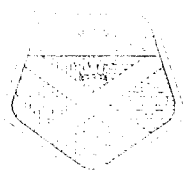


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THE REVIVED SELECT COMMITTEE ON SCOTTISH AFFAIRS :

A Case Study of Parliamentary Contradictions

by

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(Glasgow Caledonian University)*

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*The Revived Select Committee on Scottish Affairs: A Case Study of
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Abstract

The post-1992 General Election period has seen the reinstatement of the House of Commons Select Committee on Scottish Affairs. It did not sit during the preceding five years, having been the victim largely of the Conservative Party's inability to produce enough MPs willing and able to sit on the Committee. The purpose of this paper is to comprehend the nature, workings and effectiveness of this re-instated Committee, by looking at the investigations completed to date on Scotland's transport links with Europe, public expenditure, legal aid eligibility changes, the appointment of Laurence Peterken to the NHS Management Executive, and drug abuse in Scotland. Research is drawn from a wide range of sources, including interviews with most Committee members and the Committee clerk. A key organising principle of the paper is that the Committee can best be understood by locating it within the wider context of contradictions within Parliament's institutional structure, where executive domination is combined with a degree of independence from this.

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INTRODUCTION

On 25th June 1992, in the wake of the Conservative Party's General Election victory, the Leader of the House of Commons, Tony Newton, announced that he would be 'easing the way forward to bringing about the appointment of a Scottish Select Committee.' He was aided in this task when the Standing Orders of the House were amended to allow all select committees to be constituted with 11 rather than 13 members (HC Debates, 1992-93, Vol. 210, col. 390). This brought to an end a five-year period, during which time the Scottish Affairs Committee did not sit - a victim largely of the Conservatives' reduction to only ten MPs in the 1987 Election and the refusal of three of these (Allan Stewart, Bill Walker and Sir Nicholas Fairbairn) to serve on the Committee. This 'revival' of the Committee was widely welcomed by the main political parties in Scotland. The opposition parties accorded with the view, as articulated by the Scotsman (26/6/1992), that 'since 1987 the Scottish Office has escaped the parliamentary scrutiny that has been the routine experience of other Government departments.' Meanwhile, the move was widely welcomed from within Conservative ranks, with Scottish Secretary Ian Lang seeing this as confirming the capacity of Parliament to cater for Scottish interests (Herald, 26/6/1993).

The purpose of this paper is to comprehend the nature, workings and effectiveness of this reinstated Committee, by locating it within the wider context of the Parliamentary structure and the select committee system. It should be noted that the focus of these wider matters is very much on Parliament as an institution, rather than on its location within a wider political and economic environment. Research material is derived from a wide range of sources, including interviews with the Clerk and most Committee members. The paper itself is structured as follows. First, it discusses the broader nature of Parliament, and suggests that the institution can usefully be understood in terms of the contradictory domination of the executive within it. Second, it builds on this and suggests that a variety of arguments and evidence pertaining to the new departmental select committees can best be comprehended if we view select committees as essentially microcosms of this contradictory executive domination. Third, it turns its attention specifically to the 'revived' Select Committee on Scottish Affairs, linking its nature and recent activities to this wider Parliamentary context. Finally, it attempts to assess the effectiveness of the Committee, utilising the forementioned Parliamentary principles as tools for analysis.

THE CONTRADICTIONS OF PARLIAMENT

We must be wary of overly simplistic perspectives which see Parliament in the late 20th century as solely executive-centred, with the House relegated to a 'rubber stamp' on executive-initiated legislation and activities. More usefully, there is a series of arguments and evidence which can be amalgamated to suggest that power within Parliament is being pulled in two different directions. In sum, it can be argued that these point to a position where the executive dominates, but in a contradictory way. This can be elaborated through a discussion of these two different tendencies, in order to provide a framework for subsequent consideration of the new select committees in general, and the Scottish Affairs Committee in particular.

On the one hand, there is much argument and evidence supporting Lord Hailsham's (1978) now famous charge of an 'elective dictatorship'. John Garrett (1992, p. 16) encapsulates this view with his contention that 'in every function of Parliament, government throws its weight, not only against any opposition to its will, but against enquiry, scrutiny and discussion.' Several issues are particularly evident in comprehending this general tendency. In the first instance, there has been the stimulus of the gradual extension of the franchise, and in particular the 1867 Reform Act which 'served as a powerful incentive for the parties to attune and expand their embryonic organisations to the requirements of the developing "mass democracy"' (Judge, 1993, p. 77). Thus, there has been the delineation of the Commons along party lines - devolving particularly into two main parties. This has been assisted by the first-past-the-post electoral system, which militates against smaller parties whose electoral base tends to be distributed fairly evenly throughout the country.

In addition to this, once a government is installed within the Parliamentary structure, as Judge (1983, p. 190) suggests - 'the normative system of the House...reflects the predilections of the most powerful actors and so supports the existing distribution of power.' On a basic monetary level, the government-dominated Commons has in its gift, all increases to the 'Short Money' (paid to Opposition parties in order to assist with their parliamentary expenses), and this has been of some importance in acting as a palliative for parties who are in a minority within the Chamber. More substantially, however, the executive is dominant within the Commons because it is at the apex of the hierarchies of both the Civil Service and the House. As a consequence, it has access to the specialist knowledge of the Civil Service which performs the three broad roles of providing policy advice to ministers, administering departmental policy, and managing departments (Pyper, 1991, pp. 31-32). It can then buttress this privileged access, however, through the Prime Minister's powers of patronage which can help promote generalist norms in the House. Given, therefore, that 'the norms of the House and the career aspirations of most backbenchers are...focused upon, the executive itself' (Judge, 1983, p. 189), and allowing for the conjunction of

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this with the whip system and the broad intra-party ideology which tends to make partisan allegiance a desirable activity anyway, then as Brand (1992, p. 20) suggests - 'the party will normally stand behind its chosen leader and his or her team to reject virtually any criticisms from the other side.' Thus, the 'party now has such importance that it has become the "buckle" which joins the executive and the legislature and strengthens the former' (Brand, 1992, p. 19).

Overall, therefore, there is a strong tendency towards maintaining party divisions in the House and so perpetuating the dominance of the executive within it. Empirically, this domination has been well-documented, for example, in terms of the passage of legislation. Norton (1993, p. 80) reveals that on only three occasions this century, has a bill been lost at the crucial Second Reading stage, and it is only on the most recent of these (the 1986 Shops Bill) that the Government commanded an overall majority in the House. Indeed, even the legislation which introduced the Poll Tax in Scotland (possibly the most radical and contentious piece of legislation in modern British history), achieved its parliamentary passage with considerable ease and without a single Conservative MP voting against the Government at any stage during the legislative process (McConnell, 1994). Thus, 'the hegemony of government in achieving the passage of its bills is clear' and Parliament's ability to substantially alter a Bill exists 'only at the margins' (Norton, 1993, pp. 80-81).

