***Compare the effectiveness of the Scottish Parliament’s committees and the House of Commons’ Public Bill Committees in influencing government bills***

This paper compares Scottish Parliament committees and the UK Parliament House of Commons’ public bill committees (PBCs) across two measures: securing of amendments to government bills and securing ministerial assurances.

Drawing on legislative studies literature and scholarship’s methodological approaches, a mixed-methods comparative research design is constructed. The main empirical section is split between comparison of ‘amendments’ and ‘assurances’ in Scottish and UK settings, using documentary evidence, quantitative surveys and researcher-conducted interviews.[[1]](#footnote-1) Westminster’s PBCs are set-up on ad hoc bases to consider proposed legislation as it appears, whilst Holyrood’s committees combine legislative and scrutiny roles (Thompson, 2016: 36; Arter, 2002: 99; Arter, 2004: 71; Cairney, 2006: 183). Two case studies of recent bills illuminate dynamics partly revealed by quantitative evidence: Westminster’s Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 and Holyrood’s Scottish Elections (Franchise and Representation) Act 2020. Both concern devolved administrations’ elections and governing arrangements.

This paper argues that neither Parliaments’ committee stage is especially effective at securing material changes to government bills. However, comparatively speaking, Holyrood’s committees are marginally more influential by this metric. By assurances, both committee systems have more influence on bills. Whilst the convention of assurances is not discernibly better developed at either Westminster or Holyrood, a consensual spirit is more easily detected at Holyrood.

**Theory and comparative research design**

Claims that the UK Parliament is subservient to an overbearing executive have dominated British legislative studies literature (Flinders and Kelso, 2011: 249). Their most recent articulations assess Westminster as ‘peripheral’; playing ‘a marginal role in the policymaking process’ (King and Crewe, 2013: 261; Martin and Vanberg, 2011: 4; Norton, 1998: 41; Moran, 2005, 196). PBCs suffer in this parliamentary decline thesis (PDT): scholarly consensus holds that they simply ‘preserve executive strength’ and are ‘the House-in-miniature’ (Kelso, 2009: 39; Blackburn and Kennon, 2003: 385; Norton, 2017: 194). Comparative literature suggests UK committee weakness versus European counterparts; at the ‘opposite end of the spectrum’ to powerful parliamentary committees (Dixon and Jones, 2019: 25; Mattson and Strøm, 2004, 100; Martin and Venberg, 2011). Despite this, Judge maintained the UK was fundamentally a ‘parliamentary state’ (1993: 7). Since then, there have been some considerable efforts to provide empirical backing to his evaluation (Russell *et al,* 2016: 286; Flinders and Kelso, 2011: 250).

The literature developed minorly since the constitutional transformation of devolution in 1998, with Holyrood remaining chronically understudied. Deliberate attempts were made to design Holyrood differently to Westminster. Notions of ‘new politics’ were encapsulated in 1995’s Scottish Constitutional Convention: to ‘usher in a way of politics that is radically different from the rituals of Westminster: more participative, more creative, less needlessly confrontational’ (Shephard and Cairney, 2005: 303; Arter, 2004: 71; Cairney, 2006: 181; Thompson, 2016: 43). Part of this was ‘powerful committees’ to ‘consider government legislation’ (Mitchell, 2010: 104; Arter, 2004: 74). Yet, the dominant PDT has been somewhat extended to cover the devolved institution. McHarg concluded ‘aspirations for greater power sharing’ were not realised and Halpin *et al* that committees are ‘somewhat disappointing’ in ‘legislative impact’ (2017: 110; 2012: 303). Mitchell recently described committees as ‘denuded of authority’ (2022: 3; 2010: 111). Thus, this paper seeks not just to assess the PDT’s accuracy concerning committee stage, but to contribute to Holyrood’s emerging literature on whether its committees are indeed more influential than Westminster’s.

