



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

REFERENDUM (SCOTLAND) BILL COMMITTEE

Thursday 17 January 2013

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REFERENDUM (SCOTLAND) BILL COMMITTEE

1st Meeting 2013, 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

THE FOLLOWING ALSO PARTICIPATED:

Bill Kidd (Glasgow Anniesland) (SNP) (Committee Substitute)

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con) (Committee Substitute)

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

Committee Room 1

Scottish Parliament

Referendum (Scotland) Bill Committee

Thursday 17 January 2013

[The Convener *opened the meeting at 10:00*]

Work Programme

The Convener (Bruce Crawford): Good morning, colleagues, and welcome to the first meeting in 2013 of the Referendum (Scotland) Bill Committee. I ask everyone to switch off mobile phones and so on. We have received apologies from Annabel Goldie, who is replaced today by John Lamont, and from Linda Fabiani, whose substitute is Bill Kidd. There are no other apologies.

Item 1 on our agenda is our work programme, which gives the committee the opportunity to consider the timetable for the scrutiny of the forthcoming draft referendum franchise (Scotland) bill and draft referendum (Scotland) bill. The clerk's paper sets out a potential timetable for both bills.

It is not mentioned in the paper, but of course both bills will need to go before the Subordinate Legislation Committee if there is any secondary legislation in them and before the Finance Committee for its consideration. Those committees will need to peer in and fit around whatever we agree to be our timetable.

The back of the clerk's paper contains timetables that show in two separate columns how things could work for the franchise bill and the referendum bill. There are two options for the referendum bill that depend on the approach we want to take.

The purpose of today's meeting is to invite members' comments on the two options and which one they prefer. We do not have to come to a decision today, but it would be helpful guidance for the clerks if they had an idea where the committee stands.

I will hand over to you, folks. Who would like to kick off the discussion?

James Kelly (Rutherglen) (Lab): I have a couple of points on the timetable. Obviously, there are two bills before us: the franchise bill and the referendum bill. As proposed, the franchise bill is on a curtailed timetable and the referendum bill is on a shorter timetable than we would expect for such a substantive bill.

Although initially I had concerns about the curtailed timetable for the paving legislation, after studying the information that the Deputy First Minister has provided I can see the logic in it. The legislation is required prior to the winter canvass, which commences in August 2013. Obviously, the proposed legislation needs to be completed by the end of June.

Clearly, there might be a number of substantive practical issues related to how data is collected and how we get 16 and 17-year-olds on to the register. The only reservation that I have is that, if as we begin to take evidence we find that it is more complex than we had thought it would be, we might need to consider taking further evidence.

Although I see the logic of the curtailed timetable for the paving legislation, I do not see the logic of the timeline for the referendum bill. Why October 2013? I am not saying that that is not the correct timeline, but the reason why it needs to be then has not been laid out. Why not December 2013 or sometime into the following year? I am not arguing for that; I am just saying that, although a clear logic has been laid out for the timetable for the paving legislation, I do not see that for the referendum bill. I would like to see a proper timeline before agreeing to the timetable that is before us.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): It is useful to hear that the paving bill has to be in place by June. It will not be the first time in this Parliament that we have had the scrutiny of bills taking around 16 weeks—there is quite a number of examples of such bills from earlier parliamentary sessions.

This committee's competence to handle any extra evidence that comes up means that that can be dealt with within that time. I would hope that it would be possible to scope out the issues in the committee and think about where there might be hitches. However, at the most it is a 10-page bill, with six pages of actual bill—it is not a huge piece of legislation. There is every good reason why the scrutiny of the paving bill can be carried out on time.

Tavish Scott (Shetland Islands) (LD): Mr Gibson makes a fair point about the paving bill, but we are not talking about just any legislation. These will be two pretty unique pieces of legislation, by any standards. In fact, they will probably be the most unique pieces of legislation that the Parliament will ever handle. I know that we should not use the word "unique" about legislation, because every minister argues that their legislation is the most unique yet, but the proposed legislation is different from anything else that we will ever consider, so we should deal with it in that spirit. Mr Gibson's point about the paving legislation is therefore fair.

