Standing and Select Committees when the former engage in direct evidence taking. In our Conclusion, we try to assess the degree to which reforms of the House of Commons Committee system have significantly changed the degree of, and distribution of, access to the policy process.

### Select Committees

An idea of the scale of Select Committee activists can be gathered through the material revealed by Parliamentary Answers (17 November, 18 November, 23 November, 1982) and data gathered by the Management and Personnel Office.

TABLE 1

	Formal Evidence Sessions	Meetings	Pages of Evidence	Pages of Reports
Session 1979-80	333	606	8,720	810
1980-81	309	566	12,943	1,513
1981-82	321	553	13,084	1,605
<hr/>				
Sessional Average	321	575	11,584	1,309

The impact of the new system on departments is suggested by figures showing the appearances (Apps.).

TABLE 2

Session	Cabinet Mins.		Non-Cabinet Mins.		Open Structure Civil Servts.		Witnesses from Cent. Govt. Depts.	
	No.	Apps.	No.	Apps.	No.	Apps.	No.	Apps.
1979-80	18	30	12	24	156	254	312	439
1980-81	19	29	18	20	140	195	334	417
1981-82	27*	41*	35	48	163	245	398	539
	—	—	—	—	—	—	—	—
	21	33	22	31	153	233	348	465

\* includes 1 at informal session.

TABLE 3

For period 18 February 1980 - 15 February 1981

	<u>Work on</u> <u>written memoranda</u> (Man days)	<u>Provision of</u> <u>Briefing</u> (Man days)
Under Sec. & above	470	715
Asst. Sec.	927	1,066
Principal	2,104	2,121
SEO & below	2,701	1,935
	—	—
	6,202	5,837

As the Select Committee system has developed into a major element of Parliamentary activity, and as the activity is premised on evidence - hearing, groups have been quick to become involved.

Witnesses giving evidence to Select Committees - 1st November,



1981 to 31st October, 1982 can be categorised as follows:

TABLE 4

Origin of Evidence to House of Commons Departmental Select  
Committees. 1st November 1981 to 31st October 1982.

Ministers	76
Central Government Departments	159
Local Authorities and Local Authority Associations	35
M.P.s and Peers	9
Ombudsmen	4
Quangos	56
Public Corporations and Nationalised Industries	34
Private Companies and Financial Interests	28
Trade Associations	28
Trade Unions	19
Professional Organisations	27
Other Groups	22
Academics	24
Journalists.	12
Private Individuals	17
Arts	16
Police and Services	9
Academic Institutions	4
Others	8
	<hr/>
TOTAL	587
	<hr/>

Several qualifications need to be made to the impression given by the table. For example, it does not fully compare like with like. In the case of Ministers, MPs and Peers, Ombudsmen, Academics, Journalists, Private Individuals and nearly all of those listed as 'Others', the numbers given refer to individuals. For the remaining categories the numbers refer to organizations. The House of Commons Weekly Information Bulletin, from which this table is compiled, gives details of individual Ministers etc. who gave evidence, but in the case of civil servants and representatives of organisations, it does not usually give the number of individual witnesses. Thus the total given for Central Government Departments, to take the most obvious example, considerably understates the number of individual civil servants who gave evidence to the Select Committees during this period. As both Departments, outside pressure groups, and quangos generally field "teams" before Select Committees, the number of individual witnesses is up to several times the figure of 587 in our table.

Given that, since its reorganization in 1979, the Select Committee structure almost exactly mirrors the Departmental structure, it is probably inevitable that each Committee will draw heavily on evidence from Ministers and Civil servants within its corresponding Department. Nevertheless, it is perhaps surprising that organizations and individuals from outside central government do not appear to play a greater part in Select Committee proceedings. The nearest "challengers" to Ministers and civil servants are the Quangos. Their

relatively high level of representation suggests that the Select Committees are much concerned with the work of these organizations. Indeed, in some cases the investigation itself centres on the work of a Quango, e.g. the Select Committee on Employment's examination of "The Manpower Services Commission's review of the quota scheme for the disabled" and the Public Accounts Committee's examination of the "Financial duty of Scottish and Welsh Development Agencies". Examples where Quango expertise is called upon include the Equal Opportunities Commission giving evidence on "The Age of Retirement", the Advisory Council for Applied Research and Development giving evidence on "Science Policy", and the Highlands and Islands Development Board giving evidence on "Rural road passenger transport and ferries in Scotland". Select Committees appear to recognise their integral place of the Quango in the governmental process, and on a wide variety of topics call upon their experience and expertise.

It is interesting to note that after Ministers, Central Government Departments and Quangos, there is a relatively narrow range of representation between the other categories of organization. For Local Authorities and Local Authority Associations, Public Corporations and Nationalized Industries, Private Companies and Finance, Trade Associations, Trade Unions, Professional Organizations and Pressure Groups, the range is 19-35. This may be just coincidental, or perhaps at least some kind of subconscious even-handed approach by the Select Committees. As with the Quangos referred to above, several of the public corporations and nationalized industries were themselves the subjects of particular investigations.

The public corporations examined included the British Steel Corporation, British Shipbuilders, British Leyland, Rolls Royce, and the Post Office.

It is interesting that the trade unions provided the fewest number of appearances of those organizations in the 19-35 range, which perhaps suggests that trade unions are not especially active in seeking to put their case to the Select Committees.

Although pressure groups (very narrowly defined) are represented more frequently than trade unions, there are many subjects where they put in no appearance at all. Broadly speaking representatives of pressure groups were most commonly to be found in matters concerning the sick and disabled, the elderly and the police. Thus the Royal British Legion, the British Limbless Ex-Servicemen's Association and MIND gave evidence on the subject of "The MSC'S Review of the Quota Scheme for the Employment of Disabled People", Age Concern (twice) The National Pensioners, Convention Steering Committee, the National Federation of Old Age Pensioners' Associations and Help the Aged gave evidence on the "Age of retirement", The National Council for Civil Liberties, the Scottish Council for Civil Liberties and Justice gave evidence on "Police Complaints Procedure" and Justice again appeared before the Home Affairs Committee on "Home Office procedures for the investigation of possible miscarriages of justice".

In general the pressure groups appearing before Select Committees might be described as "insider" groups which had already

gained a position within a particular policy "community". Apart from these listed above, they included the Child Poverty Action Group, Oxfam, the Royal Society for the Prevention of Accidents and the Society for the Prevention of Asbestosis and Industrial Diseases. An exception was perhaps the Paddington Federation of Residents and Tenants Association which gave evidence re "The Private Rented Housing Sector".

As with the trade unions, without further evidence it is impossible to say whether the relative lack of pressure groups giving oral evidence to Select Committees is due to apathy and/or lack of opportunity. (For a further discussion of this point see section 5). In some subjects it does seem surprising that campaigning pressure groups are not more in evidence among the lists of witnesses (some groups may consider that giving written evidence is sufficient) e.g. given the large number of transport pressure groups it might have been expected that at least one of them would have appeared on subjects such as "Transportation in London" and "Rural Road Passenger Transport and Ferries in Scotland".

Although classed here as individuals, academics are relatively well placed within the "league table" of appearances. In reality, the number of academics giving evidence is understated, for where they were not attached to a particular institution they have been classed as private individuals. Examples of this latter type include Professor David Donnison (a former Chairman of the Supplementary Benefits Commission) and Professor Christopher Foster (currently

working as a consultant). Select Committees are therefore often inclined to call upon academic expertise. Subjects on which academics appeared included "North Sea Oil Depletion Policy", "The Age of retirement", "Wave Power", "Public Expenditure White Paper: personal social services", "International Monetary Arrangements" and "The Caribbean and Central America : British approach to stability, security and development" (a particularly heavy trawl of academics on this subject). In addition to these individuals there were, as the table shows, representatives from academic institutions on subjects such as "University Funding" and "Further and higher education in Northern Ireland", while the Chairman and members of the University Grants Committee (classed as a Quango) inevitably had something to say on "University Grants Committee control of university building projects: Assessment of university grant needs."

Whatever benefits the new Committee system brings, it clearly has costs in preparation time for groups, and particularly for civil servants, Ministers, and quangos. For example Jock (now Lord) Bruce-Gardyne M.P. interrupted Norman St. John Stevas's eulogy to his new committee system to ask, "...I wonder whether he has devoted any scrutiny to the amount of time which the Whitehall machine now has to devote to these committees?". It has been estimated that the cost, to government departments, of producing memoranda and briefings for Select Committees is approximately £1,350,000 per year.(2) Much of the irritation felt by the nationalised industries when demands are made for more effective scrutiny of their affairs is based upon the amount of time they already spend preparing for and appearing before Select

Committees. Pressure groups too can suffer the embarrassment that this consultation gives their often limited resources. An appearance before a Select Committee is no doubt good for the image of group leaders before their members, but it does require much preparation and skill beyond the resources of many groups.

Our interest is in actual access, but we have no evidence at this stage whether or not this access is "rationed" - and if so by whom or according to what criteria. It is difficult to know whether there is a great demand which has to be limited or whether groups are generally satisfied by other channels.

It is possible to make a rough comparison between current practice and that of the Select Committee system of the early 1970s by comparing Table I with data drawn from the PEP study in 1976.

TABLE 5

Witnesses giving evidence to committees 1970-74

	Total
Treasury ministers	2
Central government ministers (other)	12
Public Organisations. Other bodies	155
Industry and finance	240
Academics	58
Civil servants	332
Local authority officials	199
Trade unions	46
Professional organisations	163
Interest groups	403
Private individuals	110
Lords (ex-ministers)	2
Journalists	3
Other MPs	9
Services and police	145
<b>TOTALS</b>	<b>1,878</b>

Source PEP No. 564, 1976      The P.E.P. study covered a four year period and so there has clearly not been any lessening in the volume of evidence, and quite probably a doubling in the 1980s.

#### Special Standing Committees: Background

The experimental provision for Special Standing Committees is relevant to a review of Select Committees in that a procedure was devised to allow the Standing Committee to take into account the views of both witnesses expert in the field and the views of interested parties. Special Standing Committees shared with Select Committees the opportunities for oral evidence sessions. The direct origin of the proposal for Special Standing Committees was contained in the First Report from the Select Committee on Procedure (HC 588-1) 1977-8 - but there was a lengthy pre-history to the idea.

The 1978 Report stated "...we would prefer to find some way of allowing the (standing) committee who are eventually to consider a bill in detail the opportunity to examine and establish the factual and technical background to the proposed legislation before proceeding to examine the clauses of the bill and to debate amendments in the text. In order to achieve this the committee should be free directly to question those who have drafted the proposed legislation and those who will implement it, as to the purpose of the legislation, the evidence on which clauses are based, the degree and content of any prior consultation with outside interests, the effects which the



legislation is expected to produce and the problems which will be involved in its implementation. They should also be free to consult those who will be principally affected....." (para 2.18).

This proposal was not implemented under the Labour Government. The first Conservative Leader of the House, Norman St. John Stevas, associated himself with procedural reform and the Special Standing Committee was part of his third tranche of innovations debated on 30th October 1980. On a free vote his motion to set up a special procedure for selected Bills was successful (141 to 11 votes). The motion embodied many of the details set out by the Procedure Committee e.g. - that such a standing committee would have power during a period of not exceeding 28 days to send for persons, papers and records; that up to four sittings of not more than 2.5 hours should be available (with the first sitting in private), that the three sittings to hear and consider evidence should be in public.

However the Special Standing Committees were not set up, as the Procedure Committee suggested, as the "normal" committee for the great majority of bills (HC 588-1 pxviii). The St. John Stevas proposal was that there should be selected (by the Government), "...perhaps three Government Bills which raise substantial issues, not of acute party controversy". (Hansard, 30th October 1980, col. 725). The three Bills selected were as follows:

Deep Sea Mining (Temporary Provisions) Bill 1980-81

Education Bill

Criminal Attempts Bill

The experiment was allowed to lapse at the end of the 1980-81 session but was resuscitated in March 1982 for the Mental Health (Amendment) Bill 1981-2, but provision again lapsed at the end of 1981-82.

While these experimental Special Standing Committees have Select Committee-like aspects of investigation by cross examination of witnesses (including Ministers sitting on the committee) the Procedure Committee expressly recommended that the new committees did not have select Committee powers to appoint special advisers or to travel to take evidence. This (non) provision was part of the general caution and compromise that has characterized this experiment. The experimental Standing Committees should be seen as a minimalist adoption of the pre-legislative committee idea. However, one of the compromises of the experiment was the attempt to continue in one process the rather conflicting ideas of pre-legislative scrutiny with outside participation in the legislative process. Discussion of this experiment is as a result often confused, with some supporters emphasising the opportunity for Parliament to have an early say and others emphasising the opportunity for interest groups to have an early say.

In fact the 1977-78 Procedure Committee appeared much cooler than its predecessor on pre-legislature committees (para. 2.4), though the new Departmental Select Committees were expected to fill something of this role (para 2.5). The recommendations were something of a compromise between the status quo and the radical change of systematic use of Select Committees for the committee stage of bills. The

Procedure Committee considered two particular changes:

- (a) the Study of Parliament Group's idea of grafting on an optional evidence taking facility to existing "adversary" standing committees.
- (b) Humphrey Atkin's alternative of referral of a bill first to Select Committee, then to Standing Committee.

In opting for the former arrangement for most bills, the Committee on Procedure laid stress on the point that Select Committees enjoyed a reputation for non-partisanship precisely because they were not usually called upon to judge between the competing policies of the Government and their political opponents. (para 2.13).

It could be argued that some of the discussions of pre-legislative committee is scarcely relevant to our primary focus, since the actual innovation is a Committee Stage change. We have included the pre-legislative discussion for two main reasons. Firstly, the argument in favour of the change has often made a pre-legislative claim. Secondly, the legislation going to committee has been very tentative - "green bills". For example when the Minister of Health (Kenneth Clarke) proposed that the Mental Health (Amendment) Bill should go to a Special Standing Committee, notwithstanding the fact that a Second Reading debate had been held, he observed, "This will allow a wide range of interested groups to make representations." Again, although the Government have clearly taken a view...we are not

entering the Committee proceedings on any dogmatic basis..." (col. 760, 22 March, 1980) (our emphasis).

Mr. St. John Stevas himself ran together the ideas of pre-legislative scrutiny and a better means of discussing legislation as it is enacted:

"There can be no doubt that many hon. Members find the present line by line scrutiny of legislation in Standing Committee an inadequate means of examining a Bill. It is equally clear, however, that there are very different ways of improving the present procedure. Some would like a pre legislation Committee set up to examine proposals before Bills are introduced. My personal preference would be in that direction." (Col, 724, 30th October, 1980). He introduced the Special Standing Committees as a compromise between the status quo and sending Bills to Select committees.

Paul Dean, M.P. who supported the motion also conflated pre-legislative and committee stage changes:

e.g. "... It is understandable that Governments of all political colours have found it appropriate, indeed necessary, to consult outside interests at an early stage before they draft the details of their legislation. We have reached the stage when draft Bills are actually circulated round the outside interests. This seems a sensible precaution for the Government to adopt, but the fact is that the House of Commons is not consulted at these early stages." He later went on.... "Hon. Members, particularly those who have had ministerial experience know that Ministers can always use their last card.... If they have been out argued on an amendment.... they appeal to their hon. Friends sitting behind them by saying that the balance of the Bill has been so carefully drawn up and the Government have compromised here and there with interests outside that the whole balance of the Bill would be destroyed if the Government were to concede...." (col. 741, 30th October, 1980).

Although there were only 13 votes against the Motion (including tellers) some powerful, if unfashionable, arguments were advanced. For example, Marcus Kimball (M.P.) reversed the consultation with outside interests argument and used it against the new procedure:

"Legislation that comes before the House is often a delicate balance of compromise agreed between interested parties during the consultative processes that all Governments go through. Many points are accepted and the Government are trusted because those who are involved in the negotiations and in the legislation know that at the end of the day the Government will get the agreed compromise through.... Everyone who has been receiving the consultative documents will feel that it is his right to attend or to write to say to the chairman to say that he has to give evidence to the Special Standing Committee.... I dread to think of the annual reports of some of these fringe organisations outside, Parliament, listing the number of Special Standing Committees to which they have made representations." (col. 810, 30th October, 1980).

#### Special Standing Committees and the Impact of Evidence

There have been important changes in the details of Bills which have gone to Special Standing Committee, but arguably this is a product of the type of non-partisan Bills which have been allocated to the Committees rather than a necessary product of the new process.

For example, on the Education Bill (1981), Anthony Barker's radio programme In on the Act (Radio 4, 17.11.81) showed how in committee the Government went beyond the provisions of their Bill by accepting a "Named Person" to advise and assist parents with special education needs. Certainly this concession did not appear to be forced from the Government: they seemed to concede it without difficulty. Indeed in her comments to Barker on the questions put to her by the Committee,

Baroness Young (Minister of State, DES), complained that while the original Warnock Committee had recommended a "Named Person", there was almost no discussion (in her session with the committee) of the issue. She went on, "And yet it is an issue which the government would very much like to get right but there are a lot of practical problems about it and if we could have explored these in a bit more detail I think it would have been helpful to the committee."