In contrast to all of the above, however, there is a contradictory tendency towards independence from executive domination. As Adonis (1990, p. 18) suggests - 'The power of Parliament may be difficult to weigh and measure; but it is a reality nonetheless.' There are a number of important factors which lie behind this. The relationships within the governing party (indeed within any party) are not a one-way flow of information and influence from the government to backbenchers, and executive dominance does not preclude the widespread articulation of dissatisfaction. The potential for this increases because parties are indeed 'broad churches' which contain formal/informal factions within them. Party committees are one example of this two-way channel of influence. Jones, for example, states in his study of these groups that 'most chairmen...suggest...that party committees are able to exert influence through their ability to exploit parliamentary procedures, to raise issues with ministers, and to lobby their respective parliamentary parties' (quoted in Rush, 1990, p. 134). Furthermore, a number of MPs (at least at some stage in their parliamentary lives) do not have their sights on ministerial office. Rose (1982), for example, makes the distinction between inner circle and outer circle MPs. The behaviour of the former is very much influenced by government, whilst the behaviour of the latter is very distant from this because some MPs may adopt roles as expressive enthusiasts for causes and interests, publicity-seekers, extra-parliamentary careerists, and constituency representatives.

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In broader terms, when we consider the matter of 'independence', there has been a greater willingness on the part of MPs to use Parliamentary Questions, and a study by Franklin and Norton (1993, p. 109) found a general cross-party consensus that holding ministers accountable was the most important reason for utilising oral questions. Norton (1978) has also noted a greater degree of independence on the part of MPs - rooted (he argues) in Heath's 'poor leadership', which created an attitudinal change which outlived Heath's premiership itself.

Both prior and subsequent to this, however, there have been instances where legislation has been withdrawn as a result of pressure from MPs. This is not to deny that there may be other forces at work behind Members (e.g. trades unions, media, party activists etc.), and certainly MPs do not operate in a political vacuum. Nevertheless, if legislation is to fall, it does generally require backbench rebellions in some form or other - thus illustrating that whatever the wider forces at work, MPs have at times been a contributing factor in the demise of legislation. For example in 1969, the Labour Government abandoned proposals to introduce an Industrial Relations Bill as an immediate result of the combination of (i) a Cabinet split and (ii) 55 cross-votes against the White Paper In Place of Strife and the Chief Whip being unable to guarantee the Bill's legislative passage (Norton, 1975, pp. 611-613). In 1981, the Government abandoned plans to introduce referendums on local rates levels, after substantial resistance from Conservative backbenchers, including 30 who signed and Early Day Motion in protest (Local Government Chronicle, 20/11/1981). Also, in 1984, Education Secretary Sir Keith Joseph's attempt to increase parental contributions for students in higher education, was withdrawn after a motion of protest was signed by 93 Conservative backbenchers (Derbyshire and Derbyshire, 1990, p. 130).

In overall terms, therefore, it can be suggested that all of the foregoing indicates a co-existence of executive domination and backbench independence within the parliamentary context. Thus, it can be said that a pivotal feature of Parliament is the contradictory domination of the executive within it. How, might we ask, does this concept apply in relation to the new select committees and to the Scottish Affairs Committee in particular? It is the first element of this question which can now be addressed.

THE CONTRADICTIONS OF THE NEW SELECT COMMITTEES

As Drewry (1985, p. 348) suggests - 'Select committees are of course extensions of Parliament...Inevitably they share many of Parliament's own basic weaknesses or variants of them.' Thus, taking a brief overview of select committees, and looking in turn from the two vantage points from which we viewed Parliament, we can again identify these same characteristics of contradictory executive domination.

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On the one hand, the committees are undoubtedly touched heavily by the hand of the executive. Despite the fact that membership is 'all-party', the Standing Orders of the House require that they be constituted as closely as possible to the overall standing of the parties in the House. In essence, therefore, the governing party plays a significant role in scrutinising itself in government. Yet whatever the political colour of Committee members, the appearance of civil servants before committees is governed by the Osmotherly rules, which preclude any breach of the doctrine of individual ministerial responsibility. Thus, as Judge (1992, p. 99) argues - 'Effective parliamentary scrutiny has long been undermined by the convention of ministerial responsibility, hence, the very existence of the Osmotherly rules acts as a potent symbol of the executive's commitment to secretive government.' This penchant for secrecy has also been evident in the executive's use of the right to refuse permission for witnesses to attend select committees hearings. In 1986, for example, Mrs Thatcher refused to allow key officials from the DTI and No. 10 Downing Street to appear before the Defence Committee in its investigation into the Westland Affair (Oliver and Austin, 1987).

The powers of select committees are also limited, in that they have no power to compel ministers to attend and committee recommendations are not binding on the government. On this latter point, it should be noted that at the time of the setting up of the 14 departmental select committees in 1979 - coming at the tail end of a period when there had been considerable debate with regard to the powers (possibly executive powers) which select committees should have - the then Leader of the House, Norman St. John Stevas, did not endorse the view that select committees should have decision-making powers. Even the 1978 Select Committee on Procedure, which perceived 'that the balance of advantage between Parliament and Government...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,' did not go as far as advocating that the committees should have executive powers. Thus, whilst it wanted a new balance to be struck which would enable the 'House as a whole to exercise effective control and stewardship over Ministers', the Committee stated explicitly that it was not proposing 'changes of a fundamental or revolutionary character in the formal powers of the institutions concerned' (HC 588-I, 1977-78, p. viii).

This structural dominance of the executive is reinforced further (when we look at the matter from one angle) by the attitudes of MPs and the impact of the Committees themselves. Select committees do not constitute an alternative career path for backbenchers. Radice *et al* (1987, p. 9) strengthen the argument that the executive is able to perpetuate its hegemony through the promotion of generalist norms, by suggesting that 'Experts may be admired for their specialist contribution, but this is still not normally the way to make a political name.' Thus, careerism may impede the development of 'narrow

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specialisms' through committee work, and it may mean committees avoiding topics and questioning which will lead them into direct confrontation with the government. John Golding, for example, the then Chairman of the Employment Committee, noted in his report to the 1982 Liaison Committee that 'on major policy issues the Committee are unlikely to reach an agreed view between Conservative and Labour members. We have therefore sought those policy items where Members of different parties can agree' (HC 92, 1982-83, p. 56).

In overall terms, therefore, there is undoubtedly a 'case' to indicate that select committees are weak and ineffectual. Certainly, we can say this with a greater degree of credibility if we specify what constitutes an 'effective' committee [a debateable matter which we will return to later]. In the meantime, however, if we consider one aspect of this to be the ability of committees somehow to redress the balance between executive and legislature, then there is evidence to indicate a substantial level of impotence. Garrett (1992, p. 93) suggests that 'after their publication most Select Committee reports just gather dust.' He goes on from this to note that out of roughly 600 select committee reports since 1979, only seven have resulted in a motion and a vote, whilst a further six have resulted in a short adjournment debate. Giddings (in Drewry, 1985, p. 376), commenting on the first major 'academic' study of the new committees in the 1979-83 parliament, concluded that 'the effect of these committees on ministerial and departmental policy-making has been indirect and marginal, contextual rather than substantive.' More recently, Judge (1992, p. 98) criticises the 1990 report from the Select Committee on Procedure as being too sanguine in its perceptions of the post-1979 select committees, and insufficiently aware of their 'ineffectiveness' in obtaining and disseminating information - 'areas central to the logic of their organisational form.'

In contrast to all of the foregoing, and remembering our need for caution in the face of simplified perceptions of executive domination, then it must be recognised that executive domination co-exists with independence from this. When we view select committees from another angle, we find arguments and evidence which recognise this 'independence.' Committees are able to choose their own topics for investigation; they do contain opposition MPs; and they may contain government backbenchers who are not prepared to act as 'fodder' for the government. For example, Tory MP Nicholas Winterton, Chairman of the Select Committee on Health (until his ousting by a government-initiated procedural change), proved to be a persistent and very public critic of the Government's health policies (*Guardian*, 9/7/1992). The relative independence of committees is also fostered by the fact that votes are taken only infrequently, and thus a Member's adherence/deviation from the party line is not normally a matter of public record. Also, the whip system does not operate directly and overtly on committee decisions, because the committees do not have decision-making powers, and executive sanctioning of

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'whipping' would undoubtedly undermine the last vestiges of any claim on its part to be 'open' to investigation.

