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Rogers DA (David)

From: Campbell I (Ian)(Exec Sec)
Sent: 16 June 1999 12:44
To: First Minister; Brannan MH (Micheline)
Cc: PS/Executive Secretariat; Gordon RSB (Robert); Rogers DA (David); Ewing JA (John); Minister for Parliament
Subject: RE: Devolved legislation at Westminster

Paul

I think that it is important that we inform the Tories but I also think it is better to know what reaction we get from the SNP before arranging a meeting. If the SNP are adamant that we should not debate the issue until they see Bills, we can assume that the Tories will react likewise and our handling may have to be different. David Rogers is trying to agree a meeting with FM in advance of the SNP meeting to discuss Micheline's memorandum. We can take his mind then if we are not able to beforehand.

Ian

-----Original Message-----

From: Allen PC (Paul) On Behalf Of First Minister
Sent: 16 June 1999 12:03
To: Campbell I (Ian)(Exec Sec); Brannan MH (Micheline)
Cc: PS/Executive Secretariat; Gordon RSB (Robert); Rogers DA (David); Ewing JA (John); First Minister; Minister for Parliament
Subject: RE: Devolved legislation at Westminster

Ian

What about the Tories? Did FM want them briefed too?

Paul

-----Original Message-----

E

To all as above

Further to my earlier e-mail I have now spoken to the SNP Business Manager (Mike Russell) and agreed that he and his front bench spokespersons will be briefed tomorrow afternoon and given written information in advance. I would be grateful if the written information on the Bills can be cleared in time for me to pass it on before the meeting. Can Micheline let me know who will attend and if there is a timing preference.

For information you should be aware that Mr Russell expressed concern that we appeared unable to stick to the convention of having published bills in advance of the parliament being asked to give its consent. He also expressed concern that there were other bills in addition to the FSA Bill and that this simply confirmed the fears put forward by Alasdair Morgan in response to the First Ministers statement.

If we are to consider a motion on these bills it will have to be taken on the same day as the debate on FSA i.e. 23 June.

Ian

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Rogers DA (David)

From: Rogers DA (David)
Sent: 16 June 1999 11:56
To: Campbell I (Ian)(Exec Sec); Brannan MH (Micheline)
Cc: PS/Executive Secretariat; Gordon RSB (Robert); Ewing JA (John); First Minister; Jamieson JL (Iain)

Subject: RE: Devolved legislation at Westminster

Importance: High

Follow Up Flag: Reply

Flag Status: Flagged

Billy Micheline

Ian,

I have spoken to Micheline, Robert Gordon, Iain Jamieson and John Ewing and we have concluded that:

It would be useful if possible to have a quick meeting this pm with the FM to discuss the paper which Micheline is preparing to go to the SNP and particularly to decide whether the Treasury Financial services Bill needs to be dealt with. Its impact on the Scottish Parliament's area of competence is in the great scheme of things marginal, but it is in our interest in the long term to establish a precedent that Whitehall should not promote such Bills without consent;

that John Ewing and I should go with you and Micheline to the meeting at 5.15 pm with the SNP.

Can you phone me to discuss urgently please?

DAVID ROGERS
ES
45534

—Original Message—

From: Campbell I (Ian)(Exec Sec)
Sent: 15 June 1999 20:43
To: Brannan MH (Micheline)
Cc: PS/Executive Secretariat; Gordon RSB (Robert); Rogers DA (David); Ewing JA (John); First Minister; Minister for Parliament
Subject: Devolved legislation at Westminster

To all as above

Further to my earlier e-mail I have now spoken to the SNP Business Manager (Mike Russell) and agreed that he and his front bench spokespersons will be briefed tomorrow afternoon and given written information in advance. I would be grateful if the written information on the Bills can be cleared in time for me to pass it on before the meeting. Can Micheline let me know who will attend and if there is a timing preference.

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Ian

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Rogers DA (David)

From: Jamieson JL (Iain)
Sent: 16 June 1999 08:41
To: PS/Executive Secretariat; Rogers DA (David); Burgess WG (George); Campbell I (Ian) (Exec Sec)
Subject: FW: Westminster legislation on matters within competence of devolved administration

Were you aware of this? I assume that the FM is asking about what exactly the convention is intended to be and how it should operate - a matter about which, as you are aware, I am concerned because of the various administrative proposals which would have the effect of destroying it before it is established. It may be that he is also concerned as to whether the motion is debatable. I will do a minute later this morning to enable Patrick to inform Sol Gen but any assistance would be welcome. Iain

-----Original Message-----

Richard

Not a legal point

The Solicitor General attended Cabinet this morning. The First Minister asked for legal advice on whether it was obligatory to have a debate in the Scottish Parliament whenever the UK Parliament was legislating on a matter within the legislative competence of the Scottish Parliament.

The answer is probably straightforward, but since the matter was raised at Cabinet, the Solicitor would be grateful if the Law Officers could be instructed on it.

Patrick

P J LAYDEN
Legal Secretary
15th June 1999

*RE: I like that's right: But SG is probably
don't want what Iain wants!*

Michelle seeing

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Rogers DA (David)

From: Gordon RSB (Robert)
Sent: 15 June 1999 22:39
To: Henderson RM (Richard)
Cc: Jamieson JL (Iain); Rogers DA (David)

*Michelle! - perphly subd
- Draft not here it
x boiler industry*

Richard

Meant to have a word with you today but ran out of time:

Sorry to hear about Steve Lindsay. What's the prognosis?

(?)