The Government finally accepted an amendment from the Conservative Member, John Hannam. Again Barker's questioning reveals that the Government more or less connived at the change. Hannam was involved in the pre-Committee meetings on the Government side and the Minister and her civil servants advised him what kind of amendment would be acceptable. Hannam remarked, "So, the amendment, strictly speaking, was partly my own and partly drafted though the advisers of the government." Dr. Boyson (Minister of State, DES) made the point that the amendment was accepted because Tory experts in the subject like John Hannam were in agreement with Labour authorities like Lewis Carter-Jones. We can extend this argument and say that more particularly if there is widespread agreement among groups in the policy community then it was unwise (and unnecessary) for the government to resist advice (given that no new resources were involved). When the "evidence sessions" demonstrated group consensus it was difficult to do other than follow their advice.

The "evidence sessions" were not the only opportunity for the groups' positions to be developed. The Barker programme shows how the

research assistant of the All-Party Disablement Group tabled PQs and amendments - through friendly M.P.s. A research assistant was provided by one of the main disability associations. The Director of Parliamentary Affairs for the MENCAP - as an honorary research assistant to one M.P. had access to build up a sympathetic group of members. But the special committee stage was a new forum to be exploited by the groups. Obviously all groups weren't satisfied with the outcome. For example, there was an attempt by some of the voluntary societies to provide access for parents to confidential reports on their children. Governmental caution on this clearly had something to do with counter pressure from associations of relevant professions - doctors and teachers.

The Special Standing Committee Procedure was very much one extra round providing a further opportunity for group access: it was not a mechanism providing new access, it provided a little more access. In discussion of the amendments to the Mental Health Bill, Christopher Price, M.P. appeared to indicate how group amendments were the "norm":

"This series of amendments has not been prepared by MIND, BASW, the psychiatrists, the BMA, the ex Minister or anyone like that, but I do not think the Committee should rule out amendments because some organisation has not come forward with them..."  
There is no national association of relatives of detained patients; there is no national association of friends of detained patients. Neither group is organised into a lobby..."  
(Sitting 10, 25th May, 1982). (emphasis added).

Testimony to the success of the experimental Special Standing Committees in changing Bills is not difficult to uncover. A report by

a Working Party of the Council for Science and Society in advocating pre-legislative hearings noted:

"Experiments along these lines in two House of Commons standing committees have already indicated the potential value of hearings.... In the case of the Criminal Law Amendment Bill, the (special) Standing Committee.... was able to rewrite the Home Office Bill. More recently the Standing Committee on the Mental Health Amendment Bill called evidence which has resulted in extensive amendments to the Bill."(2)

The Council's observations on the Mental Health (Amendment) Bill are endorsed by participants. The Minister, Kenneth Clarke, presented the committee process as having involved, "....considerable amendment and rewriting of the Bill (col. 844 2nd Sitting, 29th June 1982).

The chairman also remarked at the end of the sittings,

".... a Committee is much more interesting for a Chairman when the issue is not just a straight party political one, when he does not always know the result of a vote in advance, and when he has to look at this book to see how to use his casting vote if there is a tie".

"The Committee has one the job that Committees of the House should do, which is to scrutinize legislation line by line and clause by clause. Sometimes that does not happen in a straightforward party political Committee". (col. 846, 22nd sitting Mental Health Bill, 29th June).

#### Special Standing Committees and Groups

Each of the four bills which went to special committee were of little party political controversy, but they were still in areas of great group/department interest. One M.P. (David Mudd) noted,



"In the first half-hour of this very important committee, the Minister and his advisers listed - at the rate of 1 a minute - no fewer than 30 Government Departments, institutes and consultative bodies which are likely to be drawn into this important area of activity." (col. 21, 19th May, 1st sitting, Deep Sea Mining).

The Standing Committees were circumscribed in the number of groups they could question as the amount of time available to them for evidence sessions was limited by Standing Orders. This (a response to the problem) emerged in the discussion of the Education Bill:

Chairman: We had great difficulty about how to arrange this sitting because, frankly, there are too many teacher organisations to fit round the table. So we took the plunge and decided that each of you, as an expert on the subject, is not expected to represent an organisation - although we know you happen to belong to different organisations....

(3rd sitting, col. 155, 26th February. Education Bill.)

In Table 6 we categorise the witnesses in the manner used in Table 4.

TABLE 6

Witnesses to Special Standing Committees

	Education Bill	Criminal Attempts Bill	Deep Sea Mining	Mental Health Bill
Ministers	1	1	2	1
Departments	4	4	8 (DOI (MOD (FCO	1
Local Authority Assocs. etc.	6	6 (i.e. Police Prob. Officers)		
M.Ps and Peers				
Ombudsmen				
Quangos/Adv. Comm.	2	5 (inc. judge/ magistrates)		3
Public Corporations & Nat. I.				
Private Companies			2	
Trade Associations				
Trade Unions				
Prof. Organisations	6 (teachers)	5 (inc. Law Society)		4
Other Groups	(1) 5	4 (inc. Scrap Sus)	3 (Incl. Comm on oil poll.)	6
Academics	1	2	2	2
Journalists				
Individuals				
Arts				
Police				
Academic Insts.				
Others				
	<u>25</u>	<u>27</u>	<u>17</u>	<u>22</u>

(1) Some individuals represent more than 1 organisation, but only counted once.

In comparing the sources of memoranda with those giving oral evidence, there may be a tendency for outside groups to be "squeezed out". For example among those giving written evidence on the Education Bill were a range of groups (apparently) not represented at the oral stage - e.g. British Dyslexia Association, National Society for Mentally Handicapped Children and Adults, Association for Spina Bifida, All Party Disablement Group, AF ASIC, Brittle Bone Society Shaftesbury Society, Dr. Barnardo's, National Bureau for Handicapped Students, NUS, RNIB, Disabled Living Foundation. By the time Ministers, civil servants, those from relevant quangos and local authorities are heard there is little time for other groups. In other words the organisations actually involved in administering the policy area are given priority over other types of group and in the limited time available for evidence sessions non-administering organisations are left out.

### Conclusion

This paper was intended to give a general impression of the scale of activity in Select Committees and Special Standing Committees. Our major interest is in the use by groups of the system. While there certainly are instances of Select Committees and Special Standing Committees being convinced by group evidence there is doubt about the value, in policy terms, of winning over a Select Committee. Moreover the kind of group selected to give evidence seem - with rare exceptions - to be precisely the groups who already have contacts with departments and Members. They might well have been as influential

without giving public evidence. The well established groups are now grafting on their work with Select Committees and Special Standing Committees to the existing means of access. They maintain very close relations with the relevant Departments, they liaise with Party committees in the House, they develop links with All Party Committees where appropriate, and they of course use the traditional amending process in the normal Standing Committees. The new Departmental Select Committees, especially, and the Special Standing Committees when used, provide a "fifth wheel" to the group system.

It can of course be argued that public evidence sessions makes easier the work of such groups, or draws public attention to groups who already have importance in the process. The new Select Committees may also be giving interested MPs a chance to participate in particular specialised policy communities (albeit on a part-time basis). In so far as this does happen then we may be seeing the beginnings of the development American style of "iron triangles" in Britain - where groups, departments and Members of Parliament enter alliances to promote shared interests not where committees scrutinise and challenge departments. What the process has not done is bring in groups from the cold.

Finally we might consider the relationship between civil servants and Select Committees - as it is the civil servants who appear most regularly before the Committees. There is as yet no British data on the attitudes of civil servants to this expanding aspect of their work. Christensen's work in Denmark does, however, provide a

plausible pointer. He found that Departments generally found more disadvantages than advantages in contacts with parliamentary committees. (4) We might expect similar results in the UK as there are few benefits at the personal level to a civil servant appearing before a Committee and considerable risks should he put a foot wrong. The Committees are unlikely to be able to provide particular specialist knowledge as the civil servant will get this from his Department and from his regular consultations with outside groups.

#### FOOTNOTES

1. See A. G. Jordan and J. J. Richardson "The British Policy Style or the Logic of Negotiation? in J. J. Richardson (ed.) Policy Styles in Western Europe, Allen and Unwin, 1982.
2. Such costs are in fact relatively slight; they are comparable, for example, with similar costs incurred in answering Parliamentary Questions.
3. Technology and Government, Council for Science and Society, 1982.
4. J. G. Christensen, Political Bureaucrats; an analysis of Bureaucratic role conceptions. University of Aarhus, ECPR, Freiburg, 20-25th March 1983.

THE LEGISLATURE'S ROLE IN OFFICIAL 'DECISION ADVICE PROCEDURES':

A PROPOSAL FOR LAND USE PLANNING POLICIES IN BRITAIN

Anthony Barker

Background: A Broad Reform of Decision Advice Procedures?

I employ the useful American term 'decision advice procedures' (daps) to cover the full range of devices by which governments are willing to arrange to receive advice in ways involving some public procedures, usually published evidence going in from interested persons and organisations to the commission or committee in question and then the commission offering its analysis and recommendations to the government in the form of a report which is published, in whole or part. The commission will have reached its conclusions in private deliberations and, for its part, the government is in turn entitled to decide in private what its reaction to this advice shall be but will be asked to say, in due course, which of the commission's findings or recommendations it is minded to accept, giving reasons.

My own general impression about British 'daps' is that the political system and interested persons tend to take their form and methods for granted even though these are nowadays somewhat old-fashioned and unsystematic. (The absence of any computer assistance from the regular task of revising local authority and parliamentary constituency boundaries is a topical example; more broadly, the general C19th style of all public commissions and parliamentary

committees of publishing their terms of reference or topics of inquiry and then waiting for interested groups and persons to submit written evidence, instead of adopting a more modern social science-orientated strategy of investigation and discovery, is a continuing weakness, although there are various examples of such committees avoiding this criticism by adopting a more positive approach to their task).

I mention the general health and modern suitability of 'daps' of various types (Royal Commissions, Government-appointed committees of inquiry, parliamentary select committees and the various types of public inquiry into past events or proposed future construction schemes) to offer background context to this present paper but also because I hold the general opinion that the critical review of these procedures in Britain which I think is necessary should, without doubt, be conducted alongside the continuing review and debate about the legislature's role in the business of maintaining a stream of public advice to the Government on policy problems. Thus, the main title of this paper is deliberately very broad whereas there is time and space here for only a limited actual proposal for reform and development relating to the particular policy field (land use planning) which I happen to study. Although it would constitute a very broad subject, requiring a different research project and a different paper, the general balance between the Executive and the Legislative aspects of the government of any developed country in the role of proposer and receiver of exercises in producing decision advice for the political system deserves to be mentioned as background here.



### Land Use Policy as an 'Enabling' Policy Field

Environment and land use policy as a national public policy field is both broad (and even vague) and to an extent, subsidiary to other, more traditional and familiar, policy fields (e.g. housing, support for agriculture, aid to industrial investment). It has, therefore, been under-politicised and widely seen by political actors as being largely technical and professionalised in its nature. In the British case, for example, only the financial and fiscal aspects of major urban property development gains have been a partisan issue since 1945: this intermittent battle has been separated from the rest of urban planning processes rather than becoming the basis for calling them into political question.

Moderate changes have affected this field in the last fifteen years, however, as public demands for direct participation in environmental and land use planning and public criticisms of some of the dramatically unsatisfactory results of the planning, architecture and traffic engineers' professional efforts have both increased - these two trends being, of course, closely interconnected. In these respects, environment and land use planning broadly resembles the policy fields of energy, science and technology. All of these have been seen as 'enabling' policy fields (their success makes possible certain advances in other, more substantive and usually more politicised, fields).

### The Place of the Public Local Inquiry

Britain is often said to have 'the best' land use planning system in the world (a comment usually, but not always, heard from British professional land use planners) and it seems clear that it has, at least the most detailed system. The principle device for examining in public disagreements on land use proposals between applicants for official permission to develop land and the local governments which normally give the initial decisions on these applications is the public local inquiry (of which 2913 received their final determination during 1981). As in other countries, the use of such a device to debate modern land use planning issues is, to an extent, a successor activity to the rather different issues debated in the 19th when such local inquiries or hearings were instituted to allow holders of property rights to resist the State's compulsory purchase or other proposals threatening the current or prospective value of the land or buildings in question. The liberal philosophy of private property rights required, at the least, that the legal doctrine of audi alteram partem (hear the other side) should be applied. This bi-lateral relationship between property holder and the State has, in modern conditions, been generalised into the wider democratic theory of 'public participation' which claims, albeit with no clear boundaries to the claim, that no-one should have their 'environment' disturbed or worsened without an opportunity to give their views and, perhaps also, to debate and challenge the policy which threatens these changes. For these historical and legal reasons the public local inquiry is a quite common prerequisite of a government decisions in Britain

involving a physical construction project of some kind and this, partly historically accidental, feature of the modern system makes land use planning unusually open to both scrutiny and active participation by members of the public. It is interesting that this major dose of 'openness' in Britain public policy making (compared with, for example, the running of the education, social security or public housing systems) has not served to politicise the land use planning field in the partisan sense of the term. Whereas the larger public planning disputes which may be fought out at long-running public inquiries are 'full of politics', these are the politics of organisation relationships between the local government acting as the initial planning authority and the applicant and his allies or, sometimes, between departments of that local government who may take rather different views in private on the merits of the scheme. There are also the usual political relationships between objector groups and between them as a whole and both the promoter's forces and the local authority's people. Political lobbying goes on to some extent and can involve personal, private approaches to the central Government Minister responsible for the final decision, normally the Secretary of State for the Environment (Secretaries of State for Wales and for Scotland within their territory). Whereas the local MP and local branches of national political parties increasingly offer their views at public inquiries, they are careful to avoid national partisan points and stick fairly closely to the standard economic or conservationist grounds which the scheme's promoters and opponents all stand upon in arguing out the case before the Government's appointed Inspector. It is unusual to hear even a glancing reference to a

formal political party policy or even to the economic and social ideologies underlying national partisan allegiances. Of course, the language of land use planning always lies within a context of national policy and, indeed, the framework of self-conscious planning policy has developed steadily in post-war Britain. Government White Papers, Circulars to local planning authorities, Development Control Policy Notes and Government-approved Structure Plans at country council level now offer a good deal of guidance on what is the planning policy for a particular type of land use. These do carry some partisan overtones (e.g. Conservative Governments' relative willingness to approve house building schemes for private sale to owner-occupiers) but little of such partisan element as may be detected can convincingly be isolated from well-established, professional planning judgements maintained and applied within the Department of Environment, Welsh Office or Scottish Office.

#### Private Sector Property Market Adjudications

The great majority of environment and land use planning issues concern private concern private property and private capital in conflict with State prescriptions of environmental quality, as expressed through 'good planning' policies and decisions. Typically, as we have noted, a private owner or user of land or buildings has sought State consent (initially from the local government level) to develop and appreciate his property and has failed to gain that legally necessary consent. He has a legal right to appeal to the central Government which thus acts as judge (about 35% of appeals

being successful). Themes of planning policy (such as preserving Green Belts around major cities, conservation of historic buildings or promotion of employment prospects in the inner cities or more remote rural areas) dominate this system of appeal, argument and decision making. Each disappointed applicant also has the legal right to appear personally before the Inspector who has been assigned to study the appeal and, in 95% of cases, also actually to decide the issue in the name of the Secretary of State. By strong convention, this right of appearance takes the modern form of a public local inquiry which brings with it important additional rights to cross-examine the local government officer representing the local planning authority who failed to give the requested consent.

Obviously, if the bulk of the money to be invested in these developments was public money (as in public housing, social services, health or public transport fields) this non-partisan atmosphere, which gives British town and country planning almost the atmosphere of a 'private political system' in its own separate right, could not survive. This point is, perhaps, well shown in the recent striking increase in the partisan political content of public transport subsidy issues whereby Labour local governments have sharply increased the amount of public money used for subsidising buses and trains leading to current legislation by the Conservative Government to bring this process under central control.

### Quasi-Judicial and Natural Justice Standards

A second reason for the continuing suppression of partisan political styles by either the major or minor participants in land use planning matters is the quite strong quasi-judicial tradition of this policy-field - actively encouraged by the judicial review role which is widely expected of and, albeit fairly cautiously, performed by the higher courts. A recent statement from the Coin Street Action Group in support of a law suit mounted against the then Secretary of State for the Environment and claiming that he erred in law in granting consent recently to a huge office scheme in central London said, "We are asking the court to protect us from arbitrary and undemocratic government. Tom King is not above the law." In fact, the British courts have never approached the boldness of American courts in seeking to substitute their own judgement of what is good public policy for that of the officially responsible body, particularly, perhaps, where it is an elected local authority or the central Government, responsible to Parliament. The judicial requirement is rather than government decisions on these planning disputes should pass the legal test of reasonableness (not appear to the court so unreasonable that no reasonable man could have come to such a decision) and should also be reasoned when presented to the interested parties and the public at large. The doctrine of 'hear the other side' must have been reasonably well followed and the decision must be coherent with its conclusions flowing from its findings of fact and policy considerations. In the American phrase, 'due process' must be observed. The courts will be as enthusiastic for these principles as

they have always been cautious to intervene in planning policy issues. Nor have they, so far, shown much interest in objectors 'rights' concerning the contrast between 'procedural fairness' and 'substantive fairness'. Thus, if one side in one of these planning inquiry-based public debates on what constitutes good policy has enjoyed a fair procedure under the audi alteram partem rule, it is not a matter for the court that the sheer lack of time and money to prepare a full case or to analyse the other side's material effectively may have in fact denied the real use of the procedural opportunities afforded to them.

#### The Problem of State Development Schemes

This quasi-judicial appellate role for the central Government under the Town and Country Planning Acts is fairly easy to maintain when the development schemes are promoted by the private sector. It comes under severe stress (or, some believe, breaks down completely) where a proposal to change the environment or land use is proposed, or openly supported, by the central Government itself. Typical schemes are highways, water reservoirs, airport extensions, or power stations, whether or not nuclear. For these public inquiries, 'independent' Inspectors (i.e. not civil servants) are asked to report and recommend a decision to the central Government which then makes the decision. Although it is the second main principle of natural justice that no man should judge in his own cause (nemo index in re sua) it is impossible for a British Minister to avoid this position on a State or quasi-State development scheme. It is often suggested, particularly by environmental activists, that some independent element should be

introduced to the final decision on whether schemes of this type should go ahead. While the responsible Minister can take all the advice he likes (and I shall suggest below that he takes additional advice from Parliament) there can be no sharing of the final decision. Only the Cabinet can decide or authorise what is the Government's decision on whether to develop the scheme, spend the money, amend the design or take any other executive action on the matter. The courts have never expected Ministers to avoid judging in their own cause and they are free to urge the merits of schemes up to and even during the public inquiry stage of their formally deciding to approve the scheme, without fear of successful legal challenge, although it is considered tactful that they should abate their enthusiasm during the Inspector's work. Thus it was considered legitimate for Mr. Lewis Silkin to urge the need for the Stevenage New Town on a public platform (even one at Stevenage itself) while acting quasi-judicially in setting up and receiving the report from a public inquiry into the actual development proposal; Mr. Peter Walker is now in a similar case on the proposed first British pressurised water reactor at Sizewell in Suffolk which it is mainly his Government's policy to see built and operating as soon as possible. The Government's decision to refuse the request for public funds to assist their costs of analysis and representation at the lengthy public inquiry now sitting into this elaborate scheme shows well that British legal and political practice currently requires only that the promoting Minister on a power station, highway, etc. should arrange that objectors may receive only the same opportunities as are open to objectors against private sector development schemes at the more usual type of public inquiry into a



planning appeal.

However wrong it may appear (as it certainly appears wrong to me) that objectors to important State schemes which imply significant changes to the environment as well as the spending of possibly huge sums of public money should have to accept only 'procedural fairness' and go without much chance of 'substantive fairness' (which might be called real or commonsense fairness) one should not exaggerate the threat of this problem simply because its merits run quite deep into the values of an allegedly democratic system of public policy making. There will only ever be very few major State schemes whose proper analysis and systematic rebuttal by objectors is such a weighty and technically daunting task that significant sums of public money ought to be offered to help them to do a reasonably thorough job in the public interest. The recent rise in Britain of what may be called the larger public planning inquiry (as opposed to the few truly 'Big' ones such as nuclear reprocessing (1977); the Third London Airport (1981-3); and the Sizewell PWR reactor) shows that amateur witnesses and advocates, possibly assisted with some backroom expert advice, can go a long way in reviewing the weaknesses in apparently elaborate and impressive schemes. Real damage, in one or two cases fatal, has been done to State and quasi-State promotions as well as private sector ones, usually following the strategy of asking the schemes' proponents at the public inquiry to show in detail how their conclusions and recommendations in favour of the scheme being approved flow from their claims as the to factual basis of the scheme. To an extent, the cutting of corners and the element of wishful thinking which forms a

part of most cases for developments coming before the larger public inquiries can be revealed, particularly when the general demand for the products of the industry in question (road traffic flows, water, airline passenger movements, electricity, etc.) has recently been falling. (It has been genuinely difficult for the present ranks of senior staff with their engineers, consultants, etc. who now run a wide variety of State and private agencies and firms and who had their training and formative experience during the Sixties to grasp that the picture of their agency's or industry's future should no longer be assumed to be a rising graph line).

#### The Legislature's Potential Role

I wish to propose here, in outline at least, that, in the British case, Parliament should become the patron and 'legitimator' of this public planning inquiry process - notably on State development schemes - while accepting fully, as already noted, that the British system of cabinet government must remain as the source of any executive decision on whether to proceed with any particular scheme. Other political systems, particularly within Europe and North America, already offer a variety of roles to the legislature in both decision advice procedures and executive decision making on major development schemes (whether public or private sector) which have a significant environmental impact. If it is felt that any sense or value resides in the idea of a stronger parliamentary role in the British case, one further task would be to compare present and prospective legislature roles on such matters in other systems.

### Recent British Public Inquiries and Research

Although there is, naturally, no formal definition of the 'Big' public inquiry in Britain there is an element of agreement that one can recognise such an event when it occurs just as an elephant is more easily recognised on site than it is described in a text. My own research interest in recent years has been in what I have called here the 'larger' as well as the 'Big' inquiries and I should say at once that I am not clear how far down the scale of size and significance of these inquiries the extra element of parliamentary activity which I propose should be carried. If all planning appeals (14,451 decided during 1981) or even all of the majority of these appeals which were handled by the public inquiry method (2,913 decided during 1981) were to pass under the patronage of Parliament rather than that of the Secretary of State for the Environment (with those in Wales and Scotland to be added on) it would make no practical difference to the running of the system and might have the advantage of carrying the name of Parliament into the consciousness of all those engaged upon this large number of cases who may, thereby, come to see Parliament a little more strongly as the guardian of a fair and relatively open process of official decision making. The decision on all these smaller cases would, of course, continue to lie with the central Government so that sticking a parliamentary label onto the system may be thought merely cosmetic or perhaps actually confusing to the members of the public involved. On the other hand, to attempt to draw the line below some class of unusually large and important public inquiries and declare only those above the line to be concern of

Parliament might have unforeseen consequences and would, presumably, give a new power to Government officials who would allocate cases at the margin to the old or the new procedure.

Now that only some 5% of planning appeals are decided within the DoE (by some combination of officials and Ministers, depending on the needs of each case) it might be convenient to say that only these, most important, planning appeals would deserve the parliamentary imprimatur on their processing: cases which are 'called in' by the DoE for their own initial decision (thus cutting out local planning authority) are unusually important and would be added to the 5% of appeals. All State and quasi-State development schemes, even the smallest should, as a matter of principle, receive parliamentary patronage for their public inquiry stage to strengthen the perceived independence of this stage on such schemes.

Examples of private sector development proposals which have generated 'larger' public inquiries in recent years include groups of rival applications for proposed superstores (smaller versions of hypermarkets) in and around a particular city (eg Oxford, early 1980; Solihull, early 1983) and single proposals for massive office schemes, often in London (Hay's Wharf, 1981; Coin Street, 1981-2 and Mansion House proposal for a block designed by Mies van der Rohe spring 1983 or 1984). State and quasi-State promotions at this top end of the inquiry range are more common and have included in recent years: a nuclear re-processing factory at Windscale; the taking of water for nuclear processing purposes from two lakes in the Lake District; the

launching of new coalfields as Selby and in and around the Vale of Belvoir; a noise-making electricity exchange station with France at Sellinge, Kent; the extension of Birmingham airport; a second terminal at London, Gatwick airport and a fourth terminal at London, Heathrow airport; and two unprecedented discretionary public inquiries into the nature of industrial hazards of the local population at Canvey Island in Essex. In addition, a long series of often bitterly fought public inquiries into major road schemes, forming part of the central Government's national programme for motorways and other trunk roads has maintained public interest and possibly concern on the matter of public planning inquiries. This interest or concern has more recently received a major boom from the longest and most elaborate public inquiry yet experienced: the Third London Airport inquiry which ended in July 1983 having begun in September 1981, representing about twenty months of actual sittings, on four days each week. While this airport inquiry continued, the latest major public inquiry (Sizewell PWR reactor) has opened and already raised several unprecedented procedural points and problems, some of which raise the question of whether it can survive as a legitimate forum for informed public inquiry now that it is becoming clear that the statutory nuclear safety agency (the Nuclear Installations Inspectorate) will be unable to present its findings on the technical aspects of the proposed reactor before the inquiry has concluded its business.

#### A Possible Parliamentary Oversight of Major Public Inquiry Processes

There is little doubt that the public inquiry under the Town and

Country Planning and related Acts is now a familiar political institution in Britain. The modest climate favouring public participation in environmental policy fields and the rising levels of education and self-confidence amongst a wide variety of citizens has allowed the broader system of more minor public inquiries to flourish quietly and to become a more thorough and worthwhile proceeding than it may have been, perhaps 10-15 years ago. As to the so-called 'Big' inquiries, their dramatic rise has its critics as well as its supporters because considerable resources in staff time and external expenditure are at stake if a Government agency or private firm finds itself involved in one of these affairs. (The British Airports Authority may spend about £2.5m in external costs in promoting their scheme to expand Stansted Airport and in resisting alternative proposals from other bodies: this sum takes no account of the enormous labours of their own staff. The same is true for the local planning authorities and other public and private interests, notably British Airways, who are in the battle lines of this unprecedentedly large-scale and elaborate public policy debate). Those public and private sector bodies whose business requires them to make frequent proposals for physical developments are concerned that the combined burdens of the British public inquiry system and the requirements of the EEC to provide possibly even more elaborate information under the name of an 'environmental assessment' are becoming insupportable: all these costs must be passed on to their customers. In particular, they resent having to justify a particular scheme in terms of background policy when, they say it is the duty and the prerogative of the Government (as responsible to Parliament) to say what policy shall be in their

industry and then to submit particular schemes for proper scrutiny at a limited inquiry into its intrinsic nature and its immediate local environmental impact. Thus, the National Coal Board does not at all take kindly to having to justify a particular coalfield development scheme in terms of the entire future of the coal industry and Britain's energy needs and resources for decades into the future. The trouble with this viewpoint is that there are no institutions in the British political system for looking into the future in a modern systematic and open way. This brings our discussion back to the starting point of this paper where I questioned the general adequacy of 'decision advice procedures' which we are largely continuing in an uncritical manner from the practice of the last century. The British are slipping backwards, if anything, on this matter if the present Government's recent abolition of two newly-established 'daps' (the Energy Commission and the Commission on Energy and the Environment) is any guide.

Whether or not Britain soon reverts to having a team of Ministers (of whatever party) in the environmental/energy fields who can appreciate the sense of having advice coming to them via high quality 'daps', the fact would remain that Parliament is not as active as it might be in these fields and is conspicuous by its almost complete absence from the vigorous, often newsworthy (and sometimes controversial) world of the major public inquiry. All that exists at the moment is a vague understanding that the House of Commons possibly might or probably would hold a debate on the Inspector's report on the very biggest and most important of these public inquiries before the

Government decides the outcome (or, at least, announces the outcome if its mind is already made up). For the House to do this requires a technical or procedural sleight of hand (as happened on the Windscale case in 1978) which would be unsatisfactory for regular and expected use. There is a clash between the quasi-judicial principles which govern the inquiry and the Minister's consideration of its report on one hand and the political need for the House to debate the report before the Government announces its decision, on the other hand. Legal principle says that the Minister must not take into account any new evidence after the inquiry has closed but should confine himself to applying the Government's policy precepts as priorities to the material with which the Inspector has presented him, including the Inspector's recommendations. Political commonsense, on the other hand, says that a debate in the sovereign legislature cannot be called mere 'further evidence' which would raise judicial difficulties and one might, following this latter line, propose a statutory cut off in the quasi-judicial process after which there is no further 'evidence' but the opportunity for everyone, including the legislature, to say what they think to the inspector's report and give their views on what the outcome should be, as in any other policy field in which a dap has operated.

It must be emphasised that there is no proposal in this paper for MPs or peers themselves to conduct detailed inquiries into development schemes. What is proposed is that Parliament's oversight and patronage of public inquiries into land use issues would be valuable in separating the role of the Minister who must decide the outcomes in



the Government's name (subject to normal parliamentary responsibility) from his role as the organiser of the quasi-judicial public inquiry process. On this view, Parliament, through the two Speakers, should appoint the inquiry Inspector and any assessors (and also employ the inquiry's programme officer or secretariat staff in the few cases where these exist) and should receive their reports and recommendations. Parliament would convey the latter to the responsible Minister and should then decide, via its committee systems and other established means, what deliberations, if any, should take place on the case and the Inspector's report - whether in committee or committees in either or both the chambers - before the Minister proceeds to the decision on the case. Naturally, the quasi-judicial standards of the inquiry process would be undisturbed by this transfer of patronage from the Executive to the Legislature; the Minister would also be required to continue his quasi-judicial style of decision taking except that the present rule which has the effect of forbidding the legislature to discuss the merits of a case after the Inspector's report has been submitted and before the Government has announced its decision would be swept away. Thus, Inspector's report would automatically be published in order to permit Parliament to discuss the case if it so wished and this would have the effect of allowing everyone else to do likewise (as in the case, for example, in Canada). Judicial principle rightly requires that the Minister should not take into account post-inquiry evidence, other than considerations of Government policy itself, without acquainting the parties with this material. If the public debate was thrown open with the publication of the Inspector's report, as I suggest here, it may be necessary to

require the responsible Minister by law to declare, when issuing his decision letter on the case, that only the material and recommendations covered in the Inspector's report; considerations of Government policy itself; any further privately submitted or other non-published material which he has already offered to the parties for their comments in the established manner; and any public debate in the mass media, in Parliament or elsewhere which may have greeted the publication of the Inspector's report and subsequent events such as a debate in either chamber or in a parliamentary committee, have formed its basis. All parties at the earlier inquiry will have been free to follow and to contribute to this public debate. Anyone's failure to be reported by the mass media would not exclude them as they would be free to send their press statement, etc to the Minister, as to anyone else, as their reply to anything in this public debate which they believed called for an answer.

Parliament's oversight and patronage of public inquiries would also help to clarify the competing value systems which lie below the overt struggles in these cases. In saying earlier that these matters are mostly non-partisan, I was careful to avoid suggesting that they were free of political competition. In particular, parliamentary patronage could assist in clarifying the 'public interest ideology' of the Government and its quasi-State agencies when proposing their own schemes such as trunk roads and energy developments. On the other side, the rival 'public participationist' ethos and the running critique of the economic assumptions about economic growth and prosperity which comes from the ecology and conservationist camp would

face similar political demands to explain itself if the legislature became a more active arena for these issues, having become the supervisor of the inquiry process. These matters would probably not become markedly more politicised in the partisan sense as a result of this greater exposure but would become more plainly part of the national policy discourse while also contributing to a somewhat greater openness in government generally by the force of their example. This new relationship would benefit the political standing and impact of 'environment issues' while also (and more markedly) benefiting the status of Parliament which is otherwise at some risk of appearing irrelevant to these increasingly active and important fields of political activity. (There is, in the British case, a particular need to encourage the legislature to interest itself in more 'modern' political issues because the overwhelming pressure of partisan loyalty in the principal chamber carries a real risk that chamber will become stuck in the same mud as the party system to which the Members are so loyal). Thus, if the party system has itself become a conservative political institution which is not as capable as it should be in changing its political agenda from the familiar fields about which politicians have fought for as long as they can remember towards new issues which do not fit so easily into established partisan images and loyalties, there is a real danger of the legislature coming to be seen as out of touch by the same token as the party system itself.

### A More Modest Proposal for Parliamentary Links with the Public Inquiry System

Having sketched a scheme for general parliamentary oversight of the public inquiry system, or at least of the bigger and more important inquiries, a more limited proposal may also be of interest. This would simply implant a required parliamentary stage in the process of ministerial decision making in certain circumstances. The most limited suggestion would be that the Minister should be prevented from giving the Government's approval to a scheme until a favourable vote has been recorded in either House in those cases where the Inspector has not submitted a clearly positive recommendation on the scheme. Under this rule the Government would be free to approve a scheme which has attracted a clearly favourable report from the Inspector but would have to seek a parliamentary vote if the Inspector's conclusion was either plainly adverse or heavily conditional so that it may be said that the scheme as originally proposed to the Inspector at the inquiry has not found favour. This rule might be applied only to State and quasi-State developments (where the Minister must be seen, to some extent, as judge in his own cause) or it could be applied to all the major schemes going to public inquiry, eg all those which are to be decided by the Secretary of State, rather than by his Inspector on his behalf, plus all those called in or otherwise due for ministerial decision.