The strongest elements of previous studies’ methodologies are adapted and combined to measure influence. Perhaps the cornerstone study is Griffith’s 1974 work—the first major survey focusing on PBC output. Thompson sought to execute contemporary work ‘comparable with that of Griffith’, considering 139 bill committees from 2000-2010 (2016: 38). At Holyrood, Shephard and Cairney carried out the ‘first systematic attempt’ to evaluate committees’ influence on government bills from 1999-2003 (2005: 303; Cairney, 2006: 185). An intra-UK, multi-level comparative study of bill committees has not yet been attempted.

The above studies emphasise the importance of a mixed-methods approach. Basic quantitative metrics—recording the volume of successful non-government amendments—is central (Thompson, 2013: 461). As discussed presently, considered in isolation, they can prove ‘misleading’ (Arter, 2003, 86; Thompson, 2013: 461). Therefore, two nuancing lines of investigation are adopted. Firstly, in the ‘amendments’ section, the ‘substantiveness’ of changes is considered (Thompson, 2013: 462; Russell and Gover, 2017: 38; Cairney, 2005: 306-307). This paper adapts Shephard and Cairney’s three-point scale (see Table 1).

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| --- | --- |
| **Type of amendment** | **Definition** |
| Typographical | Cosmetic/lexical alterations |
| Clarificatory | Limits interpretation of provision |
| Substantive | Changes effect of provision |

Table 1. Adapted from Shephard and Cairney, 2005: 307.

Secondly, basic quantitative assessment is qualified by considering assurances. Geddes notes that quantitative ‘institutionalist lenses’ often eschew parliamentary influence (Geddes, 2019: 822-823). Classic articulations of parliamentary soft power expound ‘anticipated reactions’ (Arter, 1985, 68; Russell *et al*, 2016: 291). Governments ‘read the runes’ in parliament before introducing bills (Crewe, 2017: 32). Extending this classic rule, this paper considers the equivalent soft power in committee: securing ministerial responses to concerns—assurances (Cairney, 2006: 195; Thompson, 2013: 462; Griffith, 1974: 119; Russell and Gover, 2017: 41; Crewe, 2017: 39).

**Comparative analysis of amendments**

The influence of UK PBCs appears limited when considering the number of successful non-executive amendments actually made to government bills. Owing to the structure of committees on Parliament’s political composition, the government dominates PBCs in terms of membership (Levy, 2010: 543; Crewe, 2017: 39; Thompson, 2015: 53). It follows that government can easily get its amendments through and resist non-government amendments (Jeffrey and Mitchell, 2009: 25). From Thompson’s comprehensive analysis of amendments, this state of affairs shows in the quantitative data. Whilst around 70 percent of the considered amendments in committee were non-government, only 88 (that is 0.5 percent) of them were successful (Thompson, 2013: 466-468). Such evidence is compounded by the findings of Russell *et al* in 2016. Their study is also particularly instructive because it considered 4361 amendments to 12 government bills, 64.5 percent of which were proposed at the committee stage (287). Whilst 94 percent of government amendments were successful, only 24 singular non-government amendments (fewer than 1 percent) were ultimately secured (292). Similar quantitative results were reported in Russell and Gover’s 2017 study, where 95 percent of government amendments in 12 UK bills from 2005 to 2012 were agreed (70; Dixon and Jones, 2019: 22). In their statistics, around 3000 non-government amendments were proposed per bill, but only 3.6 percent were successful (70). Overall, quantitative evidence suggests Westminster’s PBCs have minimal influence because ultimately the success rate of non-government bills is consistently below 4 percent.

At Holyrood, Shephard and Cairney’s initial surveys reveal a similar picture to that found at Westminster. (2005: 310). For their 22 bills, over 99 percent of ministerial amendments were successful (310). Of the non-government amendments, only 12 percent were successful. As such, in both the Scottish and UK contexts, committee influence is minimal in terms of successful amendments to government bills. However, the 12 percent figure is considerably higher than the 1-5 percent found at Westminster—in most cases, it is three or four times higher than the Westminster numbers for successful non-government amendments. A cautious conclusion results. Holyrood’s committees (at least in its first session) appeared to have greater ability to amend government bills than Westminster committees. However, both committee systems remain at the behest of an incredibly high success rate of government amendments.