The matter of committee 'independence' can be explored in greater depth through utilising the work of Jogerst (1991). He is critical of the contention that the goal of executive office is the prime motivating factor for MPs. Based on interviews with over 100 MPs, clerks and staff, he suggests that (i) committee service allows more active and rewarding participation than many years of party loyalty, and (ii) committees can provide parliamentary careers for backbenchers who will never achieve promotion within party/government ranks. He argues that there is 'a gap between that which MPs want to do in the House of Commons, and that which they are able to do' (Jogerst, 1991, p. 32). Thus, select committees may provide fulfilment for 'frustrated' backbenchers, who desire duties of policy-making and influence, but in reality are burdened with constituency work. Hence, 'select committees can indeed be used as alternative "career structures", allowing Members to specialize and therefore removing them, to a degree, from the dictates of party leaders' (Jogerst, 1991, p. 35).

All of these factors indicate, therefore, that when it comes to choosing topics for investigation, it is far from certain that Committees will avoid potential conflicts with the government. In this regard, it is worth quoting (at length) the words of Giddings (in Drewry, 1985, p. 372).

'It is evident that most committee members believe that select committees to be effective, must adopt a consensual style. That can mean avoiding partisan issues, as some have. Or it may mean exploiting the willingness of some backbenchers to dissent from their party's front-bench line. Moreover, just as "independence" may become a habit, so may cross party agreement, particularly when it is based on perceptions as constitutionally legitimate as "control of the executive". To this extent, the experience of inter-party co-operation and agreement may encourage the habit of dissent from monolithic partisan unity, particularly if it can be dressed up as "a House of Commons matter".'

In 1993, for example, Conservative MP David Ashby, a member of the Select Committee on Home Affairs, negotiated a 'deal' with Opposition members that he would support a move to investigate the sensitive issue of party funding if the Committee agreed to investigate lowering the age of consent for homosexuals. This move would ultimately prove embarrassing to the Government, because the Committee's investigations into party financing would help fuel the 'crisis' of Conservative Party funding in the summer of 1993.

Further to all this, when we look at committees from the general vantage point of independence from the executive (and recognising that this

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independence may vary from one committee to another), it can be said that the new select committees are indeed 'effective'. For example, a report by the Home Affairs Committee in 1979-80 led to the abandoning of the 'sus' law; the Agriculture Committee was influential in the Government tightening-up the rules on animal experiments; and the British National Oil Corporation was abolished in 1985, after the Government admitted to being influenced by two critical select committee reports (McDonald, 1989, p. 226; Silk, 1989, p. 226). In more general terms, as Judge (1992, p. 92) comments

'there was almost unanimous agreement amongst witnesses appearing before the 1990 Procedure Committee - from committee members, government, outside groups and academics alike - that the committees had achieved more systematic, comprehensive and rigorous scrutiny of executive actions than was the case either with the pre-1979 select committees or with present activity on the floor of the House.'

In total, we can now assemble the arguments and evidence presented here, and suggest that the new select committees should be viewed essentially as microcosms of the contradictory domination of the executive. It is this broad framework which we must bear in mind as we now move on to look at the Select Committee on Scottish Affairs, and in particular its recent 'revival'. In order to do this, however, we must put this in context by briefly outlining the development of the Committee from its origins in 1968 through to the present day.

THE SELECT COMMITTEE ON SCOTTISH AFFAIRS: A BRIEF HISTORY

The development of the Select Committee on Scottish Affairs can be divided into three stages, including the most recent stage in the post-1992 period (McConnell and Pyper, 1994).

The first phase covers the period between 1968 and 1972. In essence, the establishing of a Committee with a specifically Scottish remit was rooted in two key factors. On the one hand, there was the launching of the 'Crossman reforms' in 1966, and the introduction of a range of new experimental 'departmental' and 'specialist' select committees, designed to 'modernise' Parliament through enhancing the ability of Parliament to scrutinise the executive. On the other, there was the rise of an electoral threat from the SNP in the mid to late 1960s, as manifested in both by-election and local election results. The confluence of these factors resulted in the setting-up in 1969 of a Select Committee on Scottish Affairs. The Committee was hampered, however, by the uncertainty created by the requirement that it be renewed at the commencement of each parliamentary

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session (rather than each full parliament), and by 1972 it had published only two substantive reports into Economic Planning in Scotland and Land Use Planning in Scotland.

This first phase ended in 1972, with the Conservative Government finding no place for a 'Scottish' committee in its wider review of the entire select committee system. The Government was awaiting the report of the Kilbrandon Commission on the constitution, and hence the climate was not conducive to a continuation of the Committee. Similarly, the post-1974 Labour Government's active pursuit of devolutionary proposals meant that a Scottish select committee was hardly a priority.

The second phase of the Committee covers the period 1979 to 1987. After the failure of the 1979 referendum to produce a majority of voters in favour of devolution, pressure from Scottish MPs resulted in the establishing of a Select Committee on Scottish Affairs as part of the wider system of 14 select committees introduced under the guidance of the Leader of the House, Norman St John Stevas. These new committees were now appointed for the duration of a Parliament, thus commanding a greater security of tenure when compared to their predecessors. Standing Order number 130 of the House defined the remit of the Scottish Affairs Committee as being 'to examine the expenditure, administration and policy of the Scottish Office and associated public bodies.' The setting-up of the Committee itself, however, was not quite so straightforward. Pressure from the Opposition led to its membership being 13 - as opposed to 11 or 9 for the other select committees - in order to accommodate the SNP (who ultimately declined the offer). Not only did this highlight Labour's majority in Scotland, but it also gave rise to a dispute over who should chair the Committee. Conservative backbenchers favoured a Tory chairman, although they were in effect defeated by the whips of the two main parties. Thus, whilst Labour's Donald Dewar was installed as the first Chairman of the Committee, the Conservatives did obtain some manner of redress by appointing one of their own backbenchers (Iain Sproat) as the unofficial 'majority leader'. Despite these initial difficulties, however, the Committee was soon operating. During this second phase, it investigated a wide range of topics from Inward Investment and the White Fish Authority general levy, through to Dampness in Housing and the proposed closure of British Steel's Gartcosh plant. Drucker and Kellas (in Drewry, 1985, p. 235) in their review of the bulk of this time-period, conclude that

'In general, the Committee has retained a degree of credibility in Scotland. It has been seen by Scottish MPs and interests as a means to extract information from the Scottish Office and public bodies such as nationalized industries, and then to influence government decisions in favour of Scotland.'

This role was to be relatively short lived, however, because a series of factors combined to undermine the very existence of the Committee. The

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1987 General Election reduced the Conservatives from 21 to 10 MPs, and three Conservative backbenchers (Allan Stewart, Bill Walker and Sir Nicholas Fairbairn) refused to serve on it because they felt that it would simply become a vehicle for airing the frustrations of the opposition parties. As a result, the Conservatives did not have enough backbench MPs to sit on the Committee. Thus, 'with an opposition happier to advertise this fact than to insist on a Committee in some form' (Parry, 1993, p. 49), the Committee did not sit during the 1987-92 Parliament. As a partial replacement, December 1988 saw the emergence of an 'alternative' committee which produced a report the following summer into the Health Service in Scotland (Alternative Select Committee on Scottish Affairs, 1989). The Committee Chairman William McKelvey (1993), described it as a 'genuine effort' and 'more than a stunt', but one which ultimately failed because it had no access to House of Commons funding (it was financed by the Labour Party in Parliament), and it had no power to interview ministers.

