



OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Constitution Committee

Wednesday 11 September 2019

Session 5



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Pàrlamaid na h-Alba

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FINANCE AND CONSTITUTION COMMITTEE

18th Meeting 2019, Session 5

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*Adam Tomkins (Glasgow) (Con)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)
*Neil Bibby (West Scotland) (Lab)
*Alexander Burnett (Aberdeenshire West) (Con)
*Angela Constance (Almond Valley) (SNP)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Patrick Harvie (Glasgow) (Green)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)
*John Mason (Glasgow Shettleston) (SNP)
*Alex Rowley (Mid Scotland and Fife) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Francis Breedon (Scottish Fiscal Commission)
Professor Chris Carman (Stevenson Trust for Citizenship)
John Ireland (Scottish Fiscal Commission)
Dr Toby James (University of East Anglia)
Dr Andrew Mycock (University of Huddersfield)
Dr Theresa Reidy (University College Cork)
Dame Susan Rice (Scottish Fiscal Commission)
Professor Alasdair Smith (Scottish Fiscal Commission)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Wednesday 11 September 2019

[The Convener opened the meeting at 09:32]

Interests

The Convener (Bruce Crawford): Good morning, and welcome to the 18th meeting in 2019 of the Finance and Constitution Committee. The first item on the agenda is to warmly welcome our new member, Alex Rowley, and to ask him if he has any relevant interests to declare.

Alex Rowley (Mid Scotland and Fife) (Lab): I refer members to my entry in the register of members' interests.

The Convener: Thank you. I take this opportunity to thank James Kelly for his hard and diligent work during his time on the committee.

Scottish Fiscal Commission (Forecast Evaluation Report)

The Convener: Under our second item of business, we will take evidence from the Scottish Fiscal Commission on its forecast evaluation report. I welcome Dame Susan Rice, chair; Professor Alasdair Smith and Professor Francis Breedon, commissioners; and John Ireland, chief executive.

I invite Dame Susan Rice to make an opening statement.

Dame Susan Rice (Scottish Fiscal Commission): Good morning. Yet again, I thank you for the chance to give evidence on our work.

Last Wednesday, we published three reports, including our annual forecast evaluation report and statement of data needs, to which I will refer. I am also conscious that the convener wrote to me in June asking the commission to provide an evaluation of the Scottish Government's forecast of 2017-18 income tax receipts. There is a detailed explanation in our report of why that forecast was £941 million, or 8.6 per cent, higher than the outturn that was published by Her Majesty's Revenue and Customs in July. I will come back to that in a minute; I will also mention the implications for next year's budget.

Before I do that, I want to highlight something that you have all been supportive of in the past and in relation to which I feel that we have made some progress. Our evaluation report gives some examples that show the importance of good-quality data sources and information. One source is income tax itself—Her Majesty's Revenue and Customs outturn data were not available until last year. Now that we are able to make use of that new data source, our forecasts have improved.

We face similar challenges in forecasting the new benefits. We underestimated spending on the new pregnancy and baby grant by £2.5 million, or 59 per cent, because of an unexpectedly large number of claims in the first few days after launch. The early data on claims for the grant, combined with a better appreciation of the Scottish Government's approach to launching new benefits, led the Fiscal Commission to increase its spending forecasts in May.

Although forecasting new and reformed benefits will always be difficult, as the benefits become established and we have new data sources, we would expect our forecast errors to reduce over time. During the next few years we should expect some volatility around and fairly large forecast errors for social security, as more benefits are devolved and the Scottish Government introduces reforms to them.

I am pleased that our second statement of data needs documents that we have made good progress since last year, including signing a memorandum of understanding with the Department for Work and Pensions. It also sets out our request for additional data and information for the coming year—we keep raising the bar.

I will now return to the income tax forecast for 2017-18, which was made by the Scottish Government in February 2017—this addresses the question that the committee posed to us. At the time—this was before the commission went into statute—the Fiscal Commission's role was to scrutinise the Scottish Government's forecasts. We did that for the 2017-18 forecast and judged it to be reasonable at the time. We know now that the forecast overestimated revenue by £941 million, or 8.6 per cent. That is a significant error and 2.8 percentage points higher than the Office for Budget Responsibility's average two-year-ahead forecast error, which is a benchmark that we use.

We estimate that £820 million of that total £941 million error was due to what we have labelled the 2016-17 baseline error, which was the result of having to use an imperfect survey data source that was three years old to estimate 2016-17 income tax revenues as the starting point for, or baseline of, the 2017-18 forecast. Taking that amount away leaves £121 million of the £941 million still to be explained. Our report shows that roughly £90 million of the error was due to the Government's economic forecasts—total earnings growth was overestimated by 0.2 percentage points. We describe that as quite a small forecast error. The remaining £30 million is explained by a combination of modelling issues, HMRC incorporations estimates and changes in the costs of United Kingdom policies.

We all know that the income tax forecast matters because it feeds into the £204 million negative reconciliation in next year's Scottish budget. Our report takes some time to explain the reconciliation that arises from differences in both our forecast and that of the OBR. We hope that we have made a start in the report in helping a wider understanding of the complexities of how the fiscal framework operates. The committee has copies of our new graphics, which try to pick up on those issues. We are happy to discuss them in due course.

I know that the OBR has written to the committee with an explanation of its UK income tax forecast error. I will not stray too far into its territory. The key point in our explanation is that the £204 million reconciliation—I emphasise that it is a reconciliation between forecasts—has little to do with the £820 million 2016-17 baseline error that I have just described. That is because the

£820 million error equally affects the amount of additional funding that Scotland receives through income tax and the amount of funding that is taken away through the block grant adjustment, so the net effect is zero. The reconciliation arises from the combination of the error in forecasting growth in Scottish income tax and the error in forecasting growth in the block grant adjustment, using OBR forecasts. We think that the block grant adjustment was underestimated by around £83 million and growth in the Scottish income tax revenues was overestimated by £121 million. Together that gives us the £204 million negative reconciliation.

I have just gone through many numbers, and that is a lot to absorb aurally. Members will find those figures in our report. I expect that we will go through them again as we answer some of your questions. I thank you for your attention and patience.

The Convener: Thank you, Dame Susan. Yes—there are a lot of numbers. I will begin with a question that is not on numbers, so as not to throw any more into the picture. I have been asking myself—and others might be doing the same—about the extent to which the forecasting process will improve once we have more outturn data for Scottish income tax and whether that is likely to reduce the size of reconciliations in future. If that were to be the scenario, within what timescale should we expect it to happen?

Dame Susan Rice: With any devolved tax or benefit, over the years, as we get more outturn data, we will have a sounder base on which to prepare future forecasts. The answer to the first part of your question is that forecasting will continue to improve. The first outturn data, which we got a little over a year ago, made a huge difference to the quality of our forecast. The timing will vary for each of the different taxes. Does Alasdair Smith want to speak to that?

Professor Alasdair Smith (Scottish Fiscal Commission): As Susan Rice has already indicated, once we deal with the baseline error issue, the two forecast errors that go into the 2017-18 reconciliation are not very large, at roughly £100 million each for the block grant adjustment and our tax forecast. As time passes, we hope that everyone's forecasting performance will improve, but given that those are relatively modest forecasting errors it would be a mistake to suppose that the reconciliation issue will somehow go away.

The 2017-18 reconciliation of just over £200 million is a significant number arising from not very large forecast errors and, at the moment, it looks as if the 2018 reconciliation will be a lot bigger. That is a feature of the fiscal framework within which we are operating. It would not be sensible to suppose that the issue will go away with the

passage of time. We have to recognise that it is a feature of the system.

Dame Susan Rice: It is helpful to keep in mind that when we use the term “reconciliation” we are talking about reconciling differences between forecasts. The BGA is influenced partly by the OBR’s forecast of what is happening at the UK level and partly by our forecast, so it is a reconciliation of forecast differences. Outturn data is what actually happened, and that is when we talk about forecast error, because we can compare what happened with our forecast. They are two somewhat different processes.

The Convener: I think that most of us understand the baseline issue. “Reconciliation” is probably the wrong word; it was a different type of adjustment that is now out of the system. However, Alasdair Smith has just told us that, over the coming years, while it may not be on the scale of the baseline issue, there is the potential for a reconciliation of a couple of hundred million a year—maybe a bit more or a bit less—which might be negative or positive. That might not be a big number statistically, but it could still be a big number in terms of what any Government can do with public expenditure.

Dame Susan Rice: That is correct.

The Convener: So you are telling us that, because of the fiscal framework, we are in for a bumpy ride on the issue for a long time.

Professor Francis Breedon (Scottish Fiscal Commission): That is a fair assessment. It is something that has to be factored into the budget process. As Susan Rice said, two forecast errors go into the process—ours and the OBR’s. The OBR has a long track record of forecasting and yet it still makes errors, so we have to assume that that is an on-going situation.

Dame Susan Rice: I might put a caveat on that and say that it is not simply because of the fiscal framework. The fiscal framework is complex—that is absolutely fair; we are all still feeling our way through it—but other factors also influence the forecasting process: the quality of data that I have been talking about. That is why we keep asking for better and more timely data.

Also, it is important to keep in mind when we talk about income tax reconciliations that we will have reconciliations across taxes and our social security benefits over time as well. It is complicated.

09:45

The Convener: I understand that it is complicated—it is bumpy. What can the committee do to help to make things less turbulent for both

sides of the equation—the United Kingdom Government and the Scottish Government?

John Ireland (Scottish Fiscal Commission): One of the things that are driving the reconciliation errors is the issue of estimates of total earnings. In a sense, total earnings from the economic forecasts feed into our income tax forecasts, and quite small errors in those earnings forecasts are driving quite a lot of the reconciliation errors.

