



JUDICIARY OF  
ENGLAND AND WALES

*RT HON LORD JUSTICE PILL*

**2012: THE WELSH LEGAL LANDSCAPE**

**THE ASSOCIATION OF LONDON WELSH LAWYERS ANNUAL LECTURE 2012**

**22 MARCH 2012**

---

I thank the Patron of the Association for making the arrangement for our meeting to be held in this famous place, as he did for the inaugural meeting. I thank him for his continuing support for the Association. A Knight of the Garter, Lord Morris's services to Wales have been variegated, substantial and of long standing, and they are continuing. When appearing for the Welsh Office at road inquiries in the 1970s, including the M4 and the A55, I needed to keep in mind that my work would be scrutinised and the final decision taken by John Morris. I worked carefully.

Looking around this audience, the word variegated is also an appropriate description. Like specimens of a good plant, I note that all reveal a combination of the white of London and the green of Wales. I also notice that in some the white of London predominates, in others of you the green of Wales is almost overwhelming.

I was born a London Welshman. My father came to London from Cardiff as clerk to Kirkhouse Jenkins when he took Silk in 1931. Before coming to the Bar, Kirkhouse Jenkins had been a partner in the firm now known as Morgan Coles as well as having served in the First World War. He later became County Court judge in Bath, one of our many judicial exports, and was also editor of Bullen and Leake. I claim to be one of the very few people left who knew the Temple before the Second World War, a contemporary document recording

that I was placed before a typewriter in Chambers at 3 Pump Court, as a very small child, in the summer of 1939.

Just as in the summer of 2011 the London Welsh were flocking to join the Association of London Welsh Lawyers, in the summer of 1939 London Welsh were flocking to join the Territorial Army, in most cases, as a public spirited response to the threat from Germany. They included many members of the London Welsh rugby team, notably Vivian Jenkins, and lawyers who later became well known, including Hugh Francis, Chancery Silk and Treasurer of Gray's Inn, and Eric Price Holmes, prominent solicitor. Markedly different from this Association in 2011 and 2012, women were not permitted to join the throng which constituted the 99<sup>th</sup> (London Welsh) Regiment Royal Artillery. The Regiment's inaugural dinner was held in the Park Lane Hotel in July 1939. My father attended the Regiment's first camp, a fortnight at Aberporth in August 1939. He remained in uniform for over six years.

On being commissioned in 1940, my father was not permitted, as the practice then was, to remain with the London Welsh but was posted to the City of Edinburgh Yeomanry, a fine Scottish Territorial Regiment. He was resignedly welcomed in Edinburgh on the last evening of 1940 on the basis that at least he was not English. He went up and down the North African desert with them with the Western Desert Force and the Eighth Army. After the war, my father left the law and returned to Wales, where I had the great advantage of a Glamorgan Grammar School education.

I hope you will forgive these personal references. Others of you will have had similar experiences. It is helpful to an analysis of present issues to know from whence we have come. Both in personal and national terms some knowledge of the historical background is useful when considering present problems and opportunities.

Both before and for years after the war, Wales was a legal backwater. In the 1950s, with the expansion of commerce and personal injury litigation based on the substantial mining and industrial base in Wales, with developments requiring planning permission and, regrettably,

with crime, work for Welsh lawyers increased and the status and quantity of work done in Wales improved. This development was enhanced by the quality of the post-war practitioners at the bar, notably Tasker Watkins and John Rutter in Cardiff, Alun Talfan Davies and Breuan Rees in Swansea and Emlyn Hooson and Robin David in Chester. These were substantial men, sadly only one of whom is still alive, Robin David, aged 90, and they developed substantial practices. (As I passed the statue to one of them, Tasker Watkins, in the Millennium Stadium at a quarter to five on Saturday afternoon I did detect a slight smile.) There were substantial solicitors too, including Martin Edwards who became President of the Law Society, and Edgar Buck, who developed and kept in Wales commercial as well as other work. Edgar Buck built up a serious commercial base at Phillips and Buck.

