Consultation on a Draft Referendum Bill

Response from Scotland In Union.

Introduction

The view of Scotland In Union is that a further referendum with the aim of making Scotland a separate country from the United Kingdom would be unnecessary, divisive and in breach of promises and commitments made by the Scottish Government. The continuing threat of a further divisive referendum is damaging to the Scottish and the wider British economy.

The referendum held in September 2014 produced a decisive result in favour of unity in the United Kingdom. We call on the Scottish Government to respect that result. Alex Salmond, as First Minister and Nicola Sturgeon, then Deputy First Minister, signed an agreement with the UK Government that they would respect the result of that referendum. Both Mr Salmond and Ms Sturgeon promised during the referendum campaign that it would be a “once in a lifetime” or “once in a generation” event. Proposing another referendum on the same issue, in such a short period since 2014, would suggest that referendums are not always the best way of making important democratic decisions.

Scotland In Union also notes that referendum on a constitutional matter such as breaking up the United Kingdom would require legislation, made by the UK Government and approved by the UK Parliament to give the Scottish Parliament temporary legislative competence to pass a referendum Bill. We believe the Scottish people would once again vote for unity, but we ask our politicians to consider the damage another referendum would do to our union, to the British economy, and the unnecessary distress and division it would cause. Further, the UK’s strategic planning must involve a horizon of more than a lifetime or a generation - that important process should be allowed to continue without the threat of the country being broken up.

There is a strong risk that a further campaign to break up the United Kingdom would once again be based on false promises. Not least of these is the promise that if Scotland left the UK it could automatically join the European Union. The Scottish Government does not currently know if Scotland could join the EU, or on what terms.

Q.1
What are your views on the proposed arrangements for managing the referendum?

A further referendum would be an unnecessary and damaging event.

It is agreed that the Electoral Commission should be responsible for oversight of any referendum. The Commission should report to the Scottish Parliament for its role in any referendum called by the Scottish Government, but it should also have a duty to report to the UK Parliament. It is the future of the UK which is at stake and the UK Parliament is responsible for the continuing success of UK, its territorial integrity, its defence, and the security of its citizens in all parts of the UK.

Scotland in Union notes that many voters in the 2014 and the European referendum felt they did not have enough information when they came to decide on our future. The rise of ‘post-truth’ politics has led to the public having to decide on competing ‘facts’ and contradictory information offered by both campaigns. The consequence has been accusations of bad faith and this has contributed to an inability to accept the result by some people.
In 2014, in key areas such as the currency, more devolved powers, the future of the NHS, North Sea oil projections and basic economics, the public were let down by some politicians and campaign groups who indulged in ‘post-truth politics’. Many of these are still disputed two years later. How can we provide the public with indisputable, unvarnished facts which are not tainted by desperate campaigners whose will to win surpasses their sense of fair play or objective analysis?

Scotland in Union suggests a forum is created to ensure facts are made available to the public. Both campaigns could agree to an independent and qualified ‘Truth Commission’ to act as an unimpeachable fact-checker to review and arbitrate on areas of dispute. This independent panel of experts could be agreed by both sides to adjudicate on behalf of the Scottish people.

Voters should be able to go to the polls informed and confident in their decision, not having to decide which politician is the most convincing. We cannot afford to take such a momentous decision with a ‘post-truth’ referendum. An independent and trusted fact-checker which both sides agree to respect would arm voters with the information they need to make a considered decision and allow any division to heal after the referendum.

With regard to management of the referendum, although we oppose such a referendum, steps must be taken to reduce the possibility of intimidation and harassment. The Scottish Government must consider the implications for policing during the referendum campaign and on polling day. Specifically, there should be provision for Police Scotland to record whether any criminal activity reported to them is related to the referendum.

Q.2
What are your views on the proposed technical changes to polling and count arrangements?

The extension of the franchise to 16 and 17 year olds should not be an excuse to politicise schools. If school premises are used for campaign meetings (as is suggested in this consultation paper) such meetings should be outside normal school hours, and school staff must ensure there is objectivity in the classroom.

