Chair: Personal or as Presiding Officer, whatever you prefer.

Dame Rosemary Butler: Yes. The answer is yes.

Q179 Chair: What about schoolteachers’ pay?

Dame Rosemary Butler: Schoolteachers’ pay?
Chair: Yes, schoolteachers’ pay and conditions? I understand that is going to be reserved.

Dame Rosemary Butler: Well, I think that is a matter for the unions as to whether they would like the pay and conditions devolved to Wales. A number of years ago, we looked at it and felt it would be better if it wasn’t, but that is a matter for someone else, not for me.

Q180 Chair: Okay. Tax-raising powers?

Dame Rosemary Butler: Well, we are certainly going straight into it, aren’t we? I think there are obviously tax-raising powers within the Bill. It is how we deal with them and how quickly they can be implemented. That is the issue there.

Q181 Chair: As far as the Bill itself is concerned, you would recognise while you obviously have many concerns about it, presumably we all share the view that we need to bring clarity to the settlement. The principle of bringing clarity is okay with you, but it is more about how clear the current powers would be if all the things stated in the Bill at the moment continue to be reserved. Is that a fair summary?

Dame Rosemary Butler: I would just like to say there is much in the Bill that I do welcome—I think we should say that to start with—and we do need to see the Assembly recognised as a permanent mature body responsible for our own affairs. However, I think the way in which reserved powers are currently drafted is overly complex. I have made some suggestions, as you know, in my written evidence to simplify and clarify the proposals, which will move us to a more sustainable devolution settlement. But these do not go as far as redrafting the Bill; I am not going there. I honestly feel that the principles of subsidiarity are not at the heart of this Bill. However, suggestions to aid clarity and workability I have made, and I am committed to continuing working constructively with the Secretary of State for Wales. That said, whatever the settlement is, it must be clear, it must be workable and there must be no rollback of competence. Unfortunately, that is not the case with the Bill that we see today.

Chair: Thank you very much indeed, Presiding Officer. Could I call on Liz Saville Roberts next?

Q182 Liz Saville Roberts: I thank you also, Presiding Officer, for the depth and the detail of the evidence that has been presented to us. For my own part, I found this very useful, very helpful in suggesting some ways ahead. One of the things that I am doing now is just to make sure we get this question in. You mention in your evidence that you feel the present timetable is not viable, or that may be my word. If you feel that is the case, what do you think is necessary to do? How much time is necessary and what tasks need to be undertaken?

Dame Rosemary Butler: Good afternoon, Liz. I honestly feel it should be as much time as is necessary. I genuinely feel that it is being rushed at the moment, that we are trying to get things through far too quickly. This is a huge Bill. We need to get it right the first time. We do not want to be coming back in a couple of years or even before to readdress the issues. The Bill is being read in February. The Assembly is finishing in March. There will be an election, a new Assembly. I honestly think it should be left for the new Assembly to discuss.
Q183 Liz Saville Roberts: You made some suggestions to options A, B and C. Options B and C, if I read correct, imply that you are giving back some of the competence that would otherwise be removed by this draft Bill. If that is the case, do you really feel honestly that only option A moves this ahead in the sense that it does not reduce the present powers that the Assembly holds?

*Dame Rosemary Butler:* Well, my concern is that it is not clear and it is not workable. At the moment, we have nine tests, for example, assessing whether something is devolved. Now there are going to be 10, and the new tests are more complex and it introduces a new necessity test. So we are going a way back, and it is genuinely a disappointment to me that that is happening. I think that my option A is really the best way forward.

Q184 Liz Saville Roberts: You mentioned you welcomed some aspects of the draft Bill. Would it be possible broadly to accept those commitments in the St David’s Day Command Paper that provide the Assembly with the powers to determine its own operational and electoral matters and, if that was the case, if those were acceptable, would there be any particular amendments necessary for those aspects?

*Dame Rosemary Butler:* I will ask Elisabeth Jones, my head of legal services, to answer that one.

