



## Procedure Committee

### Oral evidence: The procedure of the House of Commons and the territorial constitution, HC 838

Monday 19 April 2021

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Members present: Chris Elmore (Chair); Aaron Bell; Kirsty Blackman; Sir Christopher Chope; James Gray; Nigel Mills; Douglas Ross; Owen Thompson.

Questions 48 - 73

#### Witnesses

I: Sir Paul Silk KCB, former House of Commons Clerk, Clerk of the National Assembly for Wales 2001-07, and Chair of the Commission on Devolution to Wales 2011-14; and Paul Evans CBE, former Clerk of Committees in the House of Commons.

Written evidence from witnesses:

- [Sir Paul Silk and Paul Evans](#)

## Examination of witnesses

In the absence of Karen Bradley, Chris Elmore took the Chair.

Witnesses: Sir Paul Silk KCB and Paul Evans CBE.

Q48 **Chair:** Good afternoon, everybody. Welcome to this public hearing of the Procedure Committee. We are taking evidence this afternoon from Sir Paul Silk and Paul Evans, two distinguished former Clerks of this Parliament. Sir Paul Silk is also a former Clerk of what was the National Assembly for Wales and is now Senedd Cymru, the Welsh Parliament.

We have a series of questions this afternoon, as you would expect, gentlemen. We really appreciate your time. I pass on the apologies of Karen Bradley, the Chair of the Committee, who is unable to be here today. She sends her sincere apologies for not being with us.

I would argue that you probably know this institution and this Committee better than most Members on it, to be frank. I am going to start off with a broad question and then move around the Committee and bring in colleagues as and when they wish. I am conscious that we have a little bit of time with you, but I would like us to try to cover as broad a spectrum of questions as possible in terms of the evidence that you submitted, for which we are very grateful.

My first question is arguably more for an opening statement from both of you about how you feel Westminster procedure is supporting and building the territorial constitutions. Within that, from a procedural point of view, what are the limitations of that? Please feel free to go broader if you want. You are aware of the inquiry's remit, and clearly you two have been at the forefront of much of this for many years. We would like to get your views as much as we can.

Who wants to start? It is entirely up to you. Mr Evans has his mic on, so if he goes first, maybe that would work.

**Paul Evans:** Thank you, Chair, and thank you for inviting both of us. It is very good to be here. I would start, in answering your question, with a slightly philosophical point. Things do not happen in politics without political will and political energy behind them. What procedures do we provide, if you like, the vessels into which that political energy and will can be poured. When you have a new configuration of the constitution, you probably need new procedures to make it happen.

The problem about devolution is that, although there have been many individual committees and individuals who have worked in all the legislatures of the UK on the issue of interparliamentary relations and how devolution works, there has been no sustained examination of that. We have not had the kind of coherent procedural change that would enable the necessary aspects of working in a devolved system to work smoothly, and for Members to understand and learn about each other's institutions.



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The key thing that is missing is a proper think about what the new situation—now over 20 years old—really requires. It has changed dramatically in the last five to 10 years as well, so it really is timely to have a look at whether the procedures in place facilitate good working relationships between the legislatures. That would be my main point.

In summary, they do not do that, and because they don't they do not satisfactorily discharge the legislative duty to provide scrutiny and accountability of Executive action in any of the four nations yet.

**Sir Paul Silk:** In anticipation of this question, I went back to look at when I first went to the House of Commons in 1975. I remember that Michael Foot was the Leader of the House at the time, and I was quite sure that he had said something in a debate about procedure being the only constitution the British had and therefore being of vital importance. I could not actually find that quote, but what I did find was him saying, in 1976, that he anticipated that there would be a Scottish Assembly, as it was going to be then, and a Welsh Assembly. He said that procedures would need to change as a result of those.

He was very prescient about that. I think perhaps that procedures have not changed as much as they could. Some of the things we recommended in our memorandum, which you kindly received, are about how those changes might happen in the future to reflect the existence of the Scottish Parliament, the Welsh Parliament and the Northern Ireland Assembly.

**Chair:** Thank you both very much.

Q49 **Aaron Bell:** I thank both witnesses for their time today and their service to this place and others in the past. I want to ask some questions about England before we let my colleagues from around the rest of the United Kingdom loose on the even hotter topics.

When the 2015 Government introduced EVEL, they said that the procedures would "provide fairness for England in our constitutional arrangements." How well would both of you say that EVEL has done the job it was intended to do? What alternatives are there to EVEL, or what would you potentially recommend in terms of how we can develop our procedures to make sure that England's voice is heard, but is also not as dominant as perhaps it has been in the past?

