

Scotland's constitutional future

With permission, Mr. Speaker, I would like to make a statement on Scotland's constitutional future in the United Kingdom.

In May 2011 the Scottish National Party won a significant electoral victory – a victory this Government has openly acknowledged.

The SNP have consistently campaigned for Scottish independence and their 2011 manifesto included a pledge to hold an independence referendum.

As a Scot, I think it is vital that the Scottish people make a clear decision about our future within the United Kingdom: a decision made in Scotland, by the people of Scotland.

But at present there is a lack of clarity about the referendum, its outcome, and what the implications of that outcome would be.

All of which creates economic uncertainty. That is bad for jobs and investment.

Since last year's election, we have been asking the Scottish Government to set out its plans for a referendum. But so far it has not done so.

In particular, it has not said anything more about its legal power to deliver a referendum.

This is not an issue that can be ducked. To legislate for a referendum on independence, the Scottish Parliament must have the legal power to do so.

It is the Government's clear view that the Scottish Parliament does not have that legal power.

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Scotland's future within the UK will be the most important decision we, as Scots, take in our lifetime. It is essential that the referendum is legal, fair and decisive.

As a Government, we have been clear since May 2011 that we will not stand in the way of a referendum on independence.

But neither will we stand on the sidelines and let uncertainty continue.

Any referendum must let all of us in Scotland determine our future clearly and decide whether to stay part of the longest, most successful partnership of nations in history.

That is why we are publishing a consultation to seek views on how to deliver a legal, fair and decisive referendum.

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For a referendum to take place, legislation is required. This ensures that any referendum - on any issue - is subject to detailed consideration, debate and clear and consistent regulation.

In 2010 the Scottish Government published plans to legislate for a referendum on independence. We have considered those plans carefully, against the devolution settlement in Scotland as set out in the Scotland Act 1998. The 1998 Act is clear: the Scottish Parliament cannot legislate on matters reserved to this Parliament.

Amongst the issues that are reserved is the constitution, including “the Union of the Kingdoms of Scotland and England”.

Any Act of the Scottish Parliament that “relates to” a reserved matter is quite simply “not law”. Whether or not a Bill “relates to” a reserved matter depends on its purpose and effect.

We are clear that the Scottish Government’s purpose in bringing forward a referendum is to secure independence. Their intended effect is to secure a mandate for negotiating this. Both purpose and effect relate directly to the reserved matter of the Union. Any distinction between a binding or advisory referendum is artificial.

As the law stands, an independence referendum bill is outside the competence of the Scottish Parliament. A bill could be challenged in court and it is our view that the Scottish Government would lose.

So the consultation paper I am publishing today sets out different ways to deliver a legal, fair and decisive referendum.

It explains how the powers for a referendum could be devolved under the Section 30 order-making provisions in the Scotland Act 1998 - our preferred approach. It also invites views on devolving the powers using other legislation, including the current Scotland Bill, and for opinions on the possibility of running the referendum directly.

Given the clear legal problem that exists, we want to work with the Scottish Government to provide the answer. This is not about the mandates of Scotland's two governments, or who calls the shots. It is about empowering the people of Scotland to participate in a legal referendum.

That means that the UK Government is willing to give the Scottish Parliament the powers to hold a referendum which they otherwise cannot do legally.

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But as well as being legal, a referendum must be fair and it must be decisive.

For those reasons, the rules of the referendum must be demonstrably above board. The referendum should be overseen by those who have neutrality and the proven expertise to inspire confidence in the fairness of the process, such as the Electoral Commission.

But these issues are not for politicians alone to consider.

That is why the consultation process that starts today will let people express their views on when a referendum should be held, what question should be asked, who should be entitled to vote and how the campaign should be run.

It will be open to all people in Scotland – and indeed outwith Scotland – to make their views clear, rather than rely on the opinions of politicians.

It is in everyone's interests that the two governments take on board the needs of Scotland and the opinions of its people, work together, and deliver the legal, fair and decisive referendum that is in our common interests.

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Mr Speaker, this Government believes passionately in the United Kingdom.

For over 300 years our country has brought people together in the most successful multi-national state the world has known.

This Government is clear that independence is not in the interests of Scotland. The United Kingdom brings strength to Scotland; Scotland brings strength to the United Kingdom.

We recognise that this is not a view shared by all.

But politicians from both sides of the debate owe it to everyone in Scotland to ensure that the referendum is delivered in a legal, fair and decisive way.

The future of Scotland must not be worked out in secret, behind closed doors. Nor determined by wrangling in the courts.

It is my task to ensure this referendum is made in Scotland, by the people of Scotland, for the future of Scotland.

I commend this statement to the House.