*Elisabeth Jones:* Thank you. The Presiding Officer very much welcomes the new competence over the internal operations of the Assembly and, indeed, the electoral arrangements. There are some provisions where the Presiding Officer would like to be able to move more quickly to simplify the position. As soon as the draft Bill is received or as soon as the Bill receives Royal Assent, she would like to be able to do things through Standing Orders immediately, rather than the Assembly to have to legislate to say that these things can be done through Standing Orders. That is the main tweak, if you like, that we would still like to see and the Presiding Officer and her officials continue to have discussions with the Wales Office about a range of matters, including that.

*Dame Rosemary Butler:* Adrian, do you want to add anything there?

*Adrian Crompton:* Not really, Presiding Officer, just to reiterate that point that Elisabeth made. There are a few areas that we have highlighted in the evidence and in discussions with the Wales Office where it would be much simpler and swifter for the Assembly to effect some changes through its Standing Order procedures rather than to legislate separately for it.

Chair: Could I just bring in Antoinette Sandbach and I will come back to you after that, Liz?

Q185 Antoinette Sandbach: Good afternoon, Presiding Officer. I just wanted to pick up on the use of your words “rollback” in your evidence to us just now. Clearly, the aim of the Bill is to move from a conferred powers model to a reserved powers model, which means a greater deal of clarity in section 7, identifying what is reserved and what is not. Do you agree that annex 7 does, in effect, provide a very clear line about which matters are reserved to the UK Government?

*Dame Rosemary Butler:* Good afternoon, Antoinette, nice to see you. No, I do not agree with you there; I absolutely do not agree. At the moment, in devolved areas we can change the law if we choose as an Assembly or as a department. In future, we will not be able to
do that. Now, if that is not a rollback, I do not know what is a rollback. I just feel that it
should really be much clearer. It is not what we think is a different system than we have
now, which is what we would like to see.

**Q186 Antoinette Sandbach:** I understand that, but clearly the developing nature of the
devolution settlement has been through the courts rather than through Parliament. We have
seen that in particular with two Supreme Court judgments. Some people would say that those
Supreme Court judgments rather muddied the waters and what this is doing is drawing a clear
settlement between the UK Government and the Assembly as to which is the appropriate
body to deal with legislation in the context of Wales and England laws.

**Dame Rosemary Butler:** I do not think it is appropriate for the courts to be making
decisions on democratic processes. It should be for this Assembly or for the UK
Government to make those decisions. It is not for the Supreme Court. Whereas you may
criticise the Supreme Court decision, I couldn’t possibly. It is a decision that was made
and now what has been proposed with what is in the new Bill is that that should all be
overturned.

**Q187 Antoinette Sandbach:** I think that is what I am getting to because there was
uncertainty, which was then clarified in the Supreme Court decision, but ultimately it is for a
UK Parliament to, if it disagrees with that decision and those powers—well, what I am trying
to say is given that in the 2006 Act it was not clear exactly where the line was, what schedule
7 seeks to do now is to provide that clarity. While it has been criticised for being lengthy and
quite detailed, what that does is provide certainty to legislators both sides of the border.

**Dame Rosemary Butler:** I do not think it will provide clarity at all. I think it is more
muddied than it was previously. What we want is something which is workable, which is
clear, which the average person in the street in Wales can understand. As we stand at the
moment, that is not the case. Elisabeth or Adrian, do you want to add anything to that?

**Elisabeth Jones:** I can see that having a long list of reservations spelt out is in a sense a
measure of clarity, but, as the Presiding Officer says, the key lack of clarity and
uncertainty in the draft Bill is the tests for competence. They introduce a very great new
world of uncertainty and lack of clarity. It is also the case that there are reservations, both
general and specific, which overlap and which overlap with the test for competence, which
again creates areas of uncertainty.

Finally, I would say that although detail in the reservations may appear to offer clarity and
it does in one sense, trying to legislate coherently when you have a very large number of
holes, if you like, in your competence described in detail is a very difficult to thing to do. The
Secretary of State did also state his wish that this draft Bill would help to create a
settlement that was workable and stable and durable, and that is a key problem, I think,
with the list of reservations.

