The Impact of Coalition Government on Bill Committees in the British House of Commons*

ECPR General Conference, Glasgow, 6 September 2014

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Abstract

Legislative committees are a key feature of modern legislatures, allowing the detailed examination of government bills. Bill committees in the British House of Commons have long epitomised the majoritarian style of government; dominated by party whips and adversarial debate. They are a contrast to the consensual style of scrutiny found in other European parliaments. The 2010 coalition government brought the potential for change not only to the practical arrangements for bill committees, but also to longstanding perceptions about the scrutiny of legislation at Westminster. Based on the detailed examination of bill committee work over the 2010-12 parliamentary session, this paper analyses the impact of coalition government on the work of bill committees. It considers how the practicalities of committee procedure have been affected by coalition government, the presence of a more consensual style of scrutiny and whether coalition government ministers are behaving differently to their predecessors.

Introduction

Legislative committees have been an essential component of the scrutiny of government legislation in the House of Commons since 1907 (Walkland 1979: 258), with all bills receiving scrutiny in a bill committee following their second reading unless the House orders otherwise. These committees are composed of between 16-50 MPs appointed by the party whips. Committees scrutinising programmed bills are eligible to take oral and written evidence. Typically, three or four oral evidence sessions will be held at the start of a committee’s deliberations before it begins to consider legislation on a ‘line by line’ basis, with each clause and schedule being taken in turn. The witnesses called to give evidence include

*DRAFT – Data collection not yet complete
representatives of relevant interest groups and in most cases the government minister and/or departmental officials.

Sitting firmly within a majoritarian system, bill committees have an unenviable reputation as scrutinisers of government legislation and this was been exacerbated by the very large parliamentary majorities of the Labour Governments between 1997-2010. Research carried out on committee scrutiny during this time (see for instance Thompson 2013a, 2013b, Russell et al 2013) shows that proceedings of bill committees were indeed majoritarian; government amendments were almost always accepted whilst non-government amendments were almost whole heartedly rejected. Rebellion was rare and government backbenchers, for the most part, played little role in committee proceedings other than to cast a supporting vote in divisions.

The election of a Coalition Government in May 2010 brought the potential for a change to bill committee processes and scrutiny. This paper seeks to explore the extent to which coalition government has affected committee work. It considers whether committees are any more consensual, what changes coalition committees have made to government legislation and whether they having a greater impact on the legislative process than committees under single party government? Ultimately, it seeks to consider whether coalition government is conducive to good scrutiny of legislation.

Bill committees as a Majoritarian Feature of the House of Commons

As the archetype of the majoritarian form of political system, it comes as no surprise that the internal features of the British Parliament have traditionally reinforced the majoritarian style of democracy, with less powerful committees than those found within presidential or continental
European systems (Mattson and Ström 2004, p. 96). We can identify in House of Commons legislative committees some of the characteristics outlined by Lijphart in his study of majoritarian and consensus systems:

\[i\] **Government by the majority**

Most obviously, since their very creation in the late nineteenth century, appointment has been made in relation to the balance of political parties in the House, ensuring an in-built government majority. For instance, the very first bill committee to sit following Labour’s landslide election victory in 1997 (the Local Government Finance (Supplementary Credit Approvals) Bill was composed of 16 MPs: 10 Labour, 4 Conservative and 2 Liberal Democrat. There were thus 10 government Members, versus just 6 opposition Members. With a strong whipping operation this government majority is almost always evident.

It is not just in the appointment of committee members that we can see this dominance. The move to enable committees to take oral and written evidence during the 2006-07 session only further enhanced the government’s majority and control of proceedings, with the selection of witnesses called to appear before bill committees lying predominantly with the government whips (Russell et al 2013: 26) and consisting of largely predictable organisations likely to have been heavily involved with the drafting of government legislation (Levy 2010: 538).

\[ii\] **A dominant executive**

Lijpart noted that in majoritarian systems ‘the executive is dominant’ (1999, 2). This has already been noted in the appointments process, but can also be seen in the amendments discussed in committee and in the outcomes of committee work. Although committee stage is
primarily about scrutiny of the government’s bills, government ministers are increasingly using committee stage to make legislative changes of their own. Government amendments now make up around one third of all amendments moved in committee (Thompson 2013: 466) and almost all are successful. The success rate is over 99 per cent, with only 4 government amendments were defeated in committee in the period 2000-2010'.

