

## INTRODUCTION

- Thank you for inviting me: great cast list
- Commission receding rapidly into my personal past
- Exhilarating to realise that now, for the first time since 1975, I have the freedom to speak my mind.
- Reminded of John Bunyan's Pilgrim when he could suddenly walk more freely:

*Must here be the beginning of my bliss!*

*Must here the burden fall from off my back!*

- But you will be disappointed that I am not going to throw off entirely the burden of the caution I have learned over 40 years

## COMMISSION

- A pleasure and a privilege to have chaired – no burden
- Quickly remind you of background
- coalition agreement – UK Government creation
- two parts of our work
- terms of reference – read out
- Commissioners – 4 nominated by the parties – better than Calman; 3/4 independents

## FINDINGS OF PART 2

- The Welsh devolution settlement is not well understood.
- It is not as clear the settlements for Scotland and Northern Ireland.
- There is broad, solid support for devolution:
- A significant minority are critical of the way devolution has operated to date
- But we decided that it was not our job to say whether any government – in Cardiff or London – has done its job well.

## RECOMMENDATIONS

### To clarify settlement

- The single issue on which we received most evidence was the conferred/reserved powers issue.
- We could not find another state in the world which has both models operating.
- The evidence was overwhelmingly in favour of a reserved power model. But we still explored the arguments on either side at some length.
- We concluded that the reserved powers model would be better for Wales.
  - It would be clearer
  - it would allow more confident, effective government
  - it would improve accountability
  - and moving to the new model would in itself bring about a better thought- through devolution settlement.
- It would be foolish to present a move to a reserved powers model as some sort of panacea, but we are absolutely sure that it is a fundamentally important change

### Coherent powers

- Does the National Assembly has the powers it ought to have?
- We did not hear much support for return of powers to Westminster.
- We think the majority of the powers currently with Westminster should not be changed
- There are other areas where we did recommend further devolution.

### Energy, water and transport

- To make the management of natural resources more efficient and clearly accountable, we recommended further devolution of energy consenting powers – increasing the threshold of devolved decision-making from 50MW to 350MW.
- Simplifying the complexity around water. The national boundary should be the basis of competence, though more work needs to be undertaken on the practical implications.

- To make transport planning more coherent, we recommended the devolution of ports, bus and taxi regulation, speed and drink/drive limits and aspects of rail, including funding for Network Rail.

### Broadcasting

- Regulation of broadcasting should be done at a UK level, but with a stronger Welsh voice in Ofcom
- Direct government funding for S4C should be transferred from the UK Government to the Welsh Government, while preserving the arms length relationship.
- A BBC Wales Trust should be established within the overall UK governance structure of the BBC.

### Policing and justice

- The largest area of responsibility we suggest be transferred is policing and justice.
- Devolution of policing would make allow crime and causes of criminality to be tackled together and bring responsibility for Welsh emergency and public services together.
- That said, we want policing to operate effectively throughout the United Kingdom – so no devolution of PACE or of the National Crime Agency.
- Nothing to affect the rights or safety of the citizen, but enhanced local accountability, responsiveness and efficiency
- On justice, we recommended that the youth justice system should be devolved.
- We also saw a persuasive case for devolving prisons and probation, though this would require a detailed review of how it should be implemented.
- We make a number of recommendations for improving the accessibility and visibility of justice in Wales.
- At present, there appears to be an insufficient consensus to devolve the whole of the justice system, but we recommend a further review to be completed and implemented by 2025.

### To improve how devolution works

- Beyond modification of powers, we also looked at how the devolution settlement could work better for Wales.
- We make a number of recommendations for improving intergovernmental relations.
- We propose a Welsh Intergovernmental Committee - a formal Wales-only inter-governmental mechanism to encourage more effective joint working.
- We want to improve the way the UK Parliament and National Assembly work with each other, and we make recommendations about this
- For the National Assembly itself, we want to see outdated constraints removed – allowing greater control by the Assembly of its own functioning.
- We heard a lot about cross-border issues, and we make a number of recommendations that should help the citizen who lives in border areas to be better served by the two governments, for example, in healthcare and road investment.
- We also make recommendations on how devolution can be handled better in Whitehall, and how civil society in Wales can be better engaged in the governance of Wales.