**Q188 Chair:** Presiding Officer, can I try to sum this up? This is a complicated issue, and I
want to try to sum it up in a way that people, and dare I say even the press, might understand.
Under the current situation, you have a smaller policy envelope, if you like, but you have the
opportunity to push against the envelope, using the courts if necessary to do so. Under the
proposals being put forward, you will have a larger policy envelope in which you can legislate, but it would be a much more tightly sealed envelope. I am not making a statement
as to where I stand, but is that, do you think, insofar as one can sum these things up, a fair summary of the two different approaches?

**Dame Rosemary Butler:** Well, it is a very interesting picture, I must be honest. I am never short of envelopes and pushing the envelope. It is difficult now. Sometimes, competence is difficult for me to decide. In the future, whoever the Presiding Officer, it will be far more difficult to decide what is within competence and what is not. Therefore, that cannot be a clearer settlement. I am sorry about the envelopes, but an envelope with a window in it or a self-sealing one I am not sure about.

**Chair:** It is probably a clumsy analogy, but I am trying to get it over in an understandable way.

**Dame Rosemary Butler:** Thank you.

**Chair:** If Ms Saville Roberts wants to come back for some further questions that is fine.

**Liz Saville Roberts:** I think we have gone to the necessity test, so I think that would be fair to go to that.

**Chair:** In that case, yes, can I go to Carolyn Harris then, please?

**Q189 Carolyn Harris:** Thank you, Presiding Officer. The Secretary of State has defended the necessity test, claiming it to be both broad and flexible. Your excellent written evidence does not seem to see it that way. Do you have an alternative proposal that you could put forward?

**Dame Rosemary Butler:** No, I have put mine forward, I think.

**Elisabeth Jones:** We have put those forward in the Presiding Officer’s options A, B and C in the written evidence.

**Dame Rosemary Butler:** I have nothing different than we have already written to you.

**Chair:** Yes, those are the ones in the annexes at the back of your written evidence, I think.

**Dame Rosemary Butler:** I think the very large annex, if I remember rightly.

**Q190 Chair:** Yes, indeed. In summary, how would you word it? Clearly, Presiding Officer, you would presumably agree that there are areas that have to be reserved to Westminster and that the Assembly should not be able to legislate over them. In summary, how would you find a form of wording that would allow the Assembly to have power within the areas that everyone agrees should be devolved to the Assembly but allow Westminster to maintain absolute power over the areas that are not?

**Dame Rosemary Butler:** Well, can we turn it around the other way and say that there are issues that should be reserved to Wales and, of course, issues that should be reserved to Westminster? I think whichever competence is being given, it should be complete, it should be clear and it should be workable. If you are going to have different competences for different institutions that is fine, but when you have parts of competences that go to the different institutions, then you may find it quite difficult. Sorry, Elisabeth wants to say something.
Chair: Yes, certainly.

Elisabeth Jones: I think the key problem here is the private law and the criminal law. Many commentators have made the point that these are not policy areas—they are not subject areas, if you like—and, therefore, to treat them in that way as devolvable or reservable is a category error. Our position is that the key test should be: is the Assembly legislating in a non-reserved area? If yes, is the Assembly legislating for Wales essentially with that small amount of ancillary competence for England? If yes, then the Assembly should be able to use the criminal law and the private law as it chooses, subject only to compatibility with human rights and European law. Scrutiny of those areas is an appropriate role for the courts. Scrutiny of the necessity or the exact choice of private law mechanism or the exact choice of criminal law mechanism is not an appropriate role for the courts.

Q191 Chair: But you presumably agree that there are areas where the Assembly could legislate purely for Wales but would be doing so in areas that are reserved and that the Assembly should not be able to do that, would you not?

Elisabeth Jones: Absolutely. If the subject area is reserved, then the Assembly cannot legislate on that and it cannot legislate for the private law or the criminal law in that area.

Q192 Chair: It is right that we need to bring forward a Bill that brings clarity about the areas which are reserved and which are not reserved—

Dame Rosemary Butler: Absolutely.

