



ORAL EVIDENCE SESSION

DATE: Friday, 12 April 2013

LOCATION: Commission Office, Cardiff

COMMISSIONERS PRESENT:

Paul Silk (Chair)

Nick Bourne

Jane Davidson

Eurfyl ap Gwilym

Rob Humphreys

Trefor Jones

Noel Lloyd

Helen Molyneux

THE FOLLOWING GAVE EVIDENCE:

Sir Robert Rogers [KCB](#), Clerk of the House of Commons

Paul Evans, Principal Clerk of the Table Office

This note, prepared by the Secretariat and agreed with the [witnesses Clerk of the House of Commons and the Principal Clerk of the Table Office](#), captures the key points of the discussion.

1. The Commission wished to pass on their thanks to the Speaker of the House of Commons for submitting evidence as part of the Part II Call for Evidence.
2. It was noted that capacity issues are always being considered in Westminster due to pressures imposed by the legislative programme. It would be crude to think that increasing the number of Assembly Member to 80 would solve current capacity issues [in Wales](#). The National Assembly for Wales ~~(NAFW)~~ [might also](#) wish to consider how to optimise the use of Assembly Members' talents within the time and staff resources available. The National Assembly for Wales [might also](#) need to develop flexibility to ensure that it can manage any changes to its legislative programme. ~~It was noted that some effect,~~ Commons Committees ~~operated in one of two ways, were those~~ driven by committee members ~~and while other more technical committees were those that are~~ staff-driven to ~~ensure the commitment of its membership. The latter can help~~ avoid an undue burden on Members' time.



3. It was suggested that the application of the d'Hondt formula to allocate committee places and the current political party balance of the National Assembly for Wales effectively required a minimum of seven Assembly Members on each committee; therefore, there ~~are currently only~~^{would be} enough Assembly Members to ~~provide membership for staff a maximum of~~ seven committees if ~~Assembly Members~~^{they} were to each serve on one Committee only. There could possibly be an increase in staffing resources for each committee, but this could change the balance of whether a committee is staff-driven or Assembly Member led. It was further noted that other demands on Assembly Members, such as their constituency work, needed to be factored in when managing their workload and capability for scrutiny. If the National Assembly for Wales were to receive additional powers new specialist committees would be needed and forty ~~"backbench"~~ Assembly Members would be insufficient to carry out appropriate scrutiny. The additional difficulties of trying to maintain committee focus between legislative scrutiny, the ability of the committee to hold Ministers to account and maximising Assembly Members' interest in committee work was outlined.
4. Asked about innovative suggestions presented in evidence to increase the capacity in the National Assembly for Wales in other ways, including the introduction of non-elected members and associate members, ~~the witnesses it was~~ noted that the UK Parliament at Westminster already has a source of appointed experts in the form of the House of Lords. It was explained that the House of Lords provided significant legislative scrutiny, additional to the House of Commons. The possibility of a non-elected group of experts acting as a second chamber in Wales was raised as an unlikely possibility. It was noted that Special Advisers were used to provide specialist knowledge to a number of Westminster committees and were considered to be a valuable asset, with some particularly long-serving and indispensable advisers, for example to the Defence Select Committee. The Commission on Banking Standards was a further successful example of an innovative approach, drawing expertise alongside elected Members.
5. The issue was raised that associate members ~~would not~~^{would not} have ~~not~~ been politically endorsed or validated by the public and that this could affect the public understanding of the role of the National Assembly for Wales. ~~if implemented in Wales. It was noted that this could be handled better by establishing a separate body of non-elected members to scrutinise legislation.~~ If, in the future, committees were to be made up of elected and non-elected members then the role of chair would ~~certainly~~^{certainly} have to remain with an elected member.
6. On the possible devolution of legislative responsibility for ~~its~~^{its} elections ~~to itself~~^{to itself} to the National Assembly for Wales ~~elections~~, the principle of an elected body having responsibility for its own destiny was acknowledged, and the fact that the House of Commons is responsible for deciding its own election process was ~~referred to~~^{referred to}. There was a small risk of unconstrained political ~~ly-motivated~~^{ly-motivated}



decisions, ~~but~~ the House of Lords ~~had~~ ~~was~~ ~~increasingly~~ recognised ~~as having~~ a role as constitutional watchdog. Any proposed changes to the electoral process would need to be approved by the Lords. The National Assembly for Wales and the UK Parliament at Westminster could have dual approval for the NAFW election process, perhaps with the initiative for the NAFW election process residing with the National Assembly for Wales and with the UK Parliament retaining a safeguarding role for any proposed changes. This could be either as a set of clear parameters on the election process for the National Assembly to act within, or as a veto after the effect.

7. The ~~witnesses~~ were not aware of another multi-tiered democracy where one level had the right to participate in ~~the proceedings of~~ another, certainly not in the Commonwealth or other Westminster-style democracies. It was acknowledged that the National Assembly for Wales had matured since its creation in 1999 and therefore consideration could be given as to whether these powers were still required, including those held by the ~~Secretary of State~~ ~~monarchy~~ in the Government of Wales Act.
8. On the Legislative Consent Motion (LCM) process, it was ~~considered~~ ~~acknowledged~~ that the process was working well and that it would be difficult to introduce additional procedures for ~~ob~~attaining consent as a bill is amended during Parliamentary consideration. The recommendations of the Calman Commission for the LCM process ~~to become a legislature to legislature process~~ were welcomed. It was explained that the LCM process is technical and dealt with by clerks and civil servants primarily, and that Members of Parliament are often unsighted. The Devolution Committee recommended by the McKay Commission could be a helpful addition to the process as an appropriate forum to consider any issues.
9. The parliamentary relationship between the National Assembly for Wales and the UK Parliament at Westminster was discussed, noting that it was unusual that ~~Westminster~~ parliamentarians and officials were ~~often~~ more aware of legislative procedures overseas than those of the Devolved Administrations. There was a need to increase understanding in Westminster. The private bilateral meetings between the Presiding Officers of the Devolved Administrations and the Speaker of the House of Commons were very useful for sharing information and there could be the potential to develop a more formal and wide-ranging forum.
10. It was felt that the inter-parliamentary relationship was the underdeveloped element in the devolution settlement, and that, ~~while~~ institutions' trust and respect for one another had developed since advent of devolution, ~~but that~~ devolution issues were still a relatively low priority in Westminster. Any mechanism to improve inter-parliamentary communications, such as the Devolution Committee proposed by the McKay Commission, would need continued political support and participation to be effective. It was noted that the relationship between Westminster and the devolved institutions in Wales was more visible than those with others. It was suggested that the Presiding Officer



for the National Assembly for Wales could appear before of the Procedure Committee at Westminster to discuss engagement, and that that Assembly Members and Ministers could be more pro-active in engagement with Westminster Committees. It was added that there could be more forums and meetings held in Wales to improve the interaction between Assembly Members and MPs to encourage better interpersonal relations.

11. Finally, Westminster's fora for discussing Welsh matters ~~were discussed as raised~~, including the work of the Welsh Affairs Committee and its responsibility for making Welsh issues heard in Westminster ~~and to deal with legislative matters~~. It was noted that Welsh Ministers have appeared in front of the committee to give evidence, and that, to date, Westminster Committees had not compelled their attendance. Generally, Welsh matters received a greater level of discussion in Westminster than matters concerning other devolved territories.