The third and current phase of the Select Committee on Scottish Affairs, began with the reinstatement of the Committee after the 1992 General Election. This was made possible because of the increase in the Scottish Conservative contingent from 9 to 11 MPs (from 10 to 11 if we take the 1987/1992 General Election results); the willingness of Nicholas Fairbairn (1993) to serve on the Committee because he felt that the Committee was 'now prepared to investigate with responsibility'; and the Government's willingness to see a reduction in committee membership from 13 to 11 backbenchers, in line with the revised membership rules for all select committees. It is necessary to provide some background information on this 'revived' Committee, before moving on to analyse the role and activities of the Committee itself.

The Conservatives, as the party in government, enjoy a majority on the Committee. Initially, the Conservative members were Sir Nicholas Fairbairn, George Kynoch, Phil Gallie, Raymond Robertson, Liam Fox and Peter Atkinson. Both Fox (a Scot by birth) and Atkinson represent English constituencies, but Labour's desire to re-instate the Committee ensured that this was not problematic. Latterly in May 1993, Fox stopped attending Committee meetings (although this was resumed one year later for crucial votes in the drug abuse enquiry) after being appointed Parliamentary Private Secretary (PPS) to Michael Howard, the Home Secretary. In addition, Kynoch was appointed PPS to Foreign Office Minister Alistair Goodlad, and Robertson was appointed as PPS to Northern Ireland Minister Michael Ancram. Both, however, have continued to serve actively on the Committee. Labour members on the Committee are William McKelvey, Eric Clarke and Bob Hughes, whilst the Liberal Democrats and the SNP are represented by Ray Michie and Andrew Welsh respectively. The Chairman of the Committee is Willie McKelvey (nominated by the Scottish Labour Group), who survived initial moves to block his appointment by Phil Gallie and Bill Walker. Both expressed concern at McKelvey's connections with the broad

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nationalist pressure group Scotland United, with Walker stating that he was 'against having a chairman who does not accept that the House of Commons can have its will in Scotland' (*Scotsman*, 11/7/1992). Bill Walker did not sit on the Committee, but Gallie relented, thus allowing McKelvey to take his place as Chair of the Committee.

In the first Parliamentary session of the Committee during 1992-93, it investigated Scotland's transport links with Europe, the Government's public expenditure plans for the period 1993-94 to 1995-96, changes to Legal Aid in Scotland, and drug abuse in Scotland. This final enquiry then continued into the second parliamentary session 1993-94, and was joined by an investigation into the appointment of Laurence Peterken as Special Projects Director of the NHS Management Executive, the operation of the Scottish Enterprise network, and the winding-up of the New Town Development Corporations. At the time of writing, some of these enquiries (Scottish Enterprise and new towns) are not sufficiently advanced to warrant detailed discussion. Nevertheless, there is still a substantial body of material which provides us with a valuable base upon which to conduct an assessment of the operation of this 'revived' Select Committee on Scottish Affairs and the contradictions within it.

THE CONTRADICTIONS OF THE 'REVIVED' SCOTTISH AFFAIRS COMMITTEE

If, as we have argued, Parliament and select committees face 'two ways' in that they reflect both the domination of the executive and an independence from this, then the Select Committee on Scottish Affairs is no exception to this. This contradiction is evident in (i) the broad nature of the Committee (ii) member attitudes, and (iii) Committee investigations. Each of these can be considered in turn.

The Broad Nature of the Committee

Like all select committees the 'power' of the Select Committee on Scottish Affairs is circumscribed by the executive, because it has no (and was never intended to have) any decision-making powers which would give it the right to determine policy. It is also limited in that it has a Conservative majority, thus allowing 'Scottish affairs' and the Conservative's governing of Scotland to be scrutinised by a party which commands only 25.7% of the vote and 11 out of Scotland's 72 parliamentary seats (*Herald*, 11/4/1992). This creates the potential for a reluctance to confront the executive (a point to which we will return when looking at Committee investigations), with this being reinforced by the particular nature of the Scottish Affairs Committee. The territorial and multi-functional remit of the Committee means, as Labour MP Bob Hughes (1993) suggests, that 'with that wide scatter...you don't get that

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continuity which specific Departmental select committees in England have, of building up a long experience and a greater detailed knowledge of each particular subject you look at.'

This potential for a lack of incisiveness is reinforced further by the fact that the Committee is seeking to reestablish itself after five years in the 'wilderness'. There was agreement among most Committee members that the Committee should not be too adventurous in its initial investigations. As Chairman Willie McKelvey (1993) suggests when discussing the possibility that the Committee could have chosen 'The Future of Scottish Government' as its first investigation - 'it wasn't pushed because I wasn't prepared to push it. If we had pushed that, and that had been the first committee, and it ended in acrimony and minority reports, then that would have been the end of the Committee.' This climate, partially prohibitive to confrontation of executive policies and activities, also seems (at least as far as the Chairman is concerned) to be bolstered partly by the lack of select committee experience on the part of members. Six members are new to the House of Commons, and only three (Hughes, McKelvey, and Fairbairn) have ever served on a select committee before. As McKelvey (1993) suggests - 'If we'd had a committee of people who had formerly served on committees - yes, we'd have been able to tackle perhaps more thorny subjects.'

Consistent with the main theme of this paper, however, we must be wary of rushing headlong into supporting the view that the general nature of this re-instituted Committee is simply a vehicle for executive domination. This must be supplemented by recognising that the Committee contains opposition MPs, and the Committee as a whole can, as Cranmer (1987, p. 7) suggests 'interpret its own order of reference', subject only to being overruled under exceptional circumstances by an Order passed by the House itself. The effect of this is to place expectations on Committee members (particularly opposition members), that the Committee will make effective use of its powers to scrutinise executive activities and policies. These expectations can come from parties and also from members themselves. SNP member Andrew Welsh (1993), for example, states that the Committee 'has an important task to perform in bringing the Scottish Office to account, especially given the wide range of Scottish Office work, and the inability of normal Parliamentary mechanisms to gain [sic] accountability.' An example of this can be found in allegations of a ministerial cover-up and an attempt to blame civil servants in the case of Laurence Peterken's appointment as Special Projects Director with the NHS Management Executive only weeks after being dismissed as General Manager of Greater Glasgow Health Board (see Scotsman, 26/11/1993; Scotland on Sunday, 5/12/1993). Shadow Scottish Secretary George Robertson immediately called for an investigation into this by the Scottish Affairs Committee, and this request was indeed influential in bringing about the Committee's investigation.

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In addition to this, expectations can also come from the media. For example, Scotland on Sunday (13/2/1994) has waged a high profile campaign against the 'quangoisation' of Scotland (raising severe concerns over the accountability of those appointed to public boards by the Scottish Secretary), and has welcomed the Committee's investigations into the Scottish Enterprise Network. It stated its hope that 'the select committee enquiry thrashes out the problem once and for all...[and] that the government fixes what needs fixing.' We must recognise, however, that expectations such as this do not necessarily mean that the Committee will be able to fulfil these expectations. They simply illustrate the fact that there are pressures on members to use the Committee and its powers to confront the executive and its policies when necessary. Thus, in order to establish whether the contradiction confronting the executive is more than simply one of 'expectations', we need to consider whether there is a concrete basis for this. We can work towards this by first of all considering the 'contradictory' roles and attitudes of Committee members.

