

Monday  
5 October 1998

THE NEW  
NORTHERN IRELAND  
ASSEMBLY

Interim Report of the  
Ad Hoc Committee on the  
Procedural Consequences of Devolution

**AD HOC COMMITTEE ON  
PROCEDURAL CONSEQUENCES OF DEVOLUTION**

**INTERIM REPORT TO THE ASSEMBLY**

**INTRODUCTION**

1. At its meeting of 14 September 1998, the Assembly agreed to the establishment of an ad hoc committee to look at the procedural consequences of devolution. The terms of reference of the Committee required it

“to consider the procedural consequences of devolution as they are likely to affect the relationship between, and working of the Northern Ireland Assembly and the United Kingdom Parliament, and by Tuesday 6 October to submit a report to the Assembly which, if approved, will be forwarded to the Procedure Committee of the House of Commons”.

2. The Committee understood its remit to require comments on the procedures at Westminster and how they might be modified. Such considerations arise out of the United Kingdom Government's policy to devolve power to Northern Ireland, Scotland and Wales. The Procedure Committee of the House of Commons had in light of this policy invited comments on how the operation of the Commons should be modified. Whilst this context was clear the Committee was hampered in its consideration by the fact that the Assembly, through Standing Orders, has not yet agreed its own procedures.
3. The composition and membership of the Committee is set out in Annex 1.

## **RULES OF PROCEDURE**

4. The Committee has met on four occasions to date. At its first meeting the Committee adopted the rules of procedure which are currently being operated by the Committee on Standing Orders.

## **PROCEDURAL CONSEQUENCES OF DEVOLUTION**

5. The Committee began its work by considering the issues identified by the Procedures Committee in its Press Notice No 9. A copy of the Press Notice is attached at Annex 2.
6. The Committee then focused its consideration on the current practice at Westminster. Copies of extracts from Standing Orders of the House of Commons which related to Select and Grand Committee business were circulated.
7. The Committee quickly identified a number of problems in trying to consider the consequences of devolution. Firstly most members of the Committee faced a steep learning curve in trying to establish:
  - the current practice at Westminster and particularly the options for revised practice in light of the Northern Ireland Bill which was itself subject to revision as it progressed through Parliament; and
  - the extent of the authority (derived from the Northern Ireland Bill) for a devolved Assembly and the room for manoeuvre on policy issues.
8. The Committee was concerned that the theoretical base for devolution in Scotland and Wales had been evolving over a number of years whilst Northern

Ireland had moved to establish a devolved Assembly only in the period since April this year. Consequently the Committee feels unable to make a definitive statement to the Procedure Committee before several of these issues have, at least, progressed if not been resolved.

## **WORK TO DATE**

9. The Committee has examined the current arrangements at Westminster and has identified a number of areas on which it seeks to establish a view. Possible questions are set out in Annex 3.
  
10. During its initial meetings the Committee has gathered advice from those with a detailed knowledge of the Northern Ireland Bill, constitutional relationships within the United Kingdom and the precedent established in the period of devolution following the Government of Ireland Act 1920. It has not been entirely straightforward given both the breadth and complexity of the task; the importance of the issues under consideration and the limited experience of some Members in these areas.
  
11. The Committee is concerned about coming to hasty conclusions simply to meet the Procedure Committee's deadline. The Committee is of the view that its task involves producing comments on the procedural consequences of devolution for the United Kingdom Parliament at Westminster. The Committee is extremely sensitive to the potential interpretations which may be placed on any modification to constitutional relationships. The Committee is mindful that the Scottish and Welsh arrangements will not be in place before May 1999 and that the Procedure Committee could not have views from those bodies before then.

## **CONCLUSION**

12. The Committee therefore seeks the permission of the Assembly to continue its work for a further month and, if approved by the Assembly, to Report to the Procedure Committee by 9 November. The Committee has approached the Procedure Committee to seek its agreement to this extension and, whilst no formal arrangement has been reached, agreement is anticipated.
13. The Committee therefore seeks leave for the preparation and presentation of a full report by 6 November.

**A McFarland**

Chairman

Membership of the Committee

Alliance	Mr S Close
Democratic Unionist Party	Rev W McCrea Mr I Paisley Jnr Mr S Wilson
Northern Ireland Women's Coalition	Ms J Morrice
Progressive Unionist Party	Mr D Ervine
Sinn Fein	Mr B McElduff Mr G McHugh Mrs M Neilis
Social Democratic and Labour Party	Mr E McGrady MP Mr A Maginness Mr T Gallagher Ms C Hanna
United Kingdom Unionist Party	Mr R McCartney QC MP
Ulster Unionist Party	Rt Hon J Taylor MP Mr R Empey Mr D Hussey Mr A McFarland

# PROCEDURE COMMITTEE

COMMITTEE OFFICE, HOUSE OF COMMONS  
LONDON SW1A 0AA

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## PRESS NOTICE

### PROCEDURAL CONSEQUENCES OF DEVOLUTION

The Procedure Committee is inquiring into the Procedural Consequences of Devolution. The inquiry is not intended to re-open the debates surrounding the devolution legislation but to ensure that the House has considered what changes are necessary in consequence of the legislation that it has itself passed.

The Northern Ireland Assembly, the Scottish Parliament and the Welsh Assembly are established under different Acts and have widely differing powers. The first issue to be addressed is whether it is possible to lay down clear principles as to the House's relationship with the new bodies, even if only in outline, or whether changes should be evolutionary and limited to particular responses to particular problems. If it is possible to determine clear principles, should the United Kingdom exercise a "self denying ordinance" on matters within the competence of the Scottish Parliament or the Welsh or Northern Ireland Assembly and if so, what should it cover, and how should it be policed?

