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David Melding AM
Chair
Constitutional & Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
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Ref: 66SOS14

7 April 2014

Dear David,

I am writing in reply to your letter received on 17 March, which set out your Committee's views on a number of issues pertaining to the draft Wales Bill.

You will be aware that the Wales Bill has now been introduced in the House of Commons and received its Second Reading on 31 March. This provided the opportunity for Members on all sides of the House to debate the Bill's provisions, including a number of the issues you have raised.

Your Committee will be pleased to note that clause 21 of the Bill devolves power to the Assembly to determine its own budgetary procedures. This was recommended by the Silk Commission in its Part I report and by the Welsh Affairs Committee in its pre-legislative scrutiny of the draft Bill. Devolving this power will enable the Assembly to determine the procedure for setting the annual budget and would, for example, allow for an annual Finance Act to replace the current annual budget motion.

Clause 24 of the Bill (clause 21 of the draft Bill) imposes a duty on the Law Commission to provide advice and information to Welsh Ministers. In effect, this will allow Welsh Ministers to refer matters to the Law Commission directly, whereas at present this needs to be done via a UK Government department. We believe this represents the right balance between giving further powers to Welsh Ministers to pursue legislative changes within devolved competence without imposing too onerous a duty on the Law Commission.

It would not be appropriate for Welsh Ministers to be on the same footing as the Lord Chancellor and Scottish Ministers as Wales does not have its own legal system. The Scottish Ministers are responsible for the programme of law reform at the Scottish Law Commission, and the Lord Chancellor is responsible for the programme of law reform at the Law Commission of England and Wales. In the context of those two legal systems, equivalence for Wales (and for Welsh Ministers) in this area would clearly not be appropriate.

I have considered carefully the point you raise in regard to clause 27 (clause 24 of the draft Bill). The clause empowers HM Treasury, by order, to make supplementary, incidental or consequential provision as appears appropriate in connection with bringing into force the provisions in Part 2 of the Bill (relating to Finance). An order made under this section may make modifications both to Acts of Parliament and Acts and Measures of the Assembly (and subordinate legislation), and an order including such provision is subject to the affirmative resolution procedure in the House of Commons.

You expressed concern that any change to an Act or Measure of the Assembly should be endorsed by the Assembly. As you know, the UK Government seeks the consent of the Assembly, via a Legislative Consent Motion, whenever it needs to legislate in areas of devolved legislative competence. The Bill extends the Assembly's legislative competence to include devolved taxes, and the consent of the Assembly would be sought in future if a HM Treasury order made under clause 27 sought to amend an Assembly Act relating to devolved taxes. Given this, I do not believe that we need to make specific provision in the Wales Bill.

Finally, you also call for the Assembly to have legislative competence for its electoral arrangements. The Government does not consider this Bill to be the right vehicle to consider such a change, and believes that it is best considered in the wider context of responding to the Silk Commission's Part II report.

A handwritten signature in black ink, appearing to read 'David Jones', with a large, stylized initial 'D' and 'J'.

Rt. Hon. / Y Gwir Anrh. David Jones MP / AS
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru