

Matthews B (Barry)

From: Lorne Boswell [lboswell@glasgow.equity.org.uk]
Sent: 28 March 2007 11:09
To: Cultural Bill Consultation
Subject: Equity submission on Culture Bill

Acknowledged. 69
B1265984 CF²⁵²

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Dear Barry

Please find attached our submission on the Culture Bill. If you have any queries please do not hesitate to contact me.



THE CULTURE BILL – EQUITY'S RESPONSE

The Culture Bill is undoubtedly a 'slight' document. The artistic community has been divided in its response. Artists appear to be rejecting the bill but the army of volunteers, administrators, board member etc who serve the cultural sector appear disappointed but to be more inclined to 'try to make it work'.

Equity believes this bill is a 'wasted opportunity'. Equity believes aspects of this bill are potentially harmful to the creative community in Scotland and will be campaigning against them. Although, in the process of Cultural Strategy, Review and Commission many ideas were floated, ultimately the 'betterment' the cultural community in Scotland so desperately seeks, does not need legislation.

However, we must acknowledge that there has been significant disquiet about the operations and decision making at both Scottish Screen and the Scottish Arts Council. Equity has been forceful in our criticism in some areas. The prospect of scrapping the organisations and starting again has a simplistic and naïve attraction but the functions these bodies fulfil will continue to be required. Therefore we do not believe that the logical conclusion is to dismantle both SAC and Scottish Screen with the attendant chaos and cost associated with relocation, redundancy and re-branding. We believe a more sensible approach would have been to reform and redefine the existing bodies.

The Culture Commission, which was appointed by the Executive to explore the need for a Culture Bill, proposed universal cultural entitlements with national standards. This artificially increased demand was planned to drive through growth in the whole sector but, as was evident from COSLA's reaction nobody had really consulted the local authorities who would be required to deliver these entitlements. The cost implication of the proposed 'universal' entitlements is almost incalculable and it is no surprise that the universal entitlement does not survive through to the Bill.

Perhaps the only point of substance in the whole Bill is the introduction of the Ministerial power of direction. This will apply to Creative Scotland the National Library, the National Museums and the National Record of Scotland (successor body to the Royal Commission on the Ancient and Historical Monuments of Scotland).

Many European countries have a Ministry of Culture where decisions are made directly by Ministers and accountability is through Parliament. Until now, in Britain, we have believed in an independent body of peer expertise,

able to operate without political interference. Equity believes this model has served the UK well and that the system has only come under pressure through long term failure to maintain spending power and the occasional disastrous decision.

Equity is also seriously concerned at the move towards the arts being used as an instrument of government policy to achieve stated policy objectives. Under the proposals in the bill, Creative Scotland supported activity will have to demonstrate how it conforms to the policies of the government in power rather than be funded on the basis of artistic excellence.

Equity believes that the cultural sector may show these kinds of achievements but that the idea of only supporting the sector because of government social objectives is seriously misguided. The intelligence required to use our imaginations to make or enjoy artistic activity is one of the factors that differentiates human beings from other animals. Cultural activity is a form of social communication from artist to audience that can enhance life on so many different levels. As economists move into trying to quantify happiness in societies they will increasingly make reference to dancing, singing, drama (whether film, TV, radio or in theatre) storytelling, painting and creativity generally. All of these activities involve a search for common ideals and involve the offering and acceptance or rejection of ideas. They may help in achieving some of governments' social policy objectives but they cannot guarantee that. Works of art should not be commissioned with the express purpose of reducing criminal recidivism or improving adult literacy but they can play their part in a 'full spectrum' response to those problems whilst also achieving many other gains for all of us.

It is better to say 'art for art's sake'. The benefits to Scotland of a vibrant and well supported cultural sector may be diverse and hard to quantify, but they are also very real. The 'instrumental' role for the arts could kill them off completely.

In November 2003, the First Minister, Jack McConnell delivered his now famous St Andrews day speech. Equity, along with many others welcomed this speech and anticipated government action following the recognition of the importance of the sector. Greater resources leading to greater employment opportunities were anticipated. Neither this Bill, nor the accompanying Ministerial statement makes a commitment to looking seriously at providing increased resources for the sector to a level that it could come near to achieving its potential.

The Bill

Part 1 – Local Government Function

This section is the biggest slap in the face to the Cultural Commission because it expressly does not create universal entitlements with national standards. It is also, possibly, the longest re-stating of the status quo since devolution because, in effect, all this section does is to say that Local

Authorities must offer their citizens the opportunity to partake in cultural activity as determined by the local authority. In addition, the Minister may request to know what each authority has decided will be the local entitlements in their area. The existing legislation says that each local authority must provide 'adequate' cultural activity and facilities in its area. It is hard to see the difference between these two. The Executive should be congratulated on taking so many words to say so little.

In this part of the bill there is a reference to Local Authorities being given the power to broadcast; this is puzzling since the regulation of broadcasting is a reserved matter and this will require Westminster legislation.

Part 2 – Creative Scotland

This part of the bill is remarkably short. However significantly, it requires Creative Scotland to identify and develop talent, a frightening prospect for any practicing artist in any discipline.