One of the things that we asked for in our annual statement of data needs was for some work to be done on Scottish earnings data. As you will remember from previous committee meetings, we have a number of indicators for the average earnings data for Scotland but we do not have anything that allows us to see clearly what the position on average earnings is.

One of the things that could help is pressure from the committee on the Office for National Statistics and the Scottish Government to start thinking about and working on improving the quality of earnings data in Scotland.

Murdo Fraser (Mid Scotland and Fife) (Con): Good morning. I have a couple of questions on income tax reconciliations more generally but, before I come to them, I want to follow up on the convener’s first questions about the scale of the reconciliations.

Professor Smith, you said that the first three years were outliers, in a sense, and that, all being well, things should settle down thereafter to a much smaller range of variation. One of the things that the committee has been considering is whether the Scottish Government’s borrowing powers in the current fiscal framework are sufficient to deal with the peaks and troughs that might arise from forecast error. What are your views on that, and does your report lead us to any particular conclusions about the levels of borrowing powers that are currently available to the Scottish Government?

Professor Smith: It is not really for the commission to advise on any redesign of the fiscal framework. You said that I had implied that, somehow, the reconciliations issue is going to settle down after two or three rocky years. I am sorry if I gave that impression; that is not what I meant to say.

The 2017 reconciliation that we are looking at in this year’s forecast evaluation report arises from two relatively modest forecasting errors. It looks as though there is going to be a bigger reconciliation next year. It would be ambitious to say that, in a few years’ time, we will see smaller forecasting errors than we have seen this year. We are talking about relatively modest errors, and it is more productive to ask—as you went on to do—what that says about the framework.

The numbers that we are talking about are relatively small—by the standards of reasonable forecasting errors—compared with the amount of income tax that is raised in Scotland. However, they are big sums of money relative to the Scottish Government's borrowing powers. That is where they bite—the Scottish Government's borrowing powers are sufficiently limited that coping with ups and downs—hopefully, there will be ups in some years, and not always downs—of several hundred million pounds involves quite a lot of variation relative to the borrowing powers. However, as I said, it is not for the commission to advise on whether the Scottish Government's borrowing powers should be changed.

Dame Susan Rice: I would like to add a footnote to that, which is that, as the social security benefits come over to Scotland and Scotland is responsible for making that expenditure—and there is an unknown quantity, because we do not know how many individuals will qualify at any one point in time for any particular benefit—the borrowing powers may be used to smooth some of that. I am not commenting on the policy, but the borrowing powers will become more important and perhaps more actively required.

Murdo Fraser: I would like to ask more generally about the income tax receipts as against forecasts. You indicate in your report—and we have heard this from you in previous evidence—that part of the explanation for the gap that has arisen is that, relative to the rest of the UK, there has been slower growth in Scottish income tax, which is a consequence of slower overall wages growth. To what extent is that down to faster-growing employment rates in the rest of the UK compared to Scotland and/or faster wage growth in the rest of the UK, per capita?

Dame Susan Rice: Part of it is down to the demographics in Scotland. Compared with the rest of the UK, we have an increasing demographic of people who are coming to an age at which they cease to be actively employed in so-called day jobs. My colleague Francis Breedon might want to answer the question more specifically.

Professor Breedon: I am not sure about that—it is quite a difficult issue to unravel. An important issue is that one of the upsides in the UK has been the amount that is raised from the higher income brackets, and that has been less of an element in Scotland. With regard to your question, I am afraid that I do not have the numbers. Perhaps John Ireland can say something.

John Ireland: There are some relevant numbers in the full report, which I do not think that you have in front of you. I point you to table 2.5 on page 23 of the full report, which looks at forecast and outturn growth in income tax economic determinants in Scotland and the UK. You are

asking about employment. The table shows that the Scottish Government's forecast for employment was 0.3 per cent growth, and the outturn data figure was 1.5 per cent. Therefore, the forecast, which went into income tax calculations, underestimated employment growth. UK employment growth over the same period was at 1.0 per cent, and the OBR's forecast was 0.1 per cent. What happened there was that the OBR also underestimated employment growth.

I could read out the rest of the table, but the figures all go in a similar way. The important thing is the growth rates of total earnings. In Scotland, the outturn was 2.4 per cent and, in the UK, it was 4 per cent.

Murdo Fraser: So, the important issue is earnings growth.

John Ireland: The real outturn to look at is total earnings growth.

Murdo Fraser: Okay. To go back to the point that Professor Breedon made a second ago, the difference that has arisen has come about because, relatively speaking, there are more higher earners in the UK average than there are in Scotland, and it is among higher earners that the larger wages growth has been.

Professor Breedon: That is certainly where the income tax revenue increase in the UK came from.

Murdo Fraser: Thank you.

The Convener: I want to continue on the theme of wage growth, and then I will let John Mason in, because I know that he is interested in the income tax area, too.

In our report on the 2017-18 budget, our adviser highlighted that, at that stage, there was lower wage growth in Scotland than there was in the rest of the UK, and that that was a risk to the budget. Considering where we are, that appears to be a pretty astute analysis. To what extent did the SFC examine that risk when you were assessing the forecasts in 2016? I know that they were Scottish Government forecasts, but you were looking at their detail.

Dame Susan Rice: I think that I am the only one who can answer that. It is hard for me to say to what extent we did that. At that stage, all of us were learning. We examined previous years' growth and considered what we thought was happening in Scotland. Everything has moved on since that point in time. The whole of the UK—only for a couple of years—was coming out of the impact of the financial crisis. Since that time, we have been asking for better and more timely earnings data for Scotland—that is really important to us. We considered the issue that you raised, but we had to do so in a way that involved a

backwards look, because the process was just starting.

Professor Smith: The issue of data is important. Data on Scottish income and earnings is not as good as the UK-wide data, as John Ireland and Susan Rice have said. However, we must also recognise that lots of people are puzzled about what has happened in labour markets over the past 10 years, not only in Scotland and the UK but across the developed world. None of us has a good understanding of the way in which labour market behaviour has changed in that period, so the issue will be a continuing source of uncertainty.

John Mason (Glasgow Shettleston) (SNP): I have a question on the data. It is three years since I was previously on the committee so things might have changed a little bit, although I see that Dame Susan Rice is still here.

When I was on the committee previously, the problem was that the data was just not there, and with the best will in the world, nobody could give it. The main problem was that the 2016-17 data just was not there, but we now have it so we understand better. Is that correct?

How solid is the data now? Are we expecting improvements going forward? I had a letter from HMRC telling me that it assumed that I do not live in Scotland. How much do we trust the HMRC data? Is there also room for improvement in that?

Dame Susan Rice: I will give a quick answer then turn to John Ireland to put some flesh on it.

The 2016-17 baseline data was based on a report that used three-year-old data in a time of economic change and turmoil. However, it was the only data that we could use. John Mason is right: whether it was right or wrong, it was not what we would have wanted at that point in time. We needed to do something.

In an ideal world, all our data collection and sources would be absolutely where they should be and then we would devolve taxes. Clearly, that is not the real world, so we devolved and the data has improved along the way. It is certainly better now than it has been. Increasing years of better data also amplified that positive effect. John Ireland might want to give you some more details.

John Ireland: The data that was not there back when the forecasts were made was the outturn data. We now have two years of outturn data, which is helpful because it allows us to compare the survey of personal incomes, which is the sample survey of administrative data, with the actual outturn. We do have outturn data now, and that is a helpful thing.

We have been working with HMRC and the Scottish Government to improve the survey of

personal incomes for Scotland. It is certainly true that, since the forecasts that we are talking about were made, the survey of personal incomes has also improved, particularly in the treatment of earnings at the very top of the range. They used to be composite records for the UK as a whole; now they are for Scotland. There have also been improvements in the underlying survey of personal incomes.

The other element of data that we have now that we did not have back then is something called real-time information, which comes from people's pay-as-you-earn submissions. That is now becoming available for Scotland.

We are concerned about its relationship with the underlying outturn data. We do not think that enough work has been done to match the story that the real-time information is providing with the outturn data. In our data statement, we have asked HMRC to do more work there.

John Mason: If I understand you correctly, there has been quite a big improvement—

John Ireland: Yes, there has been a lot of improvement.

John Mason: —but you are looking for further improvement.

John Ireland: Yes.

Professor Breedon: It is worth adding that it suggests that the track record of the data will get better and we will understand the data better when we see a longer time series of outturns. At the moment, we have a range of indicators and we are still trying to work out which ones are the most useful. The more history we have, the more we can judge. That element will also improve.

John Mason: In the past, I got the impression from HMRC that it saw itself as a UK body and it was not part of its job to provide Scottish, Welsh or any other subset data, and that we might have to pay for that if we wanted it. Has that attitude changed?

Dame Susan Rice: The Fiscal Commission has worked hard with teams and individuals in HMRC and the relationship is growing. This is about relationships and two different teams working together. HMRC cannot do everything for us when we want it because it has a bigger brief, but it certainly has been helpful and has listened to us.

John Ireland: During the past two years, the income tax team at HMRC has done a lot of work and has worked closely with us and the Government on these issues.

Personal relationships are good. The HMRC team came up to Scotland and spent almost a week talking to us and the Scottish Government, which was very good. We have regular liaison

meetings by phone and down in London. Those relationships are good and HMRC is taking our data needs around income tax very seriously.

It is true that the Scottish Government pays HMRC money for the administration of the collection of Scottish income tax. My understanding is that some of that money is now finding its way to the analysts in HMRC, which is helping with the process. Those relationships are positive and HMRC has been responsive on income tax.

10:00

John Mason: Are you getting all the information that you need from the Scottish Government as well?

John Ireland: Yes. The primary supplier is HMRC, but the Scottish Government has certainly been helpful on income tax.

Alexander Burnett (Aberdeenshire West) (Con): I remind members of my entry in the register of members' interests in relation to property.