Attitudes of Members

When viewed from one angle, the attitudes of members seem consistent with matters discussed earlier in terms of the hegemony of the executive and its ability to perpetuate 'generalist norms' and party allegiances among (essentially) careerist MPs. One opposition member of the Committee described the Conservatives as 'young men' with their sights on higher office. Indeed, a Conservative member was blunt in describing his role on the Committee as

'to make sure the Select Committee in no way is turned into a political instrument by the opposition in Scotland and embarrasses the Scottish Office.'

Certainly, the configuration of the Committee is not conducive to deviations from the 'party line'. Fox, Kynoch and Robertson are all Parliamentary Private Secretaries. Furthermore, for those members with Scottish seats, there is the burden which tends to be faced by all Scottish backbenchers. As former Committee Chairman David Lambie wrote in his report to the Liaison Committee in 1982 - 'not only are we afflicted by the problems arising from frequent long-distance travel, but also (and importantly) Standing Committee commitments tend to fall more heavily than average on Scottish Members' (HC 92, 1982-83, p. 108). This latter point is particularly evident in the 1993-94 parliamentary session. From the Government benches, Gallie, Kynoch and Robertson, were all members of the Scottish Standing Committee scrutinising the massive 169-clause Local Government Etc. (Scotland) Bill which will pave the way for the reorganisation of local government in Scotland. To compound matters even further, the sheer scope of

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investigations in a wide range of policy areas (because of the wide remit of the Scottish Office), means a heavy reliance on the specialist knowledge of the Clerk and advisers. As Conservative Member Phil Gallie (1993) commented - 'in the formatted sessions, we tend to operate to prepared questions - questions that have been to a degree put together by our Clerk.' Indeed, Stephen McGregor (1993) of the Herald described one evidence-taking session in the Transport enquiry as 'soporific' with the vast majority of Members 'rather too prepared to ask a couple of questions, listen to the answers, and then sit back and let someone else take over.'

It seems reasonable to suggest that the combined effect of all these factors is hardly to create a climate where MPs have the time or the desire to specialise and/or deviate from party allegiances. Thus, this facilitates the maintenance of party divisions and so maintains the dominance of the executive. Again, however, and consistent with select committees as a whole, there are contradictory forces at work. The Conservative ranks on the Committee contain the 'maverick' Sir Nicholas Fairbairn - very much an individual and hardly lobbying for promotion within the Party. He has stated that 'independence of mind is essential for a successful committee member. Nothing party political should influence them' (Scotland on Sunday, 18/7/1993). All other Conservative members expressed similar views to varying degrees. George Kynoch (1993), for example, described the role of the Committee as

'to examine issues which are under the control of the Scottish Office, with a view to making recommendations to the Scottish Office as to where they might act or where they might change whatever they are already doing...I think we are here representing the public, and doing a duty in the Select Committee by examining facts, obviously with public interest at heart.'

Even if we view statements such as this with a cynical eye and see them simply as a public facade intended to mask party interests, this nevertheless creates the potential for situations where it is difficult for members to persistently deny investigating topics which act 'in the public interest' by confronting the executive. Indeed, they may genuinely desire to do so. As Chairman Willie McKelvey, suggested of the Conservatives on the Committee - 'we tried to get them to look on an apolitical basis, wherever that is possible. To their credit...[they have] turned round to say that there are matters that you have to look at.' Thus, there are indeed contradictions in the attitudes of members, hence contributing to the wider contradictions of the Select Committee as a whole. These contradictions can be seen clearly as we now move on to consider each of the investigations completed to date by the re-instated Committee.

Investigations

The first enquiry into Scotland's transport links with Europe clearly backed away from confronting the Scottish Office. As already indicated, an enquiry into the governing of Scotland was simply not politically feasible for a committee seeking to re-establish itself through consensus. In addition, as Ray Michie (1993) of the Liberal Democrats indicated - 'I wanted them to look into local government reform, and into water privatisation, but no way were they going to countenance such a thing, because they knew well it would end up in a divided report. That's the situation. I'm just one Liberal Democrat on the Committee, dominated by the Tories.' Thus, given the Conservative majority and the desire of all members to get the Committee 'up and running', there was pressure to investigate an important but politically 'safe' issue. Scotland's transport links with Europe fitted the bill perfectly. It was important because of the advent of the Single Market (at least in theory) on 1st January 1993 and the imminence of a fully operational Channel Tunnel, but it was politically 'safe' in that it extended beyond the remit of the Scottish Office and did not constitute an investigation into a single, sensitive and high-profile government policy.

As a result, Labour member Bob Hughes (1993) commented that 'without any vote being taken, a sort of consensus emerged.' The Committee conducted eight evidence-taking sessions between October 1992 and March 1993, taking evidence from the Scottish Office, Department of Transport, CBI Scotland, Convention of Scottish Local Authorities, Scottish Tourist Board, Scottish Enterprise, Highlands and Islands Enterprise, Scottish Airports Limited, British Airways Plc, British Railways Board, Freight Transport Association, Central Region Distribution Focus Group, and Caledonian MacBrayne Limited. The end result of these investigations was a report (HC 217-I, 1992-93), described by the Herald (18/5/1993) as 'sacrific(ing) a certain amount of sharpness for the sake of unanimity'. As a result, the Committee had avoided a major confrontation with the Government because it had chosen a topic and produced a unanimous report, described by Committee Chairman Willie McKelvey (1993) as a 'success...[because] it was not sensational, and was never intended to be sensational.'

It must be recognised, however, that the report was far from deferential to the Scottish Office. It contained 34 conclusions and was notable for identifying a series of deficiencies in the road system, and expressing serious concern at the delay in the construction of Mossend as Scotland's main railfreight terminal for the Channel Tunnel. According to the Herald (18/5/1993), this was a 'quiet but serious indictment' of several areas of government policy. Hence, the 'contradictions' of the Committee's investigations manifested themselves in this first topic of investigation.

The second of the Committee's enquiries was into proposed Government changes to the civil legal aid system. Against a background of an anticipated

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cost increase in excess of 41% over 1991-92, the Scottish Office was proposing a number of changes, with the most contentious being a reduction in the income threshold at which free civil legal aid would be available, from £3060 to £2293. Certainly, resistance to this from the legal profession manifested itself in formal and informal lobbying at Scottish Office level. Thus, whilst the Scottish Affairs Committee was not the only player in the field, it was nevertheless faced with an issue which held the potential for a damning indictment of government policy proposals. As Labour's Home Affairs spokesman John McFall said at a later date - 'The vulnerable must be able to seek redress in the courts when they are wronged. Many cannot do so because they cannot afford it' (*Herald*, 8/2/1994).

In practice, however, the Committee's investigations were both muted and effective, with the reasons for this lying within the 'contradictions' of the Committee. On the one hand, a combination of factors ensured that criticism of the Scottish Office was not as forceful as it could have been. The Committee had already started the investigation into drug abuse in Scotland, and another major investigation (especially on yet another subject area within the wide Scottish Office remit) would not be feasible. Thus, there was widespread agreement within the Committee to conduct a short one day enquiry - taking evidence from Scottish Office Minister Lord Fraser and five leading members of the Law Society of Scotland. In their questioning of Lord Fraser, no Conservative members (with the exception of Nicholas Fairbairn) were prepared to criticise the government's proposals on the grounds of 'fairness'. The Committee also stopped short of producing a report. The reasons for this rested to some extent on partisan grounds; to some extent on the fact that divisions may have resulted from a report and recommendations; and partly because the investigation was viewed widely within the Committee as a 'success' - particularly among opposition members.