The qualitative evidence reinforces such a conclusion. A Commons’ Deputy Principal Clerk conceded that often committees are a lot of ‘political theatre’ and a forum in which government whips can work (Speaker (A), 2022). Another Senior Clerk commented that PBCs being structured based on the composition of the House means the government will ‘always have an advantage’ (Speaker (B), 2022). Similarly, a Holyrood clerk in the Non-Government Bills Unit (NGBU) reported that government can dominate committee: marshalled amendments lists ‘can fillet it [a bill] quite a lot’ (Speaker (C), 2022). David Lidington reported that PBCs are often ‘just a completely formal process’ and ‘in effect, rubber stamping stuff’ (Lidington, 2022: 11:53). Such a view is echoed by Holyrood’s Anas Sarwar: ‘everything is stitched up and decided’ before anything comes before committees; ‘our committees in the Scottish Parliament…work in a whip system’ (Sarwar, 2022: 38:23; 39:48). This qualitative evidence supports the conclusion that in terms of material change, the government clearly remains the central player in both committee systems (whilst the quantitative evidence shows non-government actors are perhaps more successful at Holyrood).

However, quantitative data speaks nothing of the ‘substantiveness’ of successful amendments. Russell *et al* importantly only conceded ‘the appearance’ of government dominance (2016: 292). In fact, executive amendments at UK committee stage are often of little substance. Operationalising Shephard and Cairney’s scale, on average, less than 33 percent of government amendments are ‘substantive’ (2005; Russell *et al*, 2016: 294). In Scotland, just 4 percent of successful ministerial amendments are such (Shephard and Cairney, 2005: 312; Cairney, 2006: 186). Governments in both contexts are thus far more likely to pass typographical/clarificatory amendments than those which materially change bills. Again, the evidence suggests that the Scottish committee system is more influential in that very few government amendments are actually of notable meaning. Furthermore, at Holyrood, 96.8 percent of these government amendments succeeded ‘with no formal objection’ in committee or parliament (Cairney, 2006: 186). To present such amendments as evidence of executive dominance is misleading—if the committee has no quarrel with the amendment, it exerts its influence in facilitating its passage. This ‘consensus politics’ in Holyrood supports the conclusion that Scottish committees are, however marginally, more able to influence bills.

Overall, crude numerical comparisons—even controlling for substantiveness— suggest neither committee system possesses considerable powers to directly *materially* influence bills. Whilst Holyrood’s committees have slightly more power (more non-government amendments and less substantive government amendments are successful), it is not enough to declare some ‘new politics’.

**Comparative analysis of amendments: case studies**

Cursory quantitative examination of amendments within the case studies reflect the conclusion that committees’ material influence is limited in both Parliaments (whilst perhaps Holyrood’s committee again shows more instances of success).

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| **Outcome of proposed amendments** | **Standards, Procedures and Public Appointments (SPPA) Committee on Scottish Elections Bill** | **PBC on Northern Ireland Bill** |
| **Non-government amendment (rejected by committee vote)** | 17 | 0 |
| **Non-government amendment (withdrawn without a committee vote following assurances)** | 8 | 21 |
| **Government success by committee vote** | 5 | 1 |
| **Non-government success by committee vote** | 1 | 0 |
| **Total** | 31 | 22 |

Table 2. Adapted from HoC, 2021a; 2021b; SPCB, 2020; Scottish Parliament, 2019; 2020.

Looking crudely at government and non-government successes, whilst the non-government contingent was more successful in the Scottish setting, it was also the context in which government dominated most (Table 2).

