

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol
Bil deddfwriaeth (Cymru)

National Assembly for Wales
Constitutional and Legislative Affairs
Committee
Legislation (Wales) Bill

CLA(5) LW 01
Ymateb gan Arglwydd Lord Hope

Evidence from Lord Hope

I was very grateful to have been given the opportunity of commenting on this draft Bill.

As you may know, I sat on two of the early cases which came before the Privy Council under the devolution legislation and was, I think, the first UK Judge to use the expression “Welsh law”. So I was particularly interested to see what you are proposing. It should go a long way towards strengthening, and improving the accessibility of, Welsh law. I welcome the fact that it will provide your law with a sound basis for its future development.

The Bill is so well drafted that I have only one comment to make. It relates to the definition of the words “Privy Council” in Table 1 of Schedule 1 as introduced by clause 5. As far as I can see, these words are not used anywhere in the draft Bill itself. I understand, of course, that they are being defined here for their easier use in some other Assembly Act or in Welsh subordinate legislation. But I wonder whether you have got the definition quite right. It all depends on what the Privy Council is expected to do. The body on which I sat, which is the judicial arm of the Privy Council, is usually referred to as the Judicial Committee of the Privy Council: see, for example, sections 32 and 33 of the Scotland Act 1998, c 46, as originally enacted. The devolution functions have now been transferred to the UK Supreme Court, but you may have other functions of that kind in mind in which case you might like to follow that example. For other purposes the broader definition you have used may be the right one. I suggest that it might be best to check whether you have the right definition with the Privy Council itself before the Bill is finalised.