“Congressional committees are more influential than their British counterparts.”
Evaluate this view [30]

Introduction
In the source McNaughton highlights the two essential roles of committees in both legislatures “legislative and investigatory.” As McNaughton rightly distinguishes, these two functions are split between the ad hoc standing committees and permanent departmental select committees in Parliament while the standing committees in America handle both. The term select committee is also used in Congress but it applies to a committee setup to examine a specific important issue which is too big/time-consuming to be left to the relevant standing committee. While this difference in organisation is interesting it does not in itself significantly affect the effectiveness of the role of the two committee systems. However McNaughton goes on to assert that Congressional committees are “vastly more influential than their British counterparts”. So what is it that gives the American committee system this greater influence or perhaps what obstacles inhibit the work of Parliamentary committees?

Nature of Political System
With its weak party discipline and separation of powers the American political system extends greater independence to the legislative branch of government which is in turn is reflected in the work of Congressional committees where Congressmen are free to voice criticism of the executive branch even if the President shares their party. The British system with its strong party allegiances and fusion of powers results in an atmosphere in which thorough scrutiny is less likely. Backbench MPs may be silenced by the fear of damaging their career prospects through aggressive investigations of executive actions or government bills.

Resources
Source C refers to the “1946 Legislative Reorganisation act” which provided the first professional staff for committees in America. Since this time the staff, money and other resources available to US committees has increased significantly. All of this contributes to the committees’ ability to gather and process information relating to the bill or action under scrutiny. The more information that is available the greater potential the committee has to unearth and expose problems. In America Congressional committees have access to staff and resources great enough to rival the executive departments they are scrutinising, they can therefore pose an effective challenge to any executive action or bill. House Committees have an average staff of 68 and Senate committees 46 both of which compare favourably with Parliamentary committees who generally employ only 5-10 assistants. Beyond this, Congressmen can also avail of their personal staff (House avg 14, Senate avg 36) whereas MPs often only have one or two administrative assistants. As a result the committees in Parliament with few resources can be easily out manoeuvred by executive departments with their large number of civil servants in Whitehall, indeed Parliament’s committees often rely on government sources for much of their information!

Another resource in short supply for Parliamentary committees is time. Select committees have only enough time to investigate a small amount of the work done by the department they shadow. As a result they tend to focus on a small number of random issues which are receiving media attention; this allows a large amount of government work to go unchecked. In America the constitution established federalism which gives many powers to the States and therefore the work carried out by the Executive Branch is more narrow than the British executive in our unitary system. This gives Congressional committees a greater chance to check the majority of executive activity. Congress also is also able to spend more time on investigations and bills without executive pressure or time limits, the only danger is that scrutiny becomes bogged down in the large number of subcommittees (around 200) need to carry out full scrutiny.

Access to Information
Even despite their lack of resources Parliamentary committees struggle in their investigations due to the relative secrecy within the British political system. Access to certain documents and witnesses may be
constrained under the terms of the Official Secrets Act. While the British Freedom of Information Act has gone someway to improving the availability of information to committees their ability to scrutinise the executive is weak in comparison to the committees of Congress which can avail of the relatively transparent nature of American government and their much broader version of the Freedom of Information Act. Although it must be noted that all is not plain-sailing in US investigations, it took a Supreme Court ruling to over ride Nixon’s claim of executive privilege and obtain the Whitehouse recordings for Senator Ervin’s committee investigation, and even then they were judged to incomplete!

Both committee systems have the ability to call for person, papers and records and have some power to compel witnesses to attend questioning sessions. In Parliament however questioning can be difficult as government ministers and top civil servants are bound by collective responsibility and will simply repeat the same party line, whereas the lack of collective responsibility in the U.S. allows members of the executive to be more frank.

