

## **The Committees of the House of Representatives in Comparative Perspective**

**Phil Larkin  
Parliamentary Studies Centre  
Australian National University**

[philip.larkin@anu.edu.au](mailto:philip.larkin@anu.edu.au)

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This paper attempts to locate the standing committee system of the House of Representatives in a broader perspective by comparing it with the committee systems of the British House of Commons, the New Zealand parliament, the Canadian House of Commons, and the Scottish parliament. The focus is justifiable on a number of levels. Firstly, committees do not exist independently of the parliaments of which they are a part. Whilst these parliaments all operate differently, both in terms of their official rules and their operational norms or culture, nonetheless they all share still share much. They may have diverged significantly, but they have diverged from a common point of origin: in a sense they all share Westminster 'DNA'. But, perhaps more significantly, the experience of these other committee systems was evidently both a contributory factor in the establishment of the House of Representatives and an influence on their shape and functions, with the experience of these other parliaments examined as the plans for the House of Representatives committee system were developed.<sup>1</sup> And they also all have in

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<sup>1</sup> A.R. Browning, 1987, 'The Development of a Committee System', Unpublished House of Representatives Discussion Paper

common the government-forming function: they are either lower houses of bicameral parliaments (Australia, Canada, and the UK) or unicameral (Scotland and New Zealand).<sup>2</sup>

In their comparative study of the legislative strength of the committee systems in Western Europe, Ingvar Mattson and Kaare Strom compared the committees under three broad headings: their structure; their procedures; and their powers.<sup>3</sup> Here, their headings and subheadings are used to extend the comparison to the House of Representatives and the other Westminster parliaments mentioned.

Mattson and Strom confined their study to legislative committees, but here it has been expanded to include 'policy relevant' committees. In most of the cases, this makes no difference as the committees that deal with legislation also deal with other matters within the same policy area. However, for the UK it allows the inclusion of the Select Committees which do not deal with bills, instead covering the scrutiny of policy and departmental administration. They are included as, in the course of their policy work in particular, they have sought to influence legislation.<sup>4</sup> Pre-legislative scrutiny of draft bills also falls to the Select Committees.

### **Committee Structure**

Mattson and Strom note that there is a tendency to view parliamentary committees as a homogenous group, whereas they vary widely in both the form they take and the functions they perform.<sup>5</sup> Whilst the focus here is on the House of Representatives'

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<sup>2</sup> Because of the focus on committees of the government-forming chamber, there are slight inconsistencies. For instance, in omitting joint committees, the Australian Public Accounts Committee is excluded from the survey, whilst included for Westminster where it is a Commons committee.

<sup>3</sup> Ingvar Mattson and Kaare Strom, 1995, 'Parliamentary Committees' in Herbert Doring (ed.), *Parliaments and Majority Rule in Western Europe*, St Martins, New York

<sup>4</sup> The extent to which they have achieved this is harder to demonstrate. See Andrew Hindmoor, Phil Larkin and Andrew Kennon (forthcoming 2009), 'Assessing the Influence of Select Committees: The Education and Skills Committee, 1997-2005', *Journal of Legislative Studies*

<sup>5</sup> Mattson and Strom, 'Parliamentary Committees', p.257-8

Standing Committee system, it like any parliament will have a variety of types of committee. And even focusing on the equivalent types of committee in the relatively similar Westminster-derived parliaments here, important differences are evident.

### *Types and tenure*

Mattson and Strom, simplifying more refined but more convoluted typologies, distinguish between four broad types of committee:

- (a) *ad hoc* committees;
- (b) Permanent, specialised legislative committees, divided by function (not policy area);
- (c) Permanent, legislative committees divided by policy area;
- (d) Non-law making.

The House Standing Committees fall into their category C, as do the other committee systems under consideration here, with the exception of the UK. The UK distinguishes between *ad hoc* legislative Public Bill Committees (category A) and permanent Select Committees mirroring the structure of government departments which perform the other functions that the House Standing Committees and other committees under consideration here (category D).