In addition to this broad question, the Committee has identified a number of detailed concerns which are set out below.

- Would it be appropriate to provide for consultation between Members of the Scottish Parliament, the Welsh or Northern Ireland Assembly and the United Kingdom Parliament? What should be the nature of any such consultation or joint operations? At what stage should formal provision for such consultation be made in the Standing Orders?
- Should the United Kingdom Parliament co-operate with the Northern Ireland and Welsh Assemblies and the Scottish Parliament on European Legislation? If so, how should this be done?
- To what extent will existing procedural arrangements remain appropriate; for example:
  - should the regime for Questions be changed;
  - will Grand Committees and/or Select Committees on Scottish, Welsh or Northern Ireland Committees continue to have a role;
  - how should departmental select committees deal with reserved matters;

- what financial scrutiny should the House maintain over monies distributed by the Northern Ireland and Welsh Assemblies and the Scottish Parliament;
- will changes to procedure be needed for those classes of subordinate legislation which are to be approved by both the United Kingdom Parliament and the Scottish Parliament or the Welsh Assembly;
- should private Members be restricted in their ability to bring forward legislation relating to devolved matters?

The Committee is anxious to consult widely and would welcome comments on these or any related matters by Friday October 9<sup>th</sup>.

Please telephone 0171-219-3318 for further information.

#### **Note for Editors**

The Procedure Committee was nominated by the House on Thursday 31 July 1997 under Standing Order No.147 "to consider the practice and procedure of the House in the conduct of public business."

The Members are:

Mr Nicholas Winterton (*Macclesfield*), (Chairman), Conservative  
 Sir Paul Beresford (*Mole Valley*), Conservative  
 Mr Keith Darvil (*Upminster*), Labour  
 Mr Edward Davey (*Kingston and Surbiton*), Liberal Democrat  
 Mr David Drew (*Stroud*), Labour/Co-operative  
 Mr Clive Efford (*Eltham*), Labour  
 Lorna Fitzsimons (*Rochdale*), Labour  
 Mr Barry Gardiner (*Brent North*), Labour  
 Mr Damian Green (*Ashford*), Conservative  
 Mr Eric Illsley (*Barnsley Central*), Labour  
 Chris McCafferty (*Calder Valley*), Labour  
 Helen Southworth (*Warrington South*), Labour  
 Mr Paul Stinchcombe (*Wellingborough*), Labour  
 Mr Andrew Strunell (*Hazel Grove*), Liberal Democrat



## CURRENT ARRANGEMENTS AT WESTMINSTER & POSSIBLE QUESTIONS

### 1. The Role of Committees

#### *Westminster Committees*

##### **Background**

The system of Committees at Westminster and particularly in the House of Commons has grown up over many years. It involves a number of Standing Committees, Joint Committees and on some occasions a Committee of the whole House. Two areas of particular relevance to Northern Ireland have been identified.

##### *Grand Committee*

Grand Committees are in effect Standing Committees. The Northern Ireland Grand Committee consists of all NI MPs and up to 25 others drawn from the other parties of Westminster. The NI Grand Committee deals with questions, short debates and legislative proposals on NI matters, referred to it in accordance with the Standing Orders of the House of Commons. The Grand Committee may deal with the Bills which have had a Second Reading in the House (the Committee stage).

- What role will the Northern Ireland Grand Committee fulfil after devolution?

##### *Select Committees*

Select Committees are appointed to "examine the expenditure, administration and policy" of principal government departments'. For example, the Northern Ireland Select Committee deals with NIO "administration and expenditure ... and other matters within the responsibilities of the Secretary of State for Northern Ireland.

- What will be the role of a Select Committee on Northern Ireland after devolution?

### 2. Parliamentary Questions

Oral questions on NI matters are usually taken for 25 minutes once every 4 weeks. Questions must be given at least 10 days in advance of the date for answer unless the question relates to a matter of urgency.

- How should Westminster deal with questions on transferred matters?

### 3. Financial Scrutiny Issues

The Public Accounts Committee at Westminster deals with "accounts showing the appropriation of the sums granted by Parliament". Most of its work consists of an examination the value for money reports made by the Comptroller and Auditor General and the Northern Ireland Comptroller and Auditor General in relation to government expenditure. During the period up to 1972 the C&AG for Northern Ireland reported to the Parliament at Stormont.

- To what extent could Westminster permit the Assembly to be responsible for public accountability?

### 4. Dealing with EU Proposals

Proposals emerging from the Commission or the Council of Ministers are the responsibility of member states. It is as yet unclear how Westminster, the Select Committee on European Legislation or the Whitehall civil servants will manage the diversity of view which regional legislatures may offer to the United Kingdom Government.

### 5. The Future Role of NI MP

The 'West Lothian' question is the term applied to the argument, first proposed by Tam Dalyell (MP for West Lothian) that it was inequitable to have Scottish MPs voting on matters affecting England whilst English MPs could not vote on matters in a devolved Scottish Parliament. The same principles arise with regard to the Northern Ireland Assembly.

- How to tackle the 'West Lothian' question?
- How to deal at Westminster with constituency business on devolved matters?

### 6. Other Questions

- What relationship will exist between the Secretary of State and the Assembly?
- What relationship will Westminster promote with Ministers of the Assembly and other bodies including the British-Irish Council and the Joint Ministerial Committee?