In Parliament refusal of witnesses to attend committee questioning is rare, but not unknown for example the Maxwell brothers refused to attend a Social Services committee investigation in 1992 and the government has on occasion refused to allow ministers and top civil servants to be questioned for example John Birt an advisor to Blair did not appear to at a Transport committee investigation. Similarly in the investigations into the Iraqi Supergun and Westland Helicopter affairs the government refused to allow top civil servants to be questioned. Parliament has the power to fine and even imprison people for contempt but this is extremely rare and no prosecution was pursued in any of the above examples. The difficulty in prosecution comes from the fact that it requires the support of the whole house and it is therefore almost impossible to punish members of the government. In America the executive has attempted to disrupt committee investigations through refusal to submit subpoenaed documents or release witnesses, Congress however will rarely put up with it and often cite those involved with contempt. A citation is normally enough to convince the executive to work with the committee but occasionally Congress will pursue a prosecution as happened in 1982 when EPA (environmental protection agency) officials refused to testify or release documents about Reagan’s $1.6 billion programme to clean up hazardous waste sites. EPA Administrator Rita Lavelle was fined $10 000 and given 6 months in prison for her involvement and many others lost their careers as a result of the investigation. Prosecution in the US also requires whole house approval but the separation of powers and weak party discipline prohibits the executive from controlling this.

An important source of information in committee investigations is the expertise of the committee members themselves. Congressional committees are generally recognised as having vast experience in their field due to their permanency and selection procedure, members are often long serving with a background in the area of scrutiny. In Parliament expertise among committee members is often poor especially on the temporary standing committees. Select committee and Lords committees are generally better informed but will still include many members ignorant of the issues.

Independence
In Westminster committee places are allocated according to party strengths giving the governing party an automatic built-in majority although places are only open to backbenchers and not government ministers or members of the shadow cabinet. In Congress positions on committees are also designated according to party strengths but this of course does not mean the President’s party will have a built in majority as the separate elections allows for a divided government to occur.

Although this does not necessarily mean that Congressional committees will have more independence from executive pressure than their Parliamentary equivalents as in the UK there are always a number of government backbenchers willing to rebel, indeed it appears that Tony Blair has been struggling to maintain discipline on some recent issues. As well as this, in America, Congressmen from both main parties will be subject to Presidential “persuasion”. The weak party system means the President cannot total command his own party, but this opens the door for him to influence the other party! Both democrat and republican Congressmen will be targeted by the executive, in Britain you can at least rely on the minority of opposition backbenchers to do whatever they can to obstruct and check the executive. In America the President relies
heavily on committee support especially when it comes to finance, he must get key committees and chairmen on side. He will attempt this by lavishing “pork” on individual prepared to work with him. For example Mendel Rivers gained 11 major new naval installations for his State (South Carolina) including shipyards, hospitals, training camps and missile bases while he was chairman of the Armed Services Committee.

As already noted above the committee membership in both countries reflects party strengths, but an important difference must be noted between the method of choosing committee members. In America this is done by the “steering” committees from both parties with no executive influence. In Parliament however committee membership is controlled by the party whips, the government chief whip ensuring that the least rebellious MPs are placed on key committees.

There have been examples in both countries of committees being independent enough to give the executive a bloody nose, for example the congressional committee’s report “A Failure in Initiative” which slammed Bush’s administration in 2006 and for failing to handle the Hurricane Katrina disaster the previous year. In the UK the Privileges committee investigation into the “Cash-for-Questions” affair resulted in the resignation of government ministers such as Neil Hamilton and the introduction of new Parliamentary rules on bribery.

Zeal
The method of committee selection also reflects on the enthusiasm that legislators feel toward their committee work. In Congress committee places were traditionally allocated on seniority but in recent decades there has been a greater trend towards basing decisions on expertise, as the younger members of Congress rebelled against what they viewed as an unfair system. This shows just how much members of Congress value committee membership, Congressmen often compete fiercely to be on the most powerful committees such as those dealing with finance and taxation e.g. the House Ways and Means Committee, Senate Finance Committee and Appropriations Committee. In Parliament there could hardly be a greater contrast; most MPs view committee work as a chore, something they have to do to serve their party. In standing committees especially, were there is no time to build a bond or common cause the government MPs are often known to show up, pass the time, block any opposition proposals and send a meaningless report back to the whole house. Some MPs have even been known to read novels or write Christmas cards in meetings when bills are supposed to be scrutinised. Select committees being permanent have arguably more opportunity to build up teamwork but on the whole MPs remain party animals not committee creatures. Although the Public Accounts Committee is often cited as being a particularly active and effective committee in Parliament.