### *Committee numbers*

It is suggested that a proportionately higher number of committees should increase the independence of the parliament from the executive: firstly, a large number of small groups are rather harder to force into line than one large one; secondly, the greater the number of committees, all other things being equal, the greater range and volume of work the parliament should be able to get through.<sup>6</sup>

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<sup>6</sup> Mattson and Strom, 'Parliamentary Committees', p. 259-60

The House of Representatives has 13 General Purpose Standing Committees performing the full range of scrutiny, accountability and strategic roles discussed in the previous section, for a chamber of 150 members. The UK House of Commons has 32 Select Committees, for a chamber of 646 members. Of these, there are 19 Departmental Select Committees, and another four could be seen as dealing with policy or legislation. The remainder deal with internal management or procedural matters. However, in addition to those there are also the *ad hoc* Public Bill Committees to consider proposed legislation. There is no formal limit to the number of these committees that can be established at any one time though, in practice, the number of bills that can be pushed through parliament simultaneously is limited, and the number of committees is constrained, by factors such as MPs' availability and even the number of committee rooms on the parliamentary estate. Such apparently mundane factors are often overlooked in academic studies but can provide a very real constraint on the way in which a parliament actually operates in practice. Ordinarily, there are between five to seven at any one time. In the Scottish parliament there are currently seven multi-purpose Subject Committees. Of the eight Mandatory Committees, three could be seen as dealing with policy, scrutiny or legislation, with the remainder dealing with procedural and compliance matters. In addition, there is currently one *ad hoc* bill committee sitting. Canada has 24 Standing Committees and also has the capacity to establish *ad hoc* committees, with a chamber which currently has 308 members.<sup>7</sup> New Zealand has 13 Select Committees, with a parliament of 121. Unsurprisingly, the number of committees would appear to be an approximate function of the size of the chamber from which they are drawn. As an indicator of this, the number of committees divided by the number of seats in the chamber is broadly similar in each of the cases, with the exception of the UK which has a much larger chamber and proportionately fewer committees (see Table 1).

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<sup>7</sup> The size of the Canadian House of Commons is reviewed after each 10 yearly census. The only stipulation is that it must have at least 282 seats.

### *Committee size*

The optimal size for a committee is the subject of debate. Even where membership of the committee includes members from most or all of the parties represented in the parent chamber, small committees risk an overly narrow range of interests and expertise amongst the members which can be brought to bear in its deliberations. But increased representation can have costs too: the only way for the committee to completely reflect the composition of the parent chamber is for it to include all the members, entirely defeating the purpose of the committee in the first place. Moreover, the potential for committees to overcome partisan bias and establish a certain *esprit de corps* of their own, which some have seen as their strongest and most useful contribution, is potentially reduced if they are too large.<sup>8</sup> Furthermore, with a limited number of members to fill all the committees, if they are too large then the number that can be properly sustained is reduced.

Allowing for this, one might expect committee size to simply be a function of the size of the parent chamber. This roughly holds with the largest committees found in the largest parliament and the smallest committees in the smallest parliament: the UK Public Bill Committees can be as large as 50 but are usually less than 30, whilst the smallest in are in New Zealand at six.

**Table 1. Committee numbers, size and chamber size**

	<b>Australia</b>	<b>Canada</b>	<b>New Zealand</b>	<b>Scotland</b>	<b>UK</b>
<b>No. Committees /chamber size</b>	13 /150 = 0.09	24/308 = 0.08	13/121= 0.1	11/129 = 0.09	23 (plus 5-7 public bill committees)/646 = 0.04

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<sup>8</sup> Mattson and Strom, 'Parliamentary Committees', p.268

<b>Committee Size</b>	10	16-19	6-13	7-9	Select: 11-16 Pub.Bill:<30
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### *Jurisdictions*

The House has a system of general purpose Standing Committees which cover a range of functions that are, in many parliaments, disaggregated into separate committees. There are 13 Standing Committees, divided along policy lines with each taking responsibility for specific government agencies. Thus each of the 13 Standing Committees performs all the functions relating to its jurisdiction. This means that the committees are charged with examining bills and pre-legislative proposals from the departments they shadow, as well as the administration, policy and expenditure of those departments, and more future-oriented, strategic inquiries. These committees are ostensibly permanent: they are established at the start of each parliament for its life and ordinarily simply re-established following a general election.