The Courts Act 1971 involved a substantial development, and one which remains the framework for the administration of justice in Wales. Before 1971 most criminal work, outside London, Liverpool and Manchester, was done at Quarter Sessions. In parts of England and Wales, fond nostalgia for that institution persisted for many years, but less so in south-east Wales. At Glamorgan Quarter Sessions, the largest in Wales, the stipendiary magistrates in the County doubled as Chairmen and Deputy Chairmen of Quarter Sessions, including hearing appeals from each other. That was not a healthy situation either for the administration of justice in Wales or for the profession and was remedied by the 1971 Act. It was different in Cardiff, Swansea and Merthyr Tydfil where Recorders of standing, senior practising members of the legal profession such as Elwyn Jones presided, but the need for full time appointments had arrived.

Lord Beeching's Royal Commission was dissuaded, thanks largely to the work of the profession in Wales, from its provisional proposal to siphon off Wales into England, with the southern part of the Wales and Chester Circuit coming under Bristol and the northern part under Manchester. Circuit was preserved and awarded two Presiding Judges. Recorders, and Circuit and Deputy Circuit Judges, both barristers and solicitors, were assigned to it. There was to be a Circuit Administrator answerable to the Presiding Judges, the first two

Circuit Administrators being distinguished Welshman appointed from outside the Lord Chancellor's Department. Wales, along with the regions in England, achieved a status in the administration of justice which they had not had for a very long time.

Presiding Judges of the Circuit, both those with legal backgrounds and other Welsh roots, while of course answerable to the Lord Chief Justice of England and Wales, have been conscious of the need to promote the cause of the judiciary and the professions in Wales. Those without Welsh roots have adopted, if I may say so in varying degrees, the same approach but I have to say that I find it increasingly difficult now to envisage a Presiding Judge for Wales who does not have strong links and a long term commitment to Wales. As the Welsh identity, and devolution, have developed, such a commitment appears to me to be an essential part of the job description. It is not enough to love Wales as Lord Curzon, when Viceroy, loved India.

At the same time, the number and powers of public bodies in Wales increased and they came to instruct Circuit lawyers, for example, in the burgeoning planning field. At the Inquiry into the Cardiff Town Plan under the Town & Country Planning Act 1947, the city council was represented by its town clerk; on the review, a major review, in 1970, a Silk and two juniors, both from Cardiff, were instructed.

I express the hope, but can do no more, that Welsh public authorities will instruct Welsh solicitors and counsel to deal with the important work they do. A substantial part of that work goes out of Wales. This is not the occasion to attempt to identify the cause, but it is depressing to me and other members of the judiciary that so much quality legal work in Wales, especially at the bar, is being done by lawyers practising outside Wales, and I do not mean primarily the London Welsh.

I turn to developments since the devolutionary process has gained momentum. Of course I consider the position from a judicial perspective, the perspective of the Welsh Committee of the Judges' Council and the Association of Judges of Wales. Judicial structures are in the

course of development in Wales but the Welsh judiciary are not, I hope and believe, anything but fully supportive of the profession in Wales. We do what we can to encourage bar, solicitors and legal executives and are open to suggestions and proposals from the profession.

The structures are present in Wales to encourage professional development. Specialist courts are available to deal with public law cases in the Administrative Court, as well as with Commercial, Chancery and Construction cases. The Administrative Court has its own Welsh office. Cost cutting has made the provision of judge time in the Crown Courts and County Courts difficult but the Presiding Judges, with the help of the administration, do all they can to provide adequate court time in Wales.

Because of other important topics to be covered, I need to be brief in my description of work being done in and for Wales by Welsh lawyers in their representative bodies but do wish to acknowledge the important contribution they are marking.

For many years now, Legal Wales, under the successful and resourceful chairmanship of Winston Roddick, and now Milwyn Jarman, has grown in stature and influence. Its annual conferences, whether in Cardiff or in Bangor, have attracted strong support as well as prestigious speakers, including the Lord Chief Justice.