A stronger version of this idea would be to apply it to all of these major schemes, in both public and private sectors, whether or not the Inspector has failed to give a clearly positive recommendation

in his report. It is worth repeating that, in any of these events, it would be for either or both Houses to discuss or debate the scheme and the Inspector's report upon it in either select committees or in the chambers, respectively, or both. As part of the open public debate which could follow the publication of the report, it would be quite open to select committees to take evidence in public on the matter to supplement the material which was offered to the Inspector. Circumstances can change quickly in these fields. A major recent example was the new official estimates of future airport use which emerged after the closing of the public inquiry into a proposed second passenger terminal at London, Gatwick airport and the announcement by the Government of its decision in the scheme. Under present arrangements the two decision Departments (Environment and Trade) circulated these new figures to the parties for their comment and refused the request by Surrey County Council to re-open the inquiry to permit cross-examination on them, whereas under the scheme outlined here these new data and the Inspector's report would both have been documents and Surrey would have joined with any other parties at the earlier inquiry and other interested voices in a public debate (including, possibly, as evidence to a select committee of Commons or Lords) on the significance of this new information.

Conclusion: The Twin Themes of (i) Necessary Adjustment of the Political Agenda and (ii) the Wider Reform or Review of Decision Advice Procedures.

In this informal paper I have tried to suggest that there are two broad reasons for trying to link the public inquiry process in British

land use planning to the workings and public standing of Parliament. The first is that the public inquiry has become a familiar and well-respected political institution, particularly in more recent years, dealing with a branch of public affairs which does not figure at all strongly on the establishment battle ground of the partisan politics of a possibly conservative and inflexible party system. It is neither intended nor expected that to link land use planning inquiries with Parliament in this way would politicise these events - on the contrary, the idea is to give Parliament a role in a field of growing public policy importance which would allow Parliament to show the electorate that it can be useful and active in fields other than traditional and hackneyed ones. In this sense, I have suggested that whereas it might be good for the inquiry system to be seen to be linked to the sovereign legitimacy of Parliament, it would be even better for the standing of Parliament to be seen to be linked to this successful and usually well respected new political institution.

The second main reason for these proposals forms part of the suggested need to review and enrich British government's decision advice procedures. If it is felt that these procedures require some broader review and updating to meet the needs and demands of a more educated society now heavily penetrated by the mass media of communication, then the place both to start and finish is the national legislature, because it is here that the Executive's final responsibility for the advice which it receives and considers must lie. In Britain's particular case, where there is no sovereign constitution standing above the legislature, the legitimacy of the

elected representatives of the people is particularly strong. In a system where only the local councillor and the MP are elected and in which the former are so clearly subordinate to the national legislators, there is a strong monopolist sentiment amongst them. It takes very little to provoke a British MP into saying that only the elected representatives of the people should decide any given point or issue. This may be a good, or at least an unavoidable, aspect of the British system and certainly makes for a proper caution amongst nearly all the judges when they are dealing with cases concerning the roles of both Executive and Parliament. Of course, in practice, once this sole locus of democratic legitimacy has allowed the Executive to dominate it in the name of a 'responsible party system' pattern of government, the effect is to translate elected legitimacy in the Palace of Westminster to executive power in the Whitehall Departments via the office of Ministers.

If, for better or worse, democratic legitimacy is to be so confined to the Commons (with small quantities spilling over by proxy to the workings of the Lords) it may as well be employed more widely and more richly to extend legitimate authority to decision advice procedures, including the public inquiries in land use issues which have been our concern in this paper. If this happened it would require the Government and its agencies and officials to adopt more open and accountable styles of preparing to arrive at decisions on public policy issues. The reform of decision advice procedures is closely connected, therefore, with the quest for more open government. Neither of these concepts can have much meaning, certainly in a

parliamentary democracy, unless the legislature is at least one of the principal repositories of the political energy necessary to achieve and maintain them. Whereas the mass media, acting as an organised interest group on the 'freedom of information' theme, are an indispensable element in the pressure for more open government and whereas all other organised interests in the political system should maintain an interest in better quality 'daps', they each require Parliament to back them up and press their respective cases onto Ministers directly. The chicken and egg problem on both open government and reformed daps is obvious: legislators will not spontaneously undertake these new political tasks in addition to their familiar partisan roles because these tasks are, broadly speaking in Europe, not part of legislators' job descriptions. But these tasks will not become part of their job unless legislators press very hard that they should be. External pressures and developments are therefore necessary to help break this vicious circle. Taking the problem of reform of established daps and the particular example of the public inquiry into development proposals, I have suggested that the transfer of the patronage and oversight of these inquiries from the ministerial domain to the parliamentary domain would be a valuable psychological and substantive step.

The initial difficulty in proposing to wrest the patronage of at least the major public planning inquiries from Ministers and their officials is the present lack of demand for this transfer within Parliament itself. It is not clear what may make the British legislature come to perceive its need for new and wider roles on



public policy processes (such as 'daps' in general) or its need to be more active in public policy fields of growing importance which have much less to do with traditional partisan battles than has the old and somewhat addled political agenda. One may compare, for example, the old politics of public and private sector house-building - council housing and owner occupied housing - with the new politics of environmental planning and conservation. It may well be that only a dramatic change in the party system of the House of Commons (not just a changing Labour/Conservative balance) or, alternatively, a more steady process of generational change amongst MPs of all parties will bring the House to see and to want a new role as the patron of the public planning inquiry process in particular and, possibly also, of the committees and commissions of inquiry into particular topics currently established by and reporting to the Government. If, as one suspects, the public standing of Parliament is hitched to the waning star of the Labour/Conservative party system (which can (1979) boast only 20% claiming to be 'strong supporters' of either of these parties) then some further noticeable and even dramatic decay in this system as it appears within the House itself may be necessary before a new and more broad understanding of the legislature's proper tasks reaches a significant number of Members themselves. The fact that the points canvassed in this present paper may not qualify to be seen as the most urgent aspect of parliamentary reform at least assures more time for the further study of public planning inquiries in particular and daps in general to see how they might come to be related to Parliament for their mutual benefit and to help achieve a higher quality of Government decisions as a result of this new relationship.

## POLICY MAKING AND THE HOUSE OF COMMONS COMMITTEES

Alan Budd

The question that I consider in this paper is whether the House of Commons Committees have improved the quality of policy-making in Britain. I am particularly concerned with the process of policy-making and with the following two aspects of it (a) the extent to which as wide a range of views as possible is taken into account (b) the extent to which the executive is required to explain its actions. I recognise that the Committees were introduced as a means of extending Parliamentary control over the executive but I shall not be discussing that particular aspect of their work since I know little about it. I am concerned instead with the Committees' ability to provide an open forum for discussion of the work of Departments. I should admit therefore that my comments on the Committees are related to tasks they were not primarily designed to perform.

In this paper all my discussion is related to the Treasury and Civil Service Committee. That is because it is concerned with policy questions in which I have a professional interest but I hope my discussion has a more general relevance to the work of other committees. In the first section, by way of background, I repeat some arguments I made in an earlier paper about policy-making in the Treasury. I then consider how far the Treasury Committee has performed the role I had proposed for the Treasury itself. I then

consider examples of two types of task the Treasury Committee has set itself: the first is the study of great problems of our time; the second is the monitoring of policy. The following section discusses the role of the specialist advisers and the nature of expert evidence. The final section draws some conclusions.

### Policy-making in the Treasury

In "Disarming the Treasury" I drew attention to the Treasury's monopoly in the provision of advice on economic policy. I suggested that there were historical explanations for this monopoly particularly in relation to macro-economic policy which has been the Treasury's predominant interest since the War. Macroeconomic policy, along the lines laid down in the 1944 White Paper on Employment Policy, was inspired by Keynes and put into operation after the War by the economists who had served with him in Whitehall, either in the Treasury or the Cabinet Office. National Income Accounting, techniques of demand management and early attempts at forecasting were all developed in Whitehall and the government, through necessity (since nobody outside Whitehall was doing it) became self-sufficient in macroeconomic analysis. From the start, the Treasury has remained dominant in that activity and the resources it devotes to forecasting etc. dwarf those of any other institution. It is by far the largest single employer of those who can be described as applied macroeconomists.

This dominance was sustained by the assumption that the

discussion of economic policy must be conducted in secret. (One recent development - which may be to the credit of the Treasury Committee - is that assumption has been somewhat relaxed). I argued that this secrecy can rarely be defended in terms of national interest and that it has served mainly to protect the interests of the executive. We all recognise that secrecy is necessary where advantage can be taken of prior knowledge of specific policy changes but apart from those cases there are few good reasons for secrecy about economic policy. I do however accept that, quite apart from the question of national interest, there is the crucial constitutional issue of the role of civil servants and the status of advice given to ministers. I regard it as beyond the scope of this paper to discuss that question and I shall assume that the present arrangements will not change. Since those arrangements in effect make internal papers prepared by civil servants secret (at least when they raise questions, as they must from time to time, about the conduct of policy) I shall argue that they strengthen the grounds for taking policy analysis away from the Treasury as much as possible.

My objection to the Treasury monopoly of economic policy-making was that we had no way of knowing what considerations led to particular decisions, what sources of information and advice were used, what alternative ideas were considered, which ideas were rejected and why. It is often asserted that Ministers pay a great deal of attention to what is written in the press. That may be so but I do not find it completely comforting since the oddest people write for newspapers and again one would like to know the process by

which some views do and some views do not have an effect on policy. One particular fear I expressed was that the Treasury, as a closed community, could develop its own line of policy which became its creed so that the offering of alternative views was inconsistent with being a proper "Treasury man".

I proposed the following changes (largely inspired by Professor Michael Beenstock) to deal with the problem. The Treasury should be able to brief the Chancellor in the light of outside as well as inside analysis. I argued that the task of marshalling opinions (including economic forecasts) should be organised systematically and should not depend on chance combinations of contacts at official or ministerial level or the outsider's ability to attract press coverage. I suggested that there should be an External Coordination Unit established in the Treasury whose task would be to organise and assess external views. It would be organised to perform the following tasks:

- i. the identification of issues in macroeconomics, microeconomics, energy, policy etc.
- ii. the development of links with universities, forecasting institutions, research establishments, overseas organisations etc.
- iii. arrangements for hearings and seminars.

The External Coordination Unit would investigate and use the regular reports of outside institutions and would also sponsor economic research directly concerned with policy issues. I was not suggesting that the Treasury should lose its role as the ultimate source of

advice for the Chancellor but I was proposing that the source of advice should be greatly widened and the weight placed on the Treasury's internally-generated views should be reduced.

I did not discuss the question of whether this advice should be given in secret. My view is that in almost all cases the advice should be published. Sometimes the fact that the Treasury is actually studying something may give an important clue to future intentions but that only happens occasionally. I repeat that advice given by officials is usually secret only because it is covered by the doctrine of ministerial responsibility. If the same piece of advice was given by an outsider it would not have to be secret. (Though of course the Treasury would have to explain why the advice was ignored.)

I should hardly need to add that my fears about the nature of Treasury policy-making are general and do not relate to any particular set of decisions. My view that the policies themselves have improved does not by itself remove my distrust of the policy-making process. The question I raise is how far the Treasury Committee has succeeded in performing the role I proposed for the External Coordination Unit. At first sight it would seem well qualified to do so. It certainly has the power to identify issues; it can form links with universities and research institutions; and it can organise seminars and hearings.

The fact that it is not part of the Treasury has advantages and disadvantages. The main advantage is that it can operate independently. There is no risk that it will be absorbed into some

Treasury tradition. One disadvantage is that there is no guarantee that its pronouncements and proposals will be considered by the Treasury. Another possible disadvantage is that the members of the Committee are politicians who have their own political loyalties and who do not necessarily have any specialised knowledge of the subjects under discussion. Also the Committees leave the organisation and size of the Treasury (and other departments) unaffected. The Treasury can retain its role as a self-sufficient source of policy advice. However it does seem that Committees offer an excellent chance for improving the process of policy-making. They can call on a wide range of independent opinion and they can try to ensure that the departments explain their actions more fully. They can also (and this is of course one of their prime purposes) improve the standard of debate in the House of Commons by providing members with more information. The potential benefits from an effective Committee system are well summarised in the Treasury Committee's own statement in its Report on Budgetary Reform:

"We believe that more open debate - 'open' both in the sense that more people and institutions are involved and in the sense that discussion takes place before options are foreclosed - will, provided that such debate is properly informed, lead both to better decisions and to decisions which command wider respect and support."

#### The Report on Monetary Policy (1)

I classify the Report on Monetary Policy as a study of a great issue. Although it was concerned with the conduct of economic policy it also attempted to study the foundations for policy. As the

introductory paragraph said:

"In this Report we examine the Government's monetary policy as it has evolved over the last 18 months and consider how far the theory on which the Government's Medium-Term Financial Strategy was based seems to be valid." (2)

The Committee had earlier announced its intention of embarking on a wide ranging enquiry into monetary policy which would examine "this firm conviction of the Government that limiting the money supply must be the main pillar of policy and that there are certain definite relationships between the PSBR, the money supply, inflation and economic growth."

When it was first announced I believe that it was a mistake for the Committee to embark on this study. It was, of course, right to investigate the Government's monetary policy but I thought it was wrong for it to undertake a study in which the views of all the great economists would be sought on a number of fundamental issues of theory and policy. I could not see the point of the Committee's trying to resolve matters of great complexity which were the subject of long-standing and unresolved debate among economists. Nor did I expect the Committee to succeed where the economists had failed. I felt that the Treasury would draw great comfort from the news that the Committee was about to embark on a study of this kind since it would leave it too busy to do anything else. Further I thought that there was a danger that, by the time the study was completed, the central policy problems would have changed quite dramatically. Finally I did not expect the evidence from the academics to tell us anything new



since their views on these matters were already well known.

In the event many of my fears were unjustified. Monetary policy did remain a central issue. Also much of the evidence collected was more useful and interesting than I had expected. Finally the Report did raise some important questions and developed some telling criticisms of the conduct of policy. However I do not believe that it made an important contribution to the process of policy-making. That was because it did not solve the problem of ensuring that its evidence and proposals were effectively taken into account in the conduct of policy. I believe that the problem is partly insoluble, given the nature of the Committee system and the constitutional position of the civil service but I also believe that there could be benefits from changing the procedures.

If it wanted to investigate the basis for the Government's conduct of monetary policy, the Committee needed to investigate the following four questions:

- i. What is the relationship between the money supply and prices?
- ii. Can the money supply be controlled?
- iii. What is the relationship between fiscal policy and monetary policy?
- iv. To what extent is the economy self-stabilising?

All those questions are familiar to those involved in discussions of macroeconomics and they are all controversial. The Treasury must have decided what the answers to those questions are and the crucial

point therefore is to discover its answers and the reasons for them. (To a certain extent one can deduce its answers from its actions and from ministerial statements.) The Committee sent out a questionnaire containing 35 questions to 32 people or institutions. Those 35 questions included, in one form or another the four questions listed above though there was no guarantee that the respondents would answer all 35 questions. Many of them sent essays which were usually guided by those questions which interested them. It was not completely clear that the purpose of the exercise was. As I have said many of the replies were useful and the Committee provided a valuable service in publishing them. However it was not clear whether the Committee were expected to form its own views, on the basis of the replies, of what the answers to the four basic questions were. Even if it did form its own views it was again not clear what would follow. A collection of intelligent and reasonably well informed members of parliament could, of course, reach conclusions on matters which divided one Nobel prize winner (Professor Milton Friedman) from another (Professor James Tobin). Policy-makers have to perform such feats all the time and the House of Commons has to do its best to appraise their decisions. But would anyone seriously consider that the Committee had advanced the state of economic knowledge by reaching its conclusions? I should emphasise that I am not trying to belittle the efforts of the Committee but am trying to ensure that they are not misdirected. I believe that the important answers were those given by the Treasury and the Bank of England and that the focus of the study should have been on the views and the actions of those two institutions.

Ideally the study would have started by trying to elicit replies to these questions from the Treasury and the Bank of England, who would have been asked to provide theoretical and empirical support for their views together with any other relevant evidence. That would have been impractical, given the constraints of time, but after the bulk of evidence had been received from the other respondents, the Authorities would have been asked supplementary questions. In particular they would be asked to comment on points where their views seemed to be contradicted by the evidence or by other economists. The questions would, presumably, be answered by a combination of oral and written evidence. It could be argued that this would place an excessive burden on the Treasury and the Bank. That could happen but much of the necessary analysis should have been done as part of the normal decision-taking process.