Chair: And one of the arguments here is over which particular areas should be reserved and which should not be reserved. Is that a fair comment to make?

Dame Rosemary Butler: I think so.

Chair: Yes.

Elisabeth Jones: That is one of the arguments, and then the other argument is what test do you use to determine whether it is reserved or not.

Chair: Okay.

Q193 Liz Saville Roberts: You have mentioned, if I understand correctly, that this Bill should reflect the 1998 Scotland Act in that the necessity test should be related to reserved matters only, in which case am I correct in understanding that you are recommending that we take out the reservation for private and criminal law necessity tests?

Dame Rosemary Butler: Yes.

Q194 Liz Saville Roberts: If that is the case, would it be problematic to do so without also establishing or beginning to establish a legal jurisdiction for Wales?

Elisabeth Jones: I think the solution that the Presiding Officer has put forward could work. I also absolutely think that a separate jurisdiction could work, and I think that the establishment of a separate jurisdiction in a minimalist way, without the cost of different sets of courts, a different set of legal qualifications and so on, the creation of that separate
jurisdiction would particularly give reassurance to England. It is more for that reason that it is desirable, I think, to make a cleaner, neater boundary and to reassure the European Government and England that our laws cannot, if you like, bleed into their area.

**Q195 Liz Saville Roberts:** Another aspect of the rolling back of competency, which I do not, forgive me, believe will be brought up otherwise, is the increased need for ministerial consent. You mention two Assembly Acts, the Local Government Byelaws (Wales) and Agricultural Sector (Wales), with the implication of a different interpretation of that which the Welsh Office has provided to us in its analysis of 25 Assembly Bills. What are your principal concerns in relation to the increased need for UK ministerial consents?

**Elisabeth Jones:** The principal concern is the constitutional concern. First, the provision of ministerial consent is very explicitly and expressly rolled back from the present competence position. The Presiding Officer has made that one of her three principles from the very beginning of this process: no rollback. That is a concern in itself.

Secondly, there is a big concern here about the complexity of the provision as drafted, particularly the definition of reserved authority and Welsh public authority. How workable will that be in practice? How workable will that be for policy makers, for the Presiding Officer when setting competence for Assembly Members and, crucially, for authorities, public bodies out there in the world? How will they know with certainty whether they are within competence or not? A recipe I think for whether it goes to the Supreme Court.

Thirdly, and this is more of a Welsh Government concern, I guess, than for the Assembly, but there is the concern about delay. Already obtaining ministerial consents causes delay and now we will have six more circumstances in which consent is to be obtained than there is at present, a six-fold increase. That is massive.

**Q196 Liz Saville Roberts:** Just to follow on from that, what is your experience of dealing with the UK Government in the tos and fros that have been happening with consent orders? You are implying delay as though there is a past experience there.

**Elisabeth Jones:** We as the Assembly would not deal with the UK Government on these points. Our information on this comes from the Welsh Government, who say, for instance, that on the Social Services Bill consents took 16 months to obtain. We can only take their word for that. We would not know that ourselves.

**Q197 Antoinette Sandbach:** I just wanted to go back again to the Local Government Byelaws and the Agricultural Wages Acts because those, of course, were the two that went to the Supreme Court and there was a dispute between the Assembly and the UK Parliament as to whether or not that issue was devolved. There were many commentators at the time that said those judgments changed the Assembly Acts in effect from a conferred powers model to a reserved powers model. In the light of those judgments, isn’t it right that this proposed Bill does give greater clarity because those two examples cited by Liz Saville Roberts were actually areas where there was uncertainty and no agreement? If consenting with Secretary of State creates better certainty in those areas—in other words, if consent had been sought in those two areas and that had been identified at an earlier stage—then maybe the Supreme Court actions would not have been necessary, which have led to far greater delays than the consenting process.
**Dame Rosemary Butler:** We are coming at this thing from basically the same angle, but not ending up in the same place, Antoinette. Your point is if it was clear in the first place, it would not go to the Supreme Court, and it was not easy for me to decide what was within a competence and what was outside. Some of it was and some of it was not. The opportunity now is for this Bill to put that right, and I think we would both agree that it should be clear, it should be concise, it should be workable, but we are looking at it from different angles of what is clear and what is concise and what is workable.

