

## **THE SELECT COMMITTEE ON SCOTTISH AFFAIRS: EMERGING THEMES AND ISSUES**

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The House of Commons' select committees play an important role in holding government ministers and civil servants to account for their policies and actions. These cross-party, backbench committees effectively shadow the operations of government departments by choosing their own topics for inquiry, taking evidence (in oral and documentary forms) and publishing reports containing recommendations which must be considered by the appropriate ministers. Although select committees have existed in various forms since the middle of the nineteenth century, it was only in 1979 that a 'system' of committees emerged (Drewry 1985), facilitating continuous scrutiny of most parts of the government machine.

Accountability of the Scottish Office was to be enhanced through the establishment of a Scottish Affairs Committee. (An experimental Scottish Affairs Committee had previously operated between 1968 and 1972.) The new Committee functioned between 1979 and 1987 (see Cranmer 1987; Drucker and Kellas 1985), but fell victim to a combination of adverse political circumstances, and did not appear during the 1987-92 Parliament (see McConnell and Pyper 1994a, p.18).

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### *The Select Committee on Scottish Affairs*

In our previous article for **Scottish Affairs** (McConnell and Pyper 1994a), we analysed the early phase of the revived Committee's operations. To the surprise of some political commentators (and, indeed some of its own members), the Scottish Affairs Committee has now survived for three full parliamentary sessions, while sustaining a relatively high profile and continually adapting itself to accommodate new members. At the time of its revival in 1992, the prognosis for this important organ of scrutiny was rather mixed (McConnell and Pyper 1994a). In the early stages of its life, the inherent tensions and contradictions of the Committee (McConnell and Pyper 1994b, 1995) contributed to an atmosphere of uncertainty regarding its future. Now, as the Committee faces its biggest challenge so far - weathering the storms which will surround it as the General Election approaches - it is appropriate to attempt a review of the themes and issues which have emerged from the Committee's work in this Parliament to date.

When conducting research for this article, we interviewed a cross-section of Committee members (in most cases, following-up interviews conducted at the end of the first full session of the revived Committee).

#### **MEMBERSHIP ISSUES**

Since 1992, all House of Commons departmental select committees have had a membership of eleven, six of whom will come from the government side of the Commons. The membership of the Scottish Affairs Committee was, traditionally, extremely problematic, to the extent that the Committee ceased to exist during the 1987-92 Parliament (McConnell and Pyper 1994a, pp.16-18), because of the inability of the major parties to reach agreement on the Committee's composition. Under the *modus vivendi* of 1992, the Labour Party agreed that Conservatives from non-Scottish constituencies could become members of the Committee. However, membership has remained a potential cause of instability.

In addition to MPs from English constituencies, it became necessary for the opposition parties to concede that promotion to the ranks of the ministerial Parliamentary Private Secretaries should not be a bar to Committee membership. Willie McKelvey, the Chairman, adopted a realistic attitude to this issue: 'if we wipe out the PPSs, we wipe out the Committee' (McKelvey 1994). The truth of this statement can be seen in that fact that 5 out of the 11 Conservatives who have been members of the Committee since 1992 (table

*Scottish Affairs*

1), have combined membership with PPS duties. The five are: Peter Atkinson, Liam Fox, Jacqui Lait, George Kynoch and Raymond Robertson.

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**Table 1**  
**Committee Membership (constituency in brackets)**

*Labour:*

William McKelvey (Kilmarnock and Loudoun) (Chairman)  
Eric Clarke (Midlothian), replaced by: David Marshall (Shettleston) (Nov 94)  
Robert Hughes (Aberdeen North)

*Conservative:*

Peter Atkinson (Hexham)  
Nicholas Fairbairn (Perth and Kinross), replaced by: Tim Devlin (Stockton South) (Dec 94)  
Liam Fox (Woodspring), replaced by: Jacqui Lait (Hastings and Rye) (Oct 94), Terry Dicks (Hayes and Harlington) (Apr 95)  
Phil Gallie (Ayr)  
George Kynoch (Kincardine and Deeside), replaced by: Allan Stewart (Eastwood) (Feb 95)  
Raymond Robertson (Aberdeen South), replaced by: Bill Walker (North Tayside) (Jul 95)