My question is on land and buildings transaction tax, in particular the residential LBTT forecast error shown in figure 4.4 of the report. What further analysis or breakdown can you provide on the decrease within the tax brackets shown and can you provide any further analysis or breakdown by region of the drop in transactions?

Professor Breedon: We cannot provide a breakdown by region, but we can say that LBTT is a difficult tax to forecast because it is related to the number of transactions that occur. We need to know, first, how many transactions occur; secondly, what is happening to average house prices; and, thirdly, what is the distribution of those transactions.

We struggled with that third element this time round. On average, about 4,000 transactions generate about half the revenue from this tax, so you can imagine that if we get just a few of those wrong, we can really make an error. The key element of our forecast error came from the forecast of those higher value transactions, which attract a higher tax rate and are higher value and are therefore quite important for the total revenue from the tax.

Alexander Burnett: Can you provide a further breakdown of the decrease by bracket?

Professor Breedon: Not directly by bracket, no.

Alexander Burnett: You comment in the report that there has been a drop in the top two brackets so I presume that there is some analysis available.

Professor Breedon: It is fair to say that it was not a drop. The value of transactions in the higher value group had been trending upwards so we forecast a continued increase in the number of transactions in that higher bracket, but in fact it was pretty much flat. The error came from us expecting further increases in the share from that high-value group.

Alexander Burnett: Anecdotal evidence from estate agents suggests that, in some parts of the country, sales in the top two brackets have dropped to near zero. In figure 4.4, you show the drop in share in the top tax brackets and the drop in total transactions separately, but many individual transactions are part of a chain of transactions, so when you lose one, there is a multiple effect. Would it be fair to say that it is the same problem or would you do any analysis on the relationship between that drop in top tax brackets and the total transactions?

Professor Breedon: Over the summer, we have been rebuilding the model that we use. We are trying to allow for a more variable distribution of transactions across the different values. We were slightly imposing a shape on the number of high-value transactions relative to the number of low-value transactions and now, we are allowing that to be a bit more data driven. Indirectly, I think that that will help to deal with the point that you raise because it is a way of allowing more flexibility to come through on those issues.

Alexander Burnett: Okay. So you are not planning to collect any of that transaction data by region in Scotland.

Professor Breedon: Not at this stage, no.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Your main report highlights that total transactions made up £18 million of the £42 million residential LBTT forecast error and £22 million of the error came from the share in the top tax brackets—that is £40 million out of the total £42 million error. Were you able to identify the reasons for that shortfall? Was it a result of a slowdown in the economy, policy change or uncertainty over Brexit, for example?

Professor Breedon: We do not really have anything detailed to say on that. Fundamentally, from our point of view, it is an error. As I said at the beginning, land and buildings transaction tax is a difficult tax to forecast in any situation because the number and scale of transactions vary so much year on year. We just see that as part of the general difficulty in forecasting such types of tax revenue.

Dame Susan Rice: To be fair, you could almost ask that question the other way round. What caused the steeper growth in those top two tax bands in the previous couple of years, and have

we returned more to a norm? I do not know, but you can ask the question either way.

Gordon MacDonald: Yes. On the non-residential side, you say in your report:

“The non-residential forecast was close to the outturn figure, although we think this was the result of a cancelling out between more reliefs and higher price and transaction growth.”

Will you say a wee bit more about the compensating errors in there and what the difference would have been if those things had not happened?

Professor Breedon: The key element that we saw as being where the errors are coming from is in the area of appeals, which we think will come through later on.

Dame Susan Rice: That is on non-domestic rates, as opposed to non-residential LBTT.

Professor Breedon: Sorry—I thought that Gordon MacDonald mentioned non-domestic rates.

Professor Smith: I will throw in a comment on non-residential LBTT. Table 4.10 shows that our forecast for that was £190 million and the outturn was £193 million. The most important thing to say about that is that the forecast was very close. You will see that, underneath the £193 million, there were some ups and downs, but there will always be some ups and downs. Let us just say that it was a very good forecast.

Gordon MacDonald: I appreciate that and I know that it is difficult to predict the future—I am not suggesting otherwise. However, the forecast for residential LBTT was higher than the outturn and the forecast for non-residential LBTT was below the outturn. Were different methodologies used there? Will there be any changes in how the forecasts are calculated?

John Ireland: They are very different methodologies. On the residential side, we have a relatively complex model because the data allows us to do that, and the banding helps there. On the non-residential side, it is a relatively simple model.

I have found the relevant bit in the report. On the non-residential side, both price growth and transaction growth were above our forecasts, so we underforecast them. However, it is a much simpler model for non-residential LBTT, partly as it is so volatile and lumpy because it is dominated by a very small number of commercial transactions.

The Convener: Angela Constance has some questions on social security forecasting.

Angela Constance (Almond Valley) (SNP): Good morning. It seems to me that how well plugged in you are to social security policy is central to how accurate your forecasts are. Some

of the benefits are a wee way off, but they are coming on stream one by one. The Government has made great play of the people who use or receive benefits being crucial to informing policy. As well as the stakeholders, we have experience panels and the Scottish Commission on Social Security, which is scrutinising the regulations. How do all the factors in the development of policy inform your forecasts. Do you, for example, scrutinise social security regulations?

Dame Susan Rice: I want to use words correctly here. As you know, the commission does not get involved in development of policy: we would not go to the Government to say that its regulations have flaws.

However, to do our forecasts, which we understand are very important, we need to understand what population might be eligible for a particular benefit, and what proportion of that population might take it up, because not everyone who is eligible will do that.

When a new benefit comes online, we need to understand from the Government how it might reform or change eligibility, timetabling or whatever. We do not have much past data to use for the new benefits, so we need to understand the basic elements, such as the point in the year when the new benefit might be launched. Those are some of the elements that we consider.

Are you looking for us to—

Angela Constance: Let me be clear: I am not suggesting for a minute that it is your job to comment on social security policy. Rather, I am suggesting that you need to understand what social security policy is, what the proposals are and how they will affect behaviour and take-up rates.

Let us look at the best start grant. The Government has a legal responsibility, as part of the Social Security (Scotland) Act 2018—to promote uptake of all benefits, not just the devolved ones. There are some very distinct policy differences in relation to the best start grant around, for example, second and subsequent children, which has a bearing on the financial outlay and, therefore, the forecast. I am keen to know whether you can demonstrate that you were, from the outset of your forecasts, tuned in to the policy. Did things such as the commitment around second and subsequent children figure in your work?

Dame Susan Rice: Absolutely. We discussed that at length, and judged that someone who had had the grant for their first baby would be much more likely to take it for their second child because they would know how the benefit worked and it would be easier for them to access. The answer to your question is yes.

Let me back away from the process of forecasting. As you know, Social Security Scotland is a new body. The commission knows what it is like to be a new body—it is a lot of work. We have engaged with Social Security Scotland and have tried to learn what it is about. That understanding is part of what you are asking about. Social Security Scotland is also learning as it goes and as it launches benefits. It is an iterative process.

We have had some private meetings with the Social Security Committee and will speak to it in a meeting of a similar format to this in a couple of weeks. We have tried to engage in various ways.

Professor Smith: I will pursue the example of the best start grant, because it is a good one. We have had a lot of detailed discussions with the DWP and the Scottish Government on each of the social security benefits. We are always aware that understanding the details and detailed changes in the benefits is very important if we are to make reasonable forecasts. In the case of the best start grant, eligibility for children beyond the second child is clearly an important factor.

The striking thing that we learned from the best start grant is that the details of how the policy is launched by the Government can have a very big effect—it had a dramatic effect in that case. The Government seems to have launched the grant with a great deal of vigour, and parents who were entitled under the previous UK benefit quickly learned that it was better not to apply for the previous benefit, despite being eligible for it, because they also came into the window of the best start grant, which was more valuable to them. Take-up of the best start grant by parents of children who had been born before the grant was launched was one factor that led to the forecasting error.

The social security team in the Scottish Government has learned, along with the commission, that there are strong sensitivities to detailed issues in respect of how quickly potential beneficiaries learn about a benefit and how easy it is for them to compare the benefits of that one with the benefits of another.

Angela Constance: I do not want my next question to sound obtuse—

The Convener: But—

Angela Constance: No buts. When my son hands in his maths homework, the teacher always tells him that he needs to show the workings that he did in his head, and not just give the answer. If the committee was to ask commissioners for your workings on forecasts for benefits, could you show us the work that was done at the time?

Dame Susan Rice: We have put a great deal on our website and have tried to be very

transparent about what goes into our models and the bases.

10:15

John Ireland: The forecast reports that we published contained a lot of information about the judgments—especially those about take-up—and how they were informed by issues such as the ones that you have mentioned. A lot of the workings are shown there.

The other part of the workings is our models, which are based very much on the rules for the policy and tend to use Excel spreadsheets or similar formats. We share them with the Scottish Government so that it can look at our workings very closely. Part of the forecast process is meetings with policy advisers and analysts from the Government, at which they go over our homework and mark it, probably with more vigour than a maths teacher would—at least, that is what it feels like at times. [*Laughter.*] Our workings are pretty transparent.

We have not yet shared our models outside the Government—partly because no one has asked us for them and partly because some of them contain information from the DWP that is not in the public domain.

Professor Smith: There is one other element. In all our forecasts—especially in social security forecasts—there is a very strong element of judgment. There will, for all the individual forecasts, have been the kind of modelling and interaction with policy teams that John Ireland described, and there will have been meetings between commissioners and Government officials.

However, the question comes down, in the end, to whether we think that take-up of a new benefit will be a lot higher than take-up of the old one because it is more generous, or a lot lower because it will take time for beneficiaries to learn about it. It is not a matter of having maths workings, but of having heard all the evidence, some of which will have been quite qualitative and subjective. We can then say that take-up rates will probably fall within a certain range, which is a very important element in all social security forecasts.

