



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

REFERENDUM (SCOTLAND) BILL COMMITTEE

Thursday 13 December 2012

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REFERENDUM (SCOTLAND) BILL COMMITTEE
7th Meeting 2012, Session 4

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*James Kelly (Rutherglen) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

*Linda Fabiani (East Kilbride) (SNP)

*Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

*Annabel Goldie (West Scotland) (Con)

*Patrick Harvie (Glasgow) (Green)

*Stewart Maxwell (West Scotland) (SNP)

*Stuart McMillan (West Scotland) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*attended

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

Committee Room 2

Scottish Parliament

Referendum (Scotland) Bill Committee

Thursday 13 December 2012

[The Convener opened the meeting at 10:00]

Proposed Government Bills

The Convener (Bruce Crawford): Good morning folks, and welcome to the seventh meeting of the Referendum (Scotland) Bill Committee. I ask everyone to check that mobile phones are switched off.

Agenda item 1 concerns the timetable for the committee's scrutiny of the paving bill and the main referendum bill. It is suggested that early evidence-taking sessions be held before the bills are introduced.

The committee is asked to look at three things—first, whether we should write to the Deputy First Minister to seek more detail on the paving bill and the main referendum bill, including any indicative timescales; secondly, whether we should take evidence during January and early February as a preliminary to the stage 1 scrutiny processes for the two bills; and, thirdly, if we decide to take such evidence, whether we are content with the themes that are set out in paragraph 13 of paper 1.

We will deal with the proposals in that order, if that is okay, and start with whether we should write to the Deputy First Minister.

James Kelly (Rutherglen) (Lab): I note from the paper by the clerk that the Scottish Government's press release states that there will be an accelerated timetable for the paving bill to include 16 and 17-year-olds in the franchise. The paper also states that it will be a "demanding timescale" to pass the main referendum bill by October. It is therefore urgent that we write to the Deputy First Minister to seek clarification of the Government's intended timescales for publication of the bills and some more information on what will be included in them. We need that information as a precursor in order to assess the way forward and decide whether we can hold early evidence sessions.

Stuart McMillan (West Scotland) (SNP): I agree with much of what James Kelly said. There has been quite a bit of information in the media in recent weeks, as well as what is in the press release. It is imperative that the committee writes to the Deputy First Minister to seek some confirmation of what the Government is looking at in terms of the way forward, particularly given the

press release that James Kelly mentioned. It is incumbent on us to ensure that we get as much information as possible.

The Convener: I think that that is right. Does anyone have anything to add?

Linda Fabiani (East Kilbride) (SNP): I agree that we should write to the Deputy First Minister to confirm all those things, but in tandem with that I do not think that there is anything to prevent us from quickly taking evidence from an electoral registration officer or someone from the Electoral Management Board for Scotland, just to talk through the basics of how these things work.

The Convener: Can we come back to that? First, do we agree to write to the Deputy First Minister to seek confirmation of the timescales? I assume that she will want to tell us about the draft Scotland Act 1998 (Modification of Schedule 5) Order 2013 and how that plays into the timescales of the legislation and the timing of everything that is required after that.

I assume that there will also be issues, as I think that Linda Fabiani began to mention, to do with when people must be on the electoral roll if they are to vote in 2014. It would be useful to hear from the DFM about that as well.

Stewart Maxwell (West Scotland) (SNP): To follow up that point, convener, I do not think that we necessarily have to wait for one before we can do the other. I think that the two can run in tandem.

The Convener: Okay. Let us move on to that discussion. We agree to write to the DFM. The question now is whether we should take evidence and the timing of that.

Stewart Maxwell: The only point that I want to make is that some of the evidence can be taken early. We do not need to wait for the response to our letter, although I assume that it will be reasonably quick. We should go ahead and line up witnesses from the Electoral Management Board, EROs and so on to get us started. They will be able to give us early evidence on the practicalities.