An important qualification is that government amendments in both committees straddled ‘typographical’ and ‘clarificatory’ categories. In Holyrood’s committee, amendments simply sought to limit interpretations of clauses, being concerned with prisoner voting logistics (Scottish Parliament, 2020). In Westminster’s committee, the amendment replaced ‘including’ with ‘which may include’ (HoC, 2021b: 86). Overall, no conclusive comparative points can be drawn on the basis of successful government amendments, but both contexts evince that government success is easily over-exaggerated when not accounting for substantiveness of amendments.

Brief observations also lead to a conclusion that Westminster’s committee had more influence as more non-government amendments were withdrawn not rejected. However, Holyrood’s committee probably had most influence on this measure: those 17 rejected amendments are further categorised (Table 3).

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| --- | --- |
| **Outcome of amendment** | **SPPA Committee** |
| **Rejected** **despite significant minority support** | 1 |
| **Rejected** **with large majority support** | 16 |

Table 3. Adapted from Scottish Parliament, 2020.

On 16 occasions, the committee emphatically exerted its influence in rejecting unpopular amendments from individual members. Such an influence cannot be mischaracterised as executive dominance.

In terms of the strictly measurable—powers to secure (or *reject*) amendments—both committees are weak in securing positive material change (although government-secured change should not be over-exaggerated as it is likely typographical/clarificatory). However, the Scottish committee appears stronger in exerting influence in rejecting amendments by majority.

**Comparative analysis of assurances**

Simply considering material changes obscures the ministerial assurances given in committee (often secured by ‘unsuccessful’/withdrawn amendments). The Deputy Principal Clerk (who called PBCs ‘political theatre’) also emphasised that influence is exerted through ‘*informal* levers and pressures’ (Speaker (A), 2022).

Considering Westminster firstly, ministers report that their amendments at latter stages originate from committees an average of 10 amendments per bill (Thompson, 2013: 471). Russell *et al* similarly report that 41 percent of successful government amendments were traceable back to parliamentary pressure (2016: 295). The ‘commonest source’ of influence (51 percent) was a committee’s non-executive amendment (296). At Holyrood too, 25 percent of successful substantive ministerial amendments addressed issues originally raised by backbenchers (Shephard and Cairney, 2005: 313). Around 66 percent of those amendments were linked specifically to committee (314). This suggests that most MSPs’ amendments in committee are not intended to be accepted: disaggregating the number of non-executive amendments that are unsuccessful, reveals that 56 percent were withdrawn, rather than rejected, in exchange for government assurances (315; Cairney, 2006: 188). The government’s share of amendments at Stage 3 (76.6 percent) is notably higher than Stage 2 (56.4 percent), implying government assurances evolve into amendments later (189).

Qualitative evidence compounds this analysis. UK ministers feel pressured to follow up undertakings, with one commenting ‘having given a commitment, you are bound to deliver on it’ (Thompson, 2013: 475). Speaker (A) confirmed that an ‘unsuccessful’ amendment being picked up later by the government ‘happens an awful lot’ and is a ‘recognised method of achieving an amendment to a bill’, illustrating the importance of assurances. Official ministerial guidance reflects this: ‘accept the amendment in principle…offer to table improved wording to meet the intended aim at a later stage’ (Cabinet Office, 2012: 151). Many members, the clerk explained, have ‘no serious intention in affecting change in the wording of a bill’, demonstrating high numbers of ‘unsuccessful’ non-government amendments are misleading. Insight from the government side compounds this analysis. Lidington used to vet ‘every bid from a Secretary to put a bill into the government’s legislative programme’ (2022: 12:15). He looked ‘very hard at what their contingency plans were for concessions…which would not be published’ (13:12). This demonstrates that a government expects to give assurances. Its aim is clearly to present such concessions as government-led amendments, whilst actually the impetus came from committee. In Holyrood too, the NGBU clerk emphasised that non-government members try to be ‘nifty’ and ‘strategic’ in securing assurances to broker ‘some form of compromise’ (Speaker (C), 2022). One MSP explained that, especially with a government majority, members are ‘looking to make more political points’ by ‘probing to get assurances’ (MSP (A), 2022).