In these respects, the House of Representatives' Standing Committee system would appear to differ from the British House of Commons. The Commons divides the roles performed by the House's Standing Committees between two distinct committee systems. In Westminster, bills are considered by Public Bill Committees: a series of temporary *ad hoc* committees established to scrutinize a specific bill and ceasing to exist once having reported. Meanwhile, each government department has a Select Committee charged with scrutinizing its expenditure, administration and policy.<sup>9</sup> These Select Committees, like

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<sup>9</sup> There are a few non-departmental select committees such as the Environmental Audit Committee, which have a cross-departmental brief. The Public Administration Committee also has a cross-departmental brief but has also acted as the *de facto* departmental committee for the Cabinet Office to some extent.

the House of Representatives' Standing Committees, are established for the life of the parliament and normally re-established at the start of the next.

However, whilst the House of Representatives' committees do have jurisdiction over the full range of committee functions, in practice something of a division of labour with the Senate committees seems to have emerged, with the House committees taking on little in the way of legislative scrutiny, for instance, and focusing more on strategic review.<sup>10</sup> The New Zealand Select Committees, whilst also having the same broad-ranging remit as the House of Representatives' Standing Committees, in practice spend a very high percentage of their time on consideration of bills with relatively few inquiries. Consideration of petitions also accounts for some of their time. In Scotland there is a series of multipurpose subject committees which scrutinise the proposed legislation and the activities of the government department within their remit. Like New Zealand, the Scots committees also consider relevant petitions but time is still found for the committees to undertake inquiries as well.<sup>11</sup> *Ad hoc* committees are also established for specific purposes. And in Canada, committee structure reflects the structure of the government, with most committees shadowing government departments. Others have a thematic remit which may cover a particular aspect of the work of a number of departments. Bills are also 'routinely referred' to the relevant Standing Committee.<sup>12</sup> However, draft legislation can be referred to *ad hoc* committees similar to British Public Bill Committees.<sup>13</sup>

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10 See John Halligan, Robin Miller and John Power, 2007, *Parliament in the Twenty-First Century*, Carlton, Vic: Melbourne Univ. Press, p. 69-70

11 David Arter (2004), 'The Scottish Committees and the Goal of a 'New Politics': A Verdict on the First Four Years of the Devolved Scottish Parliament', *Journal of Contemporary European Studies*, Vol. 12(7), p.77

12 Robert Marleau and Camille Montpetit (eds) (2000), *House of Commons Procedure and Practice*, <http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?DocId=1001&Sec=Ch001&Seq=1&Lang=E>

13 An experiment with permanent, specialist legislative committees started in 1991 was short-lived and the *ad hoc* system reinstated in 1994. See Marleau and Montpetit, *House of Commons Procedure and Practice*, Chapter 20, footnote 91).

### *Multiple member restrictions*

Mattson and Strom hypothesise that the influence of a committee will increase with the greater specialization of its members brought about by limiting the number of committees they can serve on simultaneously. That said, they found that, whilst in most of the parliaments they studied, there were no formal barriers to multiple committee membership, few had members serving on more than a couple of committees at the same time. There are no formal restrictions on the membership of multiple committees in the House of Representatives. Indeed many members will serve on more than one committee, at least of more than one type of committee simultaneously. However, they would not normally serve on more than one or two Standing Committees at the same time, a pattern the House of Representatives largely shares with the other committees in the study. New Zealand is the partial exception to this: as the smallest chamber in the study, and with government and opposition frontbenchers largely excluded from committees, it is not uncommon for MPs to serve on three simultaneously.

Also noteworthy is the ability of the House of Representatives' Committees to allow up to two temporary members (one government, one non-government) to sit on the committee for a particular inquiry.<sup>14</sup> It shares this with Canada and Scotland. In New Zealand, non-voting members can be appointed in addition to the normal members.

### *Subcommittees*

One perspective on subcommittees is that, because of their small size, they limit the range of interests that can be brought to bear on the issues under their consideration. Consequently, the existence of subcommittees can create dispute when the full committee reconvenes. However they can also increase the committee's capacity by allowing it to

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14 SO 215(d)



undertake more work simultaneously as well as potentially enhancing the expertise of the members through greater specialisation.

