



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# SCOTLAND BILL COMMITTEE

Tuesday 27 March 2012



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**SCOTLAND BILL COMMITTEE**

**1<sup>st</sup> Meeting 2012, Session 4**

**CONVENER**

\*Linda Fabiani (East Kilbride) (SNP)

**DEPUTY CONVENER**

\*James Kelly (Rutherglen) (Lab)

**COMMITTEE MEMBERS**

\*Richard Baker (North East Scotland) (Lab)

\*Nigel Don (Angus North and Mearns) (SNP)

\*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

\*Alison Johnstone (Lothian) (Green)

\*John Mason (Glasgow Shettleston) (SNP)

Stewart Maxwell (West Scotland) (SNP)

Joan McAlpine (South Scotland) (SNP)

\*David McLetchie (Lothian) (Con)

\*Willie Rennie (Mid Scotland and Fife) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

George Adam (Paisley) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

Committee Room 5



## Scottish Parliament

### Scotland Bill Committee

*Tuesday 27 March 2012*

[The Convener *opened the meeting at 15:03*]

### Decision on Taking Business in Private

**The Convener (Linda Fabiani):** Good afternoon, everyone, and welcome back to the committee. At one point, I thought that we would not have another meeting, but here we are again—as happy as can be. I remind all those present, including members, to turn off their mobile phones and BlackBerrys completely, as they can interfere with the sound system even when they are switched to silent.

We have apologies from Joan McAlpine and from Stewart Maxwell, who is at the Committee of the Regions meeting. I welcome George Adam as a substitute.

Under agenda item 1, do we agree to take in private item 3, which is consideration of the draft report on the legislative consent memorandum?

**Members** *indicated agreement.*

## Scotland Bill

15:04

**The Convener:** Item 2 is a discussion about the Scottish Government's legislative consent memorandum, which was published on 21 March and of which all members have copies. It is the result of the agreement that was reached between the Scottish and United Kingdom Governments.

I will invite comments from all members in a moment, but we should welcome the sensible and level-headed discussions between the two Governments and their efforts to reach an accommodation. All sides of the debate can point to changes that have and have not been made since the committee produced its report.

My reading is that some key changes have been made since December. For example, it was important to agree the detail of how the new income tax power and grant-reduction mechanism will work and to agree that that will not be used without both Governments and both Parliaments being content. That is the joint decision-making process for which the committee called. We have also had movement to take out almost all the reservations in the bill and to resolve the issue of the UK Supreme Court's role in Scottish legal matters, which I understand that everyone will welcome.

Repeated reference is made to new devolved taxes, greater borrowing limits and the Crown Estate. It is probably a disappointment for all committee members that no movement has taken place on the Crown Estate, but there has been talk of further intergovernmental dialogue on the subject. I hope that, in time, we will reach agreement on it.

I know that the majority of committee members will still be disappointed that the bill does not go further and will feel that it is a missed opportunity. However, for others, what has been agreed probably represents a fair compromise at this stage.

The bill that is passed will differ from the bill that was introduced back in 2010. I thank all committee members for the sustained investigation that the committee undertook.

We have moved on from the original Calman recommendations and we are still in debate. It is generally agreed by everyone that we will move further. There is the new Lib Dem commission, Labour now has a commission and David Cameron, on behalf of the Conservatives, has talked about further devolution of powers. Since we started the process, it is interesting that almost

everyone now wants even more powers than are in the bill.

I open up to members the debate about the legislative consent memorandum.

**James Kelly (Rutherglen) (Lab):** I welcome the fact that a draft legislative consent motion is before the committee and that the Government and the Scottish National Party committee members have moved somewhat from the position that they took when the committee's report was published back in December. At that time, I feared that the Parliament might not support a legislative consent motion and I said that it would have been a retrograde step to turn down the chance of having more extensive borrowing powers, which would have a positive impact on the Scottish economy, and greater tax-raising powers.

I welcome the discussions that have taken place and the fact that a substantive legislative consent motion is before us. I look forward to its coming before the Parliament.

**The Convener:** Thank you.

Do other members want to comment, or are they leaving all the talking to James Kelly and me?

**David McLetchie (Lothian) (Con):** In this context, it is appropriate to reflect on the demise of the six demands, which will not be in the bill, and to welcome the minor adjustments to the bill's substance that have been agreed in the intergovernmental discussions.

It is interesting that the Scottish Government is slightly apologetic in paragraph 25 of the legislative consent memorandum, in which it writes off the demands that were previously considered essential to the bill's passage. The committee's majority report recommended to the Parliament that we should not agree to any legislative consent motion unless not just the six demands were enacted but the whole welfare state was devolved, along with sundry other proposals from those who gave evidence.

I welcome the fact that the sensible discussions that have taken place between Scotland's two Governments have brought us to a point at which we will enhance the powers of the Scottish Parliament without prejudice, as the convener said, to any changes that may or may not take place in the years to come.

The LCM is a fig leaf to cover up the Government's embarrassment that it tabled something that has, deservedly in my estimation, come to naught. I look forward with great relish to making those points to the First Minister and others in the parliamentary debate on the subject. I hope that they will be able to digest the meal of their own words.

**The Convener:** Thank you for that, Mr McLetchie. It is nice to know that some things in life never change.

However, I would like to pull you up on something. The committee's main recommendation was that, unless there was a sense of changes being made to the bill, we could not recommend legislative consent. It is interesting to note that your party colleague, Lord Forsyth, has bemoaned the fact that the Westminster Government has made very extensive concessions on the Scotland Bill.