*Liberal Democrat:*

Ray Michie (Argyll and Bute)

*SNP:*

Andrew Welsh (Angus East)

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High membership turnover is often associated with relative ineffectiveness on the part of a select committee. During the first two years of its existence, the membership of the revived Scottish Affairs Committee was stable, but in the period since the autumn of 1994, membership changes have become common (table 1). With one exception (the replacement of Eric Clarke by David Marshall), the changes have taken place on the Conservative side. As a result, the number of English MPs on the Committee has risen to 3. Tim Devlin replaced Sir Nicholas Fairbairn at the time of the latter's final illness, Liam Fox was replaced by, successively, Jacqui Lait and Terry Dicks, while Peter Atkinson retained his membership throughout.

### *The Select Committee on Scottish Affairs*

A further consequence has been a fundamental change in the nature of the Conservative membership. The promotion of George Kynoch and Raymond Robertson to ministerial posts in the Scottish Office resulted in Allan Stewart and Bill Walker joining the Committee. Stewart and Walker (along with Fairbairn) refused to serve on the Committee between 1987 and 1992, and are not normally seen as natural supporters of this organ of scrutiny. Although Stewart was a Scottish Office minister until he came unstuck in the wake of his confrontation with environmental protesters in his constituency, he shares maverick tendencies with Walker. Terry Dicks would come into the same category. His appointment to the Committee occasioned recollection of his past criticisms of Scottish football hooligans, and of his staunchly right-wing views (Duncan 1995).

The impact of this sudden wave of membership changes remains to be seen. While the work of the Committee may be disrupted to some extent by the break in continuity, it does not necessarily follow that the Committee will be weakened as a consequence of the changes. Much will depend on the approach taken by the new Conservative members. On the one hand, their inclination to strike right-wing attitudes may lead them into direct conflict with other members of the Committee, particularly in the feverish atmosphere surrounding the countdown to the General Election. On the other hand, it is unlikely that the newcomers aspire to ministerial office. This may mean that they are naturally less protective of, and deferential towards, the government than their predecessors in the Fox, Kynoch, Lait, Robertson cohort.

### **THE PATTERN OF INQUIRIES**

The work of the Scottish Affairs Committee over the period since 1992 falls into three reasonably distinct categories: ad hoc hearings, routine hearings, and investigations leading to publication of reports (table 2). We offer some comments on each of these in turn.

Ad hoc hearings took place when an issue arose which attracted the attention of the Committee, and there was an agreement that it would be appropriate to take evidence from the key participants. In some cases, there was an unfulfilled expectation on the part of certain Committee members that this would lead, in due course, to the publication of a report, while in others it was clear from the outset that the sole outcome would be publication of the evidence.

### *Scottish Affairs*

The Committee's inquiry into the wind-up of the New Town Development Corporations (Scottish Affairs Committee 1994a) was, in part, a response to a considerable lobbying effort by bodies active in this sphere, and was motivated by a desire to allow a range of representative individuals who were closely involved in the implications of this change to have their views publicly recorded. Although it seemed for some time that a report would be produced, this appears to have fallen victim to the pressure on the Committee's time.

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**Table 2**  
**The Committee's Work 1992-95**

*Ad hoc hearings:*

The Appointment of Mr Laurence Peterken ...  
Wind-Up of New Town Development Corporations  
Legal Aid Eligibility Changes  
Public Funding of Health Care International ...

