

Mr P Grice

9/24/3  
Copy to : Mrs Brannan

## SCOTLAND - REFERENDUM BILL

1. You have asked me to provide you with a brief summary of the options open for the organisation of a possible referendum. For practical purposes there are 4 options available :

### A Scotland-wide Basis

2. This would involve holding the count for the whole of Scotland and declaring the result in one location under a Chief counting officer. Subject to legal advice I presume that a provision would have to be included in the primary legislation to appoint a Chief counting officer to cover the whole of Scotland and power would have to be given to him to appoint local counting officers to organise the poll in their respective areas. The most obvious candidates to act as counting officers would be the existing local authority returning officers or the parliamentary returning officers who are designated under section 25 (1) of the Representation of the People (ROP) Act 1983. When a parliamentary constituency is situated in more than one local government area, however, the Secretary of State designates the returning officer by Direction. In respect of the new parliamentary constituencies upon which the forthcoming general election is based the Minister of State made a Direction on 7 March 1996. A list is attached at Annex A setting out the parliamentary returning officers and their associated constituencies.

3. A further consideration is polling stations. Under section 18 of the ROP Act 1983, as amended by section 142 of the Local Government etc. (Scotland) Act 1994, it is the responsibility of every local authority to divide their area into polling districts and to designate polling places for these districts for the purpose of parliamentary elections. I assume therefore that the legislation can easily be adapted for the purposes of using these polling places for the referendum. The other advantage with a Scotland-wide arrangement is that the existing electoral registers can be used without any adjustments. Furthermore, there is one result for the whole of Scotland and that it would not be possible to identify regional trends.

4. The main disadvantage with a Scotland-wide poll would be the arrangements for the count with ballot boxes having to be transported from throughout Scotland to one central location. This would be particularly difficult in the Outer and Western Isles for example. One way around this would be to hold the referendum on say the Thursday with arrangements for the count and announcement of the result to take place on say Saturday. This would allow sufficient time for all ballot boxes to be delivered to the central point safely.

5. The following options, set out in paragraphs 6-10 are based on the assumption that the result of the referendum for the respective arrangements would be announced locally, that is by parliamentary constituency, local government area etc. The most appropriate arrangement, however, might be to count the ballot papers locally and pass the result to the

Chief counting officer to announce a national result and, if necessary, provide the local details of the referendum result. The referendum is a gauge of public opinion and there seems little point therefore not to release local results if they are known.

#### Parliamentary Constituency

6. To hold the referendum based on parliamentary constituencies would have a number of advantages in making the necessary arrangements. The parliamentary constituencies will be fresh in the minds of the electorate and they will be aware of their local arrangements for polling. In Scotland there are 31 parliamentary returning officers, whose designation I have covered under the Scotland-wide arrangements, who will also be well versed in the procedures in particular making sure that the ballot boxes are delivered safely and effectively to the count venues. A Returning Officers Charges Order was made by a Home Office Minister on 20 March (proof print at Annex B) which sets out the charges and expenses which a returning officer can claim in relation to running the election. I imagine that this Charges Order could be easily adapted to allow for costs associated with the referendum to be set out. In terms of count venues there will be 31 local counts held. Some parties may, however, not agree with the result of the referendum being known by constituency as the outcome might cause embarrassment to the sitting MP.

#### Local Government Area

7. Like parliamentary constituencies, local government areas are widely recognised by the electorate and local government officials have experience in running elections having responsibility for local government elections. Also, as with parliamentary constituencies polling places will be in area convenient to the electorate and more than likely those used at the forthcoming election and there will be no need for electoral registration officers to make any adjustments to the way in which their register is maintained. Local authorities having responsibility for local government elections also have responsibility for the payment of expenses incurred with the election. I imagine therefore that a new charges Order would have to be prepared, with the necessary primary legislation in place to make such an Order to allow the local government returning officers (should they be designated by the Chief counting officer) to be aware of the charges and expenses which can be claimed. Care would also have to be taken to ensure that if the local government returning officers were designated to run the poll locally that they did this in an independent capacity and were not answerable to the local council for any matters relating to the referendum. As there are 32 local councils in Scotland it follows that there will be 32 local count venues. Again, as with the parliamentary constituencies there may be criticism of the results of a local count being announced as this might cause some embarrassment to some parties although this option would not be as problematic in this sense as organising the referendum on a parliamentary constituency basis.

8. I also understand that Mr Jamieson has based his draft of the Referendum Bill on the basis of the referendum being held on a local government area basis.

#### European Parliamentary Constituencies

9. There are 8 European Parliamentary constituencies in Scotland and under section 9(2) of and paragraph 4(2) of schedule 12 to the European Parliamentary Elections Act 1978, as

amended, the returning officers are designated by the Secretary of State. A list of the current designations is attached (Annex C). Some of these returning officers have had experience of conducting European elections in 1994. One problem with European constituencies is that they are not widely recognised with the public, although the polling cards issued to the electorate should direct them to their local polling station which in theory will mean that it is not that important for them to know which European constituency they reside in providing they are already on the electoral register.