Backbench MPs look for promotion into the executive and they get their by showing loyalty to their government. Congressmen however do not seek executive positions, they consider appointment to powerful committees as promotion and they get there by proving themselves as thorough investigators on the “lower” committees. In Britain it has even been known for government whips to target overly-active members of select committees for removal, for example Nicholas Winterton was removed as Chairman of the Health committee by his own conservative whips as he was creating too much trouble. However the attempt by Labour whips to unseat the out spoken chairmen Anderson and Dunwoody created uproar in Parliament and the attempt was aborted. Since 1973 “Sunshine Rules” Congressional committees have conducted their meetings in public, reducing the amount of deals and trade-offs that went on behind closed doors, Congressmen are now very aware that their conduct in committees will be made known to the “folks back home”. Committee meetings in Parliament are also open and on the record (Hansard) but most MPs are still willing to put party before constituency.

Legislation
On visiting Congress Boris Marshalov remarked “Congress is so strange. A man gets up to speak, says nothing, nobody listens, and then everybody disagrees” what he did not realise is that little real work is done when Congress meets as a chamber it is really just an opportunity for Congressmen to make a few points on behalf of their State than to really influence policy or legislation. The detailed work of Congress
takes place in the committee rooms as Woodrow Wilson noted when he said “Congress in session is Congress on show, Congress in committee is Congress at work.” The standing committees of Congress carry out most of the important legislative work, they examine the details of bills at a very early stage and decide whether the full chamber should consider them or whether they should be “pigeonholed” (set aside and effective killed), thus giving the committees a massive influence on the fate of a bill. The committee chairmen in particular play an important role in prioritising bills, this led Woodrow Wilson to remark “I know not how better to describe our form of government in a single phrase than calling it a government by the chairmen of the standing committees of Congress”. In particular the House Rules Committee has a big say in which bills are given the opportunity to succeed as they must design a “rule” to say when the bill will be heard and how much debate and room for amendment there will be. Riker compared this committee to “a toll bridge attendant who argues and bargains with each prospective customer but will let his friends go free and will not let his enemies pass at any price.” Members of Congress’ “Conference Committee” also hold great sway over legislation as they seek to reconcile differences in a bill passed by the House with the Senate’s version of the same bill. Reagan said that “if an orange and an apple went into conference consultations, it might come out a pear.” In contrast standing committees in Britain only get to really examine a bill after it has been brought before the House and received consent in principle. This leaves very little room for significant amendment. On top of this the use of the Guillotine (time limit) by the British executive can seriously limit the amount of scrutiny a standing committee may give any particular bill. As a result of this poor oversight many bills passed into law have later been deemed unworkable e.g. the Football Spectators Act, the Dangerous Dogs Act and even the more recent Hunting with Dogs Act.

Scrubtin of Executive

When it comes to investigation of government actions Parliamentary select committees have no pre-emptive powers they can only report retrospectively on the actions of a minister or department. This power to name and shame can push a minister from office but relies heavily on the publicity a report receives in the press and ministers have often been known to ride out a controversy. Although the threat of committee investigation does act as something of a deterrent to executive members tempted to misuse their power. Having said this the retrospective nature of select committee investigations means that the damage is often done and the committee is powerless to reverse it for example the collapse of the De Lorean car company revealed a massive misuse of public money and while those involved could be shamed the money was gone! In America committee investigations can be very intense as many Congressmen are trained lawyers (56% in Senate and 36% in House) and investigations often take on the atmosphere of a trial. On top of this the media is often much more interested in committee work than the in the UK for example Senator Sam Ervin’s committee investigating the Watergate scandal had daily television coverage as did the senate committee investigating the Iran-Contra affair.

Conclusion

In conclusion it appears that Congressional committees have a much greater role with in the legislature than their equivalents in the UK. The committee system in Parliament is dominated by party politics and as a result has become a government controlled ritual which offers little in the way of effective scrutiny, Lord Hailsham once described the modern Parliament as an “elective dictatorship.” In America the weak party loyalties, separation of powers and the protection of an entrenched, codified constitution allows committees to have much greater impact and provide what the source refers to as the “vigilant oversight” the “framers of the Constitution had envisioned.”