This leads us on the other hand, therefore, to consider why the investigation was more than a bland exercise. Opposition members and Nicholas Fairbairn were highly critical of the proposals, as were the Law Society of Scotland, thus prompting the *Scotsman* (25/3/1993) to produce the headline "Legal aid changes savaged by top lawyers." There was no report produced, however, because as Chairman Willie McKelvey (1993) suggested, 'the pressures had eased off, and a report from us would simply be a repetition of what the Law Society were saying to the Government.' Yet there was more to it than this. The decision not to issue a report performed the important role of 'mending' the contradictions within the Committee. The Government had been able to avoid the criticisms that would have arisen from a full (even minority report); the Committee itself could maintain cohesion and a sense of non-partisanship, and show, as SNP member Andrew Welsh (1993) suggests, that it 'could deal with hot issues'; and critics of the Government (including opposition members) could feel satisfied that concerns had been raised through the evidence-taking session.

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The next Committee enquiry (and one which had been an annual topic for previous Committees) was a one day session, taking evidence from the Scottish Secretary and Scottish Office officials on the Government's public expenditure plans. In the session on 21st April 1993, both sides relied substantially on prepared questions because of the technical nature of the subject matter. Underlying this, however, the contradictions of the Committee's investigations were ever present, and partisan divisions were to the fore in this key area of Government policy. On the one hand, the line of questioning from Conservative members was one which did not seek confrontation with the Scottish Office. The focus was very much on obtaining clarification on such matters as the future of the Barnett formula and the amount of detail that is worked out by the time a parliamentary statement is made on public spending. Equally, the opposition members focused, whilst still seeking substantial clarification, on criticisms of the government, in terms of (for example) capital spending being insufficient to alleviate high unemployment, job losses as a result of market testing, and the costs involved in reorganising local government (HC 618, 1992-93).

The next enquiry into the appointment of Laurence Peterken as Special projects Director of the NHS Management Executive was the highest profile so far. The background to the case lay with Laurence Peterken's appointment as General Manager of Greater Glasgow Health Board (GGHB) in 1986. As Scotland on Sunday (5/12/1993) put it bluntly, he 'had been charged with forcing the Tories' NHS policies on Britain's biggest health board. He didn't give a damn if it made him unpopular.' Yet as time passed, concerns emerged that Peterken had partly 'gone native' through his opposition to spending cuts. As a result, at the instigation of the Scottish Secretary Ian Lang in April 1993, Bill Fyfe, the Chairman of Ayrshire and Arran Health Board, was brought in as Chairman of GGHB to 'sort things out'. In the event, however, (i) Peterken was dismissed by the Board on November 2nd (ii) two weeks later on 16th November he was appointed Special Projects Director of the NHS Management Executive, and (iii) one week later on 24th November Bill Fyfe stepped down as GGHB chairman. Throughout all this, there were questions raised by both the opposition and the media about the part played by the Scottish Secretary; there were accusations by Bill Fyfe that 'sinister hands' were at work; there was a Scottish Office investigation into the role of civil servants in all this, amidst accusations that they were being made 'scapegoats'; and there was an attempt to link the whole affair into the accountability of appointees to public boards.

The Chairman of the Scottish Affairs Committee Willie McKelvey (1993) had previously described the general role of the Committee as 'to get to the truth of issues...to stop the cover-up, by government ministers and their officials on issues, and to play a role because of...parliamentary privilege, where others may fear to tread.' In the Peterken-Fyfe affair, therefore, there was the ideal material for the Committee to perform

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precisely this role. Again, however, the Committee investigations would display the 'contradictions' of executive domination.

On the one hand, there was a strong element of partisanship. In a one day evidence-taking session, the Committee questioned Mr Fyfe, Mr Peterken, Mr Geoff Scaife the Chief Executive of the NHS in Scotland, and Scottish Health Minister Lord Fraser (HC 65, 1993-94). The line of questioning to witnesses from all members was highly inquisitorial, in an affair which Labour member Bob Hughes described like 'Alice', as 'curiouser and curiouser' (HC 65, 1993-94, p. 18). Partisanship reared its head, however, after the evidence session had taken place, since it was decided that there should be no final report and no recommendations. This would undoubtedly have laid some of the blame at the feet of the Scottish Secretary and the Health Minister. As a result, the Committee voted 5-3 not to produce a report. The 'five' were all Conservatives, whilst the Chairman did not vote and Andrew Welsh of the SNP was not present. Only Sir Nicholas Fairbairn was absent from the Conservative side, and he had left the evidence session (assuming that there would be a report and recommendations), in order to undertake work associated with his other seat on the Defence Committee. Subsequently, he was very surprised at the fact that a Committee vote had taken place without him. Indeed, as the Herald (9/12/1993) noted - 'Labour insiders described the vote as a "stitch-up".' Subsequently, on the day that the evidence session was published, Shadow Scottish Secretary George Robertson stated that 'the fact that there is no report and no conclusion by this select committee, is an indication of how desperate the Government were to make sure that there was going to be nothing coming out of the evidence that they took' (BBC Breakfast News: Scottish Edition, 15/2/1994).

On the other hand, however, and in contrast to all this, the influence of the executive on the Committee was far from complete. The Committee had used its freedom to investigate a potentially explosive topic, and the evidence-taking session received substantial media coverage - including a special edition of the BBC's Scottish Lobby programme. At the very least, the Committee's investigations allowed a considerable amount of evidence from witnesses to enter the public domain, and left behind a legacy which was critical of the Scottish Office. The Herald (2/12/93; 28/1/94) for example, talked of 'unanswered questions' in terms of Mr Peterken's reappointment to the NHS Executive, and that 'nothing could illustrate the need for accountability and openness in this legitimate matter of public interest more clearly than this strange episode.' More explicitly, as suggested by Shadow Scottish Secretary George Robertson, the absence of a report from the Committee will 'remind people of the cover-up' (BBC Breakfast News: Scottish Edition, 15/2/1994).

The final Committee investigation which has been concluded to date (May 1994), is one which had initially been set-up in the 1992-93 session, thus taking over a year to complete. The investigation was into drug abuse in Scotland, this being a subject which seemed initially to have the characteristics

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of a very important but relatively 'safe' issue, in the sense that there was no immediately self-evident partisan divisions. As Chairman Willie McKelvey (1993) suggested in the early stages of the enquiry - 'The Labour Party don't have a view "let's decriminalise drugs", versus the Conservatives who say "no, let's get hard on law and order and hang all the drug peddlers"'. You haven't quite got that stark contrast.' This is not to deny, however, the existence of differences of opinion ranging from most who saw it as a very complex issue and being prepared to be fairly 'open minded' on the matter, through to Sir Nicholas Fairbairn (1993) who described it as 'a very, very simple issue. It is the fundamental danger of all civilisations.'

