More of the Same or a Period of Change? The Impact of Bill Committees in the Twenty-First Century House of Commons

Louise Thompson*

University of Hull, Hull, UK

*Correspondence: l.thompson@2010.hull.ac.uk

Bill committees have long been a fundamental feature of legislative scrutiny in the British House of Commons. The recent introduction of oral evidence sessions as a standard bill committee procedure has further underlined their importance. Yet despite their prominence in parliamentary life, bill committees have been somewhat under-studied. A comparison of bill committee activity in the first decade of the twenty-first century with the last comprehensive examination undertaken in 1974 shows that significant changes have taken place; bill committees appear to be working harder than ever before but this is not reflected in terms of the relative impact they are making on government legislation.

A Member of Parliament from the late nineteenth century would be quite familiar with a contemporary House of Commons bill committee. Despite procedural innovations and changes in the size and membership of committees, the procedures and terminology used when moving, withdrawing and voting upon amendments has not changed from that established by William Gladstone. The last comprehensive study of government legislation undertaken by John Griffith in

1In the 2006–2007 parliamentary session, bill committees were renamed 'public bill committees' and given the capacity to take oral and written evidence.

2The term ‘bill committee’ has been in use following procedural reforms introduced during the 2006–2007 parliamentary session when such committees were renamed as ‘public bill committees'. Bill committees had previously been known by the term ‘standing committees'.

3For example, the introduction of oral evidence sessions in 2006 and the use of programming to curtail debate on amendments.

4For a more detailed history of the development of bill committees in the House of Commons, see Walkland (1979).
1974 demonstrated the extent of legislative scrutiny undertaken by modern bill committees and gave substantive evidence to common assertions about bill committee performance, highlighting for example the improbability of the government accepting opposition or backbench amendments to their bills. Although no comparable analysis has been undertaken since Griffith's study, these assertions about bill committee work and performance continue to endure, despite the lack of modern quantitative evidence. This research contrasts the work of bill committees detailed by Griffith in his famous study, with comparable data collected from bill committees in the first decade of the twenty-first century.

1. Lack of modern comprehensive analysis

Writing about modern legislative studies in the mid-1990s, Kaare Strøm (1995) spoke of bill committees as having received 'the most intensive and painstaking scholarly attention' of any of the internal features of legislatures (p. 65). One would therefore expect a plethora of work on bill committees in the House of Commons. Yet in the British case such work has been largely absent. Whilst the procedural aspects of bill committees are covered in detail in practical textbooks on the British Parliament (see for example Rogers and Walters, 2006), only a handful of works have concentrated on bill committee output. Indeed, a recent review of literature on the policy impact of the British Parliament went so far as to state that scholars seem to 'treat the UK as if it lacked legislative committees altogether' (Russell and Benton, 2009, p. 8).

There are two principal and overlapping gaps in the literature on House of Commons bill committees: a lack of extensive empirical research and a lack of contemporary research. Despite over a century of bill committee proceedings, extensive empirical research is limited to only two studies: that of John Griffith, who examined in detail the passage of all government bills across three parliamentary sessions between 1967 and 1971 in his famous Parliamentary Scrutiny of Government Bills (1974) and the work of Burton and Drewry (1981), who offered a similar though less comprehensive study of selected government bills between 1970 and 1974. John Griffith’s (1974) work is particularly important as it constituted the first systematic study and coding of such a large number of legislative amendments, with the aim of illustrating both the ‘quality as well as the quantity of the impact’ of Parliament (p. 14). Although his work did not consider bill committees in isolation, the analysis of committee stage in the House of Commons is by far the most comprehensive element, accounting for over one-third of the published volume. It would be unfair to suggest that bill committees have been ignored by contemporary researchers. Studies by Kalitowski (2008) and Russell and Johns (2007) as well as a series of reports by the Hansard Society (1993), Brazier et al. (2008) and Fox and Korris (2010) have demonstrated the impact
of bill committees on government bills. However, these constitute in-depth case studies of specific bills; the 1993 report of The Hansard Society for example includes case studies of the Broadcasting Act (1990) and the Dangerous Dogs Act (1990), detailing the number of amendments discussed, accepted and defeated in committee. There is as yet no modern published work comparable with that of Griffith in terms of documenting both the descriptive features of bill committee work and their impact on government bills across parliamentary sessions.5

It is perhaps no surprise that bill committees remain under studied; there has long been a perception among academics that they offer little useful material. Walkland (1979) for example describes them as ‘ritualised’ (p. 251), whilst Kelso (2009) notes that they have simply ‘preserved executive strength’, reflecting the executive’s view of Parliament as a ‘legislative machine’ (p. 36). Even Griffith (1974) himself noted that they can be ‘tedious and time-wasting’ (p. 52). There is a perception that they add no value to the scrutiny of legislation. Descriptions of bill committees as being merely replicas of the House of Commons chamber have long dominated the literature. Young (1962, p. 156) refers to them as simply ‘an extension of the House’ and more recently both Griffith and Ryle (1989, p. 270) and Blackburn and Kennon (2003, p. 385) describe them as ‘the House in miniature’. Yet only by undertaking such an analysis can one be certain as to whether these perceptions still hold true. Bill committees may be a much disregarded feature of the legislative process, but they are an enduring feature. As such, they deserve a modern hearing.