The House committees are empowered to establish subcommittees of three under Standing Order 234. Other members of the committee may take part in the subcommittee's proceedings but may not vote. The Standing Orders of the UK House of Commons empower most committees to establish subcommittees. But they have primarily, though certainly not exclusively, been used where there has been a merging of policy jurisdictions into a single government department, with the subcommittees reflecting the distinct policy areas within the single department that is shadowed such as Environment and Rural Affairs, for example. Some of the non-departmental committees, however, are not. Canada's Standing Committees are empowered to establish subcommittees and these need not be drawn solely from the membership of the parent committee but may include associate members as well. The Standing Orders of the New Zealand parliament give Select Committees power to establish subcommittees.<sup>15</sup> Committees in Scotland can also establish subcommittees

### **Committee Procedure**

As much as structure, the procedures of the committees have a considerable impact on the way in which they function and the impact they have. Moreover, the procedures also say much about their parent institution and the way in which it operates more broadly: for instance, about the extent of majority party dominance or the balance between party leaders and their backbenches.

### *Committee assignments*

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15 SO 199

The process of assigning members to committees would seem to be an area with scope for considerable political conflict, both within parties and between them. It is interesting then that Mattson and Strom note that it is a process that is managed consensually in most parliaments.<sup>16</sup> The party composition of the House of Representatives' Standing Committees is set out in the Standing Orders: six government members and four non-government members.<sup>17</sup> In the UK, the composition of Select Committees is as close to reflecting the allocation of seats in the parliament as practicable. Thus, the number of non-governmental members increased following 2005 general election saw the government returned with a smaller majority. Canada, New Zealand and Scotland also have committee membership approximately reflecting the composition of the House. But in Canada, it seems that committee membership is tightly controlled by government and they are '...often criticised for their arbitrary membership.'<sup>18</sup> Most members serve on two committees, frequently on those which they have no prior knowledge of prior interest in. Given the proportional electoral systems of New Zealand and Scotland have delivered minority governments at the most recent elections, both have committees without government majorities.

Whilst allocation of seats between the parties is something set out in the Standing Orders of the respective parliaments, in each case under consideration, the allocation of individual members to committees is something managed internally by the parties. In Scotland, this has resulted in a very high turnover of members, including moving 'ill-disciplined' government members before a contentious bill comes before a committee. A high turnover of members would tend to mitigate against the development of specialist expertise.<sup>19</sup>

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16 Mattson and Strom, 'Parliamentary Committees', 1995, p.276

17 SO 215(d)

18 Jonathan Malloy (2004), 'The Executive and the parliament in Canada', *Journal of Legislative Studies*, Vol.10(2), p.209

19 David Arter (2004), 'Scottish Committees and the Goal of a 'New Politics'', p.82

### *Chair selection and allocation*

The allocation of committee chairs is perhaps potentially even more politically charged than the allocation of committee members. Part of this potential is mitigated in the House of Representatives by the fact that the committee chairs are all allocated to the governing party. Consequently, any controversy over the allocation of chairs is contained within the party. This has not, however, removed all the controversy from the process elsewhere. The chairs of the UK Select Committees are allocated between the parties roughly proportionate to their parliamentary representation and the detail negotiated between the business managers of the respective parties. Committee Membership is negotiated in the Committee of Selection, largely comprising party whips. Whilst the nominations to Select Committees require the approval of the House of the committee, these are usually something of a formality.<sup>20</sup> However, the controversy over the reappointment of the Labour chairs of the Transport, Local Government and the Regions and the Foreign Affairs committees in 2001 demonstrates that this is not always the case: in this case, the Labour backbenches revolted against their party leadership's attempt to remove the controversial chairs from these committees and forced their reinstatement. Surprisingly then, subsequent proposals to reduce the power of the party whips in the appointments process were rejected.<sup>21</sup> In Canada, the government has generally sought to control the appointment of committee chairs.<sup>22</sup> The frequent lack of a government majority on committees in New Zealand means that when they come to choose their chairs, the government cannot guarantee its preferred candidate succeeds.<sup>23</sup> The convenorship of the Scots committees is distributed between the parties according to the number of seats in the parliament.