James Kelly also makes a fair point about the referendum bill. If there is a stushie over the Electoral Commission's advice, we will need more time. We should be mindful of that and build in flexibility now, so that the committee's hand is not forced. I cannot think of anything worse than a parliamentary committee that is dealing with such a bill being accused of hurrying it through in whatever way. That might not happen—it might all be easy, and everything might be sweetness and light, but I have me doots. There needs to be some understanding that, if challenges arise in relation to certain aspects of the bill, we might need time to deal with them.

Patrick Harvie (Glasgow) (Green): I take the point that things sometimes do not go as planned and that there might be events or disagreements that mean that the timescale slips, but it is probably reasonable to aim for October. As Tavish Scott said, we are in a unique situation with a unique piece of legislation, but we should all want the outcome of the process to be that we agree the rules for the referendum and then allow Parliament and the whole of Scotland to get on and debate the wider issue rather than the legislation that will set the referendum. Moving the process into the new year would be regrettable. If slippage is necessary, we should be in control of the timetable and we should not be forced or rushed into decisions, but it is reasonable to aim for October, and it is achievable.

Stewart Maxwell (West Scotland) (SNP): I agree with James Kelly and others about the franchise bill. It makes perfect sense to complete it by the end of June.

On the referendum bill, I agree with Patrick Harvie. The timetable is reasonable, but if something comes up that causes us to have to push it back or add additional meetings we can do that. We can certainly request that dates be pushed back, but we should not plan or expect to take longer than is suggested. That might well happen—although I hope that it does not—but we can deal with it as we go along, rather than make another timetable that is longer than the one that has been suggested.

I hope that we can agree with the suggestions in the paper, and I will probably go for option 1 on the referendum bill, as I see no problem with that. If we need extra time, I do not think that there are any problems with meeting earlier than 10 o'clock rather than adding extra weeks. However, if we need to add extra weeks, we can deal with the situation when we come to it.

Annabelle Ewing (Mid Scotland and Fife) (SNP): I agree with Stewart Maxwell's point about starting meetings earlier. I understand that there is precedent for that in Parliament and that some committees start earlier when they need to. That is

preferable to seeking extra days. Therefore, I prefer option 1, but with the possibility of starting earlier or perhaps having meetings after parliamentary business. As a relatively new member, I do not know whether that would work, but it seems sensible to make more use of the business hours of the day. Most people start early anyway.

As the programme stands, it does not include the proposed meeting on Thursday 7 February that is mentioned on page 4, so perhaps it needs to be added in. That is a typo, I think.

I therefore like option 1, with the flexibility to start meetings earlier and perhaps have additional meetings if necessary. This legislation is procedural in its content. We all have strong views about the issues of substance and they will lead to much debate, but the issues of process are essentially issues of process, albeit that they are important. The timetable is not without precedent and I think that it fits within the normal work of the Parliament since it was reconvened in 1999.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I share James Kelly's analysis in relation to the franchise bill. On the referendum bill, if there are timing issues that cannot be dealt with by having extra sessions or meeting earlier, how easy will it be to push the date back? If we agree to the planning timetable as set out in the paper but, once the committee gets started, we discover that there are issues that will take longer to resolve, how easy will it be to adapt the timetable to accommodate that?

The Convener: The only thing that the committee would need to do is to seek the Parliamentary Bureau's approval to slip the timescales back. There would be a requirement on us to do that, but it is a technical possibility.

Stuart McMillan (West Scotland) (SNP): I have two brief points. First, I concur with the comments that have been aired so far on the franchise bill.

Secondly, on the referendum bill, the committee must pay full attention to the general public and the electorate. Many of the messages that have been aired thus far have been fairly consistent in terms of what we as a committee have been saying, but there have been calls for the referendum to happen sooner rather than later. If the committee decides today to try to delay or extend the proceedings, that might create some confusion for the electorate. People might think, "On the one hand, some people are calling for an early referendum, but on the other hand the parliamentary committee is asking for more time."

I suggest that we work to whatever option we decide today and that, if we require additional time further down the line, we go through the proper

parliamentary procedures to ask for it. I do not believe that the committee should ask for additional time today.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): It is clear that we have a consensus as far as the franchise bill is concerned. That is perhaps something that we can now put to one side.