The key concept to be considered when evaluating the work of legislatures is that of control (Beer 1996, p. 71) or constraint (Blondel et al., 1970). What is important is not simply the capacity of legislatures to influence legislation but the actual exercise of this power (Mezey, 1979, p. 25 and Norton, 1990, pp. 177–180). It is necessary therefore to measure the extent to which committees make changes to government legislation, with or without government consent. The key features for comparison thus include basic quantitative measures of impact regarding the number of amendments moved or discussed by committee members and the proportion accepted by the government or agreed to on a division. Quantitative measures of legislative impact are useful but can be misleading if considered in isolation. Indeed, qualitative analysis has come to be seen as increasingly important in order ‘to understand what really goes on in committees’ (Arter, 2003, p. 86). Only by adding a qualitative dimension is it possible to gauge the true extent of committee impact. An estimation of the content of successful

5It should be noted here that current research being undertaken by Meg Russell and Meghan Benton at the Constitution Unit will add further comprehensive data to that which we currently know about modern bill committees.
amendments made to government bills in committee is a further necessary element when comparing the ability of committees to influence the content of government bills.

One further focus for analysis in the context of bill committees is the impact of committee stage later on in the legislative process. Described by academics as a 'milder influence' (Blondel et al., 1970, p. 79) or simply 'the labour that goes on behind the scenes' (Jennings, 1948, p. 492), this includes the introduction of government amendments at the report stage of a bill in response to undertakings given by the minister in committee. Although the focus here is on the passage of government legislation through the House of Commons, the impact of bill committees has also been demonstrated during the passage of bills through the House of Lords (Russell and Johns, 2007; Kalitowski, 2008). Similar quantitative and qualitative measurements of the impact of bill committees at the report stage are also necessary in order to appreciate the true impact of bill committees on government legislation.

2. Methodology

This research compares quantitative data on the scrutiny of government bills by bill committees between 2000 and 2010 with that compiled by John Griffith in his 1974 study. Whilst Griffith considered every government bill across three parliamentary sessions, a purposive sample of 139 bills is used here, focusing on bills which were explicitly listed in the Queen's Speech at the start of each parliamentary session. Scrutiny taking place in committees of the whole House has been excluded. In line with the approach taken by Griffith, the official transcript of each bill committee provided the basis for data collection. All amendments moved or grouped and discussed in committee were coded. The mover, position and party were coded, alongside the outcome; whether the amendment was passed, withdrawn, negatived without a division or negatived following a division. New clauses and new schedules were coded in the same manner and included in the overall amendment count.

There are some limitations with this approach. Most obviously, data collection relies upon the correct listing of amendments and proceedings in the Official Report. Whilst Griffith used hard copies of proceedings, this research was compiled using material published on the parliamentary website. Online material regarding amendment lists and committee proceedings is much more detailed in very recent parliamentary sessions than for those at the start of the study. It

6 A total of 111 bills were examined by Griffith (1974, p. 32).

7 Although Griffith does consider scrutiny carried out in committees of the whole House, he presents this data separately throughout.
is thus easier to ensure the accuracy regarding the authorship of amendments for later sessions within the sample. The research is inevitably limited by human error; both within the coding of amendments and within the presentation of proceedings in the Official Report itself. However, these limitations were also prevalent within the 1974 study. Griffith (1974) himself notes that the notices of amendments and minutes of committee proceedings do not ‘yield the full information’ (p. 259) and on several occasions corrects mistakes which have been made by Hansard (see, for example, 1974, p. 144).

In addition to the basic descriptive coding of amendments, Griffith's (1974) work provided another angle to the outcome of amendments in bill committees. Rather than focusing solely on the passage of amendments on a formal level, he additionally coded for what he described as ‘assurances and undertakings’ (p. 119) from ministers. He lists six such undertakings from ministers in committee and codes for occasions where amendments have been withdrawn as a result of these assurances. These six undertakings fall into three main categories. Firstly, promises to make a change to the regulations or guidance accompanying a bill or regarding its implementation. Here a minister has agreed with the principle of the amendment in question, but does not feel it necessary to include it in statute legislation. Such undertakings are an important feature of bill committees, yet would not feature in a simple count of successful amendments. Also included in this category are commitments to address the issue raised by an amendment in an alternative piece of legislation. Secondly, promises to reflect or reconsider an amendment which has been moved in committee. This is not a guarantee of action, merely an agreement to give further thought to an amendment with ministerial colleagues, officials and on occasion with outside organisations. The third category includes commitments to table an amendment at the Report Stage in response to a committee amendment. This may be due to necessary redrafting of an amendment tabled by an opposition or backbench MP without the benefit of parliamentary draftsmen or that the government has agreed with the majority, but not all of the amendment or new clause tabled.