**Q198 Antoinette Sandbach:** I am not certain that I agree that we can necessarily do it in a concise way. I think that is perhaps where you and I differ in that the more clearly it is laid out in the annex—I accept that there may be a particular issue around the drafting of the public and private law exemption, but the necessity test has been present in the Scottish devolution settlement, and I have heard it argued for over four years in the Assembly that the devolution settlement in Wales should be more like that of the Scotland Act.

**Liz Saville Roberts:** But the reserved models are much clearer there, whereas here we are talking about 200 reserved points.

**Chair:** Can I bring back the Presiding Officer to answer that and then Dr James Davies wants to come in on something as well, if that is all right?

**Dame Rosemary Butler:** Yes, I think it is very different, Scotland and Wales, because there are many more laws made and Bills made in Westminster that should go to Wales and not actually go to Scotland at all. We are talking a different system. Whereas it would be nice to have a system more similar, it is not like that at all at the moment, and let’s just say Scotland is better off than we are.

**Q199 Dr James Davies:** The discussion kicked off with the issue of subsidiarity. I tend to agree with you that where possible decisions should be made close to home, but wouldn’t you accept that, for instance, in north Wales, which I represent in part, Cardiff is a long way from home? If Westminster can devolve directly to local authorities, for instance, as it plans to do in England with business rates, as it is considering doing over Sunday shopping and windfarm powers, and if it can also devolve down to police and crime commissioners, that achieves the aim in many ways.

**Dame Rosemary Butler:** Well, I think it is what I have been saying: we are not sitting and looking at this as four nations together saying, “How can we run Britain? How should Britain be run?” It is all piecemeal. Scotland is being dealt with one way; Northern Ireland another; we another; the cities in the north, Manchester, all being dealt with in a different way. We really need to sit down and say, “What is the best way to run the country? Who should be doing what?” That is not what is happening and that is why I am concerned that we seem to be getting left behind in this great rush, following the Scottish referendum.

**Q200 Dr James Davies:** The issue I have, though, is that when I knock on my doors in north Wales people do not talk about this. They are largely happy being in a United Kingdom and happy in having many decisions made at a national level in common with people 30 miles down the road where they regularly travel to or work; in England, in other words.

**Dame Rosemary Butler:** Well, I can assure you when I knock on doors down south they are very happy being part of the United Kingdom as well and so am I. I would resist any
suggestions that we were not part of that. I think what we need to do is to make sure that
decisions are made at the lowest sensible level. What we have here is a proposal where it
is not going to be clear, it is not going to be workable and, therefore, we need to look at it
very carefully before it becomes law.

Q201 Christina Rees: Hello, Presiding Officer. You proposed the introduction of
transitional arrangements to ensure that the Assembly’s legislative programme is not
interrupted. Could you talk us through what form those arrangements would take and how you
see them working, please?

Dame Rosemary Butler: I am sorry, can you say the last bit again, Christina?

Christina Rees: Could you talk us through the form of arrangements you see that would be
made and how you could see them working?

Dame Rosemary Butler: This is for—

Elisabeth Jones: We deliberately have not gone into detail here in the written evidence
because obviously that is a very detailed matter that will need discussion with the Wales
Office. Essentially, the Presiding Officer was concerned to avoid the situation where Bills
were proceeding through the Assembly under the present settlement and then the new
settlement came into effect rather abruptly, which is what the commencement provisions
in the draft Bill would effect at the moment, and that could completely disrupt the
legislative programme as those Bills needed to be reassessed under the new competence.
There are a number of ways in which that could be done. Obviously, the commencement
provisions could be changed or there could be a set of transitional provisions introduced.
Either way, that would need detailed discussion with the Wales Office. The Presiding
Officer just wanted to put the concern on the table at an early stage.