Divisions in committee follow the pattern described by Lijphart of ‘government by the majority and in accordance with the majority’s wishes’ (1999: 2). Even away from the Commons chamber, dissent in committee is ‘isolated and disparate’, with government defeats in committee divisions not exceeding 1.6 per cent throughout the period 1979 to 1992 (Cowley & Norton 1996: 35). As Cran (2005) notes, the Labour Government created an ‘almost legendary’ system of party discipline (p. 185) with committee members being ‘slavish to the Whip’s will’ (Nigel Evans, Health (Wales) Bill Committee, 10 December 2002) and told to ‘sit there, shut up and stick their hands up at the relevant moment’ (Steve Webb, Energy Bill Committee, 11 March 2008, c62). MPs therefore saw divisions as tools for exposing opposition points of view; for getting their stance on the record (and hopefully in the press), rather than as a means of achieving actual policy change.

We can also see executive control of bill committees in the resistance to non-government amendments in committee. Only one-fifth of bills are amended by opposition or backbench committee members and less than one per cent of the amendments moved by non-government committee members are successful (Thompson 2013b: 88). This is not helped by Cabinet Office guidelines which state that ministers ‘must not make any commitments ... without having first collectively agreed these’ (Cabinet Office 2012: 186). Substantive changes
to legislation would require the approval of the Legislation Committee and possibly the relevant Cabinet Committee before they could be committed to by a Minister and his department.

**iii) Adversarial style**

Bill committees have become notorious as hot-beds of adversarial politics as debate proceeds almost always along a ‘government-versus-opposition pattern that is very competitive’ (Lijphart 1999: 16). Cooperation between the government minister and opposition MPs was rare. This majoritarian feature of the bill committee system became more pronounced over the period 1997 – 2010. Although the Government’s parliamentary majority reduced in size across the 2005 and 2010 Parliaments, the mentality of a strong and dominant executive remained firmly entrenched (see Flinders 2002, Kelso 2009). Most junior government ministers – those typically appointed to the often arduous role of taking a bill through committee stage - had never served in the Commons (or in a bill committee) in an opposition role. Having never actively scrutinised a bill in committee themselves, they knew no other way of working and sought to ‘drive their bill[s] through committee’ (Opposition MP, 2010) as quickly and easily as possible, refusing to accept even the most minor amendment from the opposition benches. Committee stage was often an arena in which political point scoring or electioneering would take place. One can easily find references to “party political badinage” taking place in committee sittings.

Bill committees then, have come to epitomise a majoritarian system. They are a contrast to the seemingly more consensual style of committee scrutiny found in other European parliaments such as the German Bundestag. Committee stage constitutes an additional arena
in which the government’s majority can be exercised and in which – formally at least – very little change is made to government legislation. Although cooperation and consensus does occur, it is not the chief observation that would be made about bill committee scrutiny.

**What might coalition mean for bill committees?**

The formation of a coalition government between the Conservative Party and the Liberal Democrats following the 2010 General Election makes some of Lijphart’s observations on the Westminster Model seem out of date. The UK Parliament as presently constituted appears to be showing something more akin to the ‘executive power sharing’ found in coalition Cabinets (1999: 34) and which Lijphart lists as the first characteristic of consensual political systems. Comparative legislative studies literature also points to committee systems increasing in strength in parliamentary systems where there is coalition government (see for example Martin 2005, p. 1).

Studies of committee systems under coalition governments in other European countries also suggest that it may bring changes to UK bill committees. For instance, Capano and Guiliani (2001) write that coalition in Italy results in less control over committee members (p. 18) and falling success rates of government bills to less than 50 per cent (p. 19). Research by Shephard and Cairney on coalition government in Scotland found that a higher percentage of non-government amendments were successful (12.5 per cent) and that the government had a slightly lower success rate of 98.4 per cent (2005: 312). We might then expect coalition committees in the UK Parliament to be more successful in amending bills and in constraining the executive.
On the basis of these possible changes, and work by von Beyme on the German parliament (1998, p.4), we can identify several indicators to examine in coalition committees, to see if there has been any change from the committee environment under single party majority government:

- **The number of non-government amendments tabled in bill committees (and the proportion of these which are successful):** This indicator is utilised in previous studies of House of Commons bill committees (Thompson 2013) and was one of the indicators used by von Beyme (1998, p. 4) in his study of the German parliament.

- **The success rate of government amendments:** Given the widely cited figures showing the overwhelming success rate of government amendments, an examination of government amendments in coalition committees will present a clear indicator of whether there has been any change in committee work.

- **The frequency of ministerial undertakings:** Previous research (Griffith 1972, Thompson 2013) suggests that measuring the frequency of ministerial undertakings is crucial in accurately determining the impact of committee stage on legislation.