All amendments within the 2000–2010 sample were coded in line with these three categories of ministerial undertaking. This enables descriptive statistics to be compiled which are directly comparable to Griffith's study; the process for coding amendments is essentially the same. As a result, it is possible to illustrate the changes to the scrutiny of legislation by bill committees over the last 30 years. When analysing the data collected it must be remembered that Griffith's sample

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8These are listed as ministerial promise to look again, ministerial promise to table own amendment, ministerial promise to reconsider favourably, ministerial promise to meet point administratively, ministerial promise to meet point by regulations, ministerial promise to meet point in different bill (Griffith, 1974, p. 122).
covers just three parliamentary sessions, with the inclusion of a greater number of bills in each session. Whilst the raw data are used to illustrate the differences that have occurred between the two studies, it is often more accurate for comparative purposes to express the data as an average per bill.

Griffith illustrated his quantitative findings extensively with commentary taken directly from the official transcripts of bill committee proceedings. This approach is also replicated here. In addition, the recent sample has been supplemented with a series of interviews with Members of Parliament. These interviews focused on Members’ general impressions of bill committees but also enabled the probing of specific bill committees and amendments, allowing greater elaboration and detail than is possible from committee transcripts alone. Where relevant, material from these interviews and the accompanying committee transcripts is used to qualify the quantitative findings.

3. Comparing the workload of bill committees

The workload of bill committees has increased substantially since the 1960s and 1970s. This can be seen in both the length of time allocated for committee scrutiny and in the number of amendments being moved and discussed. Legislative committees are spending much longer scrutinising government bills and a much higher number of amendments are being moved or discussed in committee.

3.1 Committees are scrutinising bills for longer

Bill committee work is often derided by Members of the House who complain about the long sitting hours. Government backbenchers in particular speak of particularly arduous committees. Despite the changes made to sitting hours in recent years, modern bill committees are actually spending a greater amount of time scrutinising bills than previously. Whilst Griffith’s (1974) data suggests that committees spent an average of 18 hours scrutinising a single government bill in the 1969–1971 sessions (p. 17), this has risen to 24 hours for the 2000–2010 sessions. Although possibly a response to the growing size of government bills rather than an indication of a greater commitment to scrutiny, bill committees are accounting for a greater amount of parliamentary time than previously.

9 Twenty-one interviews were carried out with Members of Parliament including government and opposition frontbench and backbench committee members between February 2010 and October 2011.

10 Total time per session was listed by Griffith as follows: 1967–1968 (814.36 hours), 1968–1969 (352.20 hours), 1970–1971 (478.47 hours).
One particularly long committee was the Company Law Reform Bill of the 2006 – 2007 session, the longest bill ever introduced in the House. Speaking about the length of time, the bill spent in committee and the fact that the government minister had to bring her young child with her to all of the sittings, one participant noted that ‘so long were our deliberations that the young girl learned to walk’.11 The evidence contrasts to the perceptions of Members themselves. When interviewed one opposition MP commented that ‘committees lasted a hell of a lot longer [in the early 1990s] than they do now’.12 This is perhaps simply a response to the fall in the number of late night or through the night sittings. Although not completely removed from modern bill committees,13 the number of late night sittings has fallen significantly as bill committees now occupy more family friendly sitting hours on a more routine basis. Where it is felt that progress on a bill has been slow, afternoon sittings are usually extended but rarely go beyond 10.00 p.m.

3.2 The number of amendments discussed in committee has increased

Griffith (1974) stated that ‘in considering amendments moved to a bill, what is important is their relative effect on the bill, not their number’ (p. 14). But the number of amendments tabled by committee members offers a very useful illustration of how the work of bill committees has changed. He cites the number of non-government amendments as averaging 1402 per session between 1967 and 1971 (1974, p. 75). This equates to an average of 46 amendments per bill.14 As Table 1 demonstrates, modern bill committees have exceeded this number. When it is considered that Griffith’s figures included all amendments listed on the Order Paper, not simply the number which were actually moved or grouped and discussed within committee, the increase in the number of amendments being considered by modern bill committees is even more prominent, averaging 1747 amendments per session or 125 amendments per bill. The number being formally moved or discussed in modern committees is thus currently over twice the average number of all amendments listed on the Order Paper for bills in Griffith’s sample.

12 Opposition MP (13 October 2010), interview with the author.
13 The 16th sitting of the Apprenticeships, Skills, Children and Learning Bill Committee in the 2008 – 2009 session for example, lasted over 16 hours, with the committee sitting until 4.30 am despite a full day being left in the programme.
14 Calculated from the figures listed by Griffith in pages 49 (number of government bills committed to standing committee per session) and 75 (number of amendments).
Table 1 Amendments moved or grouped for discussion in committee