Dame Rosemary Butler: Just to reassure you, Christina, we are committed to continuing
discussions with the Secretary of State and my officials are still talking with them, and
hopefully they will be very meaningful discussions.

Q202 Craig Williams: Good afternoon, Presiding Officer. Could I talk a bit about the
operation of the Assembly? You touched on this before about the Standing Orders. In your
written evidence under section 4, you did go into some detail about making use of Standing
Orders instead of legislation for the Assembly’s internal affairs. Could we perhaps tease out
more of the rationale for that and also when you put that suggestion to the Wales Office? Was
it in this written evidence the first we saw light of that or did you make that suggestion prior?

Dame Rosemary Butler: I think it has always been part of our—I won’t use the word
“arguments” but part of our story of what we want to get across because it is so much
easier to work by Standing Orders, because if they do not work, we can then alter Standing
Orders. But if it is going to be done through legislation, then if it is not working, we have
to spend perhaps a year altering legislation. We are in a position now where our internal
arrangements of how we run the Assembly are given in legislation and it does make life
quite difficult to try to rearrange the size of the committees, for example. We cannot do
that, whereas if we use Standing Orders we could do that, do the work, and they could be
changed. I just think it is a huge hammer to crack a nut putting in legislation as opposed to
Standing Orders.
Q203 Craig Williams: Yes, but in your own written evidence, Presiding Officer, you said subject to basic safeguards, so you think that Standing Orders—because legislation obviously gives you a lot of scrutiny and time to think and pause and reflect. Are these things you should be changing willy-nilly, or does legislation give you that time to build in concrete proposals?

Dame Rosemary Butler: I don’t like the words “changing willy-nilly”. No, obviously there have to be checks and balances on everything, and if there was a super-majority in the Assembly, where it has to be two thirds of the Assembly before anything could be amended, I think that that is quite a good safeguard.

Craig Williams: A super-majority?

Elisabeth Jones: To change the Standing Orders—

Dame Rosemary Butler: No, a two-thirds majority of the members, not a super-majority. I do not think it would be a super-majority; two thirds of the Assembly.

Q204 Chair: Presiding Officer, obviously any legislation or Standing Orders here can be scrutinised in this Chamber by a second Chamber, the House of Lords, and there are obviously more members here in Parliament. Do you ever worry that particularly if you are making changes through Standing Orders that the lack of a second Chamber and the lack of Assembly Members leads to perhaps a lack of the rigorous scrutiny that one would always want to see?

Dame Rosemary Butler: No, I do not think there is a lack of scrutiny here. We have very good scrutiny, but I do think that we need more Members. If we are trying to get more powers, as we are, irrespective of this particular Bill going through at the moment and it will come, we do need more Members to look at fiscal issues. As you know yourself having been here, we do not have time to really specialise and concentrate as much as you would like. Here we are unicameral. There are other institutions across the world that are unicameral. We just have to get it right the first time. You can afford to make mistakes because the House of Lords will send it back to you. We cannot afford to do that.

Q205 Chair: No. You say there are a few, but I have been looking into it a bit myself and there are not very many. The vast majority of legislative bodies have some kind of second scrutiny chamber that is slightly detached from the main one. Hopefully, you would accept that; I believe that is factually the case. Why would you go for more Members of the Assembly rather than a second chamber? Would you see any advantage at all in having a second scrutinising chamber of some sort?

Dame Rosemary Butler: We have to have democratically elected Members. If we do have more Members here, we would continue to make really good decisions. I think that a second chamber would not be appropriate in Wales. I do not think the people of Wales would accept one. I honestly think that we can do the job with more Members as a unicameral, but that is a different discussion from today.

Q206 Chair: It is true. I put everyone on the spot, though, on Monday and I just wondered if I could tease a figure out of you at all.

Dame Rosemary Butler: For the Members?
**Chair:** Yes.