- **The frequency of divisions in bill committees:** Mattson and Strøm identify divisions in committee as a key sign of conflict (2004, p. 118). Studying the frequency of divisions will therefore show whether conflict is greater in coalition committees.
Methodology

This research will focus on the 2010 Parliament, though the findings presented here relate only to the 2010-12 session. In order to enable comparisons with committees in a single party government, the findings are compared against those collected from the 2000-2010 period – a time in which there was a single-party (Labour) government with a large parliamentary majority. The methodology employed here therefore mirrors that of the previous research (for further details see Thompson 2013a). A purposive sample is used, with committees selected for analysis only if the bills they are considering were explicitly referred to in the Queen’s Speech at the start of the session. For the 2010-12 session, the sample is therefore 15 bills. The selection of bills ensures that the bill committees studied include those scrutinising legislation which was outlined in the Coalition’s Programme for Government (HM Government 2010).

Data is collected from the official transcript of committee proceedings, as published on the UK Parliament website. All amendments new clauses and new schedules which are moved or grouped and/or discussed in committee are given descriptive codes according to the mover, party and outcome (passed, withdrawn, negatived following a division, negatived without a division etc). In addition, any assurances, undertakings or commitments made by the minister in the bill committee were also coded. These codes included changes made to the guidance or regulations accompanying bills; undertakings to reconsider amendments and commitments to make a change at the report stage of a bill. This is supplemented with a qualitative analysis of the proceedings themselves. Material from committee transcripts is thus used to qualify findings.
Initial Findings

In many respects it has remained business as usual in Commons bill committees, despite the presence of coalition government. With the exception of the obvious differences in composition, an observer would not notice huge differences between committees in the 2009-10 session and committees in the 2010-12 session. As is typical of bill committees, rebellious MPs were not appointed to committees\(^1\) and government backbenchers were rarely seen to make speeches\(^2\).

On the whole, committees in the 2010-12 session were cooperative and consensual. Specific examples include the Energy [HL] Bill which was described as being a ‘very consensual committee’\(^3\) in which Members on all sides were ‘collaborative and co-operative’\(^4\) and a shining example of a committee ‘actually engaging in real scrutiny’\(^5\), whilst the Terrorist Asset Freezing Bill was said to be proof that ‘the Opposition can act in a constructive way’\(^6\). Closer examination of the key indicators established earlier shows some interesting areas of change.

\[i\] Number and success of amendments

As Figure 1 demonstrates, the number of amendments being moved and discussed in committee has fallen considerably in the 2010-12 session. The number of government amendments has fallen from an average of 53 to just 23 per bill, whilst the number of

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\(^1\) See for example Malcolm Wicks, 1st Sitting, pensions (HL) Bill Committee, 5 July 2011, col. 42
\(^2\) See for example Rachel Reeves, 3rd Sitting, Pensions Bill Committee, 7 July 2011, col. 112
\(^3\) Huw Irranca Davies, 7th Sitting, Energy [HL] Bill, 16 June 2011, c276
\(^4\) Luciana Berger, 10th Sitting, Energy HL Bill Committee, 21 June 2011, c461
\(^5\) Zac Goldsmith, 10th Sitting, Energy HL Bill Committee, 21 June 2011, c417
\(^6\) David Hanson, 1st Sitting, Terrorist Asset Freezing Bill, 23 November 2011, c41
amendments from backbench and opposition MPs has fallen even further, from an average of 70 to just 28 per bill. During the scrutiny of the Pensions Bill, the lack of government amendments for transitional arrangements for pensions (an issue discussed at second reading) was highlighted by committee members\(^7\).

**Figure 1. Average Number of Amendments Moved/Discussed in Committee**

Despite this fall in the frequency of government amendments, what has not changed is their success rate (100%). Similarly, the success of non-government amendments remains very low in coalition committees (<0.5%) and this is no departure from the trend under single party government. Only one opposition amendment in the sample so far has been passed in committee. This was an amendment tabled by Luciana Berger in the Energy Bill Committee which would compel the Secretary of State to prepare a report on the Green Deal apprenticeship team. Although this amendment was passed in committee the minister (Greg

\(^7\) Rachel Reeves, 1st sitting, Pensions (HL) bill Committee, 5 July 2011, col. 24
Barker) later said that it had been a mistake due to confusion over committee procedure (the government had not voted for or against the amendment, having been taken by surprise)\(^8\).

\(\text{ii) The frequency of ministerial undertakings}\)

Previous research shows that the success rates of amendments in committee are not a reliable indicator of the actual effectiveness of bill committee scrutiny (see Thompson 2013a, 70-74). A more accurate presentation of committee work requires an analysis of the commitments and undertakings made by government ministers over the course of a committee’s scrutiny and the progress made on these undertakings at report stage. Data collected over the 2000-2010 period showed that bills received an average of two undertakings from government ministers during their committee scrutiny. This included changes to guidance, commitments to reconsider amendments and commitments to table amendments at report stage. In the 2010-12 session this has increased slightly to 3 per bill.