Sol Gen seemed to have been briefed by Patrick for Cabinet on Incapable Adults legislation. There is some intricate further thinking to be done on definition of therapeutic research. General authority to treat was agreed; living wills, non therapeutic research and legislating on withdrawal of treatment were not agreed. Plan was to involve Sol Gen in further thinking. I hope Patrick tipped you off in advance. I think this is one where Sols and poss Draftsmen could have been involved in briefing Law Officers and Exec Sec chaps at Cabinet. I realise that at the moment we are trying to do too much in no time at all but as (if) things settle down we ought to be able to make the linkages better.

Micheline's advice about the latest raft of Westminster Bills which trespass into devolved areas found the FM in slightly scratchy mode. I persuaded him that the issue was to get the SP to agree the principle of Westminster legislating in these areas but after discussion he was concerned that the effect of the Financial Services and Markets Bill as proposed seemed to be to legislate to transfer devolved matters into the reserved arena. This was unlikely to be acceptable to the SNP. He would like to have a fuller explanation - which Ian Campbell will be commissioning from Micheline. I presume (I apologise for not following the earlier minuting closely enough) it would be possible for the Bill to be drafted in a way which better respected devolved matters and did not have the effect of taking a bite out of devolved competence.

I am copying also to David Rogers to whom I was unable to speak tonight and with whom I would like a word in the morning.

That is so.

*I'm not at all sure that
is the case.*

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Rogers DA (David)

From: Campbell I (Ian)(Exec Sec)
Sent: 15 June 1999 20:43
To: Brannan MH (Micheline)
Cc: PS/Executive Secretariat; Gordon RSB (Robert); Rogers DA (David); Ewing JA (John);
First Minister; Minister for Parliament
Subject: Devolved legislation at Westminster

To all as above

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Ian

quite

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Rogers DA (David)

From: Campbell I (Ian)(Exec Sec)
Sent: 15 June 1999 19:21
To: Brannan MH (Micheline)
Cc: Rogers DA (David); PS/Executive Secretariat; Ewing JA (John); Gordon RSB (Robert);
 First Minister
Subject: LEGISLATION AT WESTMINSTER ON DEVOLVED MATTERS
Importance: High

Micheline

Copy as above

Progress report on where we are on the 3 Bills. First Minister does not wish to write to the Party Leaders without draft Bills to enclose. He feels that the non-Executive parties would be likely to withhold agreement on taking the motion without having details of the Bills that they are being asked to grant their consent to. I am planning to speak to the SNP Business Manager either tonight or tomorrow morning to offer him and others in his party the opportunity of a paper based on your memorandum outlining details of the Bills and a briefing session with officials explaining what the extent of the devolved matter is on each Bill. A point which is exercising the First Minister is that relating to the Financial Services and Markets Bill. He feels that we are not on strong ground asking the parliament to consent to elements of a Bill relating to a devolved matter when in future it would not have the power to amend the elements that it was presently being asked to consent to. Can we clear this point up before I speak to the SNP? If not I will make reference to only 2 Bills at present with the possibility of a third to follow.

There are also some textual changes that the First Minister wishes to make to the document at Annex B. In the penultimate sentence of the last paragraph he would like to delete after "sector" as he feels that this will give fuel to the SNP fire. Can we discuss this asap in order that I can make arrangements for a briefing session as soon as possible. ?

Ian Campbell

Make case for consent stages! Alberta is to let HM get away with it. it's not about devolved matters

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Rogers DA (David)

From: Rogers DA (David)
Sent: 15 June 1999 10:30
To: Miller CR (Colin)
Cc: Coull AJ (Alison); Carmichael DB (Donald); Walford IN (Ian)
Subject: RE: international criminal court

Colin

Thanks. I quite take your point about resources. I take it though that by "the centre" you mean devolution!

My point was merely that FM got some very bad press last week for implying that Westminster will quite routinely legislate for devolved matters, and the issue looks like being a running sore, so I personally doubt that Ministers will be keen for there to be a Westminster Bill when there is no policy/technical reason why there should not be a separate Bill. But of course that is for them to decide.

Yes, we'd be keen to comment on the draft submission. For the moment I am your man though this bit of the centre's resources is going to dry up soon and its not clear yet who will take over this particular issue.

DAR

-----Original Message-----

From: Miller CR (Colin)
Sent: 15 June 1999 09:43
To: Rogers DA (David)
Cc: Coull AJ (Alison); Carmichael DB (Donald)
Subject: RE: international criminal court

David

I understand the politics, but taking a Bill of our own through the Scottish Parliament would involve considerably more work - by an order of magnitude - than riding on the back of a Whitehall Bill. The end result would, of course, be identical.

I take it that there will be no difficulty about assigning additional resources to CJD to cope with this - and all the other new demands that the ever burgeoning centre is constantly placing on the poor bloody infantry in policy Divisions? Or will I tell Owen Kelly that we won't be able to devote resources that we haven't got to waving the Scottish flag on JHA, to no discernible purpose either?

Excuse my grumpiness, but we are being swamped already. At some point there is going to have to be a degree of realism about what can and can't be done before the shoestring finally snaps.

I was thinking about putting up a submission setting out the options of a separate Scottish Bill or going along with a UK Bill, and recommending the latter. Should this be cleared with the ES before it goes forward, and if so whom? The Bill won't be introduced this Session, but Home Office/ FCO want to publish it in draft later this year, hence the urgency.

Colin

-----Original Message-----

Alison,

Given the major hassles - political and handling - which the present tranche of Westminster Bills

is throwing up, I think Ministers are going to have very good reasons for adopting this approach in future. Is there any reason why there should not be a separate Scottish Bill?

DAVID ROGERS

-----Original Message-----

From: Coull AJ (Alison)
Sent: 14 June 1999 18:12
To: Miller CR (Colin)
Cc: Rogers DA (David); McColl S (Susan)
Subject: international criminal court

<< File: Mr Miller.doc >>

minute discussed - just to confirm our telephone conversation today.

Alison