#### To enhance scrutiny and accountability

- With increased powers comes increased responsibility. We make a number of recommendations to promote more effective scrutiny and performance.
- Much of the evidence called for more effective scrutiny by the National Assembly.
- We make recommendations for short term improvements within the National Assembly's existing powers, and beyond that for a larger National Assembly, though we do not recommend a specific size, partly because the related issue of the implications for the electoral system was outside our remit.
- We do recognise the argument that any increase would be considered in the context of overall political representation in Wales – but, again, the number of Welsh MPs and Welsh councillors is not within our remit.
- We were concerned by the lack of clear and comparable data across the UK on the economy and public services, and we suggest improvements.

- Our report also highlights the importance of identifying across the UK policies that work best and of Governments being unafraid to learn from each other. The role of the Wales Audit Office and National Audit Office in spreading best practice is important.
- The cumulative effect of our recommendations will:
  - achieve a clearer settlement;
  - make the distribution of powers more coherent and exercised at the right level;
  - improve inter-institutional working; and
  - enhance scrutiny and performance.

### Implementation

- We set out an implementation plan.
- This envisages a phased programme over ten years:
  - Improvements to the administration of devolution can be implemented immediately.
  - Legislation in the Parliament elected in 2015 to introduce the reserved powers model - we do not think a referendum is necessary if the changes are endorsed in party manifestos.
  - A further review of the administration of justice, to be completed and implemented by 2025.

### **WHAT SINCE?**

- Initial response to the report has been broadly but not universally positive, although understandably guarded on specific commitments
- Nothing has been said that has made me think “we got that wrong”
- Our report has succeeded in starting the debate in Wales and beyond: teachers’ pay, for example
- It will now be for the political parties to decide what to put in the manifestos, hopefully maintaining our consensus
- Although work on improving governance can start now
- Most important also that civil society in Wales is fully engaged. Again initial reaction has been mainly positive
- Look forward to the discussion today.
- Before that, some general reflections

## **APPOINTING A COMMISSION**

- Getting all parties involved was crucial, as was support of both Governments
- Complementary value of politically nominated/non-political commissioners
  - Interesting parallel for legislatures!
- Enormously valuable to have colleagues who could work together/compromise.
- But were we really representative “the usual public sector junta”? Where was the voice of True Wales?
- How should bodies like ours be chosen/appointed? Is representativeness what is wanted?

## **GETTING PEOPLE INVOLVED**

- How we tried
- How do you do it? Why do you do it?
- Why did some organisations respond to us while others did not?
- How successful were we in stimulating a real public debate? Public jaundice about consultations. Are they fig-leaves for elites?
- Who has got this right? Where should the balance lie?

## **VISION AND PRINCIPLES**

- Accountability, Clarity, Coherence, Collaboration, Efficiency, Equity, Stability, Subsidiarity
- We found them useful as lodestones
- But are they too slippery/too utopian/too panglossian?

## **WERE WE INTELLECTUALLY RESPECTABLE?**

- Was it right for us to argue that we should not consider performance by either government but instead at some ideal distribution of powers?
- “it seems a strange position to take that decisions about granting enlarged powers should take no cognisance of past performance with regard to existing powers. This must really

cast doubt on the workings of such commissions” – Professor Malcolm Progle of Nottingham Business School

### **WHY DO WE KEEP DEBATING PROCESS?**

- we did want to see constitutional stability so that the debate about processes become a debate about outcomes
- Wales’s history of Commissions – Richard, Jones-Parry,
- Our stuttering constitutional progress – four goes at getting it right
- The absence of anything like Scotland’s Constitutional Convention of 1989-95
- The undeveloped nature of civic society – WGC, IWA notwithstanding
- I fear that we have left another debate unfinished – the devolution of the criminal and civil law and the creation of a Welsh jurisdiction – whatever that means...

### **WHAT WILL BE NEEDED POST SCOTTISH REFERENDUM?**

- Recalibration of the Constitution, properly thought out
- Tackling the West Lothian question
- Subsidiarity in England – and how do you respond to the city state that London is becoming?
- Formalisation of relationship between centre and the countries/regions of the UK?
  - o Perhaps the most radical of our recommendations
  - o Barnett formula
  - o Gordon Brown’s speech
- Supreme Court emerging as Constitutional Court?
- A symmetrical settlement?
- All points towards the need for a written constitution – something I would not have said when I was appointed to the Commission!