Angela Constance: I want to ask about your appreciation of what you and your partners have learned and what everybody needs to do differently. There was no fiscal consequence of the forecast error in carers allowance and I understand that you have—as the committee and other parliamentarians urged—had to wait for two Governments to come to agreements about work, timescales and so on that you could not have known about at the time of your forecasts. What have you learned from that process? Bigger and more complex benefits are coming down the

track—for example, around 350,000 people will receive some form of disability assistance.

Dame Susan Rice: On the specific issue of carers allowance, most of the forecast error was due to our forecasting the cost of that benefit for an entire year. We had a fairly vague sense that it might be launched in the summer, but we did not know when the carers allowance and supplement would run for the whole year. Again, that was a matter of judgment. It was our first go and our judgment was that we should do something. When we looked at our forecast again in relation to the part year after carers allowance had been launched, our forecast error was really quite small.

We have also talked to Social Security Scotland. We have learned that the more timely the information we have about its plans to launch a new benefit, and the more details we have of that benefit, the better. We have also learned that the timing of the launch can make a big difference to the outcome.

Professor Smith: To pick up on Ms Constance's question about £3 billion-worth of disability benefits being devolved, I agree that that is a very big issue that loops back to our earlier discussion on reconciliations.

We will be looking at £3.5 billion of devolved social security expenditure, the forecasting of which will—with the best will in the world—be subject to errors of the kind that we have already discussed in a much more modest context. Those forecasts will depend on the details of eligibility for new benefits, which are different from the previous benefits, and on how the benefits are launched. We will make forecasts about spending of the order of £3.5 billion that is subject to quite a lot of uncertainty—to add to the uncertainties that we were talking about earlier in relation to income tax forecasting. It will be a very significant issue.

Angela Constance: Taking all that on board and looking to the future, does the commission have any thoughts about what would help or hinder the budget-setting process, particularly when you are trying to manage demand-led spend? Has any consideration been given to forecasts that are based on ranges of spending rather than on one fixed amount, and that take into account the fact that behavioural changes can be difficult to predict or understand?

Professor Breedon: We already do a lot of those tentative analyses. The trouble is that it is difficult to translate them to use in the budget. We can give a range of start dates and take-up rates, but somewhere in the process a decision must be made about which to use. That is where the issue arises.

Dame Susan Rice: Our approach is to cost and use stated Government policies. We do not do a lot of trial runs.

Neil Bibby (West Scotland) (Lab): We have seen uncertainties in measuring gross domestic product, and there are concerns about the strength of the link between GDP and tax revenues. You said this morning that we need better data on earnings, for example. However, GDP is an indicator of how well the economy is performing, so how interested should we be in GDP forecasts?

Dame Susan Rice: We have to be interested in GDP forecasts because they are part of the backbone of our overall economic forecasts, which have a direct link to income tax forecasting, so forecasting GDP is important.

Professor Breedon: Ultimately, our interest is in tax revenue, and GDP is a step along the way there.

John Ireland: There is one proviso, which is that the Government's borrowing requirements depend upon a test of relative GDP growth between Scotland and the UK. Neil Bibby's question is perhaps aiming at some of the Government's recent work to look at alternative measures of GDP that capture different aspects of wellbeing.

Neil Bibby: My question was not specifically related to that, but I know about that on-going debate. I am not saying that we should not be interested in GDP. The question was not about whether we should be interested, but about the extent to which we should be interested, given the factors that have been raised this morning.

Professor Smith: One reason to be interested in GDP is in respect of looking at the longer run. That is an important part of how our GDP forecast is constructed, even if the headline numbers are what our GDP growth rate is for the year ahead. If you look at how the forecasts are done, you see that we pay a lot of attention to long-run trends of productivity. The short-run GDP forecast reflects, to some extent, our view of where the Scottish economy is going in the long run, which is one of the most important questions to ask about it: what are its long-term prospects for raising what have, in recent years, been disappointing levels of productivity growth and, therefore, long-run growth.

The Convener: There are no further questions for the Scottish Fiscal Commission, so I thank you for your evidence this morning.

10:24

Meeting suspended.

10:33

On resuming—

Referendums (Scotland) Bill: Stage 1

The Convener: The last item on our agenda is evidence on the Referendums (Scotland) Bill. I welcome Dr Theresa Reidy, University College Cork; Dr Andrew Mycock, reader, University of Huddersfield; Professor Chris Carman, Stevenson Trust for Citizenship; and Professor Toby James, professor of politics and public policy, University of East Anglia. I thank you all for your submissions. We will go straight to questions.

The Scottish Government officials explained to us that the intention of the bill is that

“it will be possible for the framework to be used for different polls, so there needs to be some flexibility on the circumstances and the packaging.”—[*Official Report, Finance and Constitution Committee*, 26 June 2019; c 26.]

To what extent is there sufficient flexibility in the bill to allow for different referendums? That is a nice easy question to start.

Dr Toby James (University of East Anglia): I will have a go at that. The bill allows a lot of flexibility—much of the detail would come through statutory instruments. If I recall correctly, the bill also provides ministers with the ability to use secondary legislation to change any of its provisions.

This might echo the comments made in last week’s evidence, but it could be that there is too much flexibility, in so far as there might be concerns that it would restrict parliamentary oversight of the legislation. If the objective is flexibility, the bill achieves that objective. However, there is probably too much flexibility.

Dr Theresa Reidy (University College Cork): The bill certainly includes a lot of flexibility on the campaign conditions, but some of the discussion suggests that all referendums are equal and equally spirited and contentious, and that they will naturally involve a lot of high-stakes engagement. That is not necessarily the case.

If you begin to use referendums quite frequently as a tool, you will inevitably come across technical issues that will not engage the public. A bit more thought might be given to the role that the Electoral Commission could play at that point, in particular in providing more impartial information to voters. Active campaign participants might not be leading the debate in the field, and there will be a need for information to be provided to voters, and that will require the Electoral Commission to step up to the mark, and, perhaps, in hotly contested campaigns, do more than it might normally do.

On financing, if the referendum is on a technical issue, there might not be obvious well-resourced campaign participants on the ground, and you might want to provide small amounts of campaign funding to encourage and incentivise umbrella organisations to form, because you already have the structure to do that. Such approaches emerge when you begin to use referendums frequently, in order to deal with non-contentious issues.

The Convener: I asked my initial question because I wondered whether, in viewing the bill through the prism of one particular referendum—in the committee’s last session, that tended to be indyref2, should it ever happen—there is a danger that we might lose sight of some of the flexibility that is needed. We could end up amending the bill to address concerns relating to a specific referendum, which might undermine the policy intent that was there in the first place to create framework legislation. Does anyone want to reflect on that? I see Chris Carman nodding.

Professor Chris Carman (Stevenson Trust for Citizenship): I agree with that assertion. There is a problem in having a very specific example of a referendum in our heads when we are thinking about this bill. You might want to consider the issues on which referendums can be held. Would they be held on any devolved issue? How would the decision be made on what such an issue might be? There is always some discussion on the extent to which devolved powers reach and do not reach into different areas. What body would adjudicate that? Would that be left to an independent body? I assume that you would not want the Electoral Commission to do that, because it tends to remain a step back from those sorts of contentious political issues. So, how would you make decisions on that, and what would be the mechanism for determining how to do so? I agree that you should keep in mind—as Theresa Reidy just said—that referendums can be held on a variety of issues, from small technical constitutional issues to larger issues that affect the public mind.

Dr Andrew Mycock (University of Huddersfield): It is encouraging that the bill shows a sense of keenness for policy learning from previous experience of referenda. There are two substantive questions on this matter. One is about frequency of referenda, and at the moment that seems to be rather open ended. The other issue that has not been addressed is what triggers referenda. Often, we find that the process is contentious in itself. Some parts of Europe have stipulated conventions that allow for that, such as Switzerland and the Republic of Ireland. I do not see that consideration in the content of the bill, and it is something to think about. There is tension between the political process and purpose of

those referenda. Both matters need to be considered.

Adam Tomkins (Glasgow) (Con): Before I ask my question, I declare an interest in that, like Professor Carman, I am a member of the professorial staff of the University of Glasgow. Thank you for reminding me about that, convener.

I want to continue the line of questioning. The reason why it is not a problem in UK law is that, under the UK equivalent of this bill—namely, the Political Parties, Elections and Referendums Act 2000—each referendum requires its own bespoke act of Parliament. As introduced to the Scottish Parliament, the bill does not have that stipulation. Section 1 of the bill gives to the Scottish ministers the power by regulations to provide for a referendum.

Given that, unlike PPERA, this legislation would not require a bespoke act of Parliament for each referendum, should the bill specify the subject matters, within devolved competence, on which referendums should, might or could be held, or is the solution just to omit section 1?

Professor Carman: In a way, that refers back to what I just said about devolved competences. There are different ways in which you could handle that. You could set up an independent commission that would take a view on devolved matters. I am reminded that, over the years, petitions committees of the Scottish Parliament have taken very different views of what is and is not devolved and the extent to which devolved powers reach into, say, the health sector.

Where devolution starts and stops is contentious. To some extent, it is a political decision. There needs to be a mechanism to decide that, whether that is allowing ministers to do it as the Government of the day—that is one political decision—or setting up an independent commission. I suspect that going so far as to try to provide for that in this bill would be quite difficult. Trying to specify areas in the bill would be a minefield and could end up causing more problems, because the level of specificity that you would have to get to would be quite granular, I imagine.

Adam Tomkins: Let us take an example that is wholly in devolved competence and for which there is no argument about whether it is devolved or reserved: the setting of the Scottish budget. It is an argument that I explored with the Government's bill team at the committee meeting before the recess.