This procedure would not call for any breach of current arrangements regarding confidentiality of advice given to Ministers. The replies given by the Authorities would inevitably defend current policy-making. There is nothing wrong with that; indeed it is precisely the defence that we want to hear. If the policies cannot be defended, either by officials or ministers, then there may be something wrong with the policies.

As it was, evidence from the Treasury was gathered in a most unsatisfactory way. There was very little pressure placed on the Treasury to produce a coherent and complete defence of its policies; but if the Committee's exercise was seen as one of gathering wisdom

for its own sake there was no particular reason for the Treasury to take part, after all they are practical policy-makers not academics. The Treasury's original written evidence provided a useful enough preliminary account of the basis for the Government's views but it needed expanding. However the Treasury was not treated as a group of people freely available for questioning and discussion; deductions were made about Government intentions and policies on the basis of previous documents or ministerial pronouncements. There was therefore a grave danger that the Committee would misunderstand the nature of the Government's policy.

Alongside this process of examining the Authorities, the Committee should have been discussing the key issues in a series of debates/seminars and trying to decide what were the strengths and weaknesses in the Government's position. Its Report would have summarised the evidence and then emphasised the points at which the Government's arguments seemed to be ill-founded in terms of theory or of evidence.

Although the Report did not meet my ideal standards, two parts of it provided serious criticisms of Government policy. The first related to the possibility that the approach described in the Medium Term Financial Strategy could be destabilising in the short term since it might call for a tightening of fiscal policy if output was lower than expected. The second related to the problem caused by movements of the exchange rate in response to changes in monetary policy. It appears in practice that both those problems were at their most acute

in 1980 and that they were rather less relevant by the time the Report appeared in February 1981. However the Report did draw attention to potentially serious problems in the practical operation of the Medium Term Financial Strategy which might recur in the future. (One would dearly like to know whether the same problems would have been identified in advance if the idea of a Medium Term Financial Strategy had been discussed in 1979).

The limitations of the exercise, as it was conducted, were revealed in other parts of the Report. For example, one of its conclusions was:

"Although over the long term the money supply and price level appear to have moved together we have not been convinced by evidence of a direct causal relationship from growth in the money supply to inflation. Indeed, the Treasury's own evidence tends to refute suggestions of any simple relationship in the short and medium term." (3)

I could comment on the first sentence at length though my view can be summarised by saying "who do you think you are?" That is a precise example of the Committee setting itself tasks it is unqualified to perform. The second sentence is extraordinary. The casual reader might be forgiven for believing that the Treasury had asserted somewhere that there was a simple relationship between money and prices in the short and medium term. Of course it has never done so.

Did the study and Report have an important influence on economic policy-making? Its failure, at least in the short term, can be shown

by the fact that it assumed that the Medium Term Financial Strategy had been tried and then abandoned. ... "events have shown that the Medium-Term was not soundly based". "The Medium-Term Financial Strategy was a bold experiment..." In fact, within a few weeks of the publication of the Report, the Government produced a Budget which firmly re-committed itself to the MTFS. Fiscal policy was severely tightened at a time when the economy was already in its deepest post-War recession. Those steps were taken in furtherance of the principles which had led to the introduction of the Strategy in the first place.

Perhaps one should judge the effectiveness of the Report over a longer period. In subsequent years the MTFS has been modified. In particular the targets for monetary growth have been relaxed and they have been extended to include other measures of the money supply. Also account is taken, in a rather ill-defined way, of movements in the exchange rate. One cannot know how far they have been due to the Treasury's own reactions to the events of the past years. I suspect that the Report has played its part, although I believe that it would have been more effective if it had been recognised all along that it was the Treasury's views of economic policy that mattered and that the views of the wise men were important not in their own right but as challenges to the official position.

#### Monitoring Economic Policy

The Treasury Committee has commented on current economic policy

by producing two reports a year. One after the Budget and one after the Chancellor's Autumn Statement. In March 1982 it reported separately on the Budget Statement and on the Public Expenditure White Paper. These Reports have been based on scrutiny of the official documents and on oral examinations of the Chancellor of the Exchequer, the Governor of the Bank of England and officials from the Treasury, the Board of Inland Revenue and the Bank of England. Oral evidence has often been supplemented by written submissions and there have also been Memoranda of Evidence by the specialist advisers to the Committee. The reports have usually been produced within a few weeks of the Budget or the Autumn Statement.

As before, my interest is in how far the activities of the Committee have improved the process of policy-making. That means asking whether the Authorities are now required to explain themselves more fully and whether they take a wider range of views into account.

I believe that the Committee has increased the accountability of the Treasury. There are certain questions which the Treasury has persistently refused to answer. For example, it will not provide specific short-term forecasts for unemployment though it has to provide assumptions for the purposes of calculating social security benefits in the public expenditure White Paper. It has taken some time to learn where the boundaries of discretion lie and in the early days there were some cries of pain as questioners ran into the barbed wire. The first examination of Treasury officials, in April 1980, provides some flavour of the encounters.

Mr. Higgins "What is the forecast figure for unemployment in that model?"

Mr. Cassell "I am afraid I cannot give you that figure."

Mr. Higgins "The model must forecast it?"

Mr. Cassell "The model does forecast it, yes."

Mr. Higgins "But you are not prepared to give the figures?"

Mr. Cassell "No. I think I have gone as far as I can go on this at the moment. If you wish to pursue this further you will have the opportunity with the Chancellor when you see him."

Mr. Sheldon "Have you had instructions not to give this figure?"

Mr. Cassell "I have discussed this with the Chancellor and I have gone as far today as he wishes me to go."

Mr. Woolmer "Could I ask you the same question in relation to the figure that comes out of the numbers exercise for 1983? Is your answer the same on that, that you are not prepared to tell us?"

Mr. Cassell "Yes."

Mr. Sheldon "What are the other areas where you are going to refuse to give us information? Could you give us a list of those?"

Mr. Cassell "I cannot give you a list of them, no."

Mr. Sheldon "Can we ask a few of them and then you can answer. Prices: are you going to give us information on your price assessment forecasts?"

Mr. Cassell "You have the price forecast for 1980."

Mr. Sheldon "1981?"



Mr. Cassell "For 1981 and beyond, no."

Mr. Sheldon "You have them, but will not give them to us?"

And so it went on. Relations have become rather more affable since then; the Committee steers clear of dangerous ground and officials occasionally surprise it by being more forthcoming than expected. The attitude to forecasts themselves has somewhat changed. When it first came to power the Conservative Government was somewhat sceptical about forecasts and certainly highly sceptical of the nature of the Treasury's macroeconomic model which, it believed, had embodied the mistaken views of economics which the new administration was determined to dispel. More recently it has become prouder of its forecasts (which have turned out to be rather good) and officials in turn are prepared to be more forthcoming about them.

The nature of the oral examinations has also changed. There is always an understandable desire to catch the witnesses out with a surprise question. That is good for public spectacle but not necessarily productive in terms of policy-making. There seems to have been a move towards allowing officials time to provide written evidence. I do not know to what extent officials and ministers are warned in advance of the main areas of questioning but here too both sides seem to have learned from experience. In the early days one was almost moved to pity by the sight of the Chancellor of the Exchequer arriving flanked by officials and almost hidden behind a heap of files. He had obviously spent days being briefed by officials on every possible question of economic policy. (There was

a hilarious moment when he was subjected to a barrage of questions, which must have been wholly unexpected, on energy prices.) There now seems to be a better balance between the element of surprise and the element of more careful preparation in the questioning of witnesses.

I think that the Committee has greatly increased the pressure on the Government to explain its actions. The Committee can pursue a line of questioning with a persistence, and with the aid of expert advice, in a way that was not previously available to members of parliament. I have little doubt that in its formation of policy and in its preparation of documents the Treasury frequently asks itself "How shall we be able to explain this to the Treasury Committee?" Policy-making is subject to a scrutiny now that was not possible when members were limited to parliamentary questions and debates. That does not necessarily make for better decisions: the Treasury may merely improve its defences, but I believe that both the decisions and the information given about them have improved.

In spite of those advances it can be said that, so far, the Committee has only had a limited success. The most important point is that it is only commenting after the decisions have been taken. It would like to change that by changing the process of Budget decisions; but it has the power to change its own routines so that it comments on policy issues at other times in the year. (I recognise that the Committee has many other responsibilities as well as the monitoring of economic policy.)

Another problem is that the Committee's members do not claim (in general) to have the technical knowledge possessed by officials. There is a limit to what can be done by hurried passing of notes in the middle of a public examination so that officials can often escape with an inadequate answer. Further, the members cannot completely forget their political allegiances so that - according to reports - they have become less willing to engage in tough questioning as a General Election approaches. (The Treasury Committee produced some very sharp criticisms of the Government's economic policy in its early reports.) It would be unreasonable to expect a committee with a Government majority to maintain a sustained criticism of policy throughout the term of a Parliament.

#### The Role of the Specialist Advisers

If we are relying on laymen to monitor the actions of professionals, the role of the specialist advisers to the Committees will be particularly important. It is not yet completely clear what their role is to be. They must, of course, use their specialist knowledge to help the committee members understand the technical issues involved in policy-making. The question is where technical advice ends and advocacy begins.

I suggest that there are two models for the specialist adviser's role. The first is that he is an assessor. An example would be the role of the Trinity Brother who advises a judge in marine cases; his task is to advise the judge on the technical issues raised in the

case. The second is that he is an advocate. He is chosen by the Committee because he is known to hold a particular view about economics. He will represent that view to the Committee who will reach a judgement upon it. A Committee which accepted the "advocate" model for its specialist advisers would be expected to appoint a balanced team so that it heard all views.

I have some reservations about the advocate model. It internalises a debate which ought to be held in public and also it does not help solve the problem that the Committee includes or consists entirely of laymen since the Committee has to resolve conflicts between views given in private as well as views given in public.

I note that in its monitoring of economic policy the Treasury Committee has not generally called for outside witnesses. It has limited itself to official or ministerial witnesses and it has relied on its specialist advisers for memoranda of evidence. (It has also received other memoranda of evidence but I assume they have been unsolicited.) The specialist advisers on economic policy have come from four institutions which undertake forecasting - the Cambridge Economic Policy Group, the London Business School, the National Institute and Phillips and Drew. It is popularly supposed, and there is some truth in it, that some of these institutions are associated with particular ideas about economic policy. I do not know whether the Committee therefore expected the advisers to act as advocates or whether it felt that no one could be trusted to act as an assessor and

it therefore appointed all four for balance. (Balance would surely require the inclusion of an economist from the Liverpool Research Group although it is possible that an invitation was declined.) Whatever the reason it would seem better that the independent forecasting groups, and any other relevant group or individual, should give evidence and be examined in public.

Who, then, would act as a specialist adviser? The Committee has in fact appointed full time assistants with qualifications in economics and they should be able to carry out much of the required tasks. Also there are many economists who are honest doubters in relation to the policy debates and it should be easy to select one who will give (as far as it humanly possible) the kind of impartial advice the Committee requires. (I am not suggesting that the current specialist advisers provide prejudiced advice. I am only suggesting that it is a misuse of their skills and interests to use them in this way.)

By some miracle of the British character it also seems that Committees can be particularly effective when they have specialist advisers with particular, and even extreme views. The Expenditure (General) Sub-Committee which came close to acting as a select committee on economic policy was advised in turn by Mr. Wynne Godley and Professor Alan Walters. We cannot ever know what part they played in the Committee's deliberations but I can see at least three major developments from this period. The first was the eventual agreement by the Treasury to publish a medium term economic assessment

as part of its presentation of the expenditure plans in the Public Expenditure White Paper. The second was the presentation of "New Cambridge" Economics which focussed attention on the importance of inter-sectoral flows in the economy. The third was the birth (or, more correctly, revival) of "monetarist" ideas as part of a critique of government policy. Perhaps the conclusion is that the Committees are best served by having a single adviser with strong views. This at least ensured that the Treasury has to recognise and respond to an alternative view of economic policy.

### Conclusions

I have not considered what many will consider the most important role of the House of Commons Committees, namely their ability to restore the power of Parliament vis-a-vis the Executive. I do not deny the importance of that role. However my interest is in the actual process of policy-making and in the opportunity to improve it by opening it to wider discussion. If the House of Commons Committees cannot perform that task perfectly that may be because they were not designed to do so. Nevertheless, in the case of economic policy, which is my particular interest, I do think that the Committee can improve policy-making and I believe that they have already done so.

There is a conflict between the desire to monitor day-to-day policy actions and the need to investigate the foundations of those policies. The Committees have to do both even though they will not

be able to do either completely successfully. In monitoring day-to-day actions they will tend to be responding to actions rather than anticipating them. In investigating the foundations of those policies, the Committees should recognise that its task is not to solve problems which have baffled the experts for generations but to question the policy-makers on why they have reached the conclusions they have. For this purpose it is right to draw in a wide range of opinions.

Finally I do not approve of the human wave approach to the choice of specialist advisers. As far as possible evidence should be given and questioned in public. I think that in the case of the Treasury Committee it is unfortunate that they tend only to call officials and ministers as witnesses in their examinations of current policy. Before the last Budget there were well-publicised alternative strategies presented by, inter alia, the Labour Party and the Social Democratic Party. In an ideal world these proposals would have been presented to and discussed by the Treasury Committee which would also have called other witnesses who might have wished to comment on those proposals. The Treasury Committee has not become a focus for debate on economic policy and it has not provided a constant challenge to the Treasury in its policy-making. Although I give it two cheers I still wish it would perform these two tasks more effectively.

#### FOOTNOTES

1. This section draws on a paper I gave to a seminar organised by the Institute for Fiscal Studies in February 1982.
2. Treasury and Civil Service Committee. Third Report Session 1980-81, Monetary Policy Vol. 1, February 1981, para 1.1.
3. Report, op cit, para 11.15.



MONITORING THE ECONOMY - THE WORK OF THE TREASURY AND

CIVIL SERVICE COMMITTEE

Ann Robinson

The Treasury and Civil Service Committee (TCSC) has proved to be one of the most interesting and important of the new Departmental Select Committees established in 1979. One reason for its prominence is that its subject matter and the departments it shadows are at the heart of modern Government. But it also had the good fortune to start its work at a time when debate about the best tools for economic management was at its height and to have been given terms of reference broad enough to permit it to investigate the foundations of the Government's central economic strategy.

The idea that the House of Commons should have a select committee on economic affairs had been promoted for several years before the House established the TCSC. In the session 1968-9 the Procedure Committee considered the capacity of the House for Scrutiny of Public Expenditure and Administration (HC 410). As a result of this inquiry it recommended the establishment of a select committee on public expenditure (the Expenditure Committee) that could through a series of functional sub-committees, examine the Government's expenditure plans. Among the evidence to the Procedure Committee in that session was a memorandum from Professors Peacock and Wiseman suggesting that the new committee should also examine the financing of public expenditure.

In the following session the idea of a broad economic affairs committee was further developed by two economic journalists, Peter Jay and Samuel Brittan, who had themselves played a significant part in publicising the processes of Government economic policy-making. Such a committee would, they argued, be a necessary counterpart to the proposed Expenditure Committee. It would make 'a major contribution to the vitality of Parliament and to the conduct of economic affairs.' (1) Jay and Brittan laid out the details of the proposed economic affairs committee in their evidence to the Procedure Committee (Second Special Report from the Procedure Committee, 1969-70, HC 302, pp. 40-56). Its functions would be: to consider a current economic assessment from the Government; to review the long-term economic, fiscal and financing implications of the Government's annual public expenditure White Papers including assessment of the accuracy of government forecasts of growth and resources and the desirability of the allocation of resources made by the Government; and to investigate special topics of economic interest such as poverty economics, international monetary reform, trade policy and multinational companies. The committee's principal tasks would be to elicit and elucidate information in order to inform members and the public of the issues at stake and to confront Whitehall with an effective interlocutor on economic affairs. It should have several sub-committees and a staff of perhaps five professional economists.

The Procedure Committee, however, rejected this proposal on the grounds that few members could devote sufficient time to the work and that it would lead either to confrontations with the Government or be

limited to consideration of long-term general issues.

In the event the incoming Conservative government decided in 1970 to establish an Expenditure Committee and to add to the functional sub-committees recommended for it in the 1968-9 report (2) a General Sub-Committee. The General Sub-Committee's terms of reference were sufficiently flexible for it to examine the financing of public expenditure and thus to evolve into something like the Select Committee on Economic Affairs proposed by Jay and Brittan. (3)

When the Expenditure Committee was abolished and replaced by the departmental select committees in 1979 the Treasury and Civil Service Committee continued the work previously undertaken by the General sub-committee. With considerable overlap of membership including Du Cann, Sheldon (Chairman of the General sub-committee 1972-74), English (Chairman of the General sub-committee 1974-79), and Bruce-Gardyne, continuity of approach was assured.