**John Mason (Glasgow Shettleston) (SNP):** Partly in response to what has just been said, I add that the demands that the Scottish Government has made—I suggest on behalf of the Scottish people—are still on the table and we still want those things. I am not satisfied that we do not have devolution of corporation tax and we have only partial devolution of income tax and so on—I could list them all. My and my colleagues' position has always been that half a loaf is better than none. In fact, in this case, we are probably talking about a slice of bread rather than getting as far as half a loaf.

My main concern was the damage that the previous income tax proposals were potentially going to do to us, as Scotland would have been worse off. I would want to support any bill that gave us even a tiny amount of extra power, but a problem arises when we are asked to support a bill that would either take power away or put us in a worse position than the one that we are in.

Although we still have to see the income tax mechanism, we have been reassured that it will be more favourable to Scotland. In addition, the proposal to take powers back to Westminster has, on the whole, been ditched. Those were the two key changes that I hoped to see.

I am disappointed that Westminster has not given more ground. We spent a lot of time on all sorts of issues. I think that there is wide acceptance that welfare reform should have been devolved, in which case we could have joined it up with housing policy and other things. There are some words in the LCM to the effect that we will talk about those issues in the future, but the proof of the pudding will be in the eating.

The final bullet point in paragraph 22 of the LCM refers to HM Revenue and Customs delivering value for money. Who would argue with that? However, how accountable will HMRC be? We asked witnesses to give evidence on that, and statements were made. I guess that, if we had more time, we would think about looking at that again to see what has changed. There is quite a lot in the LCM that is like that, so we will have to wait and see. Can the UK Government be trusted

or will it renege on some of these promising words?

**The Convener:** Thank you, Mr Mason. In that regard, the agreement that both Governments should reach agreement on implementation issues is welcome. That has to be of some comfort, as is the mechanism for altering the block grant.

**Nigel Don (Angus North and Mearns) (SNP):** My comments follow on from what John Mason said. For me, two issues had to be dealt with, and I am pleased to note that they have been dealt with.

Like John Mason, the first issue for me was the budget adjustments, because that was a banana skin. The mechanism was badly thought out and I am glad that the Governments have moved towards an agreement whereby the Holtham commission's approach will be adopted. We have yet to see the details, but that is a substantial step in the right direction.

As members will know from our previous discussions, the other issue that concerned me was the Supreme Court. The fact that the issue seems to have been understood, to some extent resolved and put on the agenda for the future makes a great deal of sense. In particular, the idea that the Supreme Court will not put forward its judgment but will remit a decision back to the High Court in Scotland seems to me to be absolutely right.

15:15

I cannot help but note in passing that the Crown Estate is the most obvious example of a missed opportunity. Even the Scottish Affairs Committee is saying that the UK Government should have done something on that, but it has obdurately refused to do so in the face of everybody saying that it should devolve those powers to us. Perhaps that is an indication that it thought that it would go just as far as it had to in order to persuade somebody that it was doing something useful. It is a pity that it did not go that step further and listen to what it was being told.

**The Convener:** Yes, that is to be regretted. Movement on the issue of the Crown Estate was a unanimous recommendation of this committee.

**David McLetchie:** May I just point out for clarification, convener, that it was not a unanimous recommendation that the Scotland Bill should be the vehicle for devolution of the Crown Estate? There was a recommendation that consideration should be given to the devolution of further functions of the Crown Estate; indeed, the report of the Scottish Affairs Committee that has been mentioned makes that very proposal. This committee's recommendation was aligned with

that of the Scottish Affairs Committee, but neither we nor that committee thought that the Scotland Bill was necessarily the appropriate vehicle. We both concluded that a measure of further devolution would, as you rightly say, be desirable, but not necessarily in the context of the bill.

**The Convener:** Let us hope, then, that the spirit of that is taken on board in further discussions between the Westminster Government and the Scottish Government so that we can move forward on the Crown Estate and reach agreement. I would say that everyone in Scotland now sees that as a sensible way forward.

**Nigel Don:** I make the point to David McLetchie that, although members of the UK Government and even David Cameron, the Prime Minister, say that there will be more down the track, that is a pretty hollow thing to say when they have the Scotland Bill before their Parliament and they could modify it. It is just possible to argue that the Crown Estate should not be devolved by the bill because there are other ways of doing it, but it is a pretty hollow claim when the bill is there and people have been thinking about it.

**Alison Johnstone (Lothian) (Green):** I, too, regret that we have not touched on issues such as the Crown Estate, which would have been a logical thing to include in the greater devolution of powers.

I register my concern about the absence of joint commencement powers, as I still have reservations. Nigel Don touched on the fact that we need to see more detail on income tax, for example. We have a letter from the Secretary of State for Scotland, but I am concerned about how much weight it will carry when he and the two Governments are no longer in power. There is some uncertainty that will continue to concern me as we go forward, and I wanted to put that on the record.

**The Convener:** Perhaps the committee could take that on board. We could write to the UK Government, referring to the *Official Report* and the concern that has been expressed. In the spirit of the way in which the agreement was reached between the Governments, we could ask to be written to directly with as much detail as is possible at this time on how the UK Government sees that working. Does everyone agree with that?

**Members indicated agreement.**

**The Convener:** Are there any further comments before we move on? There are none.

What happens now is a matter for the Parliamentary Bureau, but I expect that there will be a full debate in the chamber on a legislative consent motion soon after we return from the Easter break. I do not expect the committee to

meet again—please do not get too upset about that—so I close by thanking all the members for the constructive way in which we moved forward through the process. I thank George Adam for his significant contribution. I also thank all the officials and advisers for their efforts, as everyone worked very hard on this.

15:19

*Meeting continued in private until 15:40.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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