The Scottish Parliament is a parliament of minorities, as it is designed to be. Let us suppose that the cabinet secretary for finance cannot get his or her budget through Parliament, and he or she decides to use the power under section 1 to

establish a referendum on whether the budget should be passed. Given your understanding of the international best practice in the use of referendums in parliamentary democracies, is that good practice? The Government bill team confirmed that, as drafted, the bill would enable a referendum in circumstances such as that. Is that the use of referendums that we should contemplate in Scotland?

Dr James: It seems that the bill would enable a potentially rapid expansion in the number of referendums that could and would be held, which could have profound consequences, both positive and negative. In many respects, it would change the nature of Scottish parliamentary democracy by making it much more direct. There are advantages to that, but there are also disadvantages. Referendums are about the will of the majority—the 52 per cent, the 55 per cent and the 60 per cent—but we must think about minority interests as well.

The committee might want to consider being cautious about allowing ministers to call referendums in that way and with that degree of speed. Globally, referendums are still relatively new territory. It is a relatively new era for them—certainly in the United Kingdom and Scotland. The committee should be wary about the situation leading to referendums being called very frequently, which would be a major change.

10:45

Dr Mycock: If there were to be a shift towards holding referenda to resolve issues that emerge in the Scottish Parliament, we would be looking at a fundamental change in Scottish political culture.

In that context, if you are thinking about listing a range of policy areas on which referenda are to be held, you are entering into territory in which parliamentary sovereignty and popular sovereignty increasingly come into conflict. One of the experiences of the 2014 Scottish independence referendum and the 2016 European Union referendum has been the creation of a binary effect in society, which can often be in conflict with the multiparty framework of the Scottish Parliament itself. There is great need to think about the implications of increasing the number of referenda, in the context of the broader framework of political culture.

Dr Reidy: The bill as drafted appears to provide an enduring framework for the regulation of referendum campaigns. The question taps into a higher-order question: under what circumstances and for what types of issue would referendums be held? In a way, the citizens initiatives issue raises the broader issue of the kinds of referendum that would be held. Would a referendum be purely

about constitutional issues or could it be about ordinary legislation? Adam Tomkins is talking about ordinary legislation, with the referendum triggered by a minister, but if there were provision for citizens initiatives, citizens could initiate legislation in particular areas.

The international experience is that budgetary issues are generally excluded from citizens initiatives, and that top-down referendums on ordinary legislation are quite uncommon, albeit that there are some examples. For example, in the United States, famously, a citizens initiative in California affected property tax and was a significant contributor to the near-bankruptcy of the state. Designers tend to leave budgetary issues, foreign policy and minority protection rights out of referendum procedures—indeed, such issues are often specifically precluded from inclusion in referendum procedures, for that very reason.

Professor Carman: I was going to say something similar. Budgetary mechanisms can be excluded. Instead of thinking about what is included in the context of the legislation, you can think about what is excluded.

In the context of the example that Adam Tomkins gave, serious consideration of the regulated period or relevant period—whatever you are going to call it—would be needed, because the length of the referendum campaign could be problematic for certain pieces of legislation, such as budget legislation. A long regulated period would create a period of uncertainty about the budget. That, in itself, might stop the behaviour that Adam Tomkins talked about.

The flipside of the point about shifting Scottish political culture is that the approach might be regarded as extending Scottish political culture. Openness, transparency and participation were core founding principles under which the Scottish Parliament was set up. Those principles led to, for example, the petitions system and cross-party groups, which have been ways of bringing the public into the political sphere. One might think that those approaches have not shone at their brightest, so extending such mechanisms could—possibly—lead to a more participatory democracy.

The Convener: Alex has the next question. Sorry, I should have said Alex Burnett; I have to remember that we now have two Alexes on the committee.

Alex Rowley: Mine is pronounced Alec.

The Convener: That will help me out. Thank you. On you go, Alex.

Alexander Burnett: Thank you, convener.

Last week, the committee heard strong evidence that the Electoral Commission should be

consulted on question testing, even when a question has previously been proposed and tested. Will the panel members give their views on that?

Dr James: It is very good practice to involve an independent body in question testing. Colleagues are more expert on this than I am. The precise wording of a question can obviously affect the result. Therefore, it follows that we have an independent body acting as a check and balance, ensuring that the question is reasonable, fair and fully tested.

Dr Mycock: It clearly matters. It may well be that there should be something that involves not just the Electoral Commission but citizens themselves. It is the kind of issue that would work well in a citizens assembly. The idea that the contours or conventions of any referenda are designed by people who are not entirely accountable to them can seem rather abstract to voters. There may well be a need to consider both the independent input from the Electoral Commission and the input from some form of citizen representation.

Dr Reidy: In general, it is good thing to have an independent Electoral Commission consult on the question. Having a degree of flexibility on the design of the question is important. I can give the committee some evidence from Ireland. In Ireland, the phrasing of the question is set down in legislation, so each referendum question asks whether you agree with the legislation to, for example, the 38th amendment to the constitution, and in brackets there will be a summary phrase, which may or may not make it apparent what the referendum is really about. We have evidence to show that that sometimes causes voter confusion and can make it difficult for people to vote. In particular, where there has been a negative built into the question, such as, “Do you agree with abolishing this house of Parliament?”, we have seen that voters find it very difficult to understand. Indeed, we have evidence that shows that some voters voted the opposite way to their clear intentions. Having flexibility in the design of the question is very useful and having an independent body involved is the right road to go down. Our system in Ireland is far too inflexible and we have evidence to show that it has not served us well.

Professor Carman: I agree with that. International evidence shows that question testing is a good thing. Mr Burnett’s question is really about the second testing of the same question or something very close to it. If there is any deviation from the previous question, I would say that testing it would be appropriate. The question is whether the same question being run again deserves further testing. The answer to that is probably yes, because public understanding of

political issues changes. We can use relatively recent examples to show that, as public opinion changes, particularly in relation to pre-legislative as opposed to post-legislative questions, even if the same question is rerun in a relatively short period, some degree of testing is desirable. One might question whether that would require the full 12-week process, but there would be a need for some degree of confirmation or other sort of testing.

Alexander Burnett: Professor Carman, as a follow-up to what you said earlier about being able to look at the bill objectively and separating out future referendums from past referendums, do you think that the specific reference in the bill to previous referendums—the only example being the 2014 referendum—is helpful?

Professor Carman: It is difficult to say. It is probably desirable for the bill to be as neutral and removed from previous experience as possible, if only because the legal precedent that is established by referencing previous examples might cause some issues down the road.

Tom Arthur (Renfrewshire South) (SNP): As a member of the Delegated Powers and Law Reform Committee, I explored this issue with colleagues and the cabinet secretary yesterday. One of the points that the cabinet secretary made—and I am keen to hear your views on this—was that the question that was used in the 2014 independence referendum has been used in almost every opinion poll since then and is commonly understood. I think that the question has been used in more than 50 opinion polls. Therefore, it might create unnecessary confusion to deviate from that question. What are your views on the cabinet secretary's statement? Do you agree or disagree?

Professor Carman: I guess that I could see that. In a way, it runs contrary to what I have just said, in the sense that you might want to retest. Even John Curtice would recognise that there is error in polls, and we get slightly different responses to questions depending on sampling methodology and how surveys are run. Furthermore, the fact that a question is used in public opinion polls does not mean that the public necessarily understand what they are responding to, although there are certainly ways of improving question wording in polls. As a member of the Scottish election study team, I note that we ran the same questions over and over again, recognising that they tend to lose their meaning to the public over time, or change their meaning.

I still think that some sort of independent evaluation would be required. If a question has been used repeatedly in polls, we might not require the full 12 weeks, or the full period that the Electoral Commission would require to test a full,

unique question, but we would probably still want to have some independent experts look at it in order to certify that it was still a fair and reasonable question.

Dr Mycock: If we think about the influence of the independence question on Scottish society over the past decade, regardless of how the question is framed, many people will translate it into how they see the question, and they will simply reinforce their particular view. There is of course a constituency of don't-knows, or those who are prepared to shift their view, but much of the evidence suggests that, regardless of how you frame the question, many people in Scotland will recourse to the position that they have on that, which is rather fixed.

Dr Reidy: Drawing from some of the evidence in the Republic of Ireland, I note that we have had multiple referendums on many different issues, and I think that it is good to think about the subject more broadly. The question wording does not necessarily dictate the direct lines that the campaigns will take. We had a referendum on divorce in 1986 and another one in 1995. The questions were almost identical, but there were different outcomes and different types of campaigns. There are underlying shifts in public opinion, and on particularly deeply rooted, cleavage-type issues such as that, opinion change happens very slowly over long periods of time.

It is important that the question is clear, that voters understand what it means and that any underpinning legislation that might be implemented on the outcome is clear and direct, but the question will not necessarily determine the types of campaign that there will be or the issues that will come up. The participants in the campaigns and the issues that are live can change over time, even with the same question. We have had that experience with fairly intractable social and moral issues, but we have also seen it in relation to the repeat of European Union referendums. We have had a couple of those, and we have had very different debates. Economic and socioeconomic circumstances can change, and that is really what delivers the final outcome. The crucial thing about the question is that it is clear and understandable to the voters.

Tom Arthur: I have a supplementary question on the idea that Professor Carman raised of having an expedited process for the Electoral Commission to engage. Whether the referendum was made through regulation or through primary legislation, it is likely that a committee—perhaps this committee—would take evidence, so there would be an opportunity for the Electoral Commission, via that process of engagement, to give at least a preliminary view or a provisional opinion. Rather than there being a full 12-week

period of testing, would that be a forum where it could give its informed view?

Professor Carman: Yes. Obviously, it is up to the committee to decide who it invites to give evidence, but one would think that the Electoral Commission could come and provide it. It could depend on when the committee hearing was held and whether the Electoral Commission had enough time to gather evidence before it was invited to provide evidence to this committee, or any other committee.