**Paul Evans:** If I may, I will take the lead on this, Chair.

**Chair:** Of course.

**Paul Evans:** Thank you, Mr Bell. The short answer to your question is that I do not think EVEL has worked, and I do not think many people do, observing it. Professor Henderson said to you in her evidence a couple of weeks ago that, when asked, English people were very keen on the idea of English votes for English laws but none of them knew it had happened. I think that is the real issue about EVEL. It is a very technocratic and



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very complicated process that has not given England a real voice and is invisible to the English people for whom it was supposed to provide some kind of constitutional balancing mechanism. I think Pete Wishart, also in evidence to you a couple of weeks ago, pointed out that it has been suspended since last March and nobody has actually noticed. That is also a very telling point about EVEL.

EVEL is not wrong, although I have some issues with how it works. It is just too complicated, and it does not do what it was supposed to do. For a procedural change that lengthened at a stroke the Standing Orders of the House of Commons by some 18%—many, many pages—it is invisible. You used the words “giving a voice to the English”. I do not think it has given a voice to the English because, as you know, in the English legislature, the Grand Committee, in which EVEL was supposed most obviously to demonstrate itself, has barely met for more than a few minutes, if at all, over the whole course of time since 2015.

I do not think it has worked, and I think the Committee could do well to have a good think about why. A procedure that was much more straightforward and comprehensible to everyone—Members of Parliament and people looking in on Parliament—would be a great improvement.

In terms of its architecture, my main issue with it is that it is asymmetrical. What EVEL does is give English Members of Parliament an effective veto over laws relating to England if they do not like them, whereas the Sewel convention, which no doubt you will come on to later, gives the devolved legislatures an advisory role in legislation affecting them made by the UK Parliament. That does not look quite right, but I think it could be solved.

Way back in 2013, the McKay commission recommended using the consent motion procedure for English votes for English laws. I think that would be a much more effective process. If you had an English Grand Committee of some kind, which would be very large and would probably have to meet in the Chamber, when legislation affecting England but to be made by the UK Parliament was brought forward, the English Grand Committee and the Members for England could consider it, debate it and give their broad consent to its principles, just as we do with the legislative consent motion in any of the devolved legislatures.

I think that would encourage debate about principles rather than the very technical, difficult stuff. It would only be necessary to do it, and it would only become controversial, when an issue really mattered. The debate could be about principles, the things that really matter, rather than about technicalities. There needs to be a great deal more simplification, and a move to a parallel to the legislative consent process for England would be the right direction in which to travel.

**Q50** **Aaron Bell:** Thank you. That is a very comprehensive answer. My other question is this. Obviously, EVEL was introduced partly in response to situations in the past where a Government majority did not exist in



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England on its own. Do you think that EVEL would be maintained if that situation arose again, where the Government did not have a majority in England, or do you think it is something that would just be discarded on day one of an Administration?

**Paul Evans:** You put your finger on a very important point. EVEL is designed for when the majorities conflict in England and the UK. That is partly why it has not had any impact in the last six or seven years, or longer—10 years almost. If that situation changed back to where the majority is conflicted in the UK and in England, either governments grinds to a halt or they have to do something about EVEL. It seems unlikely to me that it would survive. It might survive in a modified form, but I do not think it would survive in the veto form in which it currently exists. I do not think it would oil the wheels of politics very well if it did, if that situation had to be resolved. It would not be a good method for resolving that, in my view.

Q51 **Aaron Bell:** I will bring in Sir Paul as well for his own comments on these, but I will finish by asking you this first. We have been told that the public want to know up front when Westminster and the UK Government are acting for England. How could the Government do this better when they are bringing forward legislation? Is there some merit perhaps in Departments that only serve England, like Health and Social Care, rebranding to make clear that that is the case? We have seen it a little bit with NHS England being used as a branding. Is there scope to do that across Whitehall where Departments now only speak for England?

**Paul Evans:** I suppose that might be a solution. I think the current situation is confusing. It is inevitably confusing having a UK Government, three devolved Governments but no English Government. Perhaps confusion is inevitable. One way of helping would be to label it. I am not sure whether it would work or not, to be honest; I do not know. Certainly, moving in the direction of making English law more distinct from UK law might be one path down which to travel in the future.

Q52 **Aaron Bell:** Sir Paul, do you want to add anything on England and EVEL before we move around the rest of the country?

**Sir Paul Silk:** EVEL is something that has come into the House of Commons since I left. I am not an expert on it. What I would say is that what Paul has just talked about—the difficulty about England being so disproportionately large a proportion of the House of Commons—is one of the problems that bedevils so much of this discussion.