<table>
<thead>
<tr>
<th>Parliamentary session</th>
<th>Number of amendments discussed in committee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-government amendments</td>
</tr>
<tr>
<td></td>
<td>Total</td>
</tr>
<tr>
<td>2000 – 2001</td>
<td>1023</td>
</tr>
<tr>
<td>2001 – 2002</td>
<td>1588</td>
</tr>
<tr>
<td>2002 – 2003</td>
<td>3114</td>
</tr>
<tr>
<td>2003 – 2004</td>
<td>2189</td>
</tr>
<tr>
<td>2004 – 2005</td>
<td>686</td>
</tr>
<tr>
<td>2005 – 2006</td>
<td>3169</td>
</tr>
<tr>
<td>2006 – 2007</td>
<td>1381</td>
</tr>
<tr>
<td>2007 – 2008</td>
<td>2020</td>
</tr>
<tr>
<td>2008 – 2009</td>
<td>1591</td>
</tr>
<tr>
<td>2009 – 2010</td>
<td>707</td>
</tr>
<tr>
<td>Average</td>
<td>1747</td>
</tr>
</tbody>
</table>

NB: All figures are rounded to nearest whole number.

Table 2 Government and opposition amendments in committee

<table>
<thead>
<tr>
<th>Period</th>
<th>Position of MP moving or tabling amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Government frontbench</td>
</tr>
<tr>
<td></td>
<td>Total</td>
</tr>
<tr>
<td>1967 – 1971*</td>
<td>861</td>
</tr>
<tr>
<td>2000 – 2010</td>
<td>7322</td>
</tr>
</tbody>
</table>

NB: All figures have been rounded to nearest whole number.


It is helpful to illustrate this point further by considering the proportion of amendments moved by government and opposition members. Table 2 shows that whilst the number of government backbench amendments has doubled to an average of 9 per bill, the number of opposition amendments has seen over a fourfold increase, rising from an average of 26 per bill in the Griffith study to 114 today.

However, perhaps the most striking feature of both tables is the large number of government amendments being moved in modern bill committees. Griffith's
figures suggest that the government made an average of eight amendments to their bills in committee between 1967 and 1971. This rises to an average of 53 per bill in the 2000–2010 period. Twenty-first century governments are therefore making over six times as many amendments to their own bills.

Contemporary bill committees are thus responsible for considering a much larger number of amendments, regardless of their authorship. The increase in the number of government amendments accounts for a considerable proportion of this increase and suggests that modern governments are under greater pressure to expedite legislation through the House. The rise in the number of opposition amendments being tabled and discussed in committee is equally significant. Opposition MPs appear—on paper at least—to be engaging in more in-depth scrutiny of legislation. With very few resources at their disposal to assist with the drafting of such a large number of amendments, it is likely that preparation for committee stage is taking up an ever greater amount of opposition time.

4. Comparing the impact of bill committees on government legislation

Empirical analysis from the last decade suggests then that bill committees are working even harder than before: sitting for longer and processing a much higher number of amendments. It is therefore pertinent to consider whether this is reflected in the impact committees are making on government legislation; are these greater inputs leading to better outputs in terms of rendering a bill ‘more generally acceptable’? (McKay et al., 2004). When examining the impact of committees on bills, a distinction must be made between the formal acceptance or rejection of amendments in committee and the more informal changes which may occur, through ministerial undertakings to consider issues further. This may be within the confines of a committee itself or in the time between the committee stage and the report stage on the floor of the House.

4.1 Formal changes to government bills

The most obvious means by which to gauge the impact of bill committee scrutiny on government legislation is through the number of formal amendments made to bills by the opposition and government backbenchers during committee proceedings. Table 3 summarises the number of amendments agreed to in committee during the Griffith study and in the contemporary sample of bills. It suggests that despite the increase in the number of non-government amendments noted earlier, the actual number of amendments being agreed to by the government minister has fallen dramatically. This is particularly true for successful opposition
amendments which averaged 44 in each session analysed by Griffith, but just six in the 2000–2010 period.

Simply counting the number of formal amendments, however, gives no indication of the extent of the changes made to government bills. One must consider how substantive these amendments were. It is very difficult to classify amendments to bills in terms of substantiveness and Griffith did not automatically code and present amendments in this way in his work. However, he did seek to highlight those amendments which were important or more substantive than others and his detailed summaries of amendments in each of the sessions included observations as to the content of amendments agreed to in committee. He made a distinction between amendments which were ‘drafting or clarificatory or of very minor significance’ (1974, p. 112) and goes into detail regarding amendments he considers to be ‘of importance’ (1974, p. 102). From these descriptions it is possible to divide the successful amendments into two categories: minor and significant. Amendments in the 2000–2010 sample have been coded in a similar manner.