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20 Membership of the Public Bill Committees does not require the House's ratification.

21 See Greg Power, 2007, 'The Politics of Parliamentary Reform: Lessons from the House of Commons (2001-2005)', *Parliamentary Affairs*, Vol. 60(3), p.496-8

22 Marleau and Montpetit, *House of Commons Procedure and Practice*, Chapter 20, p.22

23 Chau Pak-Kwan (2003), *The Chairmanship of Parliamentary Committees in Some Selected Places*, Research and Library Services Division, Legislative Council Secretariat, Hong Kong, p.15-16

### *Public or private meetings*

Mattson and Strom speculate that open committee meetings act to reinforce party discipline as the behaviour of the members can be readily monitored by the party leadership. The House of Representatives' committee can, and usually does, hold its hearings in public. But it has the power to meet *in camera* and its deliberations will be in private. It shares this with the other committee systems here.

### *Minority reports*

The capacity to submit minority reports allows a greater range of perspectives and arguments to be expressed as a result of committee deliberations: minority opinion cannot be silenced by the government majority if the possibility of a minority, dissenting reports exist.

In the House of Representatives, minority committee reports are permitted, as they are in the Senate.<sup>24</sup> Indeed they are common, particularly in the Senate where it seems a significant number of inquiries, particularly on potential 'wedge' issues, inevitably result in minority reports. A dissenting report does not require the permission of the whole committee and neither need the dissenting member(s) divulge the content of their minority report to the committee. The only restrictions are that it need be relevant to the Committee's reference and that any evidence taken *in camera* that the minority report refers to needs to be cleared by the committee.<sup>25</sup>

Minority reports are not permitted in UK Public Bill Committees where matters are voted on with the majority position prevailing. They are, however, permitted in Select

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24 SO 244(e)

25 I.C. Harris, B.C. Wright and P.E Fowler (2005), *House of Representatives Practice*, Canberra, Department of the House of Representatives, p.685

Committee inquiries. Interestingly though, they are relatively rare and the prevailing culture amongst the Select Committee members is to maintain unanimity where possible. Indeed, it is seen as one of the particular strengths of the Select Committee system and has been contrasted favourably with the Public Bill Committee system where the debate (and voting) tends to be predominantly partisan. Certainly there is no equivalent to their regular use in the Australian Senate, for instance. New Zealand and Scotland both permit minority reports.

#### *Committee stage in legislative process*

One of the factors that make the legislative committees of the US so powerful is that the committee stage in the American congress is before the major plenary debate in the main chambers. Consequently, the committee is in a position to establish the terms of the debate. There is no automatic committee stage in the Australian parliament: bills *may* be sent to a committee for investigation. Where this does take place, it is usually following the proposing Minister's second reading speech. The second reading debate and consideration of the bill in detail continue once the committee has reported. This means that, where a bill has been referred to a Standing Committee, the committee's report can inform the debate on both the principle of the bill (second reading) and on the detail (consideration in detail).

Unlike Australia, in the UK the committee stage in the legislative process is the norm, with virtually all bills being sent to Public Bill Committees. However it does not take place until after the second reading and, with the debate on broad matters of principle already completed, the committee stage has mostly been a close and more technical consideration of the bill. The closest to committee input to these broader matters of the principle of a bill is through the Select Committees, either specifically, through pre-legislative scrutiny of a draft bill, or more generally, through inquiries which may recommend that new legislation is needed or existing legislation needs replaced. In

Scotland, the first stage of a bill's passage through parliament is its referral to the relevant committee. At this stage, the committee usually comments on the bill's general principles and the accompanying financial memorandum before the plenary debate. After this, the bill returns to committee for detailed consideration and amendments. The bill then returns to the parliament in plenary session for its final consideration. In New Zealand, bills pass to select committees following the first reading (though this includes a more substantive debate of up to two hours). In Canada, ordinarily a bill will be referred to committee following second reading, once the principles are established. The committee stage is then limited to a consideration of the text of the bill. However, bills can be referred to committee before second reading, allowing a broader review.