I am involved in a group that brings together politicians and non-politicians, the Constitutional Reform Group, chaired by Lord Salisbury. Our problem in producing a reformed idea of the constitution has always been that there is no agreement about what should happen about England. That is a difficulty that is reflected in the way in which EVEL has been problematic in the House of Commons.

**Aaron Bell:** Thank you very much, Sir Paul.



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- Q53 **Chair:** It is an interesting point about English Departments serving only England. If you look at vaccine procurement, which is done by the Department of Health and Social Care in the UK Government, that impacts Wales, Scotland and Northern Ireland. You suddenly come into a position where, actually, there is a reliance on the UK Department of Health and Social Care. You could say the same for education because universities' R&D funding is still funded by the UK Government for Scotland and Wales.

The difficulty would be that it could be a temporary solution, and then you get the added confusion that there are still very many areas of public policy in Departments of State at UK level that have a direct impact on services in Wales, Scotland and Northern Ireland, never mind the whole issue around Northern Ireland that we have seen in recent times when Stormont has been suspended and therefore the office of the Secretary of State for Northern Ireland becomes far more in depth, although admittedly with a Northern Irish civil service still working in Belfast. There is that whole discussion about where jurisdiction sits.

However, we are going to move on from England and head to Scotland with Mr Thompson and a series of questions.

- Q54 **Owen Thompson:** Thanks, Chair, and thanks to the panel this afternoon. I wonder if you would both share some thoughts on what you think could be introduced procedurally—either new procedures, or which current procedures could be amended—to ensure that Members are better informed about devolved consent when considering any legislation going through the Commons.

**Sir Paul Silk:** There are simple things that could be done that could help Members of the House of Commons to be much more aware of decisions that were taken in the Scottish Parliament, the Welsh Parliament and the Northern Ireland Assembly. Some of those have been suggested to you by the Legislation, Justice and Constitution Committee of the Senedd. Others have been suggested in the report by Paun and Shuttleworth that the Institute for Government produced recently.

There could be better information provided to Members when a Bill is introduced about what has happened in the devolution process before the Bill is introduced; what discussions there have been between the UK Government and the devolved Governments; and what parts of the Bill give rise to any controversy between the two Governments. That initial stage of information would be very important.

At a later stage, too, there would be great benefit in requiring a Minister, if consent is not forthcoming from one of the devolved legislatures, to explain that, I think orally, before Third Reading. I believe that is already going to happen in the House of Lords. They have reformed their procedures to require it to happen. I think it should also happen in the House of Commons. More information would be important.



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As you know as well as me, consent has been forthcoming in the overwhelming majority of cases. The Sewel convention has worked well in most cases, even when there has been disagreement initially between the UK Government and the devolved Government. The Sewel convention has worked so that that is ironed out. In cases when there is not consent from Scotland, Wales and Northern Ireland, more openness about that is highly desirable.

**Paul Evans:** On the Sewel convention, I entirely agree with what Sir Paul has just said. Those are important elements. We might come back later to questions about how much the Select Committees of the House can work together.

Going back to the touchstone of the McKay commission report in 2013, it recommended something called a devolution committee. There are lots of ways in which that could be configured and worked, and it needs quite a lot of thinking about. Essentially, it would be a body that within the UK Parliament—we are talking about a unilateral approach, which is different from a multilateral approach—could be more effective in cross-examining Ministers and so forth about issues relating to consent and about negotiations that are taking place.

This is a slightly painful reference, but none the less during the negotiations leading up to the Lisbon treaty there was something called the Standing Committee on the Intergovernmental Conference, and then on the new constitution, which I thought provided quite a good model for Members of this House and the House of Lords—I think MEPs could also join in—to cross-examine Ministers in a fairly well-structured debate, getting them all together and holding them to account. That would be a useful addition in improving information and underpinning the negotiations between Governments about legislation.

**Q55 Owen Thompson:** Sir Paul, you mentioned the prospect of having a Minister report, when consent has been withheld. Would it be your opinion that that should include the Government justifying why they have overridden the wishes of the devolved legislature?

**Sir Paul Silk:** I would say explaining rather than justifying, but yes, certainly explaining.

**Q56 Owen Thompson:** Mr Evans, beyond the devolution committee, are there any other ways that you think the Government could better involve the devolved Parliaments in pre-legislative consent?

**Paul Evans:** Pre-legislative consent is always a good thing. The more of it you can have, the better. We have had lots of attempts to drive pre-legislative consent higher up the agenda. They have usually petered out rather quickly. None the less, it would be a positive move if legislation, particularly if it is going to affect or cross over the competencies between the UK Parliament and the other bodies, was exposed at an early stage, so that the problems could be brought to the surface, thrashed out and



potentially resolved before the Bill was introduced in what the Government regarded as its final form.