Overall, both committee systems have considerably more influence via assurances, with large numbers of government amendments traceable back to committee. Holyrood’s system appears to again perform slightly better, with around 66 percent of successful government amendments resulting from parliamentary pressure linkable to committee (compared to Westminster’s 51 percent). However, the difference is not over-emphasised, considering Westminster achieves numerically more amendments of this sort (51 percent compared to 25 percent), just deriving from other forms of parliamentary pressure.

**Comparative analysis of assurances: case studies**

In Westminster’s committee, assurances were just as central and, in fact, dominated the aims of members. There were 21 amendments which were moved in committee but subsequently withdrawn following ministerial assurance (HoC, 2021a). For example, Louise Haigh (Labour) proposed a new Clause 1 requiring the Secretary to report on implementation of the ‘New Decade, New Approach’ deal and the delivery of £1.5 billion in funding (91-92). The minister, Robin Walker, explained that £700 million had already been released and the Northern Ireland Affairs Committee was ‘scrutinising NDNA delivery closely’ (93). As such, Walker considered it unnecessary to introduce an amendment, but committed ‘to write to her [Haigh] when that [releasing of funds] has been agreed’ (93). Withdrawing her motion, this example demonstrates how Haigh exerted soft power influence (misleadingly reflected quantitatively as non-government failure) by clarifying important issues on record and securing undertakings.

In Holyrood’s committee, Mark Ruskell (Green) moved an amendment to allow asylum seekers to stand as candidates (Scottish Parliament, 2021; 2019). Ruskell was resisted by the Secretary, Michael Russell, but elicited significant assurances. Russell was ‘willing, as are my officials, to approach the Home Office in the light of today’s debate’ to consider the amendment (Scottish Parliament, 2021). Particularly revealingly, Russell states: ‘if Mr Ruskell is not going to press these amendments’, he will ‘commit to lodging such an amendment at Stage 3’ (Scottish Parliament, 2021). Clearly, whilst this amendment would eventually be lodged with ministerial backing, the impetus originated in committee.

Finally, ‘unsuccessful’ amendments may actually have been the result of large majority committee agreement. The Holyrood committee (not Russell) pushed for withdrawal of Ruskell’s amendment on decreasing the minimum age for parliamentary candidates (Scottish Parliament, 2021). Gil Paterson (government backbencher) argued ‘young people lack experience’ whilst Neil Findlay (Labour) expressed concerns about using secondary legislation (Scottish Parliament, 2021). Ruskell thus conceded: ‘if the committee’s view [is] that the matter would be better dealt with through future primary legislation…I will…withdraw’. Consensual deliberation evinces committee—not government—influence (Scottish Parliament, 2021).

Overall, the cases demonstrate that members exerted most influence via assurances. What is more detectable in the Scottish context, however, is the rejection of amendments by committee consensus.

**Conclusion**

Both committee stages have minimal influence in terms of material changes to bills, but government success is qualified due to the limited ‘substantiveness’ of amendments. Scottish committees proved only marginally more successful in securing substantive amendments (12 percent of successful amendments versus Westminster’s 1-5 percent). Both committee are more influential by assurances, but Holyrood performs slightly better, with case comparison also suggesting a ‘consensus’ politics approach there. Thus, Holyrood cautiously comes out on top.

Overall, the difference is not significant enough to conclude Holyrood achieves some ‘new politics’. Yet, neither is this a resounding affirmation of the PDT. The ability of committees to elicit assurances, often disguised as ‘unsuccessful’ amendments, is one (qualified) reason to believe Judge’s assessment that the UK and Scotland remain ‘parliamentary states’ (1993: 7).

**Word count: 3000**

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