Whatever the ideological leanings of Committee members, it became clear - as the investigation proceeded - that the matter was certainly a very complicated one in terms of obtaining relevant and up-to-date statistics; piecing together a variety of differing inputs from a substantial body of individuals and groups; and Committee members being able to rationalise the multiplicitous (and often conflicting) signals that emerged from field trips to Holland and the United States, where members visited a number of centres and institutions dealing with the effects, rehabilitation, criminal and penal aspects of drug abuse. Despite this general 'complexity', however, the Committee did begin to exhibit partisan tendencies as the investigation progressed and the composition of the final report was discussed. These were most public on one major issue, with regard to the matter of those caught in possession of cannabis. On the one hand, there was a movement, led somewhat unusually by the Committee Chairman, towards a long-term policy of decriminalising (although not legalising) cannabis, and the interim 'solution' of fiscal fines for those caught in possession of the drug. The rationale for this as stated in a draft report, was that since cannabis commanded 85% of drug seizures by the police, then there was concern that 'at a time when the consensus view of drug squad officers is that Scotland's drug problem is on the verge of being uncontrollable, so much effort is being spent on cannabis offences' (HC 62-I, 1993-94, p. lxxiv). This proposal, however, flew in the face of both the line from the Scottish Office which was that there were no plans to decriminalise cannabis, and the ideas emanating from the Conservative Party as the self-appointed standard bearer of 'law and order'. As a result, the five Conservative members on the Committee (Liam Fox reappearing on the Conservative benches and only Sir Nicholas Fairbairn absent), voted together to ensure that the final report was largely supportive of these views. It stated (among other things) that (i) police resources were not being diverted unnecessarily from investigating drug trafficking because of dealing with the vast number of cannabis offences, and (ii) there was some 'merit' in fiscal fines for first time cannabis offences, but that these should supplement rather than replace the armoury available to the Procurator Fiscal (HC 61-I, 1993-94, pp. liii-liv). This is not to suggest that the final report was entirely deferential to the Scottish Office, because yet again there were

contradictions in the tendency towards facilitating the domination of the executive. The Committee did express concern at the Scottish Home and Health Department's absence of a pro-active role in establishing a substitute prescribing service in Glasgow, and it did deviate slightly from Scottish Office policy on fiscal fines. In the last analysis, however, the watering down of this latter matter clearly illustrated the partisan tendencies within the Committee, and indeed one newspaper report pointed to the predominance of Parliamentary Private Secretaries on the Committee, and suggested that McKelvey was questioning the role of the Committee and was considering relinquishing his chairmanship (Scotland on Sunday, 24/4/1994). Despite the existence of a counter tendency, therefore, the trend towards buttressing executive domination was ever present.

THE 'EFFECTIVENESS' OF THE RE-INSTATED SCOTTISH AFFAIRS COMMITTEE

It is important to recognise that evaluation of select committees is, as Nixon (1986, p. 416) suggests 'beset by methodological and technical problems' such as the existence of multiple objectives, identifying causality, and measuring impact or outcomes.' At the heart of the matter, however, is the fact that evaluating select committees is at least in part a political judgement. What we perceive their role to be, will influence our judgement on their effectiveness. We can expand on this by recognising as Jones (1982, 318) does, that there is a 'spectrum of opinion' on the proper role of the House.

At one end, there are the views (albeit from very different positions on the political spectrum) of Michael Foot, Enoch Powell and others, who see the House as 'a passive assembly which leaves the executive free to govern whilst retaining the right to veto or bring the government down' (Jones, 1982, pp. 318-319). Enoch Powell (1984, p. 3), for example, addressing a Politics Association conference in 1981, described the proper role of the House as 'an instrument for ensuring that government is carried on, as far as may be...with the comprehension and consent of the governed...it is a place where government speaks to the people and the people, through their representatives, speak to government.' Following on from this, therefore, a more well-informed and committee-based Commons 'is a complete misapprehension. It would result in stultifying and virtually destroying the House of Commons for the job which it is there to do' (Powell, 1984, p. 10). From this perspective, therefore, the revived Scottish Affairs Committee, would be ineffective a priori. It would distract from the Government explaining and obtaining consent in the Chamber for its governing through the Union between Scotland and England. Indeed, according to this view, the very existence of a 'Scottish' committee would undermine the Union because it would provide a constitutionally legitimate forum for those parties and groups opposed to Conservative rule in Scotland. To return to our theme of

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parliamentary contradictions, therefore, the broad Powell-Foot perspective would imply that contradictory forces against the government should come from the people through their representatives into the Chamber - not through select committees.

At the other end of the spectrum, however, there are a whole series of 'reformers' such as Norton, Johnson (pre-1979) and Walkland, who have sought 'an interventionist parliament which helps form policy and exercises detailed supervision over the executive' (Jones, 1982, p. 319). As Norton (1985, p. 144) suggests, for example - 'Behavioural and structural changes in the House of Commons can contribute to the maintenance of consent without jeopardizing the effectiveness of government.' Flowing from views such as this, we find a host of criteria relating to committee 'effectiveness'. The 1989-90 Procedure Committee, for example, identified the criteria for assessment as (i) the accountability of ministers and officials (ii) the publication of information (iii) the impact upon the Commons and the public, and (iv) influence upon government actions (HC 19-x, 1989-90). In briefly considering the revived Scottish Select Affairs Committee against each of these, we can see that there are limitations in its 'effectiveness' - rooted in the contradictions within the Committee.

First, when viewed from one angle, the Committee has indeed ensured the accountability of ministers and officials. Particularly on the enquiries into transport, public spending, civil legal aid changes, the Peterken-Fyfe affair, and drug abuse in Scotland, it attempted to hold ministers, the Scottish Secretary, and occasionally officials, to account for their activities. In the enquiries completed to date, appearances in front of the Committee have amounted to four ministers (with Ian Lang appearing twice and Lord Fraser appearing three times), twenty civil servants from the Scottish Office, Scottish Prison Service, Health Education Board for Scotland, Crown Office and the Department of Transport, as well as numerous other officials - notably from Health Boards in Scotland. Alongside this, there have been several memoranda submitted by the Scottish Office, Department of Transport, Home Office and others, and also the release of a number of pieces of correspondence and information relating particularly to public spending, Greater Glasgow Health Board, and drug abuse in Scotland. As SNP member Andrew Welsh (1993) suggested of the Committee - 'at least it's there and it's doing some sort of job, and it's an opportunity for questions and scrutiny...If I thought it was a charade, I wouldn't waste my time.' However, with specific reference to the Peterken-Fyfe enquiry, there were limitations because of the legacy of 'unanswered questions'. As Scotland on Sunday (5/12/1993) suggested after the Committee's evidence-taking session, 'no documentary evidence was produced to support any of the claims made, and after two hours and 40 minutes, committee chairman Willie McKelvey, gave up; there clearly was some sort of fix by the Scottish Office.'

Second, there is a further limitation in terms of the Committee's 'effectiveness' in publishing information. There were reports and evidence

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produced in the transport and drug abuse enquiries, but only evidence was published in the public spending, legal aid, and 'Peterken' enquiries. Certainly, this is not to deny the point made by John Golding, the former Chairman of the Employment Committee that the 'report is often the least significant part of a Select Committee's work, given the divergence of political opinion' (HC Debates, 1980-81, 5th Series, No. 996, col. 1300). But if publishing information is a criterion for an 'effective' committee, then the revived Select Committee does indeed display limitations in this area, with these being rooted in the contradictions of the Committee. As already indicated, the desire in the first enquiry not to confront the government allowed the Committee to reach a consensus and produce a report. Also, the partisanship exhibited in the report into drug abuse was not so partisan that it overlapped with clearly defined party policies. Thus, the Committee was able (despite early indications to the contrary) to produce a common report and avoid a minority report. Correspondingly, however, the other topics had more political 'bite' but only evidence was published, thus avoiding the glare of adverse publicity that would have resulted from fracturing the Committee consensus and confronting the executive with divided reports. This is not to suggest either that the Committee is headed persistently down this road, or that the Committee can only be successful when it investigates 'safe' issues. Rather, it is simply to highlight the broad tendencies exhibited in the investigations completed and published to date.