Given the wide scope and freedom of action permitted to the Expenditure Committee's General sub-committee and later to the TCSC in the selection of topics for their inquiries together with the desire of members to monitor Government economic policy-making, it is perhaps not surprising that these committees created for themselves something of the role and functions of a Select Committee on Economic Affairs as proposed by Jay and Brittan. What is perhaps more surprising is that, given the limited size of the committees and their relative lack of expert staffing, they have been able to establish themselves in the

precise areas of enquiry which the critics of the proposal suggested would prove beyond them both politically and practically, and that they have been able to make valuable contributions to our understanding of how economic policy is made in Britain.

#### The work of the TCSC as a Select Committee on Economic Affairs

The work of the TCSC as a monitor of economic policy making is only one of its functions. The 1979 Select Committees act as Parliamentary shadows for the key central departments of state. The TCSC has several departments to shadow - the Treasury and the Civil Service Department (now merged), the Inland Revenue and Customs and Excise. Its remit is therefore particularly wide. The interests of its members and their previous experience, however, has led them to concentrate much of their efforts and attention on the Treasury as the central economic ministry. Although, through a sub-committee, the TCSC has conducted long and detailed enquiries into the Civil Service and more recently into aspects of taxation, a high proportion of its work is on economic affairs.(4)

According to the First Report of the Liaison Committee, 1982-83, H.C. 92, the reports of the TCSC may be grouped as follows:

- (1) Budget and Autumn Review
- (2) Supply and Budgetary Matters

- (3) Management of the Economy
- (4) The Civil Service

I would, however, prefer to use another classification which I had developed before the Liaison Committee published its report. There is a certain amount of overlap of material between the Liaison Committee's categories because reports often contain references to other reports or deal with more than one subject area. In particular there is material in the reports on Budget and Autumn Review which is directly related to Management of the Economy. My classification does not eliminate cross-referencing but it reduces it and brings together those reports which are more clearly related to one another because they are concerned with uncovering the basic assumptions, theories, and judgements about the future state of the economy upon which governments base their decisions about public expenditure and taxation. My categories are as follows:

- (1) Monitoring the Economy. This category of reports includes the Liaison Committee's categories (1) and (3). The TCSC reports, as a matter of routine, on each Budget, on each Public Expenditure White Paper and on the now regular intervening Autumn Economic Reviews which include the forecast of economic trends as required by the 1975 Industry Act. Through these reports, which are re-active, generally short and with brief evidence attached, the TCSC has been able to uncover themes that recur in economic policy and to discern trends and patterns that can then be examined separately in more detail. The larger scale enquiries such as that on Monetary Policy are closely related to the Committee's regular work.
- (2) Oversight of Public Expenditure. The comments on the White Paper that are related directly to spending patterns, the

reports on Supply Estimates and the report on Budgetary Reform came into this group.

(3) Taxation. This group includes the inquiry into the Structure of Personal Income Taxation and Income Support. The report from the sub-committee was not agreed by the main committee before the 1983 General Election but proceedings were published as a special report.

(4) The Civil Service.

In this paper I shall examine the reports of the TCSC that fall into group (1) Monitoring the Economy.

The role of the Treasury and the scope of the TCSC's work as a Select Committee on Economic Affairs

The members of the TCSC are very conscious of the fact that theirs is a departmental committee and that their function is to mirror or shadow the work of the Treasury.(5) To this extent their work as an economic affairs committee is constrained and narrowed. To understand why this is so one must first look at the role of the British Treasury as an economics ministry and at its powers and limitations.

It can be argued that the British Treasury is an economics ministry but not an economic affairs ministry. The British Treasury, unlike economics ministries in some other countries, is primarily concerned with short-term macro-economic policy making especially with demand management and more recently also with monetary policy. The short-term bias of the Treasury has been noted by countless commentators from within and from without the Treasury itself, from academics and from politicians, and from

all sides of the political spectrum. Conservative politician, Norman Lamont, writing in The Times to urge the need for a Royal Commission on the Treasury said of it:

Having been first in the Keynesian revolution the Treasury now looks curiously old fashioned with its over reliance on fine tuning...(6)

And from the Keynesian Cambridge Department of Applied Economics Cripps, Godley and Fetherston told the General Sub-Committee of the Expenditure Committee:

Short term considerations predominate in the Treasury and we are inclined to think that they predominate too much.(7)

The Treasury is not an economic planning department.(8) It pays relatively little attention to the structure of the economy or to micro-economics. The lack of a longer-term view is also noticeable in the Revenue departments.(9)

Examination of the contents of reports of the TCSC in the category 'Monitoring the Economy' reveals that they reflect the Treasury's bias. They have been primarily concerned with two themes. Firstly, the role of theory, particularly of monetary theory, as a basis for political action in regulating the economy, and secondly, the extent to which governments can and do rely upon models of the British economy and reliability of the forecasts made by these models. Although in the evidence presented to the TCSC there is some urging from economists to

take a long-term more structural view of the economy the committee regards this sort of approach to economic policy making as 'micro-economics' and more within the terms of reference of other departments and hence of other Select Committees (Industry and Employment for example).

The extent to which a Select Committee is obliged to 'match' precisely the department that it monitors is an interesting question. It can be argued that the TCSC is severely constrained because it is obliged to consider economics and economic policy making in the same way as the department that it shadows. But there are examples in the past of Select Committees pointing out gaps and defects in the administrative system and structure. The most relevant in this field, of course, is the 1958 report of the Estimates Committee which showed that the government had no adequate machinery for planning the future course of public expenditure.(10) This intervention by a Select Committee led to the Plowden Committee and to the establishment of the PESCS system which revolutionised the Treasury approach to public spending.

The fact that TCSC members claim that they must follow the Treasury may not be the only explanation for their limited view of economics. It may well be that some members of the committee are more interested in macro-economic policy than in structural economics or micro-economics and that these members have played a particularly active part in those reports that deal with economic affairs. There is some evidence of this in so far as members of



the committee do specialise to some extent.(11) Then, too, there is the influence of the economists appointed as specialist advisers to the TCSC. Most of them are macro-economists. Some of them are noted econometricians who specialise in the manipulation of data but not in the acquisition of data.(12) The committee rarely seeks advice from pure theoreticians (although it has taken evidence from several) and never from economic historians.

### Monitoring the Economy - a Treasury mirror

#### 1. Monetarism or the role of Grand Theory as a basis for policy

Even a correct monetary theory is liable to be misused when it is applied as a basis of monetary policy. It is a fatal mistake to imagine that because a theory is good it necessarily provides a complete guide to practical action.

Paul Einzig, How Money is Managed, Penguin, 1954, p. 345.

As soon as it was set up in the 1979 the TCSC decided that it wanted to examine the status of monetary theory as a basis for economic policy making. Earlier work by the General Subcommittee under the Chairmanship of Michael English (a member of TCSC) had revealed a growing identification in the official Treasury mind with the theory that inflation was caused by an excessive supply of money in general and by excessive government spending in particular.(13) But although the previous government had followed broadly monetarist policies under Denis Healey as

Chancellor and in compliance with the dictates of the International Monetary Fund, the Conservative government elected in 1979 was far more overtly committed to control of the money supply, reduction of public expenditure, and reduction of the public sector borrowing requirement in order to attain its primary economic objective of a lower rate of inflation.

In a letter to Sir Geoffrey Howe, the incoming Chancellor of the Exchequer, the Chairman of TCSC, Edward du Cann, referred to the 'enquiries the Committee is planning to undertake early in the New Year into Public Expenditure White Papers, and, later, into Monetary Policy'.(14) The committee attached a list of questions about monetary policy addressed to the Treasury. They wanted to know if the Government thought that all they needed to do was to control the money supply and to ignore unemployment, the exchange rate, growth and the balance of payments. They also asked for evidence that control of the money supply would work to control inflation and that it was the best policy available.

In his reply to the committee Sir Geoffrey Howe stated:

The main objectives of the Government's economic strategy are to reduce inflation and to create conditions in which sustainable economic growth can be achieved. This requires firm monetary and fiscal policies.(15)

Also in his reply, after going through a series of steps - the money supply, interest rates, PSBR, public expenditure, exchange rate and the balance of payments - Sir Geoffrey had a paragraph entitled 'The

Supply Side of the Economy' which expounded the conventional 'supply side' economics then associated with some American economic theorists and later with the Regan Government's approach. On taxation Sir Geoffrey said:

the structure and level should not discourage enterprise and should permit hard work and initiative to be rewarded.

And in general:

in the economy at large market forces should be encouraged to work as freely and flexibly as possible. This is why we have abolished price, dividend and exchange controls.(16)

There would not formal incomes policy and the government would want to see a broad balance of power in the framework for collective bargaining.(17)

The letter from Sir Geoffrey Howe which neatly encapsulated the Government's economic strategy and revealed the central role to be played by monetary policy gave the committee a clear basis on which to launch their enquiry into Monetary Policy.(18)

The work on the inquiry was begun early in 1980. The committee decided to take evidence from a wide range of selected economists and practitioners. In order to ensure that the evidence from different sources was orderly and comparable they issued to prospective witnesses a questionnaire drafted by the specialist advisers. In the event not all witnesses kept faithfully to the questions put and one, the TUC, simply

submitted material that it had previously presented elsewhere. Nevertheless the volume and quality of evidence submitted was impressive and now forms perhaps the best source of views on monetary theory.

The committee then was confronted with the task of putting this immense and diverse mass of evidence into some order and of evaluating it. They discerned four main schools of thought on monetary theory. Most witnesses agreed that the money supply was an important economic variable. Only Professor Lord Kaldor could be firmly classified as 'Anti-Monetarist'. But there was considerable disagreement amongst the economists about the precise nature of the relationships between money supply, inflation and employment and especially about how far and how fast the money supply could be reduced without serious and unacceptable adverse effects on output and employment. Much of the evidence presented to the committee was theoretical. It was full of assertions, propositions and arguments but relatively thin on the empirical tests that the committee needed if it were to present the Government with a convincing case one way or the other. The inquiry revealed both deep rifts amongst theoretical economists on the nature of the relationships between key economic variables and also very little rigorous testing of any of the different theoretical positions. The committee complained in its report:

Overall in our enquiry we were disappointed with the level of econometric evidence submitted.(19)

On specific issues such as the extent to which high public sector spending 'crowds out' private sector spending and investment the committee found the econometric evidence 'not easy to interpret'.

They took the view that:

while care is needed in the use and interpretation of econometric analysis, it is an important tool in the design and testing of policy which has not been used efficiently in the design of monetary policy, or economic policy generally.(20)

On the grounds, therefore, that monetary theory had not been adequately tested before being applied as policy the committee was able to come to an agreed conclusion that the evidence did not support the Government's contention that there were certain definite relationships between the PSBR, the money supply, inflation and economic growth.

Although over the long term the money supply and price level appear to have moved together we have not been convinced by evidence of a direct causal relationship from growth in the money supply to inflation.(21)

The committee was thus able to show that the Government's attachment to monetary policy as the means of reducing inflation rested upon shaky theoretical and empirical foundations.

A similar picture of uncertainty in economic relationships emerged from the inquiry into The Financing of the Nationalised Industries, HC 348, 1980-81. During the course of this inquiry the

committee asked three groups of econometricians - the Economist Intelligence Unit, the London Business School and the National Institute of Economic and Social Research to run tests for the 'crowding out' hypothesis derived from monetary theory. The Treasury and the Bank of England were of the view that some degree of crowding out did occur. In order to test the hypothesis a distinction was made between physical resources and labour and financial resources of money and borrowing. What did the econometric tests reveal? The results from the three groups were completely inconclusive with figures running from + 20 per cent to - 29 per cent on physical resources and from + 40 per cent to - 25 per cent on financial resources. Either the theory was wrong or the tests were defective or both! The committee concluded that there was no evidence of 'crowding out' in physical terms and that the extent of financial crowding out depended upon a number of specific factors. Evidence from other countries was not very helpful either as the committee unfortunately chose as comparators countries like Germany with very few nationalised industries!

These reports of the TCSC reveal two things about the use of 'grand theory' in economics as the basis for policy making. Firstly the grand theory itself may be defective and divorced from empirical evidence of the actual operation of economic systems. This does not mean that politicians should abandon theory but that they need to recognise that grand theory may often be an unreliable basis for political hunches or judgements. (22) Secondly, however, the reports reveal that there may be serious limitations in our present

methods for testing theory. Even when rigorous econometric methods are used to test a given hypothesis they too may prove extremely unreliable. It would appear that economics, as a science, has unrealistic theories and poor techniques of measurement and testing.

## 2. The use of economists in Government - models, testing and forecasting.

Except for a few rare individuals (Lord Kaldor during the Wilson years is a notable case) 'grand theorists' are not often to be found in the corridors of Whitehall. Their role, if any, is on advisory committees or as inspirational forces in the parties. But over the past twenty years increasing numbers of economists have been directly employed in the government service mostly in the Treasury. Alone among the social sciences economics is revered in Britain to the extent that political judgements are justified on the basis of what is called economic 'evidence'. Richard Rose has commented on this phenomenon:

By any measure, economics is a deviant case among the social sciences for economic analysis and economists are familiar elements in the contemporary policy process....causal models of economics offer the irresistible attraction of promising control of the future. (23)

And as Sam Brittan pointed out in his classic work on the Treasury, the most important job of economists in government is forecasting. In this area, he says, they rule. (24) That may be an overstatement. There is some scepticism, not least among some of the

non-economists in the higher reaches of the Treasury itself, about the capabilities of the model building and forecasting enterprises. The Treasury in evidence to TCSC has spoken of 'the insecurity of some of the econometric relationships' of its own model of the British economy. Some of these relationships, they claim, 'are especially fragile'. (25) Lord Kaldor in his evidence on Monetary Policy pointed out the limitations of models and forecasts:

I am skeptical, however, of econometric models which aim at discovering an 'optimal policy mix' on the basis of a particular model of the working of the economy, the predictions of which depend critically on the periods of history observed, the variables chosen, and the manner in which the empirical values of the coefficients are estimated. (26)

And one member of TCSC, Mr. Anthony Beaumont-Dark, taking an extreme view, called forecasters 'These people with their mechanised ouija boards' (27). The Treasury view that 'naive extrapolation is more clearly shown to be inferior to model forecasts' is perhaps the most realistic. (28) When Chancellors make their decisions they like to have some idea of the possible effects of doing x rather than y and this is what the forecasters promise them.

But by how much are forecasts from models better than 'naive extrapolation'? What are the facts about models and forecasts that have been uncovered by the TCSC? How far do Chancellors rely on forecasts? How accurate are the forecasts? How well does the Treasury model perform as a forecaster when compared with other models developed in Universities and Institutes? What has the TCSC



recommended for improving the quality of economic advice available to the Chancellor?

Examination of the evidence provided to the TCSC reveals that many witnesses and advisers are aware of the fact that the methods currently used in building economic models and deriving forecasts from them are deficient in a number of respects. A common complaint is that the whole approach to modelling is inherently defective. The equations and estimations in the models are based upon past relationships and thus can predict with reasonable accuracy only a short time ahead into the future. The more unstable an economy, the shorter the time span of the predictions that can be made from a formal model of it. Econometric models are static and the sort of dynamic model which would include the capacity for estimating the effects of changes in the structure of an economy is at present beyond the capacity of model builders.

It is clear from the evidence collected by TCSC that most models of the British Economy are of little help to anyone interested in the effects of policy on sectors of industry, for few models are sufficiently disaggregated to provide such information. Many of the models currently used by forecasters have one, or at the best two, equations for output. The Treasury model, for example, divides GNP into manufacturing, non-industrial public sector, oil and gas, and 'the rest'. The 'rest' is the residual after the other three have been estimated. The NIESR model is more disaggregated than most for it produces estimates for Dwellings (private and public),

Manufacturing (total, iron and steel, shipping, petrol and gas, distributive and other) and also for Public and Services. The limitations of models that aggregate output is illustrated by the following exchange during an evidence session. Kenneth Baker was questioning Professor Patrick Minford of Liverpool University about the capacity of his model to predict unemployment and output. Professor Minford said in reply 'I have not forecast that' Mr. Baker continued:

Q. But do you not have a figure?

A. No, I have not put a figure on manufacturing output.

Then, moving on to more detailed questions about the coal industry, Mr. Baker elicited this response from Professor Minford:

A. I have not made the necessary projections of oil prices, or coal prices and so on and so forth. Really I cannot answer you. I do not see why I should be able to answer you frankly. (29)

Economic models, as presently constructed, are not particularly helpful to those interested in the structural aspects of 'supply side' economics. They are essentially designed as instruments for assisting in demand management.