The Law Society has an active Welsh Committee which monitors devolution and Welsh legislation and issues relating to the use of the Welsh language. They seek to assert in Chancery Lane the distinct though not necessarily separatist identity of legal Wales, an uphill task, it seems, in that place. The Institute of Legal Executives, now to be congratulated on the award of a Royal Charter, has established a Welsh Forum. ILEX employs a liaison officer for Wales and the Forum also aims to keep a watchful eye on legislation from the Welsh Assembly and Government, to keep members informed of developments specific to Wales and to ensure Welsh representation on, for example, the Review of Legal Education and Training. The Universities are also active. Cardiff University has set up a Governance Centre

served by practitioners as well as academics. The professional courses at Cardiff and Glamorgan Universities have a high standing with a Welsh language supplementary course being offered at Cardiff.

I acknowledge, and thank Lord Judge, the Lord Chief Justice of England and Wales, for the interest in Wales he has shown and the support he has given to these activities. His willingness to visit Wales for Welsh legal occasions has also been demonstrated throughout his tenure. I know he values them, as he does his annual holiday on the Lleyn. The Association of Judges of Wales, a concept supported by the Lord Chief Justice and by his predecessor, was formed in 2007. Out of it has arisen, with the full support and leadership of the Lord Chief Justice of Wales, the Welsh Committee of the Judges' Council.

There are two major dimensions to the work of the Committee and the Association. The first is to establish and reinforce the standing of the Welsh part of the jurisdiction of England and Wales in London. The second is to establish the standing of the judiciary in Wales, as an arm of the constitution providing for the needs of the administration of justice in Wales. On those two dimensions is now superimposed, at the Welsh Government's initiative, the issue of whether there should be a separate legal jurisdiction for Wales. The Government and the National Assembly are conducting consultation exercises and I will refer to them later.

On the first of the dimensions, substantial progress has been made. The Welsh Committee of the Judges Council, chaired by the Lord Chief Justice with me as his Deputy, and including members from all levels of the judiciary, makes known and works on Welsh concerns in the joint jurisdiction. It took considerable effort but it has now been accepted that the compact governing body of the Judicial College, formerly the Judicial Studies Board, will include a Welsh member, who will also chair a Welsh Committee of the College with the task of ensuring that the training of judges for work in Wales, including language requirements, are fully considered. Mr Justice Roderick Evans has been appointed as the first Chairman.

Another important development has been the action of the Senior President of Tribunals, until now Lord Justice Carnwath. He took the important step of appointing Elisabeth Arfon-Jones as his Deputy for Wales, with an overview of Tribunals in Wales. Libby has a distinguished background in the Tribunals Service and as a courts administrator and has set up a Tribunals Contact Group in Wales.

In the Court of Appeal Civil Division, the principle has now been established that appeals in Welsh cases, if at all possible, should be heard in Wales. I acknowledge the support, and encouragement, of the Lord Chief Justice and the Master of the Rolls in this development. In recent years there have been regular biannual visits and also ad hoc sittings to deal with cases which have merited a Welsh hearing but could not conveniently be adjourned until the next regular sitting of the Court in Wales.

I receive every co-operation from the Listing Officer in promoting this practice. The point has, however, fairly been raised as to what happens when the present Listing Officer and I are no longer in our present positions. In this, as on other areas, structures are required. Informality in arrangements, however well intentioned, in the long term is not enough. In the case of the Criminal Division of the Court of Appeal, more work needs to be, and will be, done and I have already met the new Registrar of the Court to discuss what arrangements should be made.

The Welsh Committee of the Judges' Council has also very recently set up a working party with a view to making proposals for improving arrangements not only for Court of Appeal but for High Court sittings in Wales. High Court arrangements probably have a larger and more general impact.