11:00

Another layer of consideration is public perception. If the process were to be run through the Parliament, that might be seen as politicising the testing of the question. You might then like to think about whether a more independent view would need to be taken, as opposed to the matter coming through one of the committees.

Tom Arthur: The simple point that I was making was that we have an opportunity for the Electoral Commission to submit evidence, whether orally or in writing, so we would not be ignorant of what its view was.

Professor Carman: Again, that is assuming that it would be granted enough time. The questions would then be what that amount of time would be and whether it would need to be legislated for. There is therefore a bigger issue to do with timing.

Tom Arthur: I think that we are due to have the Electoral Commission before us soon, so I look forward to asking about that then.

Alex Rowley: I have a question on the same theme of legitimacy. Is it important that referendums are seen to be legitimate and not set up by any of what we might call the governing parties? If the Government decided to hold a referendum and it determined the question that would be put, is there not a danger that that would bring such legitimacy into question?

I think that there was a second referendum in Ireland over Europe.

Dr Reidy: It has happened twice.

Alex Rowley: I would need to look at whether the situation was different there. In general, if a referendum has to be rerun but the circumstances have changed significantly, is there not a danger that, if the governing party simply insists on its question, the legitimacy of the whole process will be doubted? If a country is divided as it goes into a referendum in which even the legitimacy of the question is in doubt, is that good for democracy?

Dr Mycock: The framing of the question is one element of legitimacy, but we have learned—

particularly from the European Union referendum of 2016 and, to a lesser extent, the Scottish independence referendum of 2014—that legitimacy can be doubted in a number of areas. For example, there could be questions about the way in which the different campaigns use facts or are being less than secure in what they claim, or about the way in which they are funded. It is a remarkable feat that both remainers and leavers have come to the conclusion that, for many people, the European Union referendum campaign process was not legitimate. In many ways, that highlighted the fact that the UK Government had rushed into it, had not thought about the conventions and had not given the electorate enough time to learn about the issues.

Many things about the set of campaigns in 2014 were appropriate, such as the two-year period of learning that allowed Scottish society to comprehend the issues concerned. Although both campaigns were febrile and rather hotly contested at times, they largely provided the electorate with substantiated cases for and against the proposition. That was not the case in the 2016 European Union referendum, in which, at times, both sides were loose with the truth.

Therefore although I agree that the question is an issue, it is the wider political approach towards how a campaign is run that often produces challenges to legitimacy.

Alex Rowley: I understand that but, in 2014, all parties had come together and agreed on the question. Is it not crucial that there is some kind of agreement on what people will be asked?

Dr Mycock: In principle, yes—I strongly support that position. It is very important that all political parties and citizens—I highlight again the idea of having their input—have a sense of having legitimised the process at the beginning. If they do not have that sense, you will find that the legitimacy of the referendum will be contended even before it has been held.

Dr Reidy: On legitimacy, an important starting point is that there should be clarity about the circumstances in which a referendum can be called and who is responsible for calling it, so that all referendums are created under the same types of structures. The instrument should be applied and used equally within the system, which gets back to questions about whether it is on constitutional matters or ordinary legislation, who can trigger it and so on.

There is a second point, which relates to the likely success of referendums. The international evidence shows that when there is cross-party consensus—particularly when there is parliamentary consultation and agreement around the referendum issue—there is a greater chance

of it being successful. I was reading some work yesterday about constitutional amendments in central and eastern Europe, which said that they have a much higher chance of passing in referendums if there is some degree of cross-party consensus. It is a political issue, which translates into the campaign, but the starting point has to be clarity about what types of issue will be dealt with in referendums and how they will be triggered. That gives an enduring framework and way of delivering referendums that voters can understand and become more familiar with over time, which helps to underpin and build broader legitimacy for the referendum instrument as a general tool for making decisions.

Regarding the idea of revisiting questions, lots of countries revisit referendum questions and the same is true of citizens initiatives; the same kinds of things come up over and over again. That comes down to the much bigger question of how a country's direct democracy intersects with its representative democracy. Again, it is about who can trigger referendums and what happens when results occur that perhaps run contrary to other policy issues or more complex ones. What, then, is the role for representative democracy to address those kinds of issues? Those are very big design questions for a system, which have to be understood and addressed in a broader sense, rather than through the prism of a particular—albeit very live—referendum issue.

The Convener: Professor Fisher, who gave evidence last week, said:

“polling companies constantly review their questions because the questions rapidly go out of date in respect of people's understanding of what they mean.”—[*Official Report, Finance and Constitution Committee*, 4 September 2019; c 19.]

Tom Arthur talked about the number of times that polling companies have used the question that was used in 2014. I am struggling with this in my head but, if polling companies have not altered the question over that period, can we assume that they are comfortable that people's understanding of it has not been lost? There is a conundrum there.

Professor Carman: Not necessarily—there is a variety of reasons why one would not change the question. In, particular, if someone is running the question for academic research or media purposes, an important factor is to have a longitudinal timeline of responses to the same question. As we have already established, small changes in question wording can lead to different responses. Therefore, even if the question is not asking exactly what they want it to ask, someone might ask the public the same question over and over again to get that timeline of responses.

The Convener: Does that not create confusion if the question then changes?

Professor Carman: Possibly. That goes back to the question of whether an independent body should look at the evidence. It could use the evidence from the polling firms and does not necessarily need to run its own surveys. It could do some statistical analysis to find out how stable responses are over time across different groups, which will give a sense of whether the public still understand the question in the same way.

Neil Bibby: If the justification for running a second referendum is a material change in circumstances, it is not the same proposition or the same question that is being asked. In those circumstances, do you not think that the Electoral Commission should be fully involved in testing the question?

Dr James: I think that the Electoral Commission should be fully involved. I cannot see any advantage in limiting its role or the time that it has available to do that.

Dr Mycock: It is appropriate for every referendum—if it is repeating an issue or if the material circumstances have changed—to go through that process, even if it is simply a confirmatory process, so that you get buy-in from as many citizens as possible on the legitimacy of the particular referendum.

The Convener: John Mason has a question about the Irish experience.

John Mason: We have heard a lot of evidence so far, and there are some interesting points to pursue in your evidence, Dr Reidy. You have mentioned that some referenda might be on contentious issues. Clearly, there will be a lot of people on both sides of a contentious issue, but some referenda might not be on a contentious issue. Can you give us an example of such a referendum, maybe from Ireland? I do not think that we have had any here that have not been contentious, so I am interested in that point and in your suggestion that the Electoral Commission, for example, should provide objective information. Would that be only for the non-contentious referenda, or should it be for the contentious referenda as well?

Dr Reidy: I will answer your second question first. If you conceive of this as an enduring framework that would apply to all referendums, in principle, the same rules should apply to all referendums in relation to technical matters. If it is good practice for the Electoral Commission to comment on all questions, that should apply to all referendums; equally, if the Referendum Commission in Ireland or the Electoral Commission here provides objective information, it should do that over time.

The key learning from the Irish experience is that voters have become familiar with the information that is provided by the Referendum Commission. They expect to get the leaflet in the post, they listen to the advertisements and the chairperson of the Referendum Commission participates in a lot of public information sessions. A lot of the research evidence that we have shows that, as a result of that, the Referendum Commission's information is highly valued—it is influential in shaping voters' positions and their understanding of issues—and the Referendum Commission is very much trusted by the voters. That did not happen overnight. It happened because of the cumulative experience of running referendums. We have been having roughly one referendum a year for the past 10 to 15 years, so there has been a cumulative build-up.

John Mason: Can I press you on that point? How much detail and what kind of information does the Electoral Commission give? My impression is that what we have had so far has been quite insipid—it is about which box to tick and so on—whereas, in the European referendum, there were big debates about, for example, whether the health service would get more money if we left the EU. Would the Electoral Commission comment on that sort of thing?

Dr Reidy: In Ireland, the Referendum Commission provides objective, factual information that is not disputed. There are limits to what information it can provide, because there will still be areas where there are substantive elements of contention—

John Mason: So, the commission could not say anything about the future, could it?

Dr Reidy: Let us take, for example, the fiscal stability treaty, which was the topic of the most recent EU referendum that we had in Ireland. The Referendum Commission developed information to explain the contents of the fiscal stability treaty, what it was about, what the implications would be for Irish budgetary policy and the Commission's oversight of the budgetary policy. That was all fairly objective information. The chairperson of the Referendum Commission then participated in public interviews and debates on those questions.

Previously, a persistent thread running through European referendums in the Republic of Ireland was that the new legislation or treaty would bring in abortion and supersede the provisions on abortion that were in the constitution at that point. The chairperson of the Referendum Commission was able to conclusively say, "There is nothing in the fiscal stability treaty about abortion—it will not affect abortion rights one way or the other." It is not always that clear cut, but that is a nice, clear-cut example of how the Referendum Commission can shut down a line of argument.

Your first question was about the types of referendum. In the Republic of Ireland, referendums happen because there is a requirement to change the constitution.

John Mason: Is that the only time that you have referendums?

Dr Reidy: We have legal provisions for what are called "ordinary" referendums, which are the policy referendums that were mentioned earlier. However, they have never been used. We have had referendums only on constitutional changes. The constitution is a fairly comprehensive document. As a consequence, as we have outgrown the mores of the 1930s, we have had to have a lot more referendums in recent years.

You have probably heard a lot about referendums on equal marriage and on abortion. We have had lots of questions on such issues. We have also had lots of referendums on quite technical issues to do with legal and political institutional design, which are in the constitution and relate to, for example, the houses of Parliament and the courts.