*Dame Rosemary Butler:* The number of Members, yes—between 80 and 100. I originally thought 80, but the more we looked at it, the more that it is probably nearer 100. But again that is a decision for the next Assembly. There will be a lot more discussion on it, but we need more Members for decisions on Committee. As you know, it is very tight here and more Members would give us the opportunity to continue to make good decisions where we have more legislative powers.

**Q207 Chair:** My last one then for a moment: if you do decide to go for more Members, presumably you would agree that it would need to be done with agreement of other parties? Because a key decision there would be how those other Members are elected, whether through first past the post or through a list system. Clearly, some parties will benefit more from one system than another. Would you feel it important to make sure it is not just pushed through with one party but is done with consensus?

*Dame Rosemary Butler:* Absolutely. There is no way you could do it in urban centres and it is going to be a major issue. I think the majority of Members here feel we should have more Members. How they are elected, of course, is going to be for big discussion between the parties in the next Assembly. I might like to be a fly on the wall at those discussions because then I will not actually be a Member anymore.

**Chair:** We are sorry to hear that.

**Q208 Antoinette Sandbach:** I am interested to hear your comments on scrutiny, Presiding Officer. I know that you have a very able member of your legal team who helped Assembly Members, for example, draft amendments, and I am very grateful for Elisabeth’s help when I was sitting in the Assembly. Would you agree that the resources that are available to Assembly Members in terms of scrutiny are vastly outweighed by those available to Welsh Government resources and that the time and depth that is available to Assembly Members in Committee to scrutinise legislation is limited by the availability of support available to the Committees and the legislative programme that is being followed by Welsh Government? In other words, this Bill will dramatically expand the numbers of areas that will now come under the scrutiny of the Assembly, but in terms of resourcing available to position parties to undertake that scrutiny, the resourcing is relatively limited. Therefore, just by introducing more Assembly Members, you may not, in fact, cure that problem if you do not give them the resources to allow them to adequately scrutinise the legislation.

*Dame Rosemary Butler:* Totally disagree with you there. I think the level of competence and the level of opportunities for Members to get as much research as possible is second to none. Whereas we do need more Members, if you have more Members, of course, then you have to have more staff to deal with those individual Members and their constituency officers as well. Yes, the more competence we have then we do need more people, but then the competence is not going to all come overnight. They are going to come in gradually, and, therefore, we can expand gradually rather than a big bang overnight. I would disagree with you there, Antoinette. I think what we offer Members here is quite exceptional.

**Q209 Liz Saville Roberts:** I must admit I think the two previous speakers really were providing quite a viable argument as to why we need more Members in the Assembly. There
are more members on Gwynedd County Council than there are in the Assembly at present, and that is being reduced as well—

**Chair:** As Chair, my questions should not necessarily be taken as agreement or support for something.

**Liz Saville Roberts:** They can be interpreted from certain points of view. On the point that you also raised, Chair, about the piecemeal approach to the devolution agenda in the United Kingdom, we do not have second chambers in Scotland and Northern Ireland, yet we are discussing that here. You raised in your letter on 11th November to us again about this piecemeal approach. We have the draft Wales Bill, the Scotland Bill going through Westminster at present. We have the devolution of the cities and regions, and we have the proposals for English votes for English laws. To come back to my original question about the timetable, this is all happening at the same time. There is no relation; there is no cross-referencing about the impact of these different pieces of legislation. How do we encompass this and make an effective piece of legislation out of the draft Wales Bill?

**Dame Rosemary Butler:** Well, I think you are probably asking the wrong person here, Liz. I totally agree with what you are saying. It is piecemeal. Things are working at different paces in different parts of the country, and I just feel it is time that somebody stopped and said, “Where are we going? How are we going to deal with this? How are we going to be fair to all devolved nations as well as the big cities in the north, not to mention the big cities in the south?” I agree with you entirely. That is why I made some suggestions of how we can alter the Bill. I am not suggesting it is a complete redraft, although I would quite like it because I do not think subsidiarity is right at the heart of this Bill. But I have put in there suggestions where it can be amended and it could become workable. Of course, whatever we are given we will work with, but it would be better if we could have something that is, as I said earlier, clear, workable and understandable by the average person in Wales.