Before I turn to the second dimension, I consider North Wales specifically. Chester and the County of Cheshire have been separated from the Wales and Chester Circuit since 2007 and attached to the Northern Circuit. I opposed the change at the time on the ground that the profession in Chester had for a long time, indeed for centuries, served the needs of North

Wales and that North Wales would lose out. I am reconciled to the change as not being reversible and because, as devolution proceeds, the advantage of the political boundary corresponding with the legal boundary becomes clearer. The difficulties for North Wales cannot, however, be underestimated and we should be conscious of them. Some of the best people in Chester, both in the judiciary and in the professions, have opted for the Northern Circuit and look to Manchester and Liverpool for their work and their future. Their change of allegiance is an understandable consequence of the transfer. The problem of legal services for North Wales has been aggravated by the sad and untimely death of Judge Michael Farmer, whom we miss greatly.

North Wales lacks a legal focus and the distance between north and south, and the magnet of Manchester and Liverpool in the north, are inevitably powerful considerations there. All branches of the profession have made attempts to bring north and south together but my impression is that these attempts have not been met with conspicuous success. Whatever else happens, or does not happen, in devolutionary terms, focus on the provision of legal services in North Wales is required. I know that the Presiding Judges and the administration have this well in mind. I also know that the Designated Civil Judge for Wales, Judge Seys Llewellyn QC, and the Chancery Judge for Wales, Judge Jarman QC, are very willing and do sit in the north.

At the same time, Cardiff, as capital of Wales, must play an important role in the administration of justice in Wales. In a thoughtful interview given to the Western Mail for 4 January 2012, Sir Terry Mathews spoke of the need for a substantial city in Wales if Wales is to have credibility and recognition globally. There needs to be a critical mass in terms of population. That approach is in my view sound not only from the standpoint of economic development but for the healthy administration of justice. Consistent with the willingness of judges to travel, the further development of Cardiff as a legal centre is essential. Whether or not there is a separate jurisdiction, Cardiff needs to punch above its weight if there is to be a credible legal, as well as commercial, Welsh identity. The two can go together; the presence

of strong legal structures and a strong legal profession will be an incentive to, and serve the needs of, further economic development.

Edinburgh, Belfast and Dublin, the other capitals in these islands, each has a longer and more powerful legal tradition than does Cardiff. They also have larger populations though I add the qualification that, on the basis of the European Union definition of “larger urban zone”, Cardiff is bigger than Belfast. A less encouraging note for Wales is in the difficulty in travelling between Cardiff and parts of Wales, especially in the north.

I turn to the second dimension. The devolutionary process has already proceeded in such a way, and to such an extent, that judicial involvement in the process is necessary and inevitable. In my address to Legal Wales in 2009, I said that the judicial arm of the Constitution of Wales must be integral to the settlement and not left merely to follow along and comply with it, whatever form it takes. Now that the Government of Wales has powerful legislative and executive arms, concern about the judicial arm of the constitution is not merely academic. It arises from basic constitutional principles developed in the United Kingdom over the centuries and now incorporated in international instruments which bind the United Kingdom, including the European Convention on Human Rights, the Bangalore Principles and the Latimer House Commonwealth principles.

Tribunals in Wales are in the front line in dealing with the stresses which arise from the devolutionary process. Before expanding on that, I must briefly refer, though you will probably be aware of it, and it could take an address of its own, to the increased status and importance of the tribunal service in the jurisdiction as a whole, including Wales. It now is a joint service with the court service (HMCTS). The Upper Tribunal has a high status in the judicial hierarchy and tribunal judges are now entitled to be called by that name.

Several tribunals are devolved, including the Mental Health Review Tribunal, the Special Educational Needs Tribunal, the Residential Property Tribunal and the incipient Welsh Language Tribunal. In the case of the devolved Tribunals, the judiciary are most concerned

to ensure that judicial independence and the separation of powers are fully recognised. The tribunals must be independent of and, be seen to be independent of, the Government departments which it is their duty to ensure operate within the law. That requires adequate administrative support, including provision for training, as well as judicial involvement in the appointments process and security of tenure for tribunal judges. Those needs are fundamental to the separation of powers and the rule of law.

An issue has arisen as to the appointment of Tribunal judges. I well understand the sensitivities of the Welsh Government on the subject and the unacceptability to the Government of approval of appointments in London being required. I add that top-level meetings, held within the last week, may well have resolved that issue. I cannot go into detail.