Table 4 offers a breakdown of successful amendments under these two levels of substantiveness. For both studies it can be concluded that the vast majority of non-government amendments agreed to in committee covered very simple

### Table 3 Successful non-government amendments

<table>
<thead>
<tr>
<th>Sample</th>
<th>Total successful amendments</th>
<th>Average per session</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Government backbench</td>
<td>Opposition</td>
</tr>
<tr>
<td>1967 – 1971*</td>
<td>40</td>
<td>131</td>
</tr>
<tr>
<td>2000 – 2010</td>
<td>33</td>
<td>55</td>
</tr>
</tbody>
</table>


### Table 4 Substantiveness of amendments passed in committee

<table>
<thead>
<tr>
<th>Sample</th>
<th>Government backbench</th>
<th>Opposition</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minor</td>
<td>Significant</td>
<td>Minor</td>
</tr>
<tr>
<td>1967 – 1971*</td>
<td>30</td>
<td>10</td>
<td>119</td>
</tr>
<tr>
<td>2000 – 2010</td>
<td>19</td>
<td>14</td>
<td>46</td>
</tr>
</tbody>
</table>

1Seven of these were drawn from the Hunting Bill Committee (2002 – 2003 session).
matters: correcting drafting and spelling mistakes in government bills and clarifying the terms used. This is not to say that such amendments do not serve a useful purpose. Indeed, MPs often feel victorious to have made even a very minor amendment to a bill, describing it as a ‘feeling of success’. The number of these minor amendments accepted by the government appears to have declined in the more recent sample, falling to less than half the number observed by Griffith.

In both samples a much smaller proportion of amendments were considered to be significant and the difference between the two figures is very slight. The most important amendment passed in a bill committee in the Griffith (1974) sample is probably the removal of the grandpatrial provision within the Immigration Bill, agreed to on a division during the 1970–1971 session. Griffith describes this as a ‘famous parliamentary occasion’ (p. 110) in which government backbenchers joined with opposition MPs to defeat the government. A good example of significant amendments being made to a bill in the recent sample is the Hunting Bill Committee of the 2002–2003 session. One-third of all the significant amendments agreed to between 2000 and 2010 were made during this one committee, albeit on a series of free votes. They included the prohibition of terrier work underground and a change in the lower age for hunting licences from 18 to 16 years. Other examples include the repeal of Section 28 in the Local Government Bill (2002–2003 session) and the removal of a ‘get out clause’ from the Drugs Bill (2004–2005) regarding the dealing of drugs outside schools. Although several of these changes were reversed by the government at a later stage, it illustrates the formal impact that bill committees continue to have on government bills, even if this impact is sporadic.

It must be remembered however that these classifications are only estimates as Griffith does not give large amounts of detail on what he considered to constitute a minor or an important amendment. However, it seems fair to conclude that in terms of formal amendments to bills, there has been a great deal of continuity since the 1970s, with the vast majority of successful amendments being simple drafting changes. The biggest change is in the frequency of these amendments. Ministers today appear to have a greater reluctance to accept even the most minor drafting changes.

4.2 Ministerial undertakings in committee

Examination of the formal changes made to government bills in committee offers an interesting comparison. Yet this paints only a partial picture of the work being undertaken.

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15 James Paice, 4th Sitting, Natural Environment and Rural Communities Bill Committee, 23 June 2005, col. 125.
undertaken in committee. When questioned on the number of non-government amendments accepted in committees, MPs have noted that undertaking such an analysis ‘misses the point, a good part of the time, of what is actually going on’. Some members stated explicitly that the response of the government minister to their amendments was often ‘more important’ than the number of formal amendments passed. This was also noted by Griffith (1974) who describes how ministers will often give an oral response to an amendment moved in committee which amounts ‘to an undertaking that something will be done substantially to satisfy the mover who will then withdraw’ (p. 120). Through these assurances and undertakings from ministers, bill committees can have a more extensive impact on government legislation than is apparent through the counting of formal amendments alone. Although Griffith noted the importance of such undertakings, he only codes these comprehensively for the 1967–1968 parliamentary session. In order to allow a more accurate comparison, the results for the 2000–2010 sample are displayed as an average per session and an average per bill.

Table 5 displays the breakdown of undertakings from government ministers in bill committees. Two features can be identified. Firstly, a slight increase in the number of undertakings made in which a change has been made elsewhere, rising from an average of 1.2 in the Griffith sample to 1.6 today. One could point to three potential reasons for this change. It is perhaps linked to the fall in the number of formal minor amendments accepted in committee. If a minister wishes to see ‘their’ bill leave committee with no non-government amendments, it would make sense to agree to small changes to the regulations rather than making them explicit on the face of the bill. Ministers note that there is an ‘expectation that you will navigate [a] bill through intact’. Agreeing to a change in the regulations is a means of placating committee members whilst keeping the bill intact. Secondly and linked to this issue is the potential strategy taken by ministers to prevent opposition amendments being made. One example is occasions in which government ministers sign opposition amendments before the start of a bill committee. These amendments will then be listed on the marshalled list of amendments as government amendments and will be moved by the minister in committee, regardless of which MP initially tabled them. This could be seen on 11 occasions across the 2000–2010 sessions. For example, the government signed an opposition amendment tabled to the Asylum and Immigration (Treatment of Claimants) Bill regarding tribunal reviews. The amendment was

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16 Government backbench MP (3 March 2010), interview with the author.
17 Shadow Minister (4 April 2010), interview with the author.
18 Shadow Minister (19 October 2011), interview with the author.
Table 5 Ministerial assurances and undertakings in bill committees