10. The main problem, however, is that the new European constituencies, which are coterminous with the new parliamentary constituencies, do not take effect until the next European election in 1999. There are therefore certain areas in Scotland where the public can be easily confused, for example electors voting at the general election in the northern half of the Gordon parliamentary constituency will be voting along with those voters in the southern half of that constituency for an MP to represent Gordon. Under the current European parliamentary constituencies, however, those in the north of the Gordon constituency will be in the Highlands & Islands constituency while those in the south of the Gordon constituency will be in the North-East Scotland European constituency. In June 1999, however, all the Gordon constituency electors will be in the North East Scotland constituency. While the ERO has a duty to maintain the register showing European parliamentary constituencies there will obviously be examples such as above where they will need to make adjustments to their current registers. The main advantage, however, with using European constituencies is that it limits the number of people responsible for the organisation of the poll.

11. Based on the above arguments I would suggest that serious consideration is given to organising the referendum either by parliamentary constituencies or local government area.

#### Chief Counting Officer

12. At the recent meeting held to discuss some initial thoughts on the referendum HD 1A was asked to provide a list of possible candidates for the role of Chief Counting Officer. Our early view would be for consideration to be given to Mr David Essery former Under Secretary Home Department, Mr David Dare former Deputy Chief Planning Officer at the Scottish Office, Mr Neil McIntosh former Chief Executive of Strathclyde Regional Council. We shall, however, provide further names in due course.

#### General

13. Should it be decided to set charges and expenses for returning officers by way of a Charges Order consideration should also be given to Returning Officers' Accounts Regulations which sets out the timescale for the submission of returning officer accounts.

14. Under statute the electoral registers are the responsibility of electoral registration officers (EROs), who in Scotland, are normally (with the exception of City of Dundee) the local authority Assessors. To assist the process joint boards have been set up and a list is attached for your information (Annex D) detailing the EROs and the areas which they have responsibility for. Before putting forward the submission to Ministers on this issue you might wish to approach Stanley Breingan (Renfrewshire) who is the Chairman of an electoral

registration committee in Scotland to confirm that whichever option is selected there will be no problems which cannot be resolved in relation to the electoral registers.

15. Finally, although more for Mrs Brannan's interests it is highly likely based on past experiences that when news of the referendum is made public and the arrangements based on the above for holding the referendum a number of requests will be received from returning officers to purchase or repair existing electoral equipment such as voting compartments, ballot boxes etc. It is probable therefore that additional money will be needed, from the reserve, to meet these costs unless it is decided to make money available from the Scottish Office vote set aside for the costs of the referendum for this purpose.



HUW WILLIAMS  
20 March 1997

HD 1A 4  
V1 Spur  
Saughton House  
Ext 2027

New Parliamentary constituencies and the councils responsible for appointing the returning officer at the next general election.

| <u>Parliamentary Constituency</u>     | <u>Council</u>        |
|---------------------------------------|-----------------------|
| Aberdeen Central                      | Aberdeen City         |
| Aberdeen North                        | Aberdeen City         |
| Aberdeen South                        | Aberdeen City         |
| Airdrie and Shotts                    | North Lanarkshire     |
| Angus                                 | Angus                 |
| Argyll and Bute                       | Argyll and Bute       |
| Ayr                                   | South Ayrshire        |
| Banff and Buchan                      | Aberdeenshire         |
| Caithness, Sutherland and Easter Ross | Highland              |
| Carrick, Cumnock and Doon Valley      | South Ayrshire        |
| Central Fife                          | Fife                  |
| Clydebank and Milngavie               | West Dunbartonshire   |
| Clydesdale                            | South Lanarkshire     |
| Coatbridge and Chryston               | North Lanarkshire     |
| Cumbernauld and Kilsyth               | North Lanarkshire     |
| Cunninghame North                     | North Ayrshire        |
| Cunninghame South                     | North Ayrshire        |
| Dumbarton                             | West Dunbartonshire   |
| Dumfries                              | Dumfries and Galloway |
| Dundee East                           | Dundee City           |
| Dundee West                           | Dundee City           |
| Dunfermline East                      | Fife                  |
| Dunfermline West                      | Fife                  |
| East Kilbride                         | South Lanarkshire     |
| East Lothian                          | East Lothian          |
| Eastwood                              | East Renfrewshire     |
| Edinburgh Central                     | City of Edinburgh     |
| Edinburgh East and Musselburgh        | City of Edinburgh     |
| Edinburgh North and Leith             | City of Edinburgh     |
| Edinburgh Pentlands                   | City of Edinburgh     |
| Edinburgh South                       | City of Edinburgh     |
| Edinburgh West                        | City of Edinburgh     |
| Falkirk East                          | Falkirk               |
| Falkirk West                          | Falkirk               |
| Galloway and Upper Nithsdale          | Dumfries and Galloway |
| Glasgow Anniesland                    | City of Glasgow       |
| Glasgow Ballieston                    | City of Glasgow       |
| Glasgow Cathcart                      | City of Glasgow       |
| Glasgow Govan                         | City of Glasgow       |
| Glasgow Kelvin                        | City of Glasgow       |