### **Committee Powers**

The formal powers of the various committees give the most obvious means through which we can examine their respective role in their parliaments. However, the consideration of the formal rules reveals only part of the picture: the manner in which these powers are enforced (or not enforced) is just as important in terms of the influence the committees can exert.

#### *Initiation of legislation*

The capacity of a parliamentary committee to initiate its own legislation is the most obvious way in which it can impact on the legislative process. It is, however, relatively uncommon and in only a few parliaments do committees have this power. In spite of Docherty's observation that 'Westminster parliaments do not initiate legislation; rather they pass or defeat legislation that originates with the cabinet',<sup>26</sup> in Scotland committees do have the power to initiate legislation. At the time of writing, three committee bills

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26 David C Docherty (2005), *Legislatures*, Vancouver, UBC Press, p.19

have been introduced and a committee is considering the introduction of a committee bill on the Scottish parliamentary pension scheme.

### *Revision of bills*

The capacity to redraft bills is another means by which a committee can exercise considerable power in legislative process: 'if a committee cannot rewrite government bills, the legislature as a whole is...in a comparatively weaker position *vis-à-vis* the executive'.<sup>27</sup>

The House of Representatives' Standing Committee reports are only advisory: as with Senate Standing Committees, recommended changes may be incorporated but there is no obligation to do so. This is something of a contrast with some of the other systems under consideration here. In the UK, Public Bill Committee amendments are not binding in the sense that they can be rejected by parliament at the Report Stage. Moreover, the House of Lords will also examine the bill and may recommend changes. However, the bill goes forward to the Report Stage and beyond *with* the amendments of the Committee incorporated and so they actually need to be removed. In Scotland, amendments can be proposed by any member but are debated and accepted or rejected in committee. In Canada and New Zealand, amendments are also incorporated, as they are in the UK, before the bill returns to the chamber. But in New Zealand, amendments agreed unanimously in committee are automatically adopted by the House.

### *Control of committee timetable and agenda*

House of Representatives' Standing Committees rely on references from the main Chamber or from a minister. They cannot initiate their own inquiries and are bound by

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<sup>27</sup> Mattson and Strom, 'Parliamentary Committees', 1995, p.291-2

the terms of the references.<sup>28</sup> Committee members can and do, however, press for particular references. In Westminster, Select Committees control their own agenda, initiating their own inquiries and conducting them according to their own timetable (pre-legislative scrutiny is the partial exception: a particular deadline may be required by the department to allow the committee recommendations to be taken into account in the full bill). Public Bill Committees, by contrast, exist only to examine specific bills and cease to exist having reported so, in that sense, their agenda is determined for them. However, there has also been an increase in the use of programming motions which set the amount of time available to a committee to consider a bill, and timetable the subsequent stages of its passage through parliament. Opposition has claimed that programming is a means through which government can curtail debate: initially, the programming was decided by cross-party agreement, but this was short-lived. Programming has continued in the absence of this consensus, with motions simply passed on a majority, in spite of the Modernisation Committee's repeated insistence that cross-party agreement is necessary for it to work.<sup>29</sup> Furthermore, it seems that the committees have found themselves under considerable time-pressure since they were granted the capacity to take oral and written evidence in 2007. The implication that this change might slow the legislative process has evidently not become sufficiently engrained in the Westminster *modus operandi* as yet. In Scotland, the committee must report on a bill five days before the plenary debate on it. However, the onus is on the business managers to allow the committee due time to consider rather than imposing an arbitrary deadline to curtail scrutiny. In New Zealand, bills are almost automatically sent to committee, which will then have six months to examine and report. In Canada, committees do have an obligation to report but ordinarily

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28 The exceptions to this restriction relate to annual reports from government agencies and to reports of the Auditor-General which are automatically referred to committee and do not require a specific reference. Committee inquiries into these may result in a recommendation that a matter be referred to the committee for further investigation.