*Routine hearings:*

The Government's Expenditure Plans 1993-94 to 1995-96  
The Government's Expenditure Plans 1994-95 to 1996-97  
The Government's Expenditure Plans 1995-96 to 1997-98

*Investigations leading to reports:*

The Future of Scotland's Transport Links With Europe  
Drug Abuse in Scotland  
The Operation of the Enterprise Agencies and the LECs  
Market Conditions in the Scottish Salmon Industry  
Closure of Psychiatric Hospitals in Scotland

*Current Inquiries:*

The Future for Scottish Agriculture  
Housing and Anti-Social Behaviour  
Removal of the Tariff Rebate Subsidy Scheme on Northern Isles Freight  
Severe Weather Conditions in Scotland

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The other three ad hoc hearings were more politically sensitive, and therein lies the explanation for the failure to produce reports. During the inquiries into the legal aid changes, the Peterken-Fyfe affair and the financial crisis at

*The Select Committee on Scottish Affairs*

the Health Care International hospital in Clydebank (Scottish Affairs Committee 1993a, 1993d, 1994d), Conservative members of the Committee successfully blocked moves to publish reports. Once the Shadow Scottish Secretary, George Robertson, had called for the Committee to examine the Peterken-Fyfe embroglio - the sacking of Laurence Peterken as chief executive of Greater Glasgow Health Board by its chairman Bill Fyfe, a prominent Conservative supporter, and Peterken's subsequent appointment to a newly created post in the Scottish NHS Management Executive - the Conservatives agreed to an investigation only on the understanding that there would be no report:

That was why we went into it, that's why I supported it. It was to be a one-off evidence session, with no report at the end of it, and the Labour MPs obviously came under pressure from George Robertson to do a report - they were trying to change the rules at the end.  
(Robertson 1994)

The Conservatives adopted a different approach to the HCI affair. In this case, they argued that the seriousness and the legality of the issue (the receiver was still conducting his business at the Clydebank hospital) were such that it merited a full investigation and report, but at a later stage. For their part, the opposition members felt that the Conservatives were motivated by a desire 'just to spin it out' (Welsh 1994). The Conservatives lost the decisive vote on the tactics of the inquiry, because of Sir Nicholas Fairbairn's absence through illness, and the 'short, sharp' inquiry went ahead. There could be no question of the Conservatives tolerating a report in these circumstances.

The routine hearings were those that had become a conventional part of the work of this, and indeed all other, departmental select committees: evidence-taking sessions which focused on the department's spending plans for the next three years (Scottish Affairs Committee 1993b, 1994c, 1995d). Although these sessions were useful in the sense that they served the purpose of bringing the Secretary of State for Scotland and some senior Scottish Office officials before the MPs for detailed questioning, members of the Committee were doubtful about the true value of the hearings. Given the sheer technical complexity of the subject, and the other pressures on its time, the Committee is considerably reliant upon the expert advice it is given by Professor David Heald of Aberdeen University. Even so, the hearings are rather one-sided affairs in the sense that the Scottish Secretary is in full command of the subject matter, and is supported by extremely

### *Scottish Affairs*

knowledgeable civil servants. Committee members have testified to their weakness in this area ('It's far too technical for me'; 'we are amateurs at it'; 'it's quite a complex subject for the MPs who are generalists'). In its present format, the public expenditure hearing leaves Committee members dissatisfied. Comments range from the relatively mild ('I must confess I remain sort of unconvinced that it's a particularly valid session ... I've no idea why it continues'), to the scathing ('[I]t's a farce. The last one wound up with an hour still to go, because we ran out of questions'). Perhaps the Committee is attempting to cover too much ground in these hearings, and would be wise to adopt the approach which is taken by some other select committees, which focus on a few limited topics within the department's expenditure plans.

By the autumn of 1995, five of the Committee's investigations had resulted in the publication of formal reports (Scottish Affairs Committee 1993c, 1994b, 1995a, 1995b, 1995c). The general impact of these in relation to the Committee's role as an organ of scrutiny will be considered later. One of the reports deserves particular mention at this stage.