I go back to the point that James Kelly made. The Parliament has a way of dealing with legislation. It has a set timeframe to which committees should work, and they usually do that. If the timeframe is to be abbreviated, good reasons should be given. So far, we have been given no explanation of why a curtailed timeframe is needed for the referendum bill. It therefore seems slightly strange that we are talking about the matter the other way round; we are talking about it in the sense that, if we find that we need more time, we will go and ask for it, whereas in fact we are entitled to have the time in the first instance.

Unless there is a reason—that we have not been given—why the bill should be considered in the curtailed timeframe, I do not see what the problem is. Actually, the people of Scotland want us to come up with a robust piece of legislation within the framework of the Parliament, and that is what we are tasked with doing. If we do anything else, we will be failing the people of Scotland.

The Convener: I realise that there are diverging views, but we will try to get a way forward that everyone can agree with. I tend to the optimistic perspective in life, and I look for a positive outcome; I try to look on everything that I do in that light.

James Kelly makes a reasonable point in that the paragraph from the Deputy First Minister does not really give any detail on why the October deadline is required. There might be issues, particularly to do with the Gould recommendations, and it might be that, for technical reasons, certain things need to be done by a certain date, but we do not know that. Gould certainly requires all legislation to be in place six months before the poll, but I do not know at this stage—none of us knows—how much secondary legislation will be involved in the referendum bill.

We should ask the Deputy First Minister for more information on why the October deadline is important and wait for that response before we nail our colours to the mast on the timetable option for the referendum bill. If we are convinced after the Deputy First Minister replies that there is a good rationale for the date, I suggest on the basis of what I have heard, and to help the clerks with their planning, that we go for option 1 rather than option 2. Is that reasonable?

10:15

Tavish Scott: I am not too comfortable with option 1, not least because stage 3 proceedings on the franchise bill are proposed to be on Tuesday 25 June and possibly Thursday 27 June, while the stage 1 debate on the main referendum bill would also be on that Thursday. In the final week before the summer recess, the timetable would ask for a whacking great week of debating just the constitution.

Convener, you and I both know what the last week is like for ministers—your memory of that is more recent than mine. Plenty of other things will be going on. I would be surprised if it was not difficult to timetable two massive pieces of very important legislation in the final week before the summer recess, when everything else is going on in the Government.

Dealing with the two bills in that week would not be advisable. There is a good argument for the stage 1 debate on the main referendum bill to be held in the first week after the summer recess, as under option 2.

The Convener: I am entirely relaxed about the option that we use. My suggestion was just based on the views that I heard.

Tavish Scott: I prefer option 2.

Rob Gibson: In the last weeks before recesses, Wednesday mornings as well as afternoons have been taken up for stage 3 proceedings. That might now happen on a Tuesday morning, but the point is that the parliamentary week has been extended to accommodate such debates on legislation. That is a possibility; it is a matter of asking the business managers to timetable things to make them happen, if they are considered so important.

Annabelle Ewing: I agree with Rob Gibson. A stage 1 debate is different from a stage 3 debate.

James Kelly: I think that your suggested way forward is entirely reasonable, convener. I was not arguing for extending the timetable; I simply wanted more information about the reasons for the proposed timetable.

Tavish Scott makes a fair point. My memory of the final week before the summer recess is that it is pretty packed. The Government usually tries to get through stage 3 proceedings. I know that Annabelle Ewing said that one of the two debates is only stage 1 proceedings, but it will have a lot of focus and a high profile. It is important for the Parliament to get the scheduling right, so it would be better to hold the stage 1 debate after the summer recess.

The Convener: It is good to hear people's initial views—that is what we are doing today. Let us agree on the franchise bill timetable. We can write

to the Deputy First Minister to find out the parameters in which the Government is working and whether there are technical reasons for the October deadline. When we have that response, we can look at the timetable for the referendum bill. If we are told that there are no particular reasons for the deadline of the end of October, it will be a bit easier to decide the timetable. Is doing things in that order reasonable?

Members *indicated agreement.*

The Convener: We agreed at a previous meeting that we would go into private for item 2 today. Any members who are not supposed to be here for that and any members of the public can now go.

10:18

Meeting continued in private until 10:33.

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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