There is, however, in my view, a growing case for a judicial appointments commission for Wales or at any rate a Welsh committee of the Judicial Appointments Commission for appointments below High Court level. Moreover, if international commitments and long-standing constitutional understandings are to be respected, there must be a judicial involvement in judicial appointments. A lay contribution, independent of Government, has also become a well-established feature.

The Welsh Committee of the Judges' Council is seeking the co-operation and support of the Welsh Government in confronting these issues and in establishing appropriate judicial and administrative structures in Wales. Very recent discussions have seen progress in that area. It is important to resolve issues now, first to ensure that judicial independence and the separation of powers are acknowledged before administrative arrangements are set in stone and, secondly, so that structures are available to accommodate further developments which may occur. The judiciary regard this as fundamental and not something which can be left to the goodwill of legislators and administrators, however benevolent they may appear. The judiciary may be, in Hamiltonian terms, the weakest of the three departments of power, but

we are determined, as the devolutionary process unfolds, to uphold its role, in the words of Alexander Hamilton, 'as the citadel of the public justice and the public security'.

I illustrate the problem. There is no Ministry of Justice in the Welsh Government, the administration of justice not being a devolved function. The Lord Chancellor and Minister of Justice in London continues to be the Minister of Justice for Wales, though without a Welsh department or presence. The absence is an existing problem arising from the current stage of the devolutionary process. As the Welsh Government becomes more involved and seeks to become involved, in aspects of the administration of justice, already for example, in setting up Tribunals, in dealing with young offenders and with family justice, the need grows.

We do not have judicial or administrative structures in Wales appropriate to the developments which have occurred and are occurring though this is not to doubt the capabilities of those in the Welsh Government who carry responsibilities at present. There are now powerful legislative and executive institutions in Wales. Arrangements should be in place to ensure that they respect, and promote, the judicial arm of the constitution. While the administration of justice is not itself a devolved function, the functions that are devolved have an impact on the administration of justice such that its requirements must percolate into their exercise so as to be integral with them. Equally, in my view, and in the view of the Welsh Committee of the Judges Council, judicial structures should be in place to provide the necessary liaison and interaction.

In pursuit of that, I do express the view, albeit tentatively, that even under present arrangements, a surrogate Ministry of Justice for Wales should exist. There is a need, as I see it, for a department to take responsibility for matters relating to the administration of justice and relations with the judiciary and with tribunals. The present and prospective exercise of powers in Wales has significant impact on the administration of justice and the function needs to be performed. I doubt whether other options, a branch of the Ministry of

Justice in London operating in Wales, or remote control from London, would now be acceptable on either side.

So far I have been speaking of the existing situation. In an early initiative following the 2011 election in Wales, the Welsh Government issued a statement seeking a debate on the question whether there should be a separate legal jurisdiction for Wales. In his keynote address to the Legal Wales Conference in Cardiff in October, Mr Carwyn Jones, the First Minister, spoke of this issue and considered how far Wales should go down the road towards a separate legal jurisdiction, stating that nowhere in the world are there two legislatures operating in the same jurisdiction and both responsible for the same policy area. The First Minister announced that a Green Paper would be issued and invited the thoughts of the legal community and academics, as well as the wider community. The Green Paper is to be launched by the Counsel General next week.

Meanwhile, in December, the Constitutional Legislative Affairs Committee of the National Assembly took its own action and announced an inquiry into the establishment of a separate Welsh jurisdiction, inviting representations on four specific questions. Contributions have promptly been made by the Lord Chief Justice on behalf of the Welsh Committee of the Judges' Council, by the Association of Judges of Wales, by Legal Wales and by individual and groups of judges and lawyers. I hope that there have been, or will be, London Welsh contributions.

As the judicial contributions have emphasised, and as I also said in 2009, the question is fundamentally one for the Government and people of Wales and their political will. It is certainly not for the judiciary to express political views or engage in political debate. The judicial contribution to the consultation is designed to provide background information and raise issues which should, in the view of the judiciary, be considered. Suggestions have also been made by the judiciary as to what measures might be adopted short of a separate jurisdiction, having regard to the factors I have already mentioned.

