

A recent publication from the Constitution Unit said baldly that Wales is being overlooked in the new constitutional debate that has followed the referendum. My own view is that there is a danger that Wales *may* be overlooked, but there is also opportunity for us.

But the first point I want to make is that we in Wales ought not to see ourselves through a Scottish prism. Wales is not Scotland, and facile parallels ought to be avoided.

Why are we different? We are different economically: our GVA per head is 72% of the UK average compared to 94% in the case of Scotland. Scotland has been well served by the Barnett formula, or at least, very much better served than Wales has been. Our border is much more porous than Scotland's is, a factor of our east-west geography: Wrexham residents are much more likely to work or shop in Liverpool or Manchester than in Cardiff or Swansea.

We are different historically. Scotland had emerged as a state in a way Wales never did in the early modern era and it retained its institutions after 1707. Much more recently, civic Scotland has debated and thought through its approach to devolution in a way that never happened in Wales. The civil service in Scotland is more confident than the civil service in Wales.

Culturally, we are different because of our two languages and active bilingualism, but Wales also has many more people born outside the country than does Scotland - 27% compared with 17%. There is also much greater media diversity in Scotland than in Wales.

The consequence of these differences is manifest in the levels of support for independence. Polling evidence consistently suggests a level of support in Wales at under 10%. Support even fell to three per cent immediately after the Scottish referendum. One thing that is not going to happen for the foreseeable future is a referendum on Welsh independence.

Our economic position also means that we are much more dependent in Wales on the social union – the transfer of resources from the rich parts of the Union to the poor parts.

So while Scotland might conceivably be able to take responsibility for social benefits, we certainly could not – or could not without a sharp

fall in prosperity. So not all possible devolution outcomes for Scotland are appropriate or desirable for Wales.

In a social union, Wales needs fair funding. It is commonplace to all political parties in Wales that the Barnett formula underfunds Wales. This is not just Welsh bleating: it was accepted by the Lords Committee on the Barnett Formula that sat in 2008/9. The worst outcome from the referendum for Wales has been the endorsement of the Barnett formula. Political pusillanimity – or realpolitik – has left Scotland's overfunding in place.

So far, so negative. Let me now be more positive. The previous Secretary of State for Wales, David Jones, represented an old strain of Conservative scepticism about devolution. The present Secretary of State, Stephen Crabb, is much more willing to embrace devolution and he has a much better working relationship with Carwyn Jones, the First Minister. Thus the four parties in Westminster and Cardiff seem to be working together in a reasonably cooperative way to deliver a programme for further devolution by St David's Day on March 1st – Crabb's goal.

And fortuitously for them, a lot of the work had already been done in the unanimous reports that the Commission that I chaired has produced. And it really is noteworthy that our reports were unanimous – signed by senior politicians from all four parties.

If polling shows little support for independence, it also shows that two-thirds of the Welsh population favour greater powers for the National Assembly. I am confident that this will happen, even if I am not sure whether everything we called for will be in the final package.

Devolution of policing, for example, is likely to see resistance from the deeply conservative Home Office. But we have already seen most of the taxation proposals we made in our first report implemented – with Crabb removing the so-called lockstep that would have vitiated our proposals. There is also movement on rail devolution and other areas.

Most importantly, all four parties have endorsed our proposal that the conferred powers model of devolution should be replaced by the reserved powers model. Many of you may be familiar with the issue, but in case you are not, it is a simple concept. In Wales powers are

held by Westminster unless conferred upon the National Assembly. The powers of the legislatures and executives in Scotland and Northern Ireland are limited only by what is reserved to Westminster.

We concluded unequivocally that the reserved powers model would be better for Wales. It would be clearer for the public, for the institutions and for civil society – not to mention the legal profession - to understand that the National Assembly is responsible for everything unless Parliament has reserved it. That would encourage more confident, effective government, and it would allow the public to better understand who needs to be held to account. It might even free up a little time in the Supreme Court, which has twice had to consider referrals by the Attorney General of Welsh legislation – on both occasions finding in favour of the legislation and against the Attorney General.

Stephen Laws will certainly have some views on the problems of making this change. As he would no doubt say, we have no such concept as the “law of Wales” since laws that apply in Wales only are part of the law of England and Wales. But my view is that is not a game-changer. It simply makes the process of moving to a reserved power model for Wales more difficult and leads to questions about what precisely one means about a “Welsh jurisdiction”.

The wider debate on English votes for English laws is, of course, complicated by the existence of English-and-Welsh law, as Stephen will also no doubt say. The particular needs of Wales need to be factored in to the EVEL debate.

Though I emphasised before that what suits Scotland may not suit Wales, the new powers that will come to Wales will mean that the historic trend towards convergence in the devolution settlements will continue.

The fortuitous existence of our Reports waiting on the shelf when London needed to do something for Wales may well be helped by the outcome of the May General Election. If the SNP hold the balance of power – a likely outcome in my book – they may be willing to support Plaid Cymru aims and so force greater devolution for Wales than the Labour Party would naturally wish.

The SNP will only do this if it is in their interest. People in England seem to believe that the three other nations work together. But there is, in fact, no axiomatic solidarity in the relationship between Wales and Scotland (or Northern Ireland). Of course there is an emotional Celtic link, and a common sense of being the smaller partners in the Union, with the concomitant recognition that what suits the English majority, and what therefore has an appeal for a Westminster Government, might not work equally well in Edinburgh, Belfast and Cardiff. However, if you talk to officials and politicians in Cardiff, Belfast and Edinburgh, you soon become aware that they will only act in concert when they regard their own particular interests as making that desirable.

Scotland's immediate and longer-term future will profoundly affect Wales. The rejection of independence has meant that Wales and Northern Ireland are not left isolated in an English-dominated Union. But that may still happen. If Scotland is given a raft of new powers, particularly in areas like Air Passenger Duty, we will continue to envy the perceived better devolutionary deal that our Scots friends are getting.

But recognising how different our two economies, histories and cultures are, we should always consider what is best for Wales from first principles, rather than look at what is happening in Scotland and to see what could be carried over to Wales. Scotland should be illustrative, not determinative – though it is certainly helpful to us that we can look at the Scottish illustration of what devolution can achieve.