I think that could be a positive move. It is always difficult to get that kind of timing right and to persuade people to plan ahead, think ahead and give the time for that kind of thing. It would certainly not be a bad thing and it could be done, particularly in relation to devolution legislation.

**Sir Paul Silk:** There is an example of that in the case of what became the Wales Act 2017, which was initially introduced by Stephen Crabb. It went for pre-legislative consideration in the House of Commons, proved to be unsatisfactory, was taken away and changed, and became a much better Bill when it came back afterwards. There were representations made in that case by the Senedd—the National Assembly as it was then—about that Bill. That was an example of input in the pre-legislative stage and an improvement in the Bill.

**Owen Thompson:** Thank you. I am going to go to the Sewel convention next, but do any colleagues want to come in on this before I move on?

**Chair:** Yes. Thank you very much, Mr Thompson. I will bring in Mr Ross on this before we move on to Sewel.

Q57 **Douglas Ross:** This is a question for both of our witnesses, but first of all for Sir Paul. It follows Mr Thompson's point and your answer that there should be an opportunity for Ministers to explain the reason they are proceeding without legislative consent. I know that this is getting into the detail, but we have two experts with us, so I want to get your views.

Do you think it would be helpful if it was just a straight explanation, or if it were an opportunity to reopen and probably repeat the debate that the respective parties had had in the devolved Administrations? Do you think it should go wider than just explaining reasons, and potentially for the UK Parliament to discuss the reasons why colleagues in other Parliaments have taken a certain position?

**Sir Paul Silk:** I said justify, and I suppose the essential element of a parliamentary process is that Ministers justify and parliamentarians decide whether their justification is acceptable or not, and that is done by vote. I would not rule out the idea that that justification should be a stage, as it were, which is followed by a debate and a decision of the House. You could do it either way. You could do it by a statement, which is subject to questioning by Members, or you could do it by means of a motion that is debated and voted on.

Q58 **Douglas Ross:** I will come to Mr Evans in a moment to answer both points; he is nodding in agreement, but we will stick with you, Sir Paul. Do you think it would be appropriate for the relevant Secretary of State of the territorial office, or a Minister in the territorial offices, or the Ministers whom the Department's decision is centred around, who would most effectively articulate that case?



**Sir Paul Silk:** As in all these cases, it is for the Government to decide who is the most appropriate Minister to speak on these matters. If the Dunlop review is implemented, it will be the Minister for the constitution, or whatever term is then used, for a very important issue, if there were disagreement.

I think disagreement about consent will always be a major issue, so it is probably never going to be appropriate for it to be a very junior Minister doing that. It will be at Secretary of State level, I would have thought.

Q59 **Douglas Ross:** You could imagine, for example, that, if the Scottish Parliament had withheld consent, it could potentially be the Scottish Secretary or it could be the Secretary of State for Work and Pensions, for example, if it was her Department's legislation that had not received the consent.

**Sir Paul Silk:** Yes.

Q60 **Douglas Ross:** Mr Evans, do you have anything to add to those two points?

**Paul Evans:** Not really, no; I think I agree. On the question of the intervening stage, I think you would start with a ministerial statement justifying or explaining why the Government intend to proceed to legislate without the consent of one or other of the devolved bodies. It might be a debatable motion which would effectively bring progress on a Bill to a halt and refer it back. I think a motion to refer back would be quite an interesting innovation. You would not want the House to say, "That's the end of the Bill; it's dead." If we could construct a motion which suggested that a majority in the House was found to refer the Bill back for further consideration in some way, that could be quite a positive way of approaching it.

On who should make that statement, I think relations with the devolved bodies, as at the moment, presumably will remain principally the responsibility of the Secretary of State. They are the ones who have to negotiate, but I would not draw a hard and fast rule. There might be a case where the Secretary of State for Work and Pensions was better placed to explain why it is imperative for the UK Government to carry through their policy despite objections, and why those objections would undermine the policy to a degree that they would find insupportable.

**Douglas Ross:** Thank you, Chair. Thank you, Mr Thompson, for letting me come in at that point in your questions.

**Chair:** No problem at all. Mr Thompson, on to the Sewel convention, or rather back to the Sewel convention.

Q61 **Owen Thompson:** Yes, we have touched on it a couple of times already. The word "normally" is used a lot when we talk about the Sewel convention, as we have heard. Could I get your thoughts on the context behind the use of the word "normally" in this convention?



