HOUSE OF COMMONS

Welsh Affairs Committee

Oral evidence: Pre-legislative scrutiny of the Draft Wales Bill, HC 962

Thursday 30 January 2014

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Watch the meeting

Members present: David T. C. Davies (Chair); Guto Bebb; Glyn Davies; Stephen Doughty; Nia Griffith; Mrs Siân C. Jones; Jessica Morden; Mr Mark Williams; Hywel Williams

Questions 371-438

Witness[es]: **Rt Hon David Jones MP**, Secretary of State for Wales, **David Gauke MP**, Exchequer Secretary to the Treasury, and **Geth Williams**, Deputy Director, Constitution and Corporate Services, Wales Office, gave evidence.

Q371 Chair: Good afternoon, Mr Jones and Mr Gauke, Secretary of State, Minister.

Mr Jones: Good afternoon, Minister Davies.

Q372 Chair: I am glad to see that some of us agree that a certain air of formality is a good thing on these occasions.

Mr Jones: Mr Chairman, I did make a request that I deliver a very, very brief statement beforehand. If you would be willing to allow me to do so, I would greatly appreciate it.

Chair: I am perfectly happy with that.

Mr Jones: Can I say that I am very pleased to appear before you here today to talk about the draft Wales Bill? I am grateful to you and the Committee for the rigorous scrutiny of the Bill and the commendable speed with which you are undertaking it. It is eight years since a Wales-only Bill was last before Parliament, and I think that this Bill is every bit as important for Welsh devolution as the Government of Wales Act 2006.

Through this Bill, the Government will deliver an ambitious package of devolved powers for Wales. I believe that the tax and borrowing powers we propose devolving, as well as the power to trigger a referendum on the devolution of a portion of income tax, present very real incentives and opportunities for the Welsh Government to grow the Welsh economy and increase prosperity in Wales. Since devolution, the Assembly and the Welsh Government have been accountable only for how they spend taxpayers' money. This draft Bill will ensure that they now become more accountable