The Convener: I apologise to Linda Fabiani as I cut her off earlier. I ask her to comment before we hear from Patrick Harvie and then Patricia Ferguson.

Linda Fabiani: I want the first session that we have—which should be early on—to be an information session about how such things work. I am aware that we talk about electoral registration and how everything works, but I would quite like somebody from the coalface to sit in front of me and tell me the steps and stages that they go through and how it works. We can then look at everything else in context.

Patrick Harvie (Glasgow) (Green): I support that. In a sense, we are discussing our state of readiness to receive the legislation when it is introduced. We know what the technical or procedural aspects are, and we know not only from the media but from ministerial statements in Parliament what the purpose and the policy objective of the paving bill will be. It seems to me that we could take evidence on the basic principle of votes at 16 and there will be people who want to give us that evidence. I do not see why we need to wait before we take evidence on that.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): I very much support the idea of writing to the Deputy First Minister for clarification on the timetable and to ask for more information about the Government's proposals.

According to the paper from the clerks, we will apparently be invited to accelerate the process for the paving bill and to work to what might be a very demanding timetable in connection with the second part of our work. It would be helpful if, in tandem with writing to the Deputy First Minister, the clerks could prepare an indicative timetable that lays out the timeframe that the committee would normally work to were those demands not being made of us, so that we have a better idea of the programme that we are being asked to put in place in its stead and of whether or not we can accommodate it in its entirety.

I fully accept James Kelly's point that it would be helpful to have more of an idea about what the Government is proposing before we take evidence from people. I do not want to make assumptions about the Deputy First Minister, but I would have thought that she would reply to us very quickly, which would allow us to take evidence that was both informed by and entirely appropriate to her comments. If we are being asked to have an accelerated process and we agree to that, we do not want to waste time taking evidence that then turns out not to be as helpful as we perhaps thought that it might be.

Stuart McMillan: I seek clarification. Has it been common practice in the past for a bill to be laid before the Privy Council has made an order? Obviously, the section 30 order goes to the Privy Council in February—

The Convener: The order may not be laid in Parliament, but the Scottish Government published the general thrust of the referendum bill in its consultation paper last year.

Stuart McMillan: Indeed.

The Convener: It can therefore consult on a bill.

Stuart McMillan: Yes, but that is a consultative bill, not a bill proper.

The Convener: I will ask the clerk to respond on your point.

Andrew Mylne (Clerk): The situation that we are in is pretty much unprecedented because the legislation is dealing with something that the Parliament has never dealt with before. I am not aware that a section 30 order has been previously required in conjunction with a Scottish Parliament bill. It has been generally recognised that, until the section 30 order becomes law, it will not be possible to introduce the bill. We have a more or less fixed date for that, and it is the earliest point at which introduction can happen. The Deputy First Minister will be able to clarify how soon after that she expects the bills to be introduced. That may not be immediately afterwards, but we imagine that it would be quite soon.

Stuart McMillan: I thought that that would be the case, but I wanted clarification. We are at the mercy of that particular timescale. As a committee, either we do not do much between now and when the bills are introduced, or we start to do some work. It would be very useful, as suggested in the paper, to take evidence relating to votes for 16 and 17-year-olds. We should get more information on how that has worked in other jurisdictions where 16 and 17-year-olds vote. That would be a useful area for the committee to focus on, especially as it will be the major plank of the paving bill. It would be useful for us to get some information on such areas.

Annabel Goldie (West Scotland) (Con): My interest is in the paving bill because of the tight timescale. There are givens—we know the Scottish Government's policy in relation to the paving bill. Therefore, working back from that, the committee could usefully take evidence on a range of issues. We know what the end point will be, but we should investigate questions such as on the preliminary procedure that needs to be put in place to give 15 and 16-year-olds the vote by 2014.

A question of particular interest to me is whether data protection comes into play because information will be gathered about quite young individuals. I am not saying that that cannot be done but, as we know the policy objective and the date of delivery of that objective, can we not start work on the issues now?

The Convener: That aligns with Stuart McMillan's and Linda Fabiani's point about the appropriate people to give evidence. In practice, the electoral registration officers and the Electoral Management Board will have to go through the registration process.

Annabel Goldie: There is also a data protection issue and data protection law to consider.

Linda Fabiani: It has been done previously.

The Convener: I realise all that. The EROs are already involved in the process because of the 16 and 17-year-old attainer issue, and those EROs will have experience of how 16 and 17-year-olds currently find themselves on the register.

Annabelle Ewing (Mid Scotland and Fife) (SNP): I just want to reiterate the points made by Patrick Harvie and Annabel Goldie. Patricia Ferguson says that timing is of the utmost importance, and I agree, so let us not sit back and wait. We should get on.

Many things have been suggested that we could usefully start looking at because we know the issues that we will have to consider. The point has been well made that we should just crack on and start lining up witnesses as we know the issues on which we will have to focus. We need to get on with it.

The Convener: Tavish, do you want to add anything?

Tavish Scott (Shetland Islands) (LD): No, you have done it to death.

Linda Fabiani: Annabel's point was very valid and it would be good—

Annabel Goldie: Which Annabel?

Linda Fabiani: I think that you are both very valid.

Annabel Goldie: I do not know whether to put on my smiling demeanour or my cantankerous one.

Linda Fabiani: I meant Annabel Goldie. We have had elections to the national health service boards in Scotland, so we should find out whether the same issues were considered for them and, if so, how they were dealt with.

On Stuart McMillan's point, I note that the Isle of Man, Jersey and Guernsey have already done what he suggested and I presume that their rules are akin to ours, so perhaps we should get information from them. I do not necessarily mean that we should arrange for people to come to the committee at this point but we should get in touch with them to ask some specific questions.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): Now that we have had the discussion, I just hope that we can get started during the first week in January. We could get information by that time and it would be entirely possible for the clerks to provide the committee with the first stages of the kind of information that we require. Please let us get on with it.

The Convener: I have the sense from the majority of members that we need to do some early preparation work.

James Kelly: I accept that we need to be prepared and well organised, but first we need to understand the timetable and its accelerated aspect so that we can base our programme of work around it. We need an urgent reply from the Deputy First Minister to inform our future work programme.

The Convener: Okay, I am trying to suss out what members are thinking, which is why I asked Tavish Scott what he thought. From what I have heard, we will have to talk to EROs, Electoral Management Board representatives and people who know about data protection issues. That will all have to happen at some stage because the issues are live ones.

I cannot see that it would do any harm to hold early evidence sessions, while fully expecting to get an early response from the Deputy First Minister. If we have to ask witnesses to come back at a later stage in the process so that we can look at the issues a bit more, so be it, but taking early action might save us some time. I think that that is where the majority of members are. If we need to take a vote then we will, but I do not think we need to.

We therefore need to work on three areas. We need to get evidence from an electoral registration officer or Electoral Management Board representative who has practical experience with getting 16 and 17-year-olds on the electoral register. Patrick Harvie raised the issue of people who want to talk to us about the policy of including 16 and 17-year-olds on the register. Finally, Annabel Goldie raised the data protection issue.

The second bullet point in paragraph 13 of the clerk's note refers to elections that have happened in Scotland with 16 and 17-year-olds on the register. We could usefully get some people to tell us how the issue was dealt with in those circumstances. I guess that that makes the recommendation in the first bullet point less relevant, especially after the discussion that we have had. Have I got all that right?

Members indicated agreement.

The Convener: Do we also want to talk to people from the Isle of Man and Guernsey? We can certainly get written evidence from them—or hold a videoconference if we get something worthwhile.

Members indicated agreement.

The Convener: In that case, the committee will now move into private session.

10:16

Meeting continued in private until 10:38.

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