**Sir Paul Silk:** We quoted in our memorandum to you Lord Judge's words in the House of Lords, when he said that "normally" is a weasel word. It means whatever people wish to construct it to mean. There has been a sense in which people have sometimes perceived the UK Government as interpreting normally as meaning, "Well, we'll make best efforts to comply with the Sewel convention." Others in the other Parliaments have seen not normally as meaning "never". It is a difficult word because of that. It is a word that is not justiciable because of the decision by the Supreme Court in Miller. I think a little bit more clarity about that is desirable.

One of the recommendations that was made by the Institute for Government was that at the beginning of a Bill, when a Bill is introduced, if the UK Government believe that it is in the category of Bill that, whatever the devolved Administrations say about it, they intend to proceed with, they should say that at the beginning.

Q62 **Chair:** Fair enough. Mr Evans, do you have anything to add?

**Paul Evans:** I think you can get a bit hung up on this weasel word. It represents political reality. If you take the example of the Fixed-term Parliaments Act palaver in 2019, in the end the UK Parliament overrode its own Act in order to legislate for an early general election. It will always be possible to override it. It probably represents the truth of the situation, but I think it is also right that, when you have conventions, it is very helpful to codify as far as possible what those conventions mean in plain and non-justiciable language; explaining the kind of circumstances in which the normal would not apply would be no bad thing.

Q63 **Owen Thompson:** You have just touched on one of my final two points, Mr Evans. What would be the implications of making the Sewel convention justiciable? What implications would there be putting the Sewel convention into Standing Orders?

**Paul Evans:** Putting it into Standing Orders would be a good thing. It would not be complicated. One of the things that it might include is the stage of explanation that we were discussing earlier, for example. A requirement to present documents, explanatory memoranda and so forth could also be included in Standing Orders, if need be. That would give it a certain solidity that perhaps it lacks at the moment.

If you adhere to the doctrine of parliamentary sovereignty as it is classically propounded, the notion that the courts could prevent or intervene in the UK Parliament legislating on any matter it chose does not make sense constitutionally. If you do not adhere to that position, you could begin to think about justiciability.

**Sir Paul Silk:** The idea of parliamentary sovereignty is a little bit in flux at present. I think Lord Steyn some time ago said in the Supreme Court that his view was that sovereignty was now shared inside the United



Kingdom. Miller 1 rather rowed back from that. I think it is a debate that will carry on and expand over the years to come.

**Owen Thompson:** Thank you both.

Q64 **Kirsty Blackman:** I have a couple of questions around interparliamentary relations. Could you let me know what your evaluation of current interparliamentary relations is? How do they stand? How would the proposals that you have made improve interparliamentary relations? Paul Evans, do you want to go first?

**Paul Evans:** Yes, although I did suggest that Paul took the lead on this in our pre-match conversation, if that is all right with you.

**Kirsty Blackman:** I am happy for Sir Paul to go first. Whichever suits you.

**Sir Paul Silk:** I had better go first. You will be more familiar with this than I am currently. I think there are very good relations between individuals who are members of the legislature throughout the United Kingdom. There are good relations between committees throughout the United Kingdom. One should not characterise this as being a negative at all. However, I think there would be benefit in institutionalising those relations in a way that many people have called for over the years and has never actually come to fruition. That is why we proposed in our evidence to you the creation of a formal body that brought together Members from the three other legislatures and from the two Houses of Parliament.

It would be a more formal version of the Interparliamentary Forum on Brexit, which I think worked, from what I hear, very well indeed. It would be an opportunity, as we see it, for the reformed intergovernmental relations to be subject to interparliamentary scrutiny. There is a complementarity, as we see it, between those two things. Intergovernmental relations will be much more important post Brexit, and there should be a mechanism for those to be scrutinised interparliamentarily. They need to be scrutinised bilaterally as well, of course, so there need to be mechanisms inside the House of Commons for scrutinising Ministers who are responsible to the House of Commons, and mechanisms inside the Senedd for scrutinising Ministers responsible to the Senedd.

We think that, where Ministers are doing things together, they need to be scrutinised together by the members of the five legislative bodies inside the United Kingdom. In essence, things very often work very well on an informal basis, but there would be benefit in having something more formal to complement that.

**Paul Evans:** I am slightly less enthusiastic about the Brexit interparliamentary forum in the sense that, to me, it lacked visibility. This is the key issue for me about any reform of interparliamentary relations going forward. Whatever is recreated has to have a clear mandate,



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reporting obligations and buy-in from the parties, not just from individuals. A structure that provides that is critical.

