

A SUBMISSION ON BEHALF OF THE PRESBYTERIAN CHURCH OF WALES TO THE ALL-WALES CONVENTION

The Presbyterian Church of Wales has around 30,000 member based in over 600 churches located throughout Wales, with a few churches in England where there have been strong Welsh links in the past. Our Presbyterian Church has long been in support of devolving legislative powers as part of its wider support for devolution for Wales, and it spoke out in favour of devolution when it was not as politically acceptable as it is now: indeed, we were among the first of the churches in Wales to advocate coherent Welsh devolved governance based in Wales by a Welsh electorate.

This submission in support of holding the proposed referendum is made on behalf of the Church by its Church and Society Department.

1. Some reasons why the Church speaks out on this issue:

- Living in a community is part of our understanding of what being an individual means, and Wales is the community of which we are part. Devolution provides a proper basis of democratic accountability in that community. It also gives due recognition to the sense of identity- the historic sense of that community as a historic nation having the competence to provide democratic institutions in that community.
- As the process of government overall is an expression of community that is entrusted with the power to decide on our laws and taxes and provide the basis for order in society, we also believe it should be grounded in action to meet the common good and especially the needs of the poor, sick and vulnerable.
- Decisions in a democratic government should be taken at the nearest appropriate level to the people themselves. The power of the modern state is such that it is best exercised with proper checks and balances and such a check is the sharing of the power at different levels of government.
- In the UK there has been some devolution of powers from the centre and there is now no good reason why the Welsh constitutional provision should be different from that in Scotland, or indeed why Wales' government should have fewer powers than a number of other Western European regions.
- Finally it is our Christian view that government action, at whatever level is, like all human activity, subject to divine mercy and judgement. This is especially important in our Reformed tradition where the church is seen as having a responsibility to both its members and to society to try to state where a Christian view of society, responsive to God's grace, might lead us.

2. Our understanding of the approach in Wales to devolution.

The Welsh decision on the 1997 Referendum in favour of devolution was warmly welcomed by the Presbyterian Church and we acknowledge the way in which the UK government followed this with legislation setting up the National Assembly for Wales. This was a major step forward but it was obvious that the change was limited and did not make available the wider law-making and tax-varying powers that were included in the Scottish settlement, and we welcomed the next step that followed the Richard Commission and the enactment of the Government of Wales Act 2006.

Before making detailed comments on the proposal for a Referendum, there are some fundamental issues on devolution that should be mentioned:

- There is much to commend an approach to devolved law making which would have the confidence in the Welsh community to devolve generally 'laws for good government' of Wales except for those specifically reserved to Westminster or, where appropriate, to the European Union. The reserved powers would be specified and would sensibly include foreign affairs, defence, taxes and levies to cover reserved powers, currency and bank rate, justice (while taking account of the new arrangement for the Courts Service in Wales) and prisons and possibly probation, police and public order. This solution would meet the objectives of devolution and avoid some of the present conflicts that arise. It would not be a plan for separation but for the adoption of devolved government of a sort currently established in some other Western countries.
- We recognise that we live together in the wider community of the UK and the range of services provided in Wales cannot and should not be self contained to the detriment of people in the community. General quality standards are necessary and cross-border provision is especially important in some parts of Wales.
- Devolution is not complete without devolution from the Welsh Assembly to local government where possible, so that local communities could share in the full process of democracy and empowerment.

We appreciate that resolving some of the above issues might bring the need for a wider constitutional review affecting the whole of the UK and certainly more than are envisaged under the Government of Wales Act, but it is important that these views are stated as part of our response.

3. The limits of the present constitutional settlement.

Within its existing powers, the Welsh Assembly Government has helped to build the sense of Welsh identity and in a more detailed way as has made a significant difference to the lives of people in Wales – some of the most welcome differences that have become possible are free bus passes, free prescriptions and a more favourable charging policy for students. Other actions by the Welsh Assembly Government, such as taking responsibility for animal disease control and a different approach to contracting out of public services, may not have had the same popular appeal, but have reflected a distinct approach that has become possible as a result of devolved government.

4. A step by step approach.

There are positive examples of what has been done but the need for more devolved powers to bring in new measures is most clearly seen in the limits imposed by the present provision. In particular the powers to obtain the power to enact measures on a piecemeal basis are slow and time consuming. One estimate is that it can take up to two years, when valuable time could be spent more productively in meeting the service needs of people in Wales.

The present proposed referendum follows the step by step approach taken so far in devolving law making to the Welsh Assembly. The terms of the 2006 Act limit the consultation in the Referendum to the question of whether the present law making functions of the Assembly should be extended. The note prepared by the Chairman of the All Wales Convention advises that the existing power, under the Act, is 'to pass Measures in certain devolved policy

portfolio areas, called Matters'. While the list of Matters is quite short at the moment, new Matters can be added in relation to the devolved policy areas either through inclusion in a UK Parliamentary Act or by an Order in Council. Either process requires a separate application but, as the Chairman of the Convention points out, there is a statutory alternative. Instead of the piecemeal approach there is 'the potential for a process by which the National Assembly would gain full law making powers in a package of devolved policy areas, which would pass automatically to the National Assembly.' After a referendum, and the proper steps are taken following a vote in favour, there would not be need to make a separate application to exercise the law making powers in the Act but there would be an 'all at once' package for devolved policy areas. There would be no need to obtain the UK Parliament's agreement on a case by case basis and it should speed the process of legislation. The statutory provision to do this already exists in the 2006 Act and the Referendum is necessary to trigger the 'next step'. A Referendum might normally be expected to decide on a more fundamental change in the constitution, but here it is a necessary legal step and should be taken.

Apart from the practical advantages in speeding the legislative process, the minor change that would be possible under the 2006 Act would give proper recognition to the status of the Government of Wales and to Welsh aspirations for a fitting institution for the country.

5. The timing of a referendum.

While the Convention will be able to conduct their studies of public opinion about timing, there are some issues of concern on this which need to be mentioned:

- More explanation is needed about the problems encountered under the existing legislation. We feel that the present relationship between the U.K. Government and the Welsh Assembly Government needs to be explained simply and clearly to the Welsh people, together with the implications of the proposed referendum.
- An explanation is necessary of the way in which the increase in powers would help people in Wales identify better with the working of the Welsh National Assembly. It is important that people recognise the benefits which have already been achieved by the Welsh Assembly Government (as outlined in 3 above).

Timing is important: the effects of the present economic climate, and particularly the hardship currently being experienced in Wales, is an important factor in the timing of a referendum. On the other hand, the Welsh Assembly is in a good position to argue the case for activating the provision in Part 4 of the 2006 Act at the present time, and as it has brought the proposal forward now we would support holding the Referendum on the timetable proposed.

The 'full law making' powers under the 2006 Act may be limited but they are a step forward within the existing legislation and, while it is not for the Church to direct members how to vote, the Presbyterian Church of Wales would support the proposal being presented for the reasons that we have made clear.

Prepared by the Church and Society Department, Presbyterian Church of Wales:

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