There is no explanation in the consultation paper as to why the local government franchise is to be favoured over the parliamentary constituency franchise. This creates an anomaly whereby some voters are eligible to vote for a Member of Parliament but not for the future of Scotland in the UK. It specifically excludes voters eligible to vote in a Scottish Parliamentary constituency but currently resident in other parts of the UK. We suggest a review of the franchise to confirm the fairest option and explain rationale for the decision.

The consultation paper makes no reference to the majority that would be required to change Scotland’s constitutional status within the UK. Scotland in Union notes the inability of many people to accept a 55% result and acknowledges the diversity of opinion in what an appropriate threshold is for a major constitutional change. We would welcome a reflection on previous referendums and a review of all options to ensure we deliver an accurate result that everyone accepts. This would minimise the risk of anyone feeling unfairly dragged out or kept in.

We note the consultation paper suggests the Scottish Government is minded to propose a variation on the wording of the referendum question. The Scottish Government should be aware the Electoral Commission concluded that a Yes/No question would not be fair in the context of the EU referendum. There is some advantage to the side which seeks the ‘Yes’ answer, a fact acknowledged by Alex Salmond, First Minister at the time of the 2014 referendum.
Scotland in Union believes the Electoral Commission should reflect carefully on its previous finding and we trust that it will determine an appropriate and fair question in the event of another referendum.

Q.3
What are views on the proposed changes to rules on permissible participants?

Scotland in Union agrees that the Electoral Commission should again be responsible for policing the campaign rules, but we believe it should report to the UK Parliament as well as the Scottish Parliament. The future of the UK is at stake, and Parliament would need to be reassured that the campaigns were being conducted fairly.

With regard to ‘permitted participants, Scotland in Union considers that greater care needs to be taken to ensure that participants are genuine participants in their own right and not simply branches of the main campaign. Funding arrangements (see question 4) should ensure that each participant is self-funding and is not simply being funded by a larger organisation.

Scotland in Union notes the proposal to allow designated organisations to use meeting rooms in schools and other public buildings (paragraph 3.7). It is important that any campaign is conducted without politicising schools. If campaign meetings are to be held in schools, they must be held outside school hours and without any disruption to school life. Schools should not display campaign material.

The resources of the Civil Service should be used to provide accurate and impartial information but should have no role in producing a political prospectus. Politicians should respect the independence and integrity of the civil service.

Use of the phrase “Westminster Parliament” (paragraph 3.1) in this context is deliberately coloured language to make Britain’s Parliament sound remote and to undermine its legitimacy in Scotland. Documents produced by a non-partisan civil service should use less emotive terminology.

Q.4
What are your views on the proposed campaign rules and rules on spending?

Scotland in Union notes that a vote for separation would damage the UK as a whole. UK citizens, wherever they reside and whether or not they are entitled to vote in the referendum, have an interest in the future of their country, a right to participate in debate, and to fund a campaign.

Scotland in Union also notes that a referendum presents a temptation to campaigning organisations to overspend or to break funding rules to a greater degree that a parliamentary or local government election. The ‘winner takes all’ nature of referendums carries the risk of encouraging mendacity in campaigning, and a reckless approach to funding. Funding rules intended to apply to parliamentary or local government elections are not entirely adequate for a referendum in which the whole future of the country is at stake.

There is, therefore, a need for the rules on expenditure to prevent any transfers of funds between designated participants. A campaign organisation should not be able to fund smaller organisations in order to give the misleading impression of a wider grass roots movement.

Further, campaigning organisations and designated organisations should not be allowed to incur debt to fund their campaign. One campaigning organisation should not be allowed to
pay the debts of another. We suggest the Electoral Commission has a role in enforcing these strict rules.

Q.5
What are your views on the proposed changes to the rules on permissible participants’ expenses and transactions between qualifying and non-qualifying persons?

The points made above in response to question 4, particularly in relation to loans between organisations and the funding of campaigns by debt, are applicable to question 5.