<table>
<thead>
<tr>
<th>Ministerial undertaking</th>
<th>Sample of bills</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1967 – 1968&lt;sup&gt;a&lt;/sup&gt;</td>
<td>2000 – 2010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>Average</td>
<td>Total</td>
<td>Average</td>
<td>Average</td>
</tr>
<tr>
<td></td>
<td>Average</td>
<td>per bill</td>
<td>per session</td>
<td>per bill</td>
<td>per bill</td>
</tr>
<tr>
<td>Change made elsewhere</td>
<td>44</td>
<td>1.2</td>
<td>223</td>
<td>22</td>
<td>1.6</td>
</tr>
<tr>
<td>Report stage commitment</td>
<td>52</td>
<td>1.4</td>
<td>126</td>
<td>13</td>
<td>0.9</td>
</tr>
<tr>
<td>Commitment to reconsider</td>
<td>190</td>
<td>5.3</td>
<td>642</td>
<td>64</td>
<td>4.6</td>
</tr>
</tbody>
</table>

NB: includes only the number of undertakings given by the minister, not the number of amendments concerned.

<sup>a</sup>Adapted from Griffith (1974), p. 122.

grouped with a series of other related government amendments and passed formally by the committee. This was only apparent because the MP who had originally tabled the amendment, spoke to it, saying that ‘amendment 42 was my amendment, and the government have adopted it, with the minister’s signature appearing above mine’.19

Also of note here are occasions in which the government table an amendment which is identical or very similar to a non-government amendment which has already been tabled. For example, during the scrutiny of the Armed Forces (Pensions and Consideration) Bill, Government Minister David Lammy introduced an amendment regarding appeals jurisdictions, noting that he was ‘grateful to the hon. Member for Aldershot [an opposition MP], for his amendment which alerted us to the oversight’.20 Fifty six amendments over the 2000 – 2010 parliamentary sessions fell into this category. Griffith’s study does not mention such practices and it is therefore difficult to say whether this is a new phenomenon. However, the signing of opposition amendments and tabling of identical amendments accounts for over one-quarter of all the amendments in the ‘change made elsewhere’ category. Finally, the greater number of changes being made to the regulations or guidance accompanying a bill may be the result of the regulations not having been drafted at the start of a bill committee. During the committee stage of the Pensions Bill in the 2003–2004 parliamentary session, the Shadow Minister spoke


of the bill being ‘impenetrable’ as the accompanying regulations had not yet been drafted. Although this hampers the work of committee members somewhat in terms of their preparation of amendments and understanding of the bill, there is perhaps a greater likelihood of ministers agreeing to address an issue in the regulations when they have not yet been compiled.

The second feature of Table 5 is the fall in the number of ministerial undertakings to reconsider or reflect on an amendment and in the number of commitments to table an amendment at the report stage of the bill. In particular, the average number of ministerial commitments to table amendments at the report stage has fallen by a third. In the Griffith sample, a total of 52 such commitments were recorded over the course of just one parliamentary session, whilst in the modern sample only 126 commitments span a full ten-year period. This suggests that ministers may be changing the way in which they approach bill committee amendments, being more resistant to agreeing to future changes whilst in the committee room itself.

5. What does this comparative data tell us about contemporary bill committees?

The changes to the frequency of formal amendments accepted in bill committees and to ministerial assurances and undertakings point to two potential changes in the operation of modern bill committees. Firstly, it indicates a possible alteration in the attitude of government ministers, with a much lower tendency to accept amendments from committee members. Given the much larger number of successful amendments in the Griffith study, it is assumed that simple drafting amendments were more likely to be accepted by the minister in committee. It is difficult to say whether these are completely new changes as there is little anecdotal evidence within Griffith’s work.

However, when interviewed, current MPs have frequently highlighted the unwillingness of ministers to accept even very minor amendments as they seek to ‘drive their bill through’ committee as quickly and easily as possible. Extreme ministerial reluctance to accept amendments was demonstrated during the consideration of the Planning and Compulsory Purchase Bill in the 2002–2003 session. The government minister refused to accept two drafting amendments moved by the opposition designed to correct spelling mistakes in the Bill on the grounds that he did ‘not have confidence that there [were] only two errors’ and would rather ‘go through the Bill to find all the typos, so that we

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22 Opposition MP (24 November 2010), interview with the author.
can clean them up in one fell swoop\textsuperscript{23} after the committee stage. Despite being pressed by the committee members, the Minister refused to accept the amendments. The changes were eventually made, but via a series of government amendments when the bill was recommitted to bill committee,\textsuperscript{24} something one Opposition MP described as ‘childish’ and ‘a bit of a game’.\textsuperscript{25} One former minister described the acceptance of amendments in committee as the ‘ultimate sign of weakness’\textsuperscript{26} implying that they would lose face amongst their ministerial colleagues and departmental officials should they make concessions; something that ‘no government minister is going to want sitting over them’.\textsuperscript{27} Some even suggest that they feel the need to ‘defend’\textsuperscript{28} their own departmental civil servants who have spent time drafting the bill. Others describe the tendency to resist amendments as being the result of their ‘ownership’ of the bill. In the words of one minister ‘it’s my bill and I want to amend [it] if it needs amending’.\textsuperscript{29}