More interestingly, the nature of these concessions has also changed. There has been a fall in the number of undertakings made simply to ‘reconsider’ an amendment (from an average of 5 per bill to less than 1 per bill). In addition, ministers are agreeing to a greater number of meetings with MPs and outside groups in response to amendments, or to provide further information to committee members (risen from 0.9 per bill to 2.5 per bill).

\(\text{iii) Impact of coalition committees at report stage}\)

\(^8\) See Greg Barker, 5th Sitting, Energy [HL] Bill Committee, 14 June 2011, c176
Coalition Ministers therefore, seem to be making more concessions whilst in committee. It is also necessary to consider the impact of committees at report stage. It is generally found that a large proportion of amendments moved at report have already been discussed in the bill committee. This is certainly true for the 2010-12 session in which 68 per cent of the amendments moved at report had been moved or discussed previously in the bill committee (the average for the 2000-2010 period was just 49 per cent).

Under coalition government, far fewer changes are being made by the government at the report stage of bills. Between 2000 and 2010 the average bill saw 43 amendments moved by the government minister at report. Under coalition government this figure has fallen to just seven. Coalition governments are therefore making far fewer changes to their own bills. However, where amendments are made by the government, they are more likely to be explicit responses to amendments moved in the bill committee. 36 per cent of the government amendments introduced at report were said to have been prompted by committee stage compared to just 24 per cent over the 2000-2010 period.

**iv) The frequency of divisions**

The frequency of divisions can provide an indication of how consensual or how partisan a bill committee has been. Previous research (Thompson 2013a, 476) has found a marked reduction in the number of divisions taking place in committee in the 2000-2010 period compared to the last comprehensive study of committees in the 1970s, with backbenchers being much less inclined to push their amendments to a division. Divisions in committee fell from an average of 10 to just 7 per bill. This trend continued during the first session of coalition
government, with the frequency of divisions falling even further, to an average of just 5 per bill. The frequency of divisions today is thus half that which was observed by John Griffith in the 1970s.

**Conclusion: What does this tell us about coalition committees?**

In conclusion, the initial data presented here tells us three things about the scrutiny of bills in a period of coalition government. Firstly, it demonstrates that the Coalition Government is making far fewer changes to its own pieces of legislation – whether in committee or on the floor of the House at report stage. Secondly, the atmosphere in committee appears to be very cooperative. The continued decline in formal divisions suggests that the nature of debate is more consensual. Finally, there is evidence that ministers are working in slightly different ways, preferring to give undertakings to make changes to secondary legislation rather than agreeing to reconsider making a formal change to the text of a bill.

Explaining the possible reasons for these changes is more difficult and this is not helped by the lack of information about precisely how the coalition politics works at present. As Heffernan and Bennister (2012, 779) note ‘it rarely leaks or briefs about “process”… *how* ministers work, not just what they do’.

The most obvious explanation for these changes is that legislative decisions are being taken elsewhere – outside the formal and public arena of the legislative process – in private where any policy differences between the two parties can be ironed out before the parliamentary scrutiny of a bill commences. This is what we would expect from the literature on legislative organisation. Mattson and Strøm (2004) for instance note that the role of committees depends
upon whether they are 'the prime arenas of intracoalitional policy coordination' (p. 97). It would seem – at least from the initial data collected – that whilst policy is clearly decided at the higher levels of the Coalition and not left to junior ministers in committee, there are occasions in which ministers can give policy concessions in committee or at the report stage of bills. In some respects at least they can act as agents and so ‘deviate from the agreed policy’ (Martin 2005, p. 8) in places.

Further data collection is now necessary before we can identify what factors (influence the effectiveness of committee stage and to enable us to judge whether coalition committees are actually more effective than their counterparts in times of single party government. For instance, do bills see greater amendment if they were not explicitly agreed in the Coalition’s Programme for Government (2010). Such an analysis will shed further light on the workings of post 2010 bill committees in the House of Commons.

Bibliography


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i Amendments 429-432 were defeated in the 15th sitting of the Apprenticeships, Skills, Children and Learning Bill (2008-09 session). These defeats were not the result of reasoned debate, but simply due to a group of Labour MPs failing to attend the very start of a committee session.
See for example Charles Clarke, Thirteenth Sitting, Criminal Justice and Police Bill Standing Committee, 7 March 2001