The inquiry into drug abuse is assuming the status of the Committee's magnum opus. Committee members from all parties have spoken of the impact the research visits (in Scotland and abroad) had upon them, and the value they attach to the report. Raymond Robertson encapsulated their views when he described this report as 'the select committee's finest hour' (Robertson 1994). The report attracted a great deal of attention from the Scottish media (see, for example, Carrell 1994, MacAskill 1994, McGregor 1994, Scott 1994), partly because of an abortive attempt by the Committee's Chairman to insert a recommendation which would have effectively proposed the decriminalisation of cannabis, but in the main simply because of the subject's topicality and the quality of evidence generated by the Committee. The latter point is supported by the fact that the Scottish Office Drugs Task Force paid tribute to the Committee's work in this sphere, and incorporated some of the recommendations in its own report (Scottish Office 1994).

### **THE COMMITTEE AS A GENUINE INSTRUMENT OF SCRUTINY**

Provided we do not adopt the narrow perspective of parliamentary traditionalists, who see select committees as detracting from the 'proper' role of the House as primarily a forum for broad-ranging political debate (Jones 1982, Powell 1984), there is much to commend in the activities of the Scottish Affairs Committee. Our observation of the Committee during the

### *The Select Committee on Scottish Affairs*

period since 1992 suggests that, at least in part, it is indeed emerging as a genuine instrument of scrutiny. Yet by what yardstick can we make such a judgement? The academic literature on select committees contains no agreed and universally applicable formula for assessing effectiveness (see, for example, Cranmer 1987, Dewar 1980, Drewry 1985, Jogerst 1991, Judge 1992, Nixon 1986). However, the Report of the 1990 Procedure Committee on the post-1979 Select Committee system adopted a useful approach by disaggregating the notion of committee effectiveness into four main components (Select Committee on Procedure 1990). These are:

- the accountability of ministers and officials;
- the publication of information;
- the impact on the Commons and the public;
- influence upon government actions.

Each of these is considered next in turn.

Holding ministers and civil servants to account is clearly a part of the Committee's work. During the period between the Committee's reinstatement after the 1992 General Election and the time of writing in September 1995, the Committee has secured five appearances from the Scottish Secretary (Ian Lang in this period), six from the Minister of State (Lord Fraser of Carmyllie), one from the Industry Minister (Allan Stewart), one from the Fisheries Minister (Sir Hector Munro) and appearances by over 40 officials. The highest profile of these was Lord Fraser's televised questioning on the Peterken-Fyfe affair, probably the most highly charged session in the history of Scottish Affairs Committees (Scottish Affairs Committee 1993d). Many observers thought Lord Fraser to be extremely nervous, and at the end of the hearing there still remained unanswered questions in terms of the role (if any) of ministers in Peterken's dismissal from Greater Glasgow Health Board. Nevertheless, it is widely recognised that the session shed some light on Peterken's swift appointment to the NHS Management Executive, on the grounds that the Scottish Office was keen to avoid potential legal action for damages. Without the Scottish Affairs Committee, there would have been no other forum within which detailed questioning could have been conducted. More generally, SNP Member Andrew Welsh, who is hardly someone to embrace the workings of the Westminster system, has taken a positive view of the Committee:

### *Scottish Affairs*

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.  
(Welsh 1993)

The Committee also performs a useful role in the publication of information. Certainly, publication of final reports has often been lacking (a point to which we will return shortly), but there is a grain of truth in the statement by John Golding - the former Chairman of the Employment Committee - when he suggested that the 'report is often the least significant part of a Select Committee's work, given the divergence of political opinion' (HC Debates 1980-1, col.1300). On enquiries ranging from Transport Links with Europe and the Wind-Up of New Town Development Corporations through to Drug Abuse and the Closure of Psychiatric Hospitals, a wide range of facts, figures and views have been placed in the public domain and published as minutes of evidence and (on occasions) reports.