Most artists would prefer government to concentrate on creating the conditions for his/her art form to flourish. Individuals could then see if they had the talent and the aptitude to succeed. Luck may be required as well. However the idea of a Scottish Executive funded Non-Departmental Public Body identifying and then nurturing the next generation of Ewan McGregors, JK Rowlings, Karen Mathiesons, Bill Forsyths etc is vaguely alarming.

Hidden at the back of the Bill is Schedule 1 which concerns itself with the detail of the running of Creative Scotland. Schedule 1.16(i) says:

- “The Scottish Ministers may –
- (a) give directions of a general or specific character
 - (b) issue guidance to Creative Scotland as to the exercise of Creative Scotland’s functions”

Equity understands the context of this change and the general shift in Executive policy to insist on the power of Ministerial direction following events at the SQA a couple of years ago. However, given the nature of the sector to be covered by Creative Scotland, this appears to be a Ministerial grab for power without accepting responsibility. In the context of the way government in the United Kingdom works, it will also give the civil servants almost unlimited power of persuasion or suggestion over the quango.

If this section stays in the bill, the new body Creative Scotland will have responsibility without ultimate power and the civil servants and ministers will have the power without responsibility. It is hard to believe if this scenario is not amended, that Creative Scotland’s ability to attract the highest calibre of individuals will not be diminished.

Some observers are calling for the section to be amended to exclude artistic decisions only. We do not believe this goes far enough as artistic decisions can be controlled by financial or other resource limiting decisions.

Also, in Schedule 1 Clause 7(5) Scottish Ministers are reserving the right to 'give direction' 'as regards the appointment of employees...and as regards terms and conditions of their employment'. Later in Clause 9 (3) & 9 (4) the bill makes it clear that any committee of Creative Scotland must 'comply with any direction given to it by Creative Scotland' and that such committees may include non-Creative Scotland personnel to their committees but they will not be entitled to vote.

In the recent debacle surrounding Scottish Opera the role played by the Scottish Executive Ministers and Civil Servants was shadowy and deeply unsatisfactory. The decisions taken by the Executive endorsed the sacking of so many employees of that company. The Scottish Arts Council advised against this route but under threat of reform, kow-towed to these decisions. Creative Scotland, or the Scottish Arts Council, whichever exists in 2008 onwards should be charged with being robustly independent of government.

Given the UK's unwritten constitution, perhaps the minister should be happy with similar powers in this respect to Bagehot's description of the monarch's ie the powers to advise, to consult and to warn.

The Executive seem to be mirroring the tensions that exist in Whitehall between the Civil Servants at DCMS at the restructured Arts Council England although it worth noting that the ACE Peer Review (chaired by Genista MacIntosh) came out strongly in favour of maintaining 'the arms length' principle. Under the proposals detailed in this bill the Civil Servants will have significant powers over Creative Scotland, and therefore, for the first time, control over Scotland's cultural sector. Equity proposes the Scottish Executive looks to the lessons learned by the Welsh Assembly. As an alternative, Equity recommends the approach outlined by Elan Clos Stephens' report 'Wales Arts Review- A Dual Key Approach to the Strategic Development of the Arts in Wales' (ISBN 0 7504 9073X or new.wales.gov.uk/walesarts/?lang=eng)

Part 3 – National Cultural Bodies

Our members have little involvement in the National Cultural bodies as defined here. However, we note with interest the insertion of the power of ministerial direction to all the National Cultural bodies. We suspect that some of the bolder acquisitions of these bodies simply would not have happened if the power of ministerial direction existed previously.

Part 4 – Offence of Dealing in Tainted Cultural Objects

Equity has no strong view on this section of the bill but believes cultural objects should not be stolen and traded.

What is not in the Bill?

Universal Cultural Entitlements are not in the bill. These were the idea the Culture Commission developed from Jack McConnell's St Andrew's Day

speech. However, if every Scottish citizen was to be provided with the same meaningful Cultural Entitlements the cost would be extortionate. It was inevitable that the commitment to Cultural Entitlements would be watered down. The bill limits itself to locally determined entitlements which will be limited by the ability of Local Authorities to pay for them.

Directly Funding the National Companies is not in the bill. From 1st April 2007 the five National Performing Arts companies will be funded and managed directly by Civil Servants. Already the companies are being forced to consider how they can collaborate more closely. As direct agencies they will also be expected to show 5% efficiency savings.

There is nothing in the bill about the status of the artist. Despite much good work by the Culture Commission on the tax status of artists, on Social Security support for artists and indeed about the centrality of the artist to the process of art, the bill is silent on these matters.

The bill is silent on the relationship between Creative Scotland and Scottish Enterprise. Equity believes that in the area of commercial exploitation of ideas, business start up and development Scottish Screen has more in common with Scottish Enterprise than with the SAC. Indeed, in Wales, that is the route they have taken with their Creative Hub combining national screen agency with economic development.

Lastly, and most importantly, there is no commitment to sustained and sustainable support for cultural activity. Were this to be addressed, almost all the other issues raised in the bill would be ignored.

Conclusion

The central issues facing our cultural sector now are the appropriate level of government direction and the appropriate level of government support for the sector. Neither of these requires legislation.

This bill as it stands offers the introduction of civil service and ministerial control together with organisational upheaval and very little else.