Even given the fact that models have a specific and limited purpose it is clear also from the evidence to the TCSC that they do not perform as well as they might and that there is room for improvement in techniques. Some members of TCSC have been particularly active in promoting the cause of better modelling,

including Dr. Jeremy Bray (author of Decision in Government.) He wrote a section of the Monetary Policy report which advocated the use of optimal policy techniques (which Lord Kaldor regards as impossible) and has been active in the part played by TCSC and its advisers in getting the Social Science Research Council to devote large sums of money to fund four University models. But he is disappointed that the funding does not include money for evaluation of their relative performances. (30)

In several of their reports the TCSC has referred to the necessity of improving the quality of economic forecasting. In Monetary Policy they stressed the need for intermodel comparisons, (31) and in HC 28, 1980-81 they recommended SSRC funding of model building and funding also for evaluation of techniques. It does not seem, however, that they have yet grasped the significance of some of the evidence before them that indicates that policy makers who want to influence the supply side or the structure of the economy may require totally different types of model than those now available or may require quite different techniques than those which are currently fashionable in econometrics.

#### What the Treasury and Civil Service Committee does not do

As we indicated at the start of this paper the TCSC believes that its function is to monitor the Treasury, and to follow what the Treasury does. Members do not consider that their job is to tell the Treasury to do something that it does not do - namely to become a

Department of Economic Affairs or a ministry of planning. Economics, as far as the Treasury is concerned, is macro-economics and economic science and techniques are econometrics, and that goes for the TCSC too. But, as Sir Geoffrey Howe once testily pointed out when giving evidence:

of course it is right for you to be interested in forecasting...all the time we sit here talking, there are companies out there - GEC-Hitachi is one I have mentioned - who are improving their market share and profits and job opportunities. (32)

Ought the TCSC to turn its attention away from the mechanics of models and forecasts for a while and concern itself with questions of the industrial structure if its key department, the Treasury, does not? Should Parliamentary committees apply the needle to goad the administration into action and reform when they begin to accumulate evidence of defects and weaknesses in the machinery? Should the TCSC suggest to the Treasury, as Hugo Young did in his recent Radio 4 programmes, that it is in danger of yielding up its position as the most central and important department of state so long as it remains so firmly attached to short-term macro-economics?

Although the TCSC has closely followed the Treasury's inclinations and bias for short-term demand management and monetary policy as an economic regulator, several of its witnesses have mentioned the changes in attitude that are developing among at least some economists. They have stressed that it is necessary to consider both long-term and short-term factors in order to produce successful

economic policy. These witnesses are not merely the cruder 'supply siders' whose main proposal is to set the market free from Government intervention. Nor are they simple advocates of a centrally planned economy. They include economists of as diverse views as Professor Lord Kaldor and Professors Laidler and Friedman. (33) Niels Thygesen one of the witnesses for Monetary Policy has written elsewhere that:

In the course of the 1970s there has been a remarkable decline in the confidence of policy-oriented economists in the efficiency of most of the available instruments of demand management policies i.e. fiscal, monetary and incomes policy... There is a fairly strong case for de-emphasising traditional demand management policies and to focus more attention on what, for want of a more appropriate term, I shall label structural, or supply-oriented policies... Longer term changes in regimes - in tax systems, methods of designing and financing transfer payments, in monetary strategy e.g. by introducing credible medium term targets... have a great potential because their impact is assisted by revised expectations and above all, by improvements in the structural characteristics of the economy. (34)

Thygesen, however, does not believe that this means the total abandonment of demand management, but that it is not sufficient on its own to ensure economic health.

Such an approach may have its attractions but it is fraught with difficulties as the members of the TCSC sub-committee which has been studying one of the subjects mentioned by Thygesen, the design and financing of transfer payments, well understand. This enquiry became as bogged down in the sands of conflict as the previous Select committee that examined a similar subject Tax Credits before it. (35) Experiments to induce structural changes in the British economy have not been encouraging. (36) The effects of various types of regional

policy have been contradictory. Selective Employment Tax was a failure and was repealed. (37) There appeared to be little to choose between the different forms of Corporation Tax in spite of much political argument on both sides. (38) As Brittan reminds us:

Macro-economic policy, for which the Treasury is responsible, deals with variables such as demand, exchange rates (and perhaps prices and wages) over which governments can exercise some degree of control...some of the more enthusiastic members of the structural school occasionally give the impression that industrial reform can be an alternative to the Treasury's economic management. This is doubly misleading. First of all, the government's influence on industrial attitudes is, at best, indirect and takes many years to produce an effect. Secondly, all good things do not necessarily go together. Structural reform would not necessarily have solved the major problems of economic management. (39)

The TCSC is faced with the fact that while there is, among the evidence it has heard, some doubt about the efficacy of demand management and monetary policy and some indication that all is not well with the structure of the economy, there was in Britain in the early 1980s no government machinery that it, the TCSC, could examine that was directly charged with an overall view of the economic structure. There were no models in use and no techniques to monitor and examine. The question of structural changes in the economy remains a political rather than an administrative or technical one with on the one side the cruder varieties of 'supply siders' and on the other the advocates of the planned socialist economy. If the TCSC were to start to ask questions about the capacity of government to influence the structure of the economy, without having some actual Government machinery to evaluate, it might run the risk of entering

the fray of political debate (this has happened with the Personal Income Tax and Income Support inquiry already) and thus of destroying its capacity to work successfully as an all-party group.

### Conclusion

By closely following the Treasury in what it does, and by concentrating on the techniques of economic management rather than on the political judgements and choices the TCSC has, under the skilful chairmanship of Mr. du Cann been able to maintain what Mr. David Blake of The Times described as a 'fragile unity'. (40) By being technical the committee has managed to avoid overt confrontation with the Government although retaining its capacity to act as an irritant.

Apart from its continuing routine work on the relationship of economic prospects to public spending and taxation decisions the TCSC seems to have reached its peak of performance as an economic affairs committee at the very start of its existence. The subject of Monetary Policy was a timely gift. No subject that they have tackled since has so engaged the interest of so many members or attracted so many members or attracted so much attention (although it must be noted that several members of the committee wrote to The Times complaining about the lack of editorial coverage of the report) (41). For the time being the TCSC may be able to rest on its laurels. The test will come after the next election. If when newly re-constituted in the next Parliament it faces another Conservative administration, it will have to make a careful search for subject matter. It will no

longer be confronted by a government with a really novel and untried approach to the economy. If on the other hand a Labour Government is returned to power with a distinctive 'alternative economic policy', then the TCSC will be able to spring into action to expose the contradictions in a neo-Keynesian policy. (42) Should a Liberal/Alliance government be elected the TCSC will note that it is committed to 'structural changes' in the economy but without firmly worked out plans the committee may find little to bite on. For, as we have pointed out, structural approaches to economic management are untried and untested.

If, for political reasons or because of their own choice, the TCSC were to take a radical view of their role and to criticise government not only for what it does but also for what it does not do the TCSC has a hard task ahead. They will risk slipping into political quagmires and their quarry, if it exists, will prove elusive. Samuel Brittan argued in Steering the Economy that:

The approach to policy via economic forecasts and fiscal adjustments pioneered in the Treasury and the National Institute, was by the late 1960s no longer on the vanguard of applied economics... As Cobden said about the Corn Law League in another era, the men who brought about one revolution would not be the ones to fight in the next. (43)

The problem for the Treasury and Civil Service Committee in the next Parliament will be to discover where the action really is!



### Postscript

In late summer 1983 after the General Election the new Chancellor of the Exchequer, Nigel Lawson, announced that the Treasury would make a special study of those sectors of the economy in which jobs are most likely to be created. Mr. Lawson is reported to have expressed a keen desire for the Government and the Treasury, rather than the National Economic Development Office, to take the lead in any discussion on the generation of jobs (The Times, 4.8.83). If the focus of the Treasury does switch somewhat towards consideration of long-term structural change then the work of the TCSC may well be similarly affected.

#### FOOTNOTES

1. Quoted by David Millar in David Coombes et al, The Power of the Purse, London, Allen & Unwin/PEP, 1976, p. 209 ff.
2. First Report from the Select Committee on Procedure, Scrutiny of Public Expenditure and Administration, H.C. 410, 1968-69.
3. For accounts of the work of the Expenditure Committee see Ann Robinson, Parliament and Public Spending: the Expenditure Committee of the House of Commons, 1970-76, London, Heinemann, 1978, and Ann Robinson, 'Parliamentary Control of Public Expenditure - the Experience of the Expenditure Committee of the House of Commons, 1971-79', Centre for Fiscal Studies, University of Bath, Report of the Bath Symposium on Public Expenditure, November, 1979.
4. For a full list of reports to date see Appendix One.
5. Interviews with members of TCSC.
6. The Times, 24 January 1975.
7. Ninth Report of the Expenditure committee, Public Expenditure, Inflation and the Balance of Payments, HC 328, 1974-75, p.xii. For more recent comments of a similar nature see Hugo Young's 1983 Radio 4 series on The Treasury.
8. For an account of the role of the Department of Economic Affairs 1964-69. See S. Brittan, Steering the Economy, London, Penguin, 1971.
9. Ann Robinson and Cedric Sandford, Tax Policy-Making in the United Kingdom, London, Heinemann, 1983.
10. Sixth Report from the Select Committee on Estimates, Treasury Control of Expenditure, HC 254, 1957-58.
11. Interviews with members of TCSC.
12. For a discussion of the different approaches to data collection in model building see Stuart Weir, 'The Model that Crashed', New Society, 12 August 1982.
13. Public Expenditure, Inflation and the Balance of Payments, HC 328, 1974-75.
14. Memoranda on Monetary Policy and Public Expenditure, HC 450, 1979-80, p. 2.
15. Ibid, p. 3.
16. Ibid, p. 4.

17. Ibid, p. 5.
18. In the meantime the Government, determined to control the money supply but needing advice on the best technique to employ, issued a Green Paper, Monetary Control, Cmd 7858. The TCSC examined the proposal in the Green Paper and produced their response as Monetary Control, HC 713, 1979-80. The Government proposed an automatic regulator. The Committee took the view that:  
  
It is unlikely that an automatic application of a single technique of control will be either appropriate or acceptable to Parliament. (p. vii)
19. Third Report from the Treasury and Civil Service Committee, Monetary Policy, HC, 163, 1980-81, p. li.
20. Ibid, p. lxxxxix.
21. Ibid, p. xciv.
22. Paul Mosley, The Making of Economic Policy (forthcoming) shows the extent to which economic policy is the result of political choice.
23. Richard Rose, Policy Research and Government Policy, Studies in Public Policy, No. 100. Centre for the Study of Public Policy, University of Strathclyde, 1982, p. 9.
24. Brittan, op cit., p. 92.
25. HC 450, 1979-80, p. 16.
26. HC 163, 1980-81, p. 89.
27. HC 28, 1981-82, p. 29.
28. HC 720, p. 15.
29. HC 163, p.
30. 'Faced by a gloomy forecast', article presented to the author by Dr. Bray. It has no indication of place and date of publication. Details to be confirmed.
31. pp. lxxxxix-xci. There have been some evaluation and comparative studies including one by the Treasury (1975) and the Ball Report. It is very difficult to compare models for each is constructed according to different assumptions.
32. HC 28, 1981-82, p. 28.
33. Monetary Policy, HC 163. See various comments in the evidence provided by Professors Kaldor, Laidler, Friedman and others.

34. N. Thygesen, 'From Stabilization Policy to Structural Policy. Some Lessons of the 1970s and Prospects for the 1980s', Economic Notes by Monte Dei Pasche di Siena, 2, 1982, pp. 104-119.
35. Robinson and Sandford, op.cit., Chapter Six.
36. Regional Development Incentives, HC 85, 1973-74 (Trade and Industry Sub-Committee, Expenditure Committee).
37. Robinson and Sandford, op.cit. W. B. Reddaway, The Effects of Selective Employment Tax, London, HMSO, 1970. and The Effects of Selective Employment Tax, Cambridge, CUP, 1973.
38. G. Whittington, Company Taxation and Dividends, London, IFS, 1974.
39. Brittan, op.cit., p. 432.
40. The Times, 9 April 1981.
41. The Times, 16 April 1981.
42. Peter Stothard, 'Beware the Shore Factor', The Times, 12 January, 1983, p. 10 reports that a detailed analysis has already been made in the Treasury, using the Treasury model, of Mr. Shore's proposal for increased public spending and 30 per cent devaluation of the £.
43. Brittan, op.cit., p. 97.

## APPENDIX ONE

### Reports published by the Treasury and Civil Service Committee

#### 1979-80

- First Report: Provision for Civil Service Pay Increases in the 1980-81 Estimates (HC 371)
- Second Report: The Budget and the Government's Expenditure Plans 1980-81 to 1983-84 (HC 584)
- Third Report: Monetary Control (HC 713)
- Fourth Report: Civil Service Manpower Reductions (HC 712)
- Fifth Report: Provision for Civil Service Pay Increases in the 1980-81 Estimates (HC 730)
- First Special Report: Consideration of Spring Supplementary Estimates (HC 530)
- Second Special Report: Observations by HM Treasury on the First Special Report (1979-80) (HC 642)
- Third Special Report: Observations by HM Treasury on 5th Report (HC 819)

#### 1980-81

- First Report: The Future of the Civil Service Department (HC 54)
- Second Report: The Government's Economic Policy: Autumn Review (HC 79)
- Third Report: Monetary Policy (HC 163 and HC (1979-80) 720)
- Fourth Report: Acceptance of Outside Appointments by Crown Servants (HC 216)
- Fifth Report: The 1981 Budget and the Government's Expenditure Plans 1981-82 to 1983-84 (HC 232)
- Sixth Report: Form of the Estimates (HC 325)
- Seventh Report: Civil Service Manpower Reductions (HC 423)
- Eighth Report: Financing of the Nationalised Industries (HC 348)
- First Special Report: Observations by HM Treasury on 6th Report (HC 495)

Second Special Report: Observations by HM Treasury on 8th Report (HC 496)

1981-82

First Report: The Government's Economic Policy: Autumn Review (HC 28)

Second Report: Supplementary Estimates (Class II Vote 12) (HC 226)

Third Report: Efficiency and Effectiveness in the Civil Service (HC 236)

Fourth Report: The 1982 Budget (HC 270)

Fifth Report: The Government's Expenditure Plans 1982-83 to 1984-85 (HC 316)

Sixth Report: Budgetary Reform (HC 137)

First Special Report: Summer Supplementary Estimates (HC 448)

Second Special Report: Observations by HM Treasury on the 6th Report (HC 521)

1982-83

First Report: The Government's Economic Policy: Autumn Statement (HC 49)

Second Report: Spring Supplementary Estimates (HC 228)

Third Report: The Government's Expenditure Plans 1983-84 to 1985-86 (HC 204)

Fourth Report: International Monetary Arrangements: International lending by Banks (HC 21)

Fifth Report: The 1983 Budget (HC 286)

First Special Report: Civil Service Manpower Reductions (HC 46)

Second Special Report: International Monetary Arrangements (HC 385)

Third Special Report: The Structure of Personal Income Taxation and Income Support (HC 386)

# APPENDIX A

## Finance Functions, Attendance and Witnesses, 1979-82

Bruce George MP and Michael Woodward

### A. FINANCE OF THE SELECT COMMITTEE SYSTEM

#### (1) General:

<u>Committee</u>	<u>1979-80</u>	<u>1980-81</u>	<u>1981-82</u>
Agriculture	20,863	15,244	16,419
Armed Forces Bill		999	
Joint Committee on Consol. Etc. Bills	x781	x356	x167
Defence	20,879	27,776	55,583
Education, Science & Arts	27,781	45,686	32,064
Employment	23,348	18,997	32,549
Energy	32,492	40,747	24,823
Environment	14,891	8,626	10,925
European Legislation &c.	686	440	3,171
Foreign Affairs (including Overseas Development Sub- Committee)	42,137	61,761	68,983
Home Affairs (including Sub-Committee on Race Relations and Immigration)	11,550	18,186	15,291
House of Commons (Services including Sub-committees)	1,560	978	1,080
Industry and Trade	43,527	17,430	19,248
Members Interest	-	-	-
Members Salaries	-	574	-
Liaison Committee	-	-	-
Parliamentary Commissioner for Administration	1,571	1,033	2,177
Privileges	-	403	-
Procedure (Supply)	-	4,128	1,832
Public Accounts	18,288	17,754	11,892
Scottish Affairs	18,123	20,029	24,605
Social Services	16,317	51,782	16,707
Sound Broadcasting	1,273	624	2,038
Statutory Instruments (Joint Committee)	x839	x449	x406
Statutory Instruments	253	46	85
Transport	12,593	31,848	12,015
Treasury and Civil Service (Including Sub Committee)	24,394	18,573	24,187
Welsh Affairs	10,207	12,665	15,984

x The amount shown is half the costs; the other half is attributable to the Lords Committee. The costs exclude the salaries and so on of officers and staff of the House of Commons.

