



ORAL EVIDENCE SESSION

DATE: Thursday, 24 July 2013

LOCATION: Commission Office, Cardiff

COMMISSIONERS PRESENT:

Paul Silk (Chair)

Nick Bourne

Rob Humphreys

Trefor Jones

Eurfyl ap Gwilym

Helen Molyneux

Noel Lloyd

THE FOLLOWING GAVE EVIDENCE:

Sir Roderick Evans, Former High Court Judge and Presiding Judge of Wales

This note, prepared by the Secretariat and agreed with the witnesses, captures the key points of the discussion.

1. Sir Roderick Evans outlined his views on devolving the justice system, a separate jurisdiction and a reserved powers model.
2. He explained that although the justice system was not devolved and covered England and Wales, some parts of it were more decentralised than others. The police were based on the four Welsh forces; the CPS was London based but had a Wales office; the lower courts sat in Wales with higher and more specialised courts in London; tribunals were a mix of devolved and non devolved; prisons were highly integrated across England and Wales.
3. Devolving the justice system need not be all or nothing. There could be a process over time, starting with items such as police and probation which already had strong Welsh structures and moving on to prisons. Some tribunals were already devolved.
4. Wales should have its own jurisdiction including its own courts and body of law. The existing jurisdiction did not serve Wales well. It was driven by English considerations including the needs of the big cities. A Welsh jurisdiction would improve access to justice and energise the system. Some elements of the court system could be devolved before others.



5. Sir Roderick felt that a reserved powers model would have greater clarity and consistency than the present conferred powers model.
6. A particular concern was access to Welsh speaking courts, on which he had written quite extensively.
7. Greater devolution would also encourage the development of the legal profession in Wales and increase its attractiveness and confidence, while it would still be possible to call on specialist skills from outside. He noted that while judges had some specialisms they were expected to cover a wide range of cases if necessary and this was not difficult to master in practice. This would mean that there would be no diminution in the quality of justice in specialist areas if there were a Welsh jurisdiction.
8. A Welsh system of law would be based largely on existing English and Welsh law as had been was the case in Northern Ireland and much of the Commonwealth. In practice it was likely that differences would develop over time reflecting different Welsh priorities and circumstances, but the more economic elements of the law such as commercial law would continue to be similar to England as was the case internationally already. He did not think that Wales would be put at an economic disadvantage.
9. A frequently heard objection was that Wales was too small to have its own jurisdiction. However the systems in Scotland and Northern Ireland worked well and there were many smaller jurisdictions internationally eg in Canadian states.
10. In terms of timescales, Sir Roderick had been surprised at how fast devolution had developed in Wales since 1999. He thought that a separate Welsh justice system could be developed over the next ten years.