29 The Modernisation Committee is the select committee established in 1997 to consider House procedure. Chaired by the Leader of the House, it has consistently supported the use of programming. However, it has also split on this, publishing dissenting minority reports opposing programming.



this is at a time of their choosing, though the House may impose a deadline (especially if the committee is not reporting as a delaying tactic).<sup>30</sup>

#### *Information acquisition: hearings and documents*

House of Representatives' Standing Committees are empowered to summon witnesses and to demand documents.<sup>31</sup> However, in practice it is a power that they rarely exercise, relying instead on cooperation from those summoned or in possession of the documents. This is similar to the situation in the UK where, whilst committees are empowered to 'send for persons and papers', in practice they generally rely on the cooperation of those involved.<sup>32</sup> Up until recently, this was a power held only by Select Committees and not by the Standing Committees which considered legislation. However, with the changes of 2006 that saw them renamed 'Public Bill Committees' came the right to take oral and written evidence as part of their scrutiny of the bill under consideration. The Canadian, Scottish and New Zealand committees are able to receive public submissions and hear oral evidence in their inquiries.

#### **Conclusion**

In comparing the committees in their study of Western Europe, Mattson and Strom gave scores on the basis of the committee's drafting authority and the control of the committee agenda, with the highest scores going to the committee systems that had the greatest autonomy from the executive in these respects. They awarded the UK Standing Committees low scores in both dimensions. Ireland, the only other Westminster-derived parliament in their sample, ranked similarly poorly, evidently confirming the impression

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<sup>30</sup> Marleau and Montpetit, *House of Commons Procedure and Practice*, Chapter 16, p.39

<sup>31</sup> SO 236

<sup>32</sup> The example of the Maxwell brothers has demonstrated that the power is a relatively hollow one without cooperation from those involved: they were eventually compelled to attend a committee hearing but refused to answer any questions.

of various other academic studies that characterise the Westminster model as inherently executive-dominated with a weak legislature.<sup>33</sup>

However, judged by the official powers the various committee systems under consideration here, there is a reasonable degree of variation within the Westminster model. Of particular note is the extent to which the committee's agenda is outside the control of the executive and of the parent chamber. The House of Representatives' committee system is perhaps the one in which the extent of executive control is greatest: committees have no capacity to initiate their own inquiries, instead relying on references from the main chamber, and there is no automatic referral of bills. Given the capacity of the executive to dominate the chamber, there is clearly the potential for the government to exert considerable influence over the committees' activities. Even if this does not extend to 'micro-managing' committee inquiries or recommendations, there is the scope for the government to veto certain inquiries, for example.

By way of a contrast, the Scots parliament, building on the example of New Zealand amongst others, has been explicit attempt to modify the conventional Westminster model of executive dominance. The committee system has been a central component in that 'rebalancing' of executive-legislative relations. In Scotland, committees have an automatic pre-legislative stage, before a bill is properly introduced to the House, and considerable capacity to amend it subsequently. Nonetheless, with the Scottish executive limited in its capacity to control committee agendas, it has sought to influence committee activity in other ways, notably through the manipulation of committee membership.

This highlights perhaps a greater influence over the how powerful various committee systems are seen to be, which is how they actually operate in practice. Canada's

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33 Mattson and Strom, 'Parliamentary Committees', p. 299-300.

committee system is not conspicuously weak, judged by its standing orders for instance. Yet Canadian governments seem to have been able to systematically dominate their proceedings. Party leaders' capacity to dominate their backbenches contributes considerably to this.<sup>34</sup> However, the relatively low priority apparently accorded to committee work by Canadian MPs means that the dominance is made easier.<sup>35</sup> Meanwhile, the UK Select Committees, with their quite limited powers, are being increasingly seen as the vehicles behind a parliamentary renaissance, largely because of the relatively limited influence of the government or opposition leadership.<sup>36</sup>

The relative size of the parliament, with large backbenches, might be expected to be the determining factor in the power of the respective committees. This would seem not to be the case, with the committees of the smallest parliaments, Scotland and New Zealand, with the greatest formal powers. In the UK, however, it seems that, in spite of the relatively weak powers of the Select Committees in particular, the extent of the influence of government or opposition front bench is perhaps weakest.

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34 Malloy, 'The Executive and the parliament in Canada', p.209

35 Docherty, *Legislatures*, p.130

36 They are unwhipped, for instance.