**Q210 Gerald Jones:** Good afternoon, Presiding Officer. You have described the lack of provisions relating to financial matters as, “of a conferred nature”. Is there a description that you would apply to other parts of the Bill or any other parts of the Bill?

**Dame Rosemary Butler:** There might be, but I cannot possibly say this afternoon. I will just ask Elisabeth to answer that in a more measured tone maybe.

**Elisabeth Jones:** At least it is technically true that the competence over the Assembly’s own internal operations is of conferred nature in the sense that competencies will be conferred on the Assembly to modify certain provisions of the Government of Wales Act. To call it that is not really a criticism of it. That is just the way that it has to be done, given the way that the Government of Wales Act currently works. I think our concern here is less whether something is categorised as conferred or reserved as to whether it is clear, workable and does not roll back the present competence.

**Dame Rosemary Butler:** Does that answer it, Gerald?

**Gerald Jones:** I was asking, yes, for your thoughts and opinions on it, yes. That is fine, thank you.
Chair: Good. Well, we have managed to get through all of the questions that we had thought of without there being a vote, which leaves me in the position now of having got ahead of myself, unusually. I see one other person would like to come in with a question, so Craig Williams.

Q211 Craig Williams: The one thing we did not touch on: in your written evidence you touched on the electoral arrangements and that was the transfer of some of those powers. It was transferred from the Secretary of State to Welsh Ministers. I saw in the written statement that was something you had a particular problem with. You thought it should come to the Presiding Officer. I just wondered whether you could again walk us a bit more through your rationale on that and why you think your suggestion has advantages.

Dame Rosemary Butler: Well, there is one area in particular. It is the competence or disqualification of Assembly Members, which is going to need new legislation. I think, for example, if there is going to be any mechanism to recall Members, it should be decided here and not in Westminster. That is one area. Sorry, what else was it you asked, Craig?

Q212 Craig Williams: Sorry, Presiding Officer, I do not think I was asking that particularly. I was asking more the powers that were going to be transferred, were going from the Secretary of State to Welsh Ministers, rather than what was not coming to you. You have asked it to go to your office in terms of the position you hold.

Dame Rosemary Butler: I am sorry, I misheard that. Elisabeth, why don’t you answer that one?

Elisabeth Jones: Yes, it is really a twofold argument. First, we do not see any rational reason for having a lack of clarity with Scotland here. In Scotland, it is the Presiding Officer who decides whether an ordinary general election date can move by one month either way from the date set down in the legislation, so there seems no reason not to give that to the Presiding Officer here. Indeed, there seems a very good reason for giving that power to an independent, impartial officer such as the Presiding Officer. Presumably, that is why it was done in Scotland, and we do not really understand why it was not set up that way in 2006. We certainly do not understand why now, with the opportunity to put that right, that opportunity is not being taken.

Craig Williams: There was a second part, was there? You said there was two parts?

Elisabeth Jones: Yes, sorry, the twofold argument—I meant, one, simply as Scotland; secondly, there is a good reason.

Q213 Chair: Excellent, good. Presiding Officer, can I thank you very much indeed for giving evidence, also in this way over video camera, for your forbearance over the timings of the emergency statement and the vote that never was or has not been? While I am here, can I also thank the staff for managing to set this thing up and making it work? It is the first time we have done this, but I think it will not be the last. Thank you all very much indeed.

Dame Rosemary Butler: It might be the last, or it will not be the last?

Chair: No, it will not be the last, I hope, Presiding Officer. One last thing if I may say, having known you for rather a long time, before in fact we became Assembly Members, I do
want to wish you all the very best in your retirement and congratulate you for all that you have achieved in your political life. Thank you very much.

Dame Rosemary Butler: That is very kind of you, though retirement is not a word we use around here.

Chair: No, okay.

Dame Rosemary Butler: Recycled, reconstituted, re-everything but not retirement. Thank you very much.

Chair: Thank you, Presiding Officer.

Dame Rosemary Butler: Good to see some of my colleagues again. Thank you.