

REFERENDUM

(Paper by Mr. Pym)

The Questions in the BillScotland

"The Scotland and Wales Act 1977 provides for an elected Scottish Assembly and Executive. Scotland would remain part of the United Kingdom. The new Assembly and Executive would exercise substantial powers devolved by Parliament. These provisions will, however, come into force only if approved in this referendum in Scotland. DO YOU AGREE THAT THE PROVISIONS OF THE SCOTLAND AND WALES ACT 1977 SHOULD BE PUT INTO EFFECT IN SCOTLAND?"

Wales

"The Scotland and Wales Act 1977 provides for an elected Welsh Assembly. Wales would remain part of the United Kingdom. The new Assembly would exercise substantial powers devolved by Parliament. These provisions will, however, come into force only if approved in this referendum in Wales. DO YOU AGREE THAT THE PROVISIONS OF THE SCOTLAND AND WALES ACT 1977 SHOULD BE PUT INTO EFFECT IN WALES?"

It is proposed to table a front bench amendment to remove any expression of opinion from the ballot paper and to make clear the consultative nature of the referendum:

"Parliament has decided that the people ^{shall} ~~should~~ be consulted on the question ~~of~~ whether the Scotland and Wales Act should ~~come~~ into effect.

DO YOU WANT THE PROVISIONS OF THE SCOTLAND AND WALES ACT 1977 TO BE PUT INTO EFFECT IN SCOTLAND?"

Recommendation

We should support:

- one question;
- a separate poll for Scotland and for Wales for residents in Scotland and Wales only;
- the referendum to be consultative rather than mandatory.

A Second Question on IndependenceAdvantages of such a question

1. By placing this option before the electorate at this stage the new Assemblies should be able to function more smoothly and the nationalists could be more constrained in using them as a forum for promoting independence.

2. If this question is delayed until the SNP has a majority of seats, it may be too late to stop the tide of opinion.

Disadvantages

1. By posing independence as an official option the concept may gain a credibility it has hitherto lacked. The argument that independence is not viable loses some of its force.

2. It would be unusual to support a referendum on a question that only 20 per cent of the Scottish electorate and even less of the Welsh electorate have ever been shown to desire.

3. The SNP/PC would not have to win the vote to gain a victory. Any vote for independence much above 25 per cent in Scotland and less in Wales would be a moral victory and a boost to their campaign.

4. The SNP/PC would gain a definite objective for their campaign - another referendum as soon as the opinion polls indicated any increase in support.

5. The question should not be asked unless and until it is needed i.e. if and when the SNP/PC gain a majority of seats in Westminster or, possibly, the Assembly.

Note: The Scottish and Welsh MPs are united in rejecting the calls for the Independence Question to be put.

Status of the Referendum and the majority required

A 'no' verdict is mandatory. In the event of an affirmative result based on a simple majority, however low the turnout the Act will be brought into effect by the making of an order by the Secretary of State. No further Parliamentary process will be involved.

I am going to table amendments to insert a Parliamentary process.

It should be noted that the European Referendum was consultative and it was for Parliament to judge the outcome.

The Northern Ireland Border Poll was purely consultative. The Government made clear that a change would only be contemplated if the majority of the people of Northern Ireland so desired.

There is a case for requiring more than a simple majority for change. This case is decisive if the referendum is mandatory rather than consultative.

It should be noted:

- (a) If the poll were on independence i.e. a complete change in the UK then there would be a very good, if not conclusive, argument for requiring a majority of the electorate to vote for any change. It might be useful to state this now in anticipation of any future polls.
- (b) Where the change is not in overall sovereignty but in domestic arrangements, then as in a general election where governments are elected on less than 50 per cent of the votes cast (and this is much less than 50 per cent of the electorate), there is something to be said for the theory that those who abstain opt out of the decision.
- (c) If the percentage majority and/or turnout were to govern the validity of the result then abstention itself would become important. The Nationalists could campaign for abstentions in which case a victory for abstention could seem like a victory for the Nationalists.
- (d) There are considerable difficulties in specifying precisely both a percentage turnout and a percentage margin of victory.

The Constituency

In the circumstances visualised for this referendum in this Bill it would seem best to confine the vote to Scotland and Wales.

a) Position of England

1. If there were a 'no' vote from England, perhaps on a low percentage turnout but nevertheless on a turnout numerically larger than Scotland/Wales, and a 'yes' vote in Scotland and Wales, then it would be very difficult to deny the Scots/Welsh their wishes. This could create a major division and crisis.
2. If there were a vote on independence, then the English should be entitled to a vote, as their status would be affected. But in this case the UK Parliament is supposed to remain sovereign and it could be claimed that any repercussions in England can be solved by the English within the framework of the UK Parliament.
3. If the English are to be consulted rather than ask them to give a verdict on Scotland's position the sort of question might be:
If the Scots and Welsh vote for assemblies then do you want:
 - a) an English assembly on similar lines.
 - b) a regional assembly for your area.
 - c) no change.

b) Position of Scots and Welsh living in England

1. Those who will be eligible to vote will be those on the voters roll in constituencies in Scotland/Wales regardless of where they reside.
2. To give the Scots and Welsh registered in English constituencies a vote would be administratively difficult and would also beg the question of the position of the English in Scotland.
3. In the Northern Ireland Border Poll on the question of the break up of the UK, only the residents in Northern Ireland were given a vote.

APPENDIX

A Multiple Question

A case could be made out for more than one question but in my view the confusion created would make it undesirable. The purpose of such a question would be to try to clarify whether the Scots/Welsh really want this scheme or are voting for it on the grounds that something is better than nothing and that they may not get another opportunity to vote. Inevitably it would be a complicated process, as the following example shows:

1. Do you want to remain in the UK?
2. If Scotland/Wales votes to remain in the UK do you want an elected Assembly or the same arrangements as now?
3. If there is to be an assembly would you prefer:
 - (a) an assembly able to debate matters of special concern to Scotland/Wales, question ministers and play a part in the passage of Scottish/Welsh legislation?
 - (b) an assembly with its own executive with power to make laws in certain areas, excluding the economy, industry and taxation and with Westminster in overall control?
 - (c) an assembly with an executive with sole legislative and executive power in many areas including the Scottish/Welsh economy and industry and powers to raise taxation; and a reduction in Scottish/Welsh MPs at Westminster?