In 2011, for example, there was a referendum on whether parliamentary inquiries could be held under particular circumstances. It is hard to find members of Parliament who have strong views on parliamentary inquiries; finding citizens on the street who have views on the matter is even more difficult. That referendum was on a matter on which there was very little information and there were very few strong views among voters, so it was important that the Referendum Commission stepped into the field and provided information on what the proposed changes meant, how they would be implemented and what the consequences would be. Ultimately, the proposal was defeated.

11:15

That brings me to a bigger point about referendums. There is an interesting piece of work by a Canadian political scientist who has classified the types of issue on which we have referendums. He talks about big, cleavage issues, on which people have fundamental views. Scottish independence is probably a big, cleavage issue, as is unification of Ireland. We expect people's opinions on such sincere, value-type issues to change really slowly.

There are then the mid-range issues—the more technical, policy issues. The European Union referendums in Ireland fall into that category. What the political parties and civil society actors say about them is very influential.

After that, there are the more technical issues that come up over time. A referendum might relate

to a specific policy issue at a point in time. Views on such issues can be quite volatile—as was the case with the parliamentary inquiries referendum in the Republic of Ireland. People really do not have any opinion on the issue three weeks before the referendum happens, but a rapid process of opinion forming happens during the campaign, with each new piece of information potentially changing a person's mind. Today, a person hears something that makes them favour Oireachtas inquiries, but, the next day, all the attorneys general come out and say, "This is a dangerous change," and the person changes their mind again, because they are not making the decision from a place of fundamental values on the topic.

We have referendums across the spectrum, but, in the context of the bill, the issue is largely envisaged through the prism of the more cleavage, fundamental questions.

John Mason: Is that why you seem to suggest that both sides of a campaign should be financed—so that a campaign can be created if none exists? We might not need to do that if we are going to have referendums only on contentious issues.

Dr Reidy: If you are dealing only with contentious issues and the intention is not to have technical referendums, it might not be necessary for you to do that. We do not do it in Ireland, even though we have technical referendums fairly regularly, but we have done post-referendum research that shows that a consequence of that is that voters tend not to know much about the issue. Often, there are no posters and there is not much by way of debate.

A solution that is often proposed in that regard is the provision of a small amount of money to campaign groups. However, you should keep it in mind that such an approach artificially creates a no side, in a way. There is concern that money could be given to people who would use the referendum to create a platform to campaign for something else. You would have to be careful about how you went down that road.

Some referendums can take place on technical matters that do not generate much interest or intensity on the part of voters or the political parties.

John Mason: Thank you. I addressed the question to Dr Reidy, but I think that other panel members want to respond.

Professor Carman: Our conversation started with consideration of the role of the Electoral Commission. So far, we have talked about the commission in a variety of ways—I have jotted them down. We have talked about the commission providing fair, neutral and balanced information to the public on the content of a referendum. We

have talked about the commission being involved in the regulatory processes of the referendum. We have talked about it administering and running referenda, and we have talked about it testing questions.

In his briefing paper, Alistair Clark notes that an advantage of the bill is that it separates the regulatory function from the administering function, with the latter going to the Electoral Management Board. Within the context of the bill, the committee might want to think clearly about the role of the Electoral Commission. If the commission is in charge of providing fair, balanced information, one might want to separate that from the regulatory function, which has already been separated from the administering function. It becomes quite complex.

John Mason: Is there any best practice on that, or does it vary around the world?

Professor Carman: My sense is that it is rather varied. In the United States, if we look across all 50 states, there are different processes in place for regulating information. As the committee can imagine, in the US it tends to be no holds barred and everyone goes for it, which can be quite problematic. We have seen before that it can be quite problematic if we do not regulate the sorts of information flows, particularly in relation to internet and online access.

Dr Mycock: I will take that on. In some senses there is an important requirement for an independent body to provide information for the electorate about the context, issues and consequences of any referendum. What has been proven by both the 2014 Scottish independence referendum and the 2016 European Union referendum is that a Government body that is stimulating the referenda cannot be relied upon to provide that impartial information—that was the case in both instances. Beyond that, there is a really important question about the learning period. There is strong evidence to suggest that a campaign period of anything around 10 weeks, which is the usual norm for a UK referendum, does not provide the electorate with sufficient ability to gain an appreciation of the issues concerned.

American research on political psychology suggests that, about six weeks before an election, most electors move from being objective about trying to consider both sides of any issue towards a more emotional response that tends to be less evidence and fact driven.

John Mason: You are suggesting that they will have made a decision after six weeks.

Dr Mycock: They may have closed down to the idea that there are multiple perspectives on a particular issue and then turned to a more

emotional response. The Scottish independence referendum had a two-year lead-in, which provided much of Scotland with that chance to learn about the issues. It is possible that it was too long. In many ways, it was all enveloping and people felt slightly exhausted by the end of the process. At the same time, the European Union referendum has proven that such a short period did not allow many segments of the electorate to fully appreciate the other side's arguments.

That campaigning period is one of the things that needs to be considered in respect of the bill. The problems around the electorate learning about the issues must be taken into consideration in deciding what that period should be.

Gordon MacDonald: Before we look at how we can encourage voters to participate in a referendum, I want to ask about voter registration. Scotland's population is at a record high, yet the Office for National Statistics produced a report in March 2019 that highlights that Scottish voter registration dropped in 65 per cent of council wards between December 2017 and December 2018. Is there a particular difficulty with voter registration in Scotland? What underlies that drop?

Dr James: There is a UK-wide problem with voter registration. There has been a long-term decline in voter registration rates since the second world war. One reason for that is changing lifestyles. One intervention was the move to individual electoral registration in 2014, although it is important to note that it was introduced at a different point in England and Wales to when it was introduced in Scotland; the Scottish independence referendum, for example, was still run under household registration. It is widely thought that one of the effects of individual electoral registration has been a reduction in the completeness of the electoral register. There were some positive outcomes, including increased accuracy and reduced opportunities for electoral fraud, but research shows that young people and students in particular were negatively affected.

If we think back to 2014, the system was that one head of household—that was the phrase that was used—could complete a registration form for everyone in that property. Parents would possibly have filled in the electoral registration form on behalf of 16 or 17-year-olds who were to be included in the franchise for subsequent elections. It is estimated that of all 18 to 24-year-olds, roughly a third are missing out with peak election season—possibly 8 million people across the UK who are either missing entirely from the electoral register or are incorrectly registered. That could be a challenge in a future referendum.

Some of what I put forward in my evidence to the committee, which draws from the "Missing Millions Still Missing" report, points to ways in

which public service agencies could play a role in registering people to vote. There are possible interventions.

The situation also places considerable pressure on electoral officials, from whom the committee will hear next week. The types of pressures that we hear about include, for example, last minute spikes in registration applications. We have seen about a quarter of a million applications over the past week in the UK, just because of the mention of the words "general election". In the run-up to the 2016 Brexit referendum, the voter registration website crashed because there was such a great volume of traffic. The electoral officials have to process every single application and check whether a person is registered. That is a potential problem.

Gordon MacDonald: Should we move back to head of household registration, or should we have some form of automatic compulsory registration—for example, a young person being automatically registered to vote when they get their national insurance card at 16?

Dr James: It would be difficult to move all the way back to household registration, which has its advantages, although it is a Victorian system. Some automatic registration interventions certainly seem to be clear winners, including that suggestion for registration of 16-year-olds. At the moment, 16-year-olds are sent a letter that tells them their national insurance number, which is a very important moment for them. They could also at that point be at least encouraged to register to vote, but why not simply add them to the electoral register at that point, too?

Dr Mycock: We are working with electoral registration offices across the UK on that question. The national insurance approach would not work in Scotland, because the age of registration is 14 for some elections and 16 for others.

I was a member of the independent youth citizenship commission, which was convened by the UK Government and sat in 2008-09. We recommended that automatic registration be introduced. Schools could easily oversee that. It would save a considerable amount of money in the short and long terms.

There are general data protection regulation issues, because under-16-year-olds have a separate convention, so I urge the committee to think about that. In Scotland, citizenship education is a statutory subject, although it is not uniformly or universally well taught at present. In Wales, where they are considering lowering the voting age to 16 for local and national parliamentary elections, there is an opportunity for that citizenship programme to include all 14-year-olds signing on the electoral register as part of their political

education. If you do not introduce automatic registration, I strongly urge you to consider that option.

Gordon MacDonald: You touched on political education. From looking at turnout figures for the EU referendum, it is my understanding that 64 per cent of 18 to 24-year-olds voted, and 80 per cent of 65 to 74-year-olds voted. In the independence referendum in 2014, 75 per cent of 16 to 18-year-olds voted and 92 per cent of over-55s voted. What can we do to address that discrepancy in turnout by age group?

Dr Mycock: First and foremost, when the voting age was lowered in 2014 for the independence referendum, and subsequently for Scottish local and national parliament elections, the issue of youth democratic socialisation was not considered in a developed manner at the same time. I urge that that situation be addressed.

Local authorities in Scotland provide different levels of citizenship education. About one third of young Scots take the modern studies curriculum, so they get a good level of political education, but there is clear evidence that sizable numbers of young Scots do not receive appropriate political education. So, regardless of the issue, they are uncertain about that territory.

11:30

There is also a second question, which is not simply about 16 and 17-year-olds. The biggest drop in turnout is actually among 18 to 24-year-olds. Something problematic is happening there. Although there is not a particular issue with one group of 18 to 24-year-olds, it is true to say that it seems to be those who do not go to university who do not turn out. In that case, it is not just that there is a need for statutory political education in schools and colleges before young people are enfranchised; there is also a need for political parties to think about the spaces and places where those young voters congregate, particularly those who are not in some form of education after the age of 18, and to ensure not only that they understand the issues but that they are listened to and represented.

One of the things that has not yet really affected Scottish political culture is the fact that lowering the voting age has not caused any real change in the way in which political parties appeal to younger voters. We have not seen policy making change radically, and young people's voices are not yet voluble enough.