It was recognised by the First Minister in his Address that rights of audience, as between professionals in England and in Wales, would almost certainly remain cross-border. Notwithstanding the growing sense of Welsh identity, and while everything is up for discussion, there is likely to be an overwhelming wish to retain a single right of audience throughout England and Wales.

I interpose that, at the Bar, free movement is a comparatively modern invention. When I was first a member of Circuit, all barristers could practise in London but there was a special fee, in addition to the market rate, payable to counsel who appeared off their own Circuit. At a time when Queen's Counsel were often briefed at less than 100 guineas, the special fee of 50 guineas in their case was a very substantial deterrent. That restrictive practice was abolished in 1965. The rule could not be justified today but did have the beneficial effect of encouraging local and Circuit bars. Its abolition enabled Cardiff practitioners for the first time to travel the twelve miles to Newport to appear at the Monmouthshire Assizes and Quarter Sessions, without having to be paid a special fee. Until the 1970s, Monmouthshire was on the Oxford Circuit. I do recall, on occasions in the 1960s, a somewhat frosty reception from judges on that Circuit. In law, Monmouthshire is now fully integrated into Wales.

I hope the business community in Wales will make its views about jurisdiction known to the Government and do so in a measured and constructive way. The future prosperity of Wales obviously depends on economic development, including the development of tourism. Changes which might lead to a loss of confidence in the business community, or a reluctance by outside businesses to invest in Wales, would be most unfortunate. However, I know of no evidence that investment in Scotland or in Northern Ireland, or for that matter the Channel Islands, has been limited because of separate jurisdictions there.

Freedom of movement of lawyers between England and Wales is now a well entrenched feature of legal life in England and Wales. Provided that is maintained, a devolution of the

administration of justice would not necessarily be a disadvantage to lawyers based in Wales who do work outside Wales, both in England and farther afield. That work is already significant in quantity and can provide a valuable contribution to the Welsh economy. It is important that lawyers with such practices do make known to the Welsh Government their views on the questions raised.

One of the specific matters on which the Assembly sought written evidence was the operation of other small jurisdictions in the United Kingdom, particularly that of Northern Ireland. That, in my view, was perceptive because the Northern Ireland example, successful now as a legal system for almost a century, is clearly relevant to consideration of a separate jurisdiction for Wales. I hope that evidence of the problems and successes of Northern Ireland will be available to decision makers. Its population is considerably smaller than that of Wales but it is more remote from the pull of England.

In Northern Ireland in 1920, there was no doubt about the existence of the political will for a separate jurisdiction and a determination amongst the majority that the Province should have its own successful jurisdiction. The state of mind which led political leaders to proclaim “Ulster will fight and Ulster will be right” was the motive force behind developments in Northern Ireland at that time including the creation of the separate jurisdiction. A joint Northern Ireland and Irish Free State Court of Appeal was established but it did not last long. The events which led to the creation of that political will were unique to Ireland and do not and cannot arise between England and Wales but I mention this stark example to illustrate that it is the presence of, and extent of, a political will that will be determinative. I would expect the people of Wales to be astute in deciding on the advantages and disadvantages of a separate jurisdiction, or of a half-way house to be defined. Lawyers have a part to play in making the issues clear.

It is not only in Wales that devolution is producing judicial change and very briefly, I mention Spain. Professor Nasarre-Aznar, Catalonian Professor and Court of Appeal judge,

recently lectured at the University of Glamorgan. He stressed the role of Catalan judges, including its regional Court of Appeal and Supreme Court, in construing the law so as to meet the particular needs and aspirations of the people of Catalonia. Their issues take a different form. A proposal to create a Catalan Judges' Government Body, to appoint judges, was declared unconstitutional by the Spanish Constitutional Court, and judges are appointed centrally.