Moving forward to a more sophisticated and more developed form of interparliamentary relations is crucially about keeping an eye on intergovernmental relations, as Sir Paul has just said. The Dunlop review had a couple of good quotes on page 34 that I picked out. It said there should be "a far greater role for Parliament in scrutinising discussions which take place in" intergovernmental relations. It went on to say that there should be "Greater transparency and robust scrutiny by the UK Parliament and the devolved legislatures" in order to make collaboration work. It should be for the Parliaments and for the elected Members of all four bodies to ensure that intergovernmental relations are working in a fully collaborative and proper way. That is the key job.

If we are to have better intergovernmental relations, we need better interparliamentary relations. In the famous phrase of Robin Cook, "Good scrutiny makes for good government." Good interparliamentary scrutiny makes for good intergovernmental relations, in my view.

**Q65** **Kirsty Blackman:** That follows on quite nicely to my next question, which relates to the interparliamentary body that you suggest could be created in order to improve these relations. Sometimes there is a feeling that, because of the lack of legislative consent motions for some of the Bills that have gone through, stuff is being done to the devolved legislatures. How could you make this interparliamentary body or any improvements in intergovernmental relations collaborative? How could you make it so that it is something that is being done by all of the organisations involved and by all the Governments involved and not just by the House of Commons to those other legislatures? Sir Paul, do you want to have a bash at answering that?

**Sir Paul Silk:** It is a very important point. One of the things I have been pleased to see is the way in which Mr Gove talked about more transparency, more accountability and more parliamentary scrutiny for intergovernmental relations in his response to the Dunlop review.

We did not say this in our evidence, but it would be desirable in our view to have equal representation from the five bodies inside the common body. One would not want a voting system inside that body because that would lead to difficulties in working out exactly how those votes should be weighted and so on. If you had five legislatures that are treated with equal respect inside that body, it would engender a spirit of co-operation, which is what I think you would like to see, or I infer from your question, rather than an idea that things are being done by the Westminster Parliament to the Scottish Parliament, the Senedd and the Northern Ireland Assembly.

It is the parity of esteem issue that is important to engender, and I think it could be engendered inside a body like that. From my experience, which is now rather long in the teeth, of the British-Irish Inter-



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Parliamentary Body, as it used to be called, there is parity of esteem inside that body for the representatives of the different legislatures, even including the Crown dependencies in that body. I am sure that one could achieve that inside the sort of interparliamentary body inside the United Kingdom that we envisage.

**Paul Evans:** It is a big ask, but it is critical. It is a structural issue. Any interparliamentary body that is developed should have an independent secretariat not attached to any of the legislatures specifically. It should be staffed by staff on secondment from each of those legislatures. Not a large staff; we are talking, absolute maximum, half a dozen, I would have thought. It should be funded jointly, but with an independent budget of its own to do what it is mandated to do by its members. It should be seen quite clearly as separate. It should not be Westminster condescending to invite people along to join in. It should be seen as an independent self-standing body. That is the advantage of creating what might seem to some observers at first blush a rather bureaucratic solution to create a new body. I think it is important that it is self-standing and not tied to one or other legislature.

In connection with that, the secretariat to the intergovernmental mechanism should also have a clear and separate identity so that the two bodies—that secretariat and the secretariat to the interparliamentary body—can talk, communicate and negotiate with each other in ways that would be useful. I think it is absolutely critical to have parity of esteem.

Q66 **Kirsty Blackman:** Thank you very much, both of you. I have one further question. I have a huge amount of respect for House staff, Clerks in particular. I have received an unbelievable amount of advice from them during my relatively short time as a parliamentarian.

I am aware of the limitations of what can be provided by Clerks. It does not always include all the politics in the situation. I get what you are suggesting; it is a very good idea. Much of what the Procedure Committee has suggested over the past year has been a very good idea, but the Government, or Governments, have not done it.

What would be the benefit to the UK Government of actually trying to improve interparliamentary relations? Is there a way to convince them that it would be a good thing to do?

**Paul Evans:** That is a very tricky question, so I will invite Sir Paul to answer it first.

**Chair:** Sir Paul?

**Sir Paul Silk:** I think that Mr Evans would answer the question much better than me.

I am an optimist about these things. When you read the Government's response to the Dunlop review, they are talking about improvements; they are talking about parliamentary scrutiny. Perhaps we have—



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*[Inaudible]*— with the internals—*[Inaudible]*—hope to improve intergovernmental relations, and interparliamentary relations will complement that. Good interparliamentary relations will—*[Inaudible.]*

Q67 **Chair:** Sir Paul, we are struggling to hear you, with the broadband. I checked with the Clerk to see whether it was mine in Westminster, but I don't think it is. Mr Evans, could you pick up on that? I think we got the premise of what Sir Paul was saying, but it would be good if we could expand that slightly.