Furthermore, the age profile of representatives in this august institution and in local authorities has not changed. In fact, since the voting age was lowered in 2016, the average age of members in this institution has gone up. There is something to

think about there with regard to the broader way in which Scottish politics resonates with and reflects younger voters.

Dr James: I agree with all that. Obviously, a political education should begin in schools. It is interesting that the bill encourages statutory bodies to promote participation. I also add that we should exercise some caution with regard to how effective they can be in doing that. Obviously, public organisations have many skills and have well-trained staff, but there might be limits to their ability to capture the grass roots. A positive contribution to reaching hard-to-reach communities could be made by having a board that includes charities and schools, or by having grants or competitions through which money could be given to small organisations so that they could have democracy champions who could encourage everyone to vote.

Professor Carman: Our evidence is from a study that we undertook following the 2014 referendum that surveyed teachers and students in the west of Scotland. One of the clear findings was that teachers felt that the guidance that came from local councils and headteachers was quite varied across council areas and schools. Some teachers felt that they were strongly discouraged from discussing controversial political issues. Therefore, unless there is some sort of mechanism, relying on schools to take care of the sort of political education that we are discussing is highly problematic.

Some 20 per cent of secondary schools in Scotland do not offer modern studies, which means that there is a limit to the extent to which students have access to that subject. The curriculum for excellence says that citizenship education should be a part of every school year and go across all subjects. However, it was pretty clear from our survey that most teachers who responded to our survey who are not modern studies teachers felt that that was an area that only modern studies classes were supposed to handle. For example, I think that only 26 per cent of teachers felt that citizenship was something that should be talked about in the context of a history class, even though it is a good example of a subject that you might imagine citizenship could be integrated into.

It is fairly clear that political literacy is not integrated across the entirety of the curriculum, which means that you have to be careful about how you think about the issue. That is why, in our recommendations, we say that you would need to think about mechanisms—whether they are dealt with in secondary legislation subsequent to the bill or in some other way later on—that can measure the role of schools. At the moment, pupils across Scotland are exposed to different levels of

information and inconsistent information, and there are obvious questions about fairness in that regard.

Gordon MacDonald: I accept what you have said. However, I am most concerned about 18 to 24-year-olds, whose turnout level is only 54 per cent. Obviously, there is an issue there that needs to be addressed.

I am curious about the Irish situation. Does Ireland witness differential turnouts by age?

Dr Reidy: Yes, we have a particularly acute difference between younger voters and older voters—in European data, it is second only to that in the United Kingdom. It is worth noting that by having voluntary procedures, the United Kingdom and Ireland are outliers in terms of voter registration procedures—most other European countries have automatic registration procedures, which simply removes a barrier to voting.

That said, the international research tells us that things that we do to make it easier for voters to get to the polls, such as early voting and postal voting, help just a small percentage of voters. The overall impact on turnout tends to be quite modest—just a couple of percentage points. The fundamental things that mobilise people to vote are an interest in politics and a belief that politics affects them. Unfortunately, that is a much more difficult conundrum to address.

Professor Carman: In the United States, various experiments have been tried. Polling stations being put in shopping malls is one of the few examples that have had any sort of effect on the age profile of voters—it also usually makes a difference of just a few per cent, but it is a start. If that were to be combined with automatic registration, we would start to see slight changes to the age profile of voters.

Dr James: I can add another American example. About 25 years ago, the US introduced the National Voter Registration Act, which required particular public agencies to ask people to register to vote when they came into contact with them. That is another option that could be implemented here, given that the Scottish Government has responsibility for a wide variety of public agencies. The agencies could say, “You’ve come to see us about this today: by the way, do you want to register to vote?” Such everyday conversations can make a big difference.

Gordon MacDonald: Thank you.

Patrick Harvie (Glasgow) (Green): There have been a few side comments on regulation of the digital space around donations and accountability of money as it flows through the political system, and around the accuracy of information. I want to draw some of those threads together.

Dr Reidy’s submission says:

“As concerns about mis-information grow, it is likely that the role of independent electoral commissions will become more crucial in providing comprehensive information which can be trusted by voters.”

I am worried that if we rely on that kind of argument we will miss the effect of the way that digital campaigning is happening at the moment, in that it is not only having the effect of undermining voters’ trust in objective information, but is designed to do just that—it simply offers voters a choice of information to subscribe to, rather than recognising that anything is objective.

What is your view on how well the bill innovates in respect of regulating online activity? How much more scope is there for innovating in that area? Where is the balance between respecting freedom of speech and holding people to account for telling objective lies? There is a difference between expressing a contentious or contested opinion and saying,

“Turkey (population 76 million) is joining the EU”,

which is a barefaced lie—or was during the campaign. Another example is:

“Now the EU wants to ban tea kettles”.

Those are objective lies. Once they are out there in the digital space, they may be being shared by individuals, rather than by companies that can be held to a digital imprint. If all that money goes into the campaign in the last few days or weeks, the effect will have happened and it will be too late. What potential is there to engage with, and regulate effectively, the new form of campaigning?

Dr Reidy: I am afraid that there is no answer to that question.

Patrick Harvie: That was my fear.

Dr Reidy: The conversation on that is being had in Parliaments across Europe. It was a particularly acute conversation in the run-up to the European Parliament elections earlier this year. The question is how to challenge misinformation and deal with the microtargeting of voters—as members will have heard a lot about in relation to Cambridge Analytica.

Online platforms pose significant challenges because of the nature of the medium. There is also the secondary issue, which is that such platforms are transnational by their very nature. That is where the real regulatory challenge emerges, because in effect you are trying to regulate companies and platforms that may exist outside the state, which is a fundamentally difficult thing to do.

Other European countries are getting at that by working collaboratively with the companies involved. Let us just gloss over that particular

point. In advance of the European Parliament elections, a code of conduct was agreed between the social media platforms and the European Commission, with the quid pro quo being that if the platforms did not engage with the code of conduct, ultimately the Commission would legislate. While individual states may have particular difficulties—even the Republic of Ireland, where most of these companies are located, faces that challenge—it is easier to address such issues transnationally, and to have policies of good practice specifically in relation to the disinformation, to ensure that companies respond quickly to take down clear examples of disinformation, to deal with hate speech online and to have greater clarity around microtargeting and the ways in which companies can use people's data.

At the moment, there is the code of practice, but European legislation will bring the issue into the legislative arena. Fundamentally, though, there will still be problems. National regulations can be created, for example on financial transparency and advertising, and it can be made illegal for somebody to fund particular types of advertising campaign. For example, we ban broadcast advertising in the Republic of Ireland. However, all kinds of broadcast ads on the referendum issue can be run on YouTube.

We are relying on online platforms to come together and decide that they will not take advertising revenue or facilitate those types of contribution. That actually happened in the abortion referendum in the Republic of Ireland. About 10 days out from the referendum, the companies came together and decided that they would not take advertising revenue. Although that was seen as disadvantaging the no side, in the end the margin of victory was so large that that was a bit of a moot point. Ultimately, you will have to have direct co-operation with online platforms, and you will have to rely on those platforms adhering to or complying with any regulations, in full awareness that they are transnational by their very nature.

Patrick Harvie: I take your point that Europe-wide political institutions would be quite helpful here—that is something that I would have a lot of respect for.

Dr Reidy: Sorry about that.

Patrick Harvie: No, I totally agree.

In terms of the bill, it seems to me that digital imprints almost treat digital campaigning just like a form of leaflet, which seems inadequate. Are there any other views about what scope we have in the bill to ensure that the framework for future referendums takes account of those new challenges?

Dr Mycock: What Theresa Reidy said is true. You are trying to address a moving target. The growth of artificial intelligence will make these things even more difficult. It may well be that this is less a question of regulation and more a question of education. Digital education of young people, and of citizens more widely, has been largely overlooked. In many ways, the problem with regulation is that it addresses the symptoms of the problem rather than the causes, which are that citizens themselves struggle to navigate an increasingly complex digital world. In recommending that you think about political education for citizens across Scotland, particularly young people, I would also say that digital education is very important.

I would urge the committee to consider connecting with the House of Lords select committee that is looking at the issue of digital democracy, because it may well be able to inform some of your work.

The Convener: One issue that we have not covered, which we covered last week, is the Gould six-month rule. Toby James made particular reference to that in his written submission, when he said:

“The establishment of this framework would make that goal”—

the six-month rule—

“more realisable and put Scottish referendums onto a more surer ground.”

Will you expand on what you mean by “more realisable” and “more surer ground”?

11:45

Dr James: Sure. At the start, you stated that one of the aims of the bill was to provide flexibility, but it will also provide certainty about the legal framework, not just for electoral officials but for candidates and citizens. Research has shown that one of the challenges that electoral officials face has been the variety and complexity of electoral legislation and legislation on referendums. Also, in some cases, the legislation can arrive very late on. The Gould principles arose from problems in 2007, when legislation was late. The bill is an important step forward because it provides foundations. That is why I mentioned that flexibility can be a problem in how referendums are run.

Obviously, the question here is whether six months is enough. What about any statutory instruments or regulations that follow from the bill? You will hear evidence from electoral officials in due course, but the research that I undertook with Dr Clark indicated that they always prefer certainty—they prefer to know the date of the referendum and what budget is available. If

anyone has ever tried to organise a wedding, they will know that it is very difficult to get the venue in place. It is exactly the same for elections. They tend to be the most complex logistical task to undertake in peacetime. The more information that can be provided to electoral officials, the better.

The Convener: The similarity between weddings and elections is going through my head. It is probably the same. I should probably not ask the question. I will avoid it.

Adam Tomkins: Just leave it.

The Convener: Thank you, deputy convener, for counselling me properly.

If there are no further questions, I thank the witnesses for a helpful, interesting session.

Meeting closed at 11:47.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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