This is perhaps a response to the long period of Labour Governments with substantial parliamentary majorities across the whole of the modern sample of bills and an ‘almost legendary’ system of party discipline (\textit{Cran}, 2005, p. 185).\textsuperscript{30} As both Flinders (2002) and Kelso (2009) point out, this has underpinned an executive mentality or dominance which has pervaded all aspects of the legislative system. In the bill committee context, it manifests itself in the extreme reluctance of the government to accept changes to its own bills, particularly those originating from opposition Members. Additionally, these Labour Governments were also governments in which few junior ministers had experienced any time as an opposition frontbencher. Given that it is junior ministers who are usually given the responsibility of taking bills through committee, this meant that for the most part, ministers in bill committees between 2000 and 2010 had no experience of being a shadow minister in committee; they had never systematically scrutinised a government bill themselves. This may have shaped their attitude to bill committees and the stance taken towards opposition amendments. One minister notes that it is ‘enormously difficult … [to take a bill through committee] … if you’ve not been a shadow minister … it is difficult simply because you don’t

\textsuperscript{23}Tony McNulty, 8th Sitting, Planning and Compulsory Purchase Bill Committee, 21 January 2003, col. 9.
\textsuperscript{24}HC Debates, 10 June 2003, col. 565.
\textsuperscript{25}Opposition MP (22 October 2010), interview with the author.
\textsuperscript{26}Former Government Minister (15 December 2010), interview with the author.
\textsuperscript{27}Government Minister (5 September 2011), interview with the author.
\textsuperscript{28}Former Government Minister (19 October 2011), interview with the author.
\textsuperscript{29}Government Minister (3 March 2010), interview with the author.
\textsuperscript{30}As both Flinders (2002) and Kelso (2009) point out, this has underpinned an executive mentality or dominance which has pervaded all aspects of the legislative system. In the bill committee context, it manifests itself in the extreme reluctance of the government to accept changes to its own bills, particularly those originating from opposition Members. Additionally, these Labour Governments were also governments in which few junior ministers had experienced any time as an opposition frontbencher. Given that it is junior ministers who are usually given the responsibility of taking bills through committee, this meant that for the most part, ministers in bill committees between 2000 and 2010 had no experience of being a shadow minister in committee; they had never systematically scrutinised a government bill themselves. This may have shaped their attitude to bill committees and the stance taken towards opposition amendments. One minister notes that it is ‘enormously difficult … [to take a bill through committee] … if you’ve not been a shadow minister … it is difficult simply because you don’t
have the empathy and the understanding. This would not have been as evident during the Griffith sample which spanned the periods of the Wilson and Heath Governments; there was a greater likelihood of serving ministers having prior experience of working on the opposition frontbench in bill committees.

Secondly, the increase in the number of amendments being moved and discussed in bill committees suggests changes to the content of government legislation since the 1960s and 1970s. Whilst most government amendments are little more than ‘technical’ or ‘minor drafting’ changes which are moved and passed in a routine fashion, more substantive changes are often introduced to bills during their passage through committee. This is perhaps the consequence of poorly drafted or hastily written legislation which requires further amendment. One long serving MP noted that government bills are ‘often less well prepared’ than previously and so invariably requires greater amendment in committee. The Nationality, Immigration and Asylum Bill for example was said to have been ‘re-written by the government as they went along’ during the bill committee. As one former minister notes, it shows that ‘the government hasn’t got itself very well organised’ in time for committee stage.

Alternatively, this increase may simply be a reflection of the growing volume and complexity of government legislation. It is commonplace for MPs and academics to note the increasingly crowded legislative timetable and the increase in the volume of legislation. Korris (2011) notes that whilst the number of bills introduced in a given session has seen no significant increase, the actual length of modern legislation ‘is significantly greater than in the past’ (p. 566). Bill committees in the 2000–2010 sessions have witnessed much disdain from opposition MPs regarding the manner in which government legislation is handled. There are frequent references to so-called ‘Wallace and Gromit’ or ‘Christmas Tree’ bills covering a wide range of departmental policy and in which it seems—at least to the participating Members—that ‘the track is laid as the committee proceeds’. This makes legislation more complex for committees to scrutinise on a line-by-line basis. Indeed, Korris (2011) cites the Criminal Justice Act 2003 as one which was ‘bedevilled by contradictory goals and inconsistent principles’ (p. 567). The 331 government amendments tabled to the bill in committee suggest that many drafting errors remained when the bill was first presented to

30 Government Minister (5 September 2011), interview with the author.
31 Opposition MP (3 November 2010), interview with the author.
32 David Heath, 1st Sitting, Criminal Justice Bill Committee, 17 December 2002, col. 6.
33 Opposition MP (19 October 2011), interview with the author.
Parliament and may also have prompted the 471 non-government amendments which were discussed in committee.

