

**Chair of the Public Administration and Constitutional Affairs Committee**

Rt Hon Bernard Jenkin MP  
House of Commons  
LONDON  
SW1A 0AA

Your ref:  
Our ref: PO/RB/BA

7 September 2015

Dear Bernard

**The Constitutional implications of the UK Government's proposal to establish a system of 'English Votes for English Laws'**

As part of its review of the UK Government's proposals to implement English Votes for English Laws, the Chair of the Commons Procedure Committee has requested details of procedures followed in the National Assembly for Wales to determine whether legislation is within competence. I have submitted the attached paper to that Committee. I believe that the same evidence will be of interest to your Committee in helping to inform its review of the broader constitutional implications of the proposals.

The proposals for implementing English Votes for English Laws give rise, in my view, to a number of concerns relating to the role of the Speaker and the relationship between the National Assembly and House of Commons. The paper brings to your attention certain scenarios which, based on the experience of the Assembly, may bring the Speaker's decisions into political contention and raise important issues for the House. The benefits of basing certification on devolved competence, rather than solely on territorial application, are not clear to me and seem likely to be outweighed by the significant complexities and constitutional uncertainties created. By way of illustration:

- The proposals create considerable **potential for disagreement** between the Speaker and the Presiding Officer - and indeed the Assembly - as well as the potential for conflict between the opinion of the Speaker and judgments of the Supreme Court;

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- There are potentially significant **financial implications** for Wales arising from some England-only legislation and I am unconvinced that Welsh interests will be sufficiently protected by these proposals;

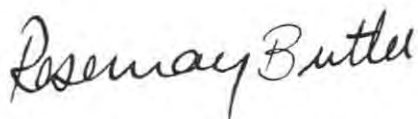
The proposals do not appear to take account of the **Legislative Consent Motion (LCM) convention**; in particular, it is unclear how the Assembly's decision on granting, or not granting, consent for the UK Parliament to legislate on a devolved matter will interact with the proposed procedure.

In respect of the other part of your inquiry and the future of the Union, I have significant concerns about the piecemeal fashion in which our constitution is developing. The existing devolution settlements for Northern Ireland, Scotland and Wales are very different, and it is not easy to see a rational basis for all of those differences. New devolution and constitutional arrangements for Scotland and England are being implemented at a remarkable pace yet with none of the obstacles and resistance that seem to characterise further devolution to Wales.

This is not a satisfactory way of proceeding. The provisions in the Scotland Bill currently going through Parliament will set a precedent for Wales, yet the Assembly has not been consulted on them and was not involved in developing them. A coherent pan-UK approach is required based on the principle of subsidiarity – the centre should reserve to itself only what cannot be done effectively at devolved level. We must aim, therefore, for genuine joint discussion, to which all four Nations contribute on an equal footing, if we are to reach a settlement that works for all parts of the UK.

I have written previously to the Speaker to bring these matters to his attention and am copying this letter to him. I trust that this information will be helpful and I, or my officials, would be pleased to discuss any aspect further.

Yours sincerely



**Dame Rosemary Butler AM**  
**Presiding Officer**

Enc

cc: Speaker of the House of Commons, Rt Hon John Bercow MP  
First Minister of Wales, Rt Hon Carwyn Jones AM  
Secretary of State for Wales, Rt Hon Stephen Crabb MP  
Chair of the Welsh Affairs Committee, David TC Davies MP  
Chair of the Constitutional & Legislative Affairs Committee, David Melding AM