**Paul Evans:** I think, Ms Blackman, the answer to your question is that you have to assume good faith—not all politicians would—on the part of the UK Government in wanting to make the Union more effective and to hold it together, and in having a more effective internal market in the UK, post Brexit, and all the other things that will be to the benefit of the whole United Kingdom that they put forward. If they believe that, I think having effective intergovernmental relations should be a genuine target, and having effective interparliamentary relations will actually promote the achievement of more effective intergovernmental relations.

What's in it for the UK Government? That was your question, in short. What's in it for the UK Government is a better-functioning UK in the future, and a better political foundation for effective scrutiny and accountability.

**Kirsty Blackman:** Thank you, both. That has been hugely helpful.

**Chair:** Sir Paul, is your broadband back? Do you want to add anything? We broke up and we lost you quite a bit just then.

**Sir Paul Silk:** Can you hear me now, Chair?

**Chair:** Yes. It is a little bit crackly, but it is better than it was.

**Sir Paul Silk:** Paul Evans has said better than I could what I would have said.

**Chair:** Okay. Fair enough.

Mr Mills? Is Nigel Mills with us? The challenge of Zoom, gentlemen, was probably something that even Mr Evans did not see before he retired from the House. It is an innovation in the positive, I am sure, but it does not always feel like it when the broadband is a bit temperamental. Nigel, are you there?

**Nigel Mills:** I am here, Chris. Can you hear me?

**Chair:** Lovely. Yes, I can. Over to you.

Q68 **Nigel Mills:** Thank you. I was going to ask whether the panel thinks that joint work between Committees of the House of Commons and the devolved Assemblies and Parliaments would be a positive thing, because, currently, only the Welsh Affairs Committee has the power under



Standing Orders to carry out such work. Should we give that power at least to the Scottish and Northern Ireland Affairs Committees, and perhaps to all departmental Committees at Westminster.

**Paul Evans:** Yes, Mr Mills. I have been banging away at this for over a decade, I would say. Back in the day when, after a little bit of resistance, the power was given to the Welsh Affairs Committee, the justification for that was that most of the legislation affecting Wales was in those days made in Westminster, and it was necessary to involve what was then the National Assembly in that process. The situation has radically changed since then, and we have much wider competences in all the devolved bodies.

There have been informal workings going on between Committees other than the Welsh Affairs Committee and the Senedd, and they have been by and large effective. There seems to be absolutely no reason to continue with the limitation to the Welsh Affairs Committee. You asked whether it should be extended beyond the territorial Committees. I think those territorial Committees have in their Standing Orders, except for Northern Ireland, the remit to consider relationships globally with their relevant devolved legislature. That is important, and they should have that prime role, but all Committees may benefit from having joint working with the subject Committees of the different Parliaments, and that would be perfectly feasible.

That should be permissive; just allow it to happen, and it will happen of its own accord. It does not have to be formalised, but it is offensive that you have one but none of the others, so why not just get the whole thing sorted and make it clear, whether people want to use formal procedures or informal procedures between Committees? It is up to them. That is fine—there is not a great problem—but there are advantages in having the power in Standing Orders to do it. I see no downsides to that at all.

**Nigel Mills:** Thank you. Any more comments?

Q69 **Chair:** Sir Paul, do you want to come in? Then I will bring in Mr Ross, who has a follow-up on that question.

**Sir Paul Silk:** I agree entirely on that, especially on the non-territorial Committees also being involved, and especially in the case of Wales, where the border is much more porous and there are cross-border issues. A very simple example is that rivers flow across the border in Wales. If you are going to do an inquiry into river pollution, the EFRA Committee might well want to do that in conjunction with the parallel Committee in the Senedd. Extend it to all Committees, not just to the territorial ones.

**Chair:** You obviously have issues around BEIS, for example, where the north Wales economy is very reliant on Merseyside and the north-west of England, arguably, with interconnected cities in Manchester and Liverpool. There is the whole discussion at the moment around the south-west of England and south Wales, with the mayoralities in Bristol and the



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leaders in Swansea and Cardiff, going as far down as Exeter, I believe, looking at how the economies can work off each other. I know that the border between Scotland and England is a little bit more defined, but there is certainly a shared economic situation, as well as transport and so on. I see what you mean about it being broader than just territorial Committees.

**Q70 Douglas Ross:** Mr Evans, I wonder if I could pick up on a word you used. You said the current situation was “offensive”. Who is it offensive to?

**Paul Evans:** There is a rule in law, and I am not a lawyer, so I am quoting it badly, that to include one is to exclude the others. The problem with Standing Order No. 137A is that, although, as everybody says, Committees can talk to each other, and they indeed do, by having a power that is exclusively allocated to the Welsh Affairs Committee, it appears to exclude all other Committees. That is what I meant by its potentially offending the other Committees. You could take the power away and say, “Do it all informally,” but to have just the single power seems to me—offensive is perhaps too strong a word, but it is telling the other Committees, “You can’t do this. You haven’t got this power.”

**Q71 Douglas Ross:** I asked the question as a member of the Scottish Affairs Select Committee, as well as of this Committee. We have fairly recently, in the last couple of months, had a joint informal session on welfare, because we are having an inquiry into welfare, and we have spoken and met with our corresponding Committee in the Scottish Parliament.

Can I clarify this? From your point of view, do you think it could be either option? Either all Committees, certainly within the territorial offices, or others, should have that power, or none of them should, and they should continue with informal discussions, as currently happens. Is it more the difference between the Welsh Affairs Select Committee and everyone else that is your biggest objection?

**Paul Evans:** That is my biggest objection. You have summarised my views correctly, Mr Ross.

**Douglas Ross:** Thank you.

**Q72 Chair:** We are nearing the end of the session. I appreciate that you have stayed with us for just shy of an hour, which we are very grateful for. I have one final question, around non-procedural measures, which you may not want to consider, but I would be grateful if you would.

What non-procedural measures that might improve interparliamentary relations could it be useful for the Committee to consider as part of wider recommendations when we get to that point? Is there anything that we have not raised, or things you would like to explore further in your written evidence with us, that you think are worth highlighting if we were to put forward recommendations to the House in the near future?



**Sir Paul Silk:** One of the issues that concerned me when I was Clerk of the National Assembly, as it was at the time, and that we pursued with the Speaker of the House at the time, was the access of Members of the National Assembly to the parliamentary estate. I know that, in current circumstances, access to the parliamentary estate is obviously difficult for anybody, but in normal circumstances, having ready access to the parliamentary estate for Members of the Senedd, of the Scottish Parliament and of the Northern Ireland Assembly, would be highly desirable.

I know that in Cardiff all Members of the House of Commons and of the House of Lords are able to have access to the estate. I am not sure whether that happens in Scotland and Northern Ireland, but it seems a very good practice. That is a simple change that I would like to see.

Another thing that I was aware of when I chaired the Commission on Devolution in Wales was that there were some issues about responses from Ministers in Cardiff to letters from Members of Parliament, and some problems about responses from Ministers in London to letters from Members of the Welsh Parliament. The more that legislators in any of our legislatures can be treated equally by Ministers in all of those legislatures, that is desirable. Where London Ministers have not been willing to attend Committee meetings in Cardiff or where Cardiff Ministers have not been willing to attend meetings of Committees in London, those sorts of things cause problems. Breaking down those problems is highly desirable. Treating, as far as possible, the parity of esteem for Members of all the legislatures in the other legislatures is a simple way of building up and improving contacts. Things have been done that have been beneficial in all those areas over recent years, but there is still more to be done.

Q73 **Chair:** It is a fair point around the idea that First Ministers and Ministers cannot freely access the estate. Ms Blackman made a similar comment in our separate conversation about it. There is also a peculiarity around evidence. I recall vividly when Alun Cairns MP, when Welsh Secretary, would not attend a Committee in the Senedd. I equally remember how Edwina Hart, when Minister with responsibility for the economy, would not attend a Welsh Affairs Committee hearing, and the problems that caused, shall we say, particularly around some of the cross-border issues. I see Mr Evans nodding. Sir Paul, you are right: there needs to be parity across the board, particularly with Ministers. Again, I think it is odd that First Ministers cannot access the estate when I, as a Member of Parliament, have access to the Senedd with my parliamentary pass, and there has been absolutely no problem with me doing that.

Do you have anything to add, Mr Evans?

**Paul Evans:** I do not really have anything to add. As someone who has recently been deprived of their parliamentary pass and therefore has to stand in the rain in a queue snaking round Portcullis House, I think it is a pretty humiliating experience, and parity of esteem would be a great



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thing to have, as far as possible, with access eased for all Members of all Parliaments and Assemblies, and on a mutual basis.

You asked about non-procedural things and you said it was the end, so, just to get my last word in, procedure creates the opportunities for political change sometimes. It is chicken and egg. Sometimes you need political change, followed by procedure; sometimes a Committee such as yours can change procedures, and political change will follow.

**Chair:** That is a very good way to end, I think. Gentlemen, thank you both very much indeed—we really appreciate it; and thank you again for your written evidence. It was very interesting. It is a pleasure to meet you both, or rather to see you again, Mr Evans, I should have said—I beg your pardon. It is nice to meet you, Sir Paul.

If there is nothing else, we will end the Committee. Thank you very much.