The impact of the Committee on the Commons and the wider public is not easily quantified, but there are at least some indicators of Committee 'success' in this area. Its work has filtered through to debates and questions in the Commons, particularly in legal aid changes, the Peterken-Fyfe affair and the collapse of Health Care International. If we use media interest as a partial surrogate for 'public' interest, then Labour Member Bob Hughes notes that

there isn't the same intensity of media pressure on the other committees that there is on us. We're absolutely in a goldfish bowl there.  
(Hughes 1994)

The attention given to the Peterken-Fyfe enquiry also helped raise the profile of the enquiry. It is now common for interest groups and members of the public to write to the Committee chair. Some of this lobbying is misguided in that it sees the Committee performing an ombudsman-style role, but as the Chairman Willie McKelvey suggests, 'I would rather have interest, and people writing, and asking for things, than just nothing' (McKelvey 1994).

The final criterion identified by the Procedure Committee is influence upon government actions. Establishing a causal connection here is difficult, given that the government may not wish to appear to have been influenced by a select committee and because committee reports usually contain general expressions of concern, in addition to specific recommendations. The Scottish Affairs Committee is less problematic in this regard, in that there is

*The Select Committee on Scottish Affairs*

only one report so far where there are clear grounds for assuming that the Committee has been influential. As mentioned above, the enquiry into Drug Abuse in Scotland has turned out to be the Committee's 'finest hour' thus far. The Committee's work was very well received at the Scottish Office, and the Report of the Ministerial Drugs Task Force repeatedly acknowledges its value (Scottish Office 1994). Lord Fraser, in a follow-up evidence session, expressed his

gratitude to this Committee for the extremely useful report you prepared. If you have examined in any detail the Drugs Task Force Report, you will see that there is repeated reference to it ... [T]he work that you undertook was a very useful basis for us and was very helpful in confirming a number of conclusions that we had arrived at. While there were experts on my Drugs Task Force there was not the same opportunity to carry out the broad range of enquiry and evidence taking which you undertook ... and that was particularly helpful to me. (Scottish Affairs Committee 1994e, p.1)

Even if we viewed such a statement with a jaundiced eye, there is the more concrete point that the Drugs Task Force adopted a number of the Committee's specific recommendations. These ranged from support for the prescription of methadone, through to the introduction of fiscal fines for first time offenders possessing cannabis. McKelvey goes as far as to suggest that

we played a major role in turning *round* Scottish Office policy, because they were so hard when we had started off the report, that they were absolutely unconvinced that anything but the real resistance to any change was the only message you could put out to the public. (McKelvey 1994)

For the future, there is at least the potential for Scottish Office receptiveness to continue. The new Scottish Secretary Michael Forsyth stated in an early interview that

I don't see why the Select Committee should not have a much more important role. I spent last weekend reading the Select Committee's report on Scottish Enterprise and the LECs - I thought it was an extremely impressive report with a lot of good ideas. (Parkhouse 1995)

*Scottish Affairs*

## **EMERGING WEAKNESSES**

The worthwhile work of the Committee is counterbalanced by a number of factors which inhibit its incisiveness. Some of these are peculiar to the Scottish Affairs Committee whilst others are experienced to varying degrees by all select committees.

As we have already noted, there is an unusually high number of Parliamentary Private Secretaries on the Committee. The numbers have varied because of fluctuating membership, but of the 11 Conservative members who have served on the reinstated committee to date, 5 have been PPSs. At its highest point, 4 out of the 6 Conservatives on the Committee were PPSs. One of these, Peter Atkinson, sums up the position well when he suggests that

if you are a PPS, you are to an extent ... an unpaid very junior member of the government. You form part of the payroll vote. Therefore, PPSs are not likely to vote or want to do anything which would embarrass the government.

(Atkinson 1994)

A stark illustration of this came when Liam Fox, PPS to the Home Secretary Michael Howard, reappeared after a year's absence from the Committee's meetings (although his membership had continued during this time) and supported the Home Office line by voting against McKelvey's attempt to secure support for the decriminalisation of cannabis. One price to be paid for the continued existence of the Scottish Affairs Committee is waiving the convention that PPSs do not serve on select committees. It can be argued that this weakens the committee by making it subject to a potentially greater degree of executive influence than would otherwise be the case.