There is one further possible explanation for the apparent decline in the impact of bill committees on government bills. The bill committee arena may no longer constitute the best place for MPs to make changes to legislation. An overwhelming number of the MPs interviewed highlighted bill committees as just one stage in a very long process if one wished to make an amendment to a government bill. They cite discussions with ministers outside committee, particularly in the period between the committee stage and the report stage, as being important in increasing the pressure or momentum for change. This is seen as a crucial time in which to encourage concessions from the government on issues and amendments raised in committee. Similarly, ministers state that they feel under considerable pressure to give attention to those issues upon which they gave undertakings in committee. One notes that ‘having given a commitment [in committee] you are bound to deliver on it; you can’t just ignore it’ whilst another states that the media and other MPs may have ‘suddenly woken up to the fact that there’s [a] big issue in the bill, which only became apparent during the committee but upon which pressure will be applied between committee and report.

For this reason, Members are often unwilling to push an amendment to a division in committee; a friendly and cooperative approach towards the minister is seen as a way of encouraging movement on an issue before report. It is more effective to ‘mark out [the] territory’ that you are concerned about during committee stage and to continue to build on this as a bill moves towards report. This is demonstrated by Table 6 which highlights the fall in the number of amendments being divided upon in committee. MPs pushed fewer amendments to a division in the whole of the 2000–2010 period than during the three sessions analysed by Griffith. This is particularly the case for amendments moved by government backbenchers. The number of government backbenchers pushing their amendments to a division has fallen by two-thirds in the recent sample.

Committee members therefore appear to be adjusting their behaviour in committee as a means of achieving changes to government bills at a later stage, outside the committee itself. A brief examination of the report stage of these bills demonstrates just how productive this apparent change of strategy has been. In total, government ministers explicitly referred to 1431 amendments made to legislation at the report stage as being prompted by discussions in bill committee, an average

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35 Former Government Minister (19 October 2011), interview with the author.
36 Former Government Whip (25 June 2010), interview with the author.
37 Opposition MP (4 April 2010), interview with the author.
of over ten amendments for every government bill. By comparison, Griffith (1974) notes just 365 government amendments being moved at the report stage in response to undertakings given in committee in the 1967 – 1971 period; an average of just three per government bill (pp. 167 – 178). The difference is even greater when one considers that the figure for the 2000 – 2010 period includes occasions where the government minister himself concedes that an amendment has been made in response to committee; the figures listed by Griffith (1974) are his own estimation based on the reading of committee debates (p. 206). It is likely then that the figure for the current sample is actually much higher, particularly when one considers the number of government amendments passed formally without debate due to the shortage of time at report.

Although these concessions made at the report stage are often minor drafting points, they are also more likely to contain substantive changes to the bill in question than those agreed to in committee. One could cite for example the measures introduced by the government during the report stage of the Adoption Bill regarding birth mothers’ access to their children’s records, which built on a debate introduced by the Opposition in committee. The shadow minister noted that the change would not have happened ‘had it not been articulated in such a constructive way by us in committee’.38 Other significant changes include those made to the UK Borders Bill, described as ‘a textbook example of ... how the committee stage can improve a Bill... if ministers are flexible enough to take on board arguments made in good faith by opposition parties’.39 There is also evidence that MPs have noted this change, and the greater likelihood for ministers to reconsider matters at report than to accept changes in committee. George Young for example noted in 2002 that under previous governments ‘we were not given nearly as many concessions or nearly as

38Opposition MP (4 April 2010), interview with the author.
much sympathy and understanding: thus, committee stage is increasingly becoming just ‘one part of a broader campaign for MPs looking to make changes to government legislation rather than being the primary vehicle for change. Increasingly, the arena for making an impact on legislature is becoming the period after committee stage.

6. Conclusion

Comparing the work of twenty-first century bill committees with the last comprehensive examination of committee work highlights the key areas of change in modern bill committees. Bill committees appear to be working much harder than before: spending a greater amount of time engaging in the scrutiny of government bills and processing a much higher number of both government and non-government amendments. Yet this extra work seems to be resulting in less material gain in committee itself. Amendments tabled in committee by opposition members and by government backbenchers are much less likely to be successful and the frequency of ministerial assurances and undertakings to reflect upon or redraft opposition amendments has similarly fallen. MPs themselves place the blame for this firmly on the shoulders of government ministers, highlighting the culture of resistance towards the amendment of legislation and of increasingly complex and hastily drafted bills.

This does not mean that bill committees are not effective places in which to make a difference to government bills. Legislation such as the Hunting Bill has seen important amendments agreed to in committee and the introduction of oral and written evidence from 2006 shows how important committee stage is still considered to be for thorough legislative scrutiny. However, the period between the committee and report stage is becoming increasingly important. A much greater number of amendments are introduced by the government at the report stage in response to bill committees. Whilst one could still agree with John Griffith (1974) that ‘the impact of Parliament on government bills is by no means negligible’ (p. 256), it is perhaps more negligible in bill committees today than in previous years. Bill committees remain an enduring feature of legislative scrutiny, but are increasingly just one step along the road to achieving changes to government bills.

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41 Government backbench MP (7 April 2010), interview with the author.
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