(Source: Hansard, Written Answers, 23 November, 1982, c 478-480)

(ii) Cost of Specialist Advisers, and Days Paid:

Committee	<u>1979-80</u>	No. of days	<u>1980-81</u>	No. of days	<u>1981-2</u>	No. of days
Agriculture	£8,213	91	£3,749	46	£3,763	40
Defence	3,708	68	7,295	115	8,912	131
Education, Science and Arts	11,863	210	13,253	217	15,380	318
Employment	2,555	50	6,792	99	2,480	63
Energy	7,344	252	14,519	229	12,494	165
Environment	12,272	332	8,026	190	6,804	154
European Legislation	1,542	37	-	-	-	-
Foreign Affairs	11,295	243	19,832	376	19,337	366
Home Affairs	2,030	37	2,138	54	-	-
Industry and Trade	4,316	79	8,228	125	8,558	114
Scottish Affairs	3,133	59	3,778	50	4,807	47
Social Services	11,255	201	27,232	260	5,560	91
Sound Broad- casting	925	12	624	14	2,038	39
Transport	2,675	57	5,309	84	4,996	94
Treasury and Civil Service	10,334	202	11,864	201	7,508	96
Welsh Affairs	3,621	72	323	6	3,537	38

(Source: Hansard, Written Answers, 23rd November, 1902, c. 479-480)  
The specialist advisers are listed in Hansard, Written Answers,  
17 November, 1982, c. 177-178).



(iii) Cost of Evidence - gathering visits:

<u>Committee</u>	<u>1979-80</u>		<u>1980-81</u>		<u>1981-82</u>	
	Number of visits	Total costs	Number of visits	Total costs	Number of visits	Total costs
Agriculture:						
Abroad	2	£6,656	3	£5,422	3	£3,880
Within U.K.	2	1,802	5	2,226	2	5,982
Armed Forces Bill:						
Within U.K.	-	-	2	103	-	-
Defence:						
Abroad	2	5,393	2	14,357	4	35,910
Within U.K.	7	6,738	5	1,007	4	328
Education Science and Arts:						
Abroad	2	8,367	4	19,190	-	-
Within U.K.	16	1,639	8	520	8	6,553
Employment:						
Abroad	1	11,025	2	5,289	4	24,117
Within U.K.	10	4,420	3	1,983	2	914
Energy:						
Abroad	2	18,542	1	20,691	1	6,593
Within U.K.	4	153	2	877	5	1,570
Environment:						
Abroad	-	-	-	-	-	-
Within U.K.	1	23	1	38	-	-
European Legislation						
Abroad	1	2,385	-	-	2	2,425
Within U.K.	-	-	-	-	-	-
Foreign Affairs:						
Abroad	2	22,322	5	33,680	3	42,582
Within U.K.	-	-	1	18	-	-
Home Affairs:						
Abroad	-	-	1	10,592	2	9,836
Within U.K.	2	1,152	4	259	-	-
Industry and Trade:						
Abroad	2	31,006	1	3,003	1	2,545
Within U.K.	-	-	-	-	2	1,125

(iii) Cost of Evidence - gathering visits: (contd.)

	<u>1979-80</u>		<u>1980-81</u>		<u>1981-82</u>	
	Number of visits	Total costs	Number of visits	Total costs	Number of visits	Total costs
Public Accounts:						
Abroad	-	-	1	£3,451	-	-
Within U.K.	-	-	1	9	-	-
Scottish Affairs:						
Abroad	1	1,915	1	2,837	3	8,269
Within U.K.	16	7,211	10	3,190	8	4,205
Social Services:						
Abroad	-	-	1	8,362	1	3,956
Within U.K.	2	753	4	3,535	-	-
Treasury and Civil Service:						
Abroad	-	-	-	-	-	-
Within U.K.	-	-	-	5	-	-
Transport:						
Abroad	2	3,072	2	21,374	-	-
Within U.K.	2	19	-	-	1	1,046
Welsh Affairs:						
Abroad	-	-	-	-	1	2,438
Within U.K.	1	472	1	866	1	286

x The accounts for 1981-82 are not yet complete.

(Source: Hansard, Written Answers, 25 November, 1982, c. 543-544).

## B. FUNCTIONING OF THE SELECT COMMITTEE SYSTEM

### (i) Number of formal evidence sessions:

<u>Committee</u>	<u>1979-80</u>	<u>1980-81</u>	<u>1981-82</u>
Agriculture	16	16	14
Defence	23	21	26
Education, Science and Arts	20	36	30
Employment	21	25	23
Energy	25	19	18
Environment	11	2	13
Foreign Affairs	22	14	20
Sub Committee	15	9	10
Home Affairs	18	12	15
Sub Committee	23	17	13
Industry and Trade	24	19	18
Scottish Affairs	18	18	15
Social Services	13	35	23
Transport	30	19	18
Treasury and Civil Service	23	12	22
Sub Committee	10	7	19
Welsh Affairs	21	28	24
	<u>333</u>	<u>309</u>	<u>321</u>

(Source: Hansard, Written Answers, 17 November 1982, c. 173).

### (ii) Number of meetings, and results thereof:

<u>Committee</u>	<u>Number of meetings</u>	<u>Number of pages of Evidence</u>	<u>of Reports</u>
<u>Session 1979-80</u>			
Agriculture	34	479	34
Defence	43	289	32
Education, Science and Arts	45	898	135
Employment	32	551	25
Energy	35	463	0
Environment	37	78	13
Foreign Affairs	43	526	115
Sub-Committee	23	501	-
Home Affairs	32	458	60
Sub-Committee	34	226	-
Industry and Trade	31	162	11
Scottish Trade	36	652	73
Social Services	34	1,733	199
Transport	45	229	28
Treasury and Civil Service	45	722	32
Sub-Committee	21	107	-
Welsh Affairs	36	646	53
	<u>606</u>	<u>8,720</u>	<u>810</u>

continued...

Session 1980-81

Agriculture	24	507	61
Defence	40	763	48
Education, Science and Arts	44	232	22
Employment	33	833	67
Energy	40	1,175	104
Environment	24	478	91
Foreign Affairs	38	759	230
Sub-Committee	30	629	-
Home Affairs	30	354	155
Sub-Committee	35	1,330	-
Industry and Trade	38	1,304	122
Scottish Affairs	33	344	60
Social Services	35	1,343	141
Transport	34	925	114
Treasury and Civil Service	39	1,041	189
Sub-Committee	14	116	-
Welsh Affairs	35	810	109
	—	—	—
	566	12,943	1,513

Session 1981-82

Agriculture	23	436	51
Defence	40	919	68
Education, Science and Arts	51	1,783	357
Employment	30	399	36
Energy	40	1,705	101
Environment	25	547	84
Foreign Affairs	36	186	44
Sub-Committee	34	119	-
Home Affairs	28	326	124
Sub-Committee	22	606	-
Industry and Trade	31	590	49
Scottish Affairs	36	997	145
Social Services	39	788	163
Transport	30	1,090	220
Treasury and Civil Service	34	723	126
Sub-Committee	25	1,199	-
Welsh Affairs	29	676	37
	—	—	—
	553	13,089	1,605

(Source: Hansard, Written Answers, 17 November 1982, c. 174-175).

N.B. A full listing of Select Committee Reports for Session 1981-82, together with Government Replies to them, can be found in Hansard, Written Answers, 17 November 1982, c. 169-174.

(iii) Witnesses to the Committee:

Session 1979-80

<u>Committee</u>	Cabinet Ministers	Non-Cabinet Ministers	Open-structure civil servants
Number who have appeared			
Agriculture	1	0	4
Defence	1	0	10
Education, Science and Arts	2	0	11
Employment	1	2	9
Energy	2	0	0
Environment	1	1	4
Foreign Affairs	1	4	24
Sub-Committee	0	1	9
Home Affairs	0	2	3
Sub-Committee	1	0	6
Industry and Trade	2	0	6
Scottish Affairs	1	0	15
Social Services	1	0	4
Transport	1	1	9
Treasury and Civil Service	1	1	19
Sub-Committee	0	0	16
Welsh Affairs	2	0	7
Number of appearances			
Agriculture	1	0	4
Defence	1	0	19
Education, Science and Arts	4	0	18
Employment	4	2	13
Energy	2	0	0
Environment	1	1	6
Foreign Affairs	2	9	51
Sub-Committee	0	1	14
Home Affairs	0	2	4
Sub-Committee	1	0	7
Industry and Trade	2	2	6
Scottish Affairs	1	2	10
Social Services	3	2	10
Transport	1	1	18
Treasury and Civil Service	4	2	41
Sub-Committee	0	0	19
Welsh Affairs	3	0	19

31-82,  
sard,

continued...

Session 1980-81

Number who have appeared

Agriculture	0	0	4
Defence	1	0	19
Education, Science and Arts	1	2	13
Employment	2	2	11
Energy	1	0	3
Environment	1	1	4
Foreign Affairs	2	3	12
Sub-Committee	0	2	8
Home Affairs	3	0	5
Sub-Committee	0	1	9
Industry and Trade	2	2	6
Scottish Affairs	1	3	5
Social Service	1	0	6
Transport	0	1	4
Treasury and Civil Service	2	0	14
Sub-Committee	1	0	10
Welsh Affairs	1	1	7

Number of appearances

Agriculture	0	0	4
Defence	2	0	31
Education, Science and Arts	3	2	14
Employment	4	2	13
Energy	1	0	10
Environment	1	1	5
Foreign Affairs	3	4	16
Sub-Committee	0	2	13
Home Affairs	3	0	6
Sub-Committee	0	1	9
Industry and Trade	4	2	6
Scottish Affairs	2	4	6
Social Services	2	0	10
Transport	0	1	6
Treasury and Civil Service	2	0	23
Sub-Committee	1	0	10
Welsh Affairs	1	1	13

continued...

Session 1981-82

Number who have appeared

Agriculture	xl	0	6
Defence	1	2	20
Education, Science and Arts	5	8	14
Employment	1	3	4
Energy	2	2	3
Environment	0	2	3
Foreign Affairs	2	1	10
Sub-Committee	0	0	3
Home Affairs	0	1	5
Sub-Committee	3	3	8
Industry and Trade	1	3	8
Scottish Affairs	1	3	5
Social Services	2	4	8
Transport	3	0	7
Treasury and Civil Service	1	0	21
Sub-Committee	3	2	26
Welsh Affairs	1	1	12

Number of appearances

Agriculture	xl	0	8
Defence	3	2	24
Education, Science and Arts	8	14	24
Employment	3	4	6
Energy	2	2	4
Environment	0	2	5
Foreign Affairs	3	1	21
Sub-Committee	0	0	3
Home Affairs	0	1	7
Sub-Committee	3	6	10
Industry and Trade	2	6	8
Scottish Affairs	2	3	3
Social Services	2	4	12
Transport	3	0	14
Treasury and Civil Service	4	0	50
Sub-Committee	3	2	30
Welsh Affairs	2	1	16

x Not a formal proceeding

(Source: Hansard, Written Answers, 18 November 1982, c. 266-267).

Witnesses from central Government Departments

Session 1979-80

<u>Committee</u>	Number of witnesses	Number of appearances
Agriculture	23	25
Defence	49	67
Education, Science and Arts	26	34
Employment	10	13
Energy	2	2
Environment	10	12
Foreign Affairs	12	16
Sub-Committee	20	31
Home Affairs	16	18
Sub-Committee	10	11
Industry and Trade	26	29
Scottish Affairs	26	31
Social Services	14	29
Transport	14	24
Treasury and Civil Service	23	50
Sub-Committee	17	20
Welsh Affairs	14	27

Session 1980-81

<u>Committee</u>	Number of witnesses	Number of appearances
Agriculture	13	13
Defence	49	63
Education, Science and Arts	34	37
Employment	8	10
Energy	27	33
Environment	8	9
Foreign Affairs	27	32
Sub-Committee	12	17
Home Affairs	10	14
Sub-Committee	31	34
Industry and Trade	25	28
Scottish Affairs	21	29
Social Services	13	24
Transport	8	10
Treasury and Civil Service	16	25
Sub-Committee	14	14
Welsh Affairs	18	25



Witnesses from central Government Departments (contd.)

Session 1981-82

<u>Committee</u>	Number of witnesses	Number of appearances
Agriculture	18	25
Defence	47	54
Education, Science and Arts	42	62
Employment	10	13
Energy	12	15
Environment	18	24
Foreign Affairs	11	18
Sub-Committee	11	14
Home Affairs	13	14
Sub-Committee	28	37
Industry and Trade	17	21
Scottish Affairs	15	22
Social Services	28	39
Transport	21	29
Treasury and Civil Service	30	60
Sub-Committee	39	46
Welsh Affairs	38	46

(Source: Hansard, Written Answers, 18 November 1982, c. 268)

(iv) Memorandums presented by central Government Departments to Select Committees:

<u>Committee</u>	<u>Number of memorandums</u>		
	<u>1979-80</u>	<u>1980-81</u>	<u>1981-82</u>
Agriculture	10	9	18
Defence	32	31	17
Education, Science and Arts	21	24	35
Employment	4	5	4
Energy	18	11	17
Environment	3	6	9
Foreign Affairs	51	53	49
Sub-Committee	25	37	28
Home Affairs	8	11	9
Sub-Committee	2	24	23
Industry and Trade	65	34	54
Scottish Affairs	12	12	24
Social Services	17	10	20
Transport	9	12	18
Treasury and Civil Service (including Sub-Committee)x	33	43	71
Welsh Affairs	5	5	11

x It is not possible to separate memorandums submitted to the main Committee and to the Sub-committee.

(Source: Hansard, Written Answers, 17 November 1982, c. 178).

(v) Attendance and turnover rates of Members of Select committees:

<u>Session 1979-80</u>	<u>Attendance</u> <u>per cent</u>	<u>Turnover</u> <u>per cent</u>
Agriculture	84	0
Defence	72	0
Education, Science and Arts	71	0
Employment	74	0
Energy	71	9
Environment	69	18
Foreign Affairs	81	0
Sub-Committee	45	25
Home Affairs	92	0
Sub-Committee	89	20
Industry	84	0
Scottish Affairs	86	0
Social Services	73	11
Transport	73	0
Treasury and Civil Service	92	0
Sub-Committee	75	14
Welsh Affairs	81	12

(Attendance and turnover rates of Members of Select Committees).  
contd.

<u>Session 1980-81</u>	Attendance per cent	Turnover per cent
Agriculture	77	33
Defence	72	9
Education, Science and Arts	68	0
Employment	69	22
Energy	66	9
Environment	67	18
Foreign Affairs	69	18
Sub-Committee	75	17
Home Affairs	84	18
Sub-Committee	89	0
Industry and Trade	81	9
Scottish Affairs	78	31
Social Services	66	22
Transport	69	9
Treasury and Civil Service	88	18
Sub-Committee	73	14
Welsh Affairs	75	0

<u>Session 1981-82</u>	Attendance per cent	Turnover per cent
Agriculture	80	11
Defence	75	27
Education, Science and Arts	72	11
Employment	70	22
Energy	54	9
Environment	71	64
Foreign Affairs	84	18
Sub-Committee	84	33
Home Affairs	75	0
Sub-Committee	87	0
Industry and Trade	71	9
Scottish Affairs	74	38
Social Services	70	11
Transport	74	9
Treasury and Civil Service	85	57
Sub-Committee	61	14
Welsh Affairs	76	18

(Source: Hansard, Written Answers, 17 November 1982, c. 176 - 177)

## APPENDIX B

Workshop on the Select Committees of the House of Commons, April 20-22, 1983, University of Southampton.

*Anthony Barker	Department of Government, University of Essex.
D. L. Bird	Civil Service College.
*R. L. Borthwick	Department of Politics, University of Leicester.
Joy Buchan	Management and Personnel Department
*Alan Budd	Director of the Centre for Economic Forecasting, London Business School.
*Martin Burch	Department of Government, University of Manchester.
Charles Y. Carstairs	Sometime Civil Servant; sometime temporary Clerk in the House of Commons and the House of Lords.
George Cubie	Clerk to the Industry and Trade Committee.
Alistair Doherty	Assistant Clerk, Committee on Welsh Affairs.
*Gavin Drewry	Department of Social Policy and Social Science, Bedford College, University of London.
Gabriele Ganz	Faculty of Law, University of Southampton
*Bruce George, MP	Walsall S., House of Commons Defence Committee 1979-83.
Philip Giddings	Department of Politics, University of Reading.
F.E.C. Gregory	Department of Politics, University of Southampton.
Peter Hennessy	<u>The Times</u>
*Dilys M. Hill	Department of Politics, University of Southampton.
*J. Barry Jones	Department of Politics, University College, Cardiff.
*Grant Jordan	Department of Politics, University of Aberdeen.
*James G. Kellas	Department of Politics, University of Glasgow.
Richard Lankester	Clerk of Select Committees.
Diana Marshallsay	University of Southampton Library
Sir David Price, DL, MP	Eastleigh, House of Commons Transport Committee 1979-83.
Peter G. Richards	Department of Politics, University of Southampton.
*J. J. Richardson	Department of Politics, University of Strathclyde.
*Ann Robinson	Department of Politics, University College, Cardiff.
*Michael Rush	Department of Politics, University of Exeter.

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\*Papers in this volume.