Third, there is a further limitation when the Committee is assessed against the criterion of impact on the Commons and the wider public. It should be noted in this regard that assessing public opinion of one select committee is exceptionally difficult, and therefore it would seem reasonable for present purposes to introduce the media as a surrogate for public opinion. Hence, assessing the Committee's effectiveness in this area is tied-in with matters already mentioned. On the one hand, the Committee has been successful in tackling issues which have filtered through to debates and questioning in the House, and which have received a fair degree of attention from the media. In particular, the legal aid changes were the subject of a wider and major debate in the House (HC Debates, Vol. 222, 1992-93, cols. 361-412), and the Peterken-Fyfe investigation had a substantial impact on the media - especially the BBC (which covered the investigation in a special edition of its Scottish Lobby programme), and also Scotland on Sunday and the Herald, both of whom took the opportunity to link the issue to the wider one of the accountability of appointees to public bodies. It is also worth noting, however, that the report into drug abuse generated considerable media attention, but much of it in an unintended way. Some evidence was criticised for being out-of-date and anecdotal, whilst elements of the report were reproduced in a sensationalist way. As Scotland on Sunday (15/5/1994) suggested:

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'London-based newspapers seized on the most damning picture of Scotland, since the razor-slashing days of No Mean City. The Daily Record swallowed it hook, line and sinker carrying a front page picture of a young girl (posed by a model) apparently shooting up.'

This is undoubtedly unhelpful to those wishing the Committee's report and the general issue of drug abuse to be treated in a serious manner. Perhaps, however, there is a small grain of truth in the maxim - any publicity is good publicity.

In contrast to all this, elements of the revived Committee had little effect (sensationalised or otherwise). This was particularly the case in the evidence session on the Government's public expenditure plans, which received no discussion in the House and was not covered by either the Herald or the Scotsman. Yet again, therefore, we can see that the Committee both has and hasn't been effective.

Fourth and finally, the Committee can be considered in terms of its influence on Government actions. Here, we immediately confront the problem of trying 'to establish a causal connexion between a Select Committee Recommendation and a Government decision on policy and administration' (Cranmer, 1987, pp. 12-13). In this particular case, however, the matter poses relatively little difficulty. The Committee has produced only two reports so far. The first is on Scotland's transport links with Europe (HC 217-I, 1992-93). The 34 'recommendations' contained in this were a mixture of specific recommendations ('The Scottish Office should give trunk road status to the A70'), statements of fact, and expressions of concern ('The Committee is concerned that firms may delay investing in new rolling stock until they are sure what types of vehicle the main lines to Scotland will be able to accommodate'). The Government seemed to be at pains not to reject outright any of the Committee's recommendations, and used the opportunity to emphasise the priority given to the West Coast Main Line and to stress that Mossend Terminal was on schedule to be completed by the time the Channel Tunnel is ready (Cmnd. 2335, 1992-93). Yet it is difficult to identify any specific area of Government transport policy which has been influenced directly by the Committee's recommendations. The second Committee report is into drug abuse in Scotland (HC 62-I, 1993-94). It produced 47 conclusions and recommendations, ranging from endorsements of the Scottish Office (e.g. 'We welcome the steps which The Scottish Office is taking to identify further measures which can be taken to improve the information on the deaths of drug misusers as a direct result of the use of drugs'), though to specific recommendations (e.g. 'We recommend that The Scottish Office examines the possibility of providing six to twelve month residential rehabilitation within the framework of the prison service'). There has, as yet, been no formal Scottish Office response to the report, although on the

major recommendation of fiscal fines, Scottish Secretary Ian Lang as called decriminalisation a 'counsel of despair' (*Herald*, 25/5/1994). Certainly, this may change at some time in the future. In the meantime, however, it is in examples such as this that the contradictions of select committees appear to be at their weakest, and the position of the executive is at its most secure.

CONCLUSION

The main analytical theme of this paper has been the way in which the contradictory domination of the executive permeates both Parliament and select committees. At the parliamentary level, and when viewed from one angle, Parliament is dominated by the executive through the interlinked factors of a cohesive party system; the Prime Minister's powers of patronage; the generalist norms of Members; the whip system, and intra-party ideas. When viewed from another angle, however, there is an 'independence' from this because of genuine dissent, party factions, an absence of careerism among some Members, and what Norton (1978) has characterised as a general 'attitudinal' change on the part of MPs.

Both these tendencies are also manifested to varying degrees in the new select committees. Furthermore, select committees display their own particular configurations of the contradiction. On the one hand, the influence of the executive on committees is facilitated by majority party dominance; the Osmotherly rules; the inability to compel ministers to attend; the absence of committee policy-making powers; and the inability of committees generally to provide an 'alternative' career structure for MPs. On the other hand, however, there is an 'independence' from this executive dominance because the committees contain opposition members; they may be chaired by opposition MPs; they may contain members unwilling to adhere to the party line; voting is infrequent; there is no whip system operating directly; the committees may provide 'alternative career structures for 'frustrated' backbenchers (Jogerst, 1991); and the Committees may develop a habit for cross-party agreement - particularly on 'House of Commons' matters (Drewry, 1985, p. 372).

This contradiction between executive domination and committee 'independence' is evident in the re-instated Select Committee on Scottish Affairs. On the one hand, the influence of the executive is particularly marked because the Conservatives are a minority party in Scotland; there is an absence of continuity in subject for investigations as a result of the wide Scottish Office remit; there is a heavy reliance on the Committee clerk; there is a desire on the part of members to see the Committee re-establish itself; select committee experience is lacking among many members; there are the demands of standing committee work; and there is the careerism of some members. On the other hand, however, there is also an 'independence' from this because of Committee freedom to choose topics for investigation;

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expectations from members, political parties and the media; the presence of the independent-minded Nicholas Fairbairn; and the general commitment by members to act with what George Kynoch (1993) described as 'the public interest at heart.'

In view of the foregoing contradictions in Committee effectiveness, and their root in the contradictory domination of the executive, what does this tell us about the future for the Committee? At the very least, it can be said that the future for the Committee is both predictable and unpredictable. It is predictable because the inheritance of a Committee with all of the forementioned characteristics will undoubtedly mean that it will continue to be shaped by the dominance of the executive within Parliament and the Scottish Office, whilst at the same time it will be independent from this. The future is also unpredictable, however, because the topics currently under investigation have not been completed (the winding-up of the New Town Development Corporations, and the operation of Scottish Enterprise and the LECS), and the specific balance of power will depend on the nature and wider context of subsequent topics. What we can do, however, is suggest that the contradictory forces operating on the committee may become stronger as the next general election approaches. On the one hand, as Conservative member Raymond Robertson (1993) suggests - 'If one party keeps on winning elections, and therefore isn't getting any opposition in the chamber or in the country, then the select committees are going to have to start providing the opposition.' Thus, the Committee may come under pressure to investigate topics which highlight the Conservative's 'democratic deficit' in Scotland. On the other hand, however, this would undoubtedly create immense pressures on Conservative members to be protective of the Government. Indeed, one member of the Committee envisages these forces as leading to its 'collapse' before the next general election. Only time will tell if such a scenario becomes a reality, and the contradictions of the Committee become so intense that its very existence is called into question yet again.

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