A further problem for the Committee is its exceptionally wide remit in scrutinising a multi-functional department of state. Labour member Bob Hughes has suggested that

with that wide scatter ... you don't get that continuity which specific departmental select committees in England have, of building up a long experience and a greater knowledge of each particular subject you look at.

(Hughes 1993)

*The Select Committee on Scottish Affairs*

Problems are also posed for the Committee because of the peculiar demands on Scottish Members of Parliament. Backbenchers (especially on the government benches) are liable to be drafted onto legislative committees, whilst the revamped Scottish Grand Committee places additional pressures on *all* members. Roughly half of the Scottish Affairs Committee members were involved in the Scottish Standing Committees scrutinising the Children (Scotland) Bill and the massive 169-clause Local Government Etc. (Scotland) Bill. McKelvey notes that

whenever there's a major bill going through Parliament, that impinges on our work ... A lot of the evidence-taking might simply be me and two members of the opposition. If that's the case, then that weight of evidence doesn't have the same effect.

(McKelvey 1994)

This situation is liable to get even worse as the demands of electioneering approach.

Another major problem is a tendency to avoid investigating *the* major policy issues of the day. One Conservative member was prepared to admit that 'in an ideal world, the one topic we should have investigated at length was local government in Scotland and the future of water in Scotland.' Why did this not happen? Part of the explanation lies with the Committee chairman's approach as a consensus-builder, but the key factor is put well by Conservative member Peter Atkinson:

If it [the Committee] is to be used as a political tool for different political parties, then I think it will fail, because of the nature of the sort of political split in Scotland. It will just simply fail.

(Atkinson 1994)

For similar reasons, the Committee has tended to back away from producing reports on the more politically sensitive investigations into cuts in legal aid, the Peterken-Fyfe affair and the public funding of Health Care International. This is not to deny the worth of short-sharp evidence sessions. Rather, it is to suggest that to go beyond these and attempt to produce formal reports in certain areas would split the Committee asunder and shatter the fragile consensus (fragility emanating from the volatile nature of the Scottish political environment) within which it operates.

### *Scottish Affairs*

These political undercurrents are crucial to the future of the Committee. As the next General Election approaches, there will be more pressure on the Opposition to 'draw blood' from Scottish Office Ministers, and a corresponding pressure on Government members to be protective of the Scottish Secretary and his team. Most Committee members are well aware of this. Raymond Robertson, for example (now Parliamentary Under Secretary of State at the Scottish Office), while praising aspects of the committee's work, takes the view that political pressures will bring about the demise of the committee (Robertson 1994). When asked by us directly about the main success of the Committee, the Chairman Willie McKelvey cited its sheer survival thus far (it's 'still there and operating!': McKelvey 1994). Only time will tell if this can be said when the next General Election is upon us.

### **CONCLUSION**

A close examination of the published reports and evidence sessions of the Scottish Affairs Committee leaves us in no doubt that its record compares very favourably with that of its predecessors. The general quality of its work may be variable at times - as is common with other select committees - but we must remember the uniquely difficult circumstances in which this Committee operates. Furthermore, none of the past Committees produced a report which addressed as substantial an issue as the drugs problem in as sensitive a fashion. Moreover, it has given the lie to claims by elements of the press that it is a lacklustre body, by holding the most heavily publicised (and arguably the most highly politicised) hearing in the history of Scottish Affairs Committees, when investigating the Peterken-Fyfe affair.

This is not to deny the fact that the committee is beset by numerous problems. Its membership abounds with PPSs, there are pressures for members to devote less and less time to it, it has backed away from investigating and producing reports on some highly politically sensitive issues, and a fragile consensus is constantly in danger of being undermined by the vagaries of Scottish politics. As the next General Election looms and the tensions mount, therefore, the functioning of this rather peculiar committee should repay our close attention.

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*The Select Committee on Scottish Affairs*

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