There may well be an English input into the consultation exercise. The Magistrates Association has already responded by opposing a separate jurisdiction on the ground that Wales does not have a sufficiently well-developed infrastructure to support it. A significant number of individual judges in Wales have also expressed views against a separate jurisdiction. The Welsh Committee of the Judges' Council and Association of Judges of Wales have taken care to avoid a specific stance but have sought to alert and inform the National Assembly about the issues involved, and also point to practical measures which could be taken under existing arrangements.

Whether or not there is a separate jurisdiction, there is a momentum in Wales to promote the national identity, including the legal identity. That is already reflected in the developments I have mentioned and it is to be hoped that it will also be reflected in the growing quality of legal services in Wales and the range of services provided. There is some evidence that English based businesses see the advantages in current circumstances of employing Welsh lawyers for their Welsh needs.

At this late stage of my address, you may well ask: what about London Welsh lawyers? It is the London Welsh lawyers I have been invited to address and so far, apart from anecdotal references, they have not been mentioned. Over the centuries, Welsh lawyers have come to London, some temporarily some permanently. As Emyr Jones records in his excellent book on the Welsh in London, the Inns of Court, in the seventeenth century, and in particular Gray's Inn, were finishing schools for the sons of the Welsh gentry. More recent migrations

have demonstrated the contributions Welsh lawyers can make to the law in London, while maintaining a Welsh outlook. In the last century, Lord Edmund-Davies was prominent. His junior practice was in Swansea and he came to London, as did Kirkhouse Jenkins, at a time when Circuit Silks were required not only to have Chambers in London but to live off-Circuit which in effect meant in London. Both men remained members of the South Wales Circuit.

Later in the century, Tasker Watkins made a great contribution to the joint jurisdiction as well as to Wales, and was Deputy Chief Justice. His main home remained in Wales. The contribution of Welsh practitioners in London has been enormous and the recent formation of this Association demonstrates the Welsh attachment of London Welsh lawyers. You undoubtedly have a role as ambassadors for Wales in London. That is not only an agreeable role but a necessary one. Awareness in this great city of the achievements and aspirations of Wales and the Welsh is less than complete. Your help is needed in remedying the deficiency.

There remains the issue of the effect on Wales of migration to London. That raises delicate questions for a Welshman like me who has taken the opportunity both to practise at the bar as a Silk and to sit on the Bench in London, and has enjoyed doing so, while maintaining sanity by always keeping a strong Welsh base. Some of you will not have had a Welsh practice at all. Wales suffers from a serious brain drain of legal, as well as other forms of talent, and not only to French Rugby Clubs, but to London. That the brain drain from Wales is no worse than from the regions of England is little comfort to those seeking to build up the strong Welsh base.

It is not a new problem. In the immediate aftermath of the First World War, legislatures for Scotland and Wales were proposed and the implications for the administration of justice considered. The Committee on the Judiciary, reporting in 1920, raised but did not answer the question whether devolution would “improve the chances and opportunities of Welsh aspirants to fame and the other prizes of a successful legal career”. The question is still relevant.

I repeat the need for Welsh legal talent based in Wales. There is a potential conflict of interest between those who practise from a Welsh base and seek to build up practices in Wales and those who come and go as their own interests dictate. The problem is inescapable. In the days of the special fee, there was a financial motive for Circuit membership which does not exist today. Nor does Circuit membership confer the entitlement to Welsh work it once did but I do express the hope that London Welsh lawyers will demonstrate a commitment to the administration of justice in Wales and a concern to encourage Welsh institutions and the profession in Wales. Even where the lot has been cast for a London life, opportunities will arise to demonstrate those qualities.

Your interest in Wales has been demonstrated by the early success of this Association. I am confident that members of the Association, who have demonstrated their continued interest in Wales in this way, will make a substantial contribution to the administration of justice in Wales. Meanwhile, thank you for creating, on this occasion, as at earlier events, an atmosphere we can all enjoy and an audience for me to address on the Welsh legal landscape and the challenges present in 2012.

---

**Please note that speeches published on this website reflect the individual judicial office-holder's personal views, unless otherwise stated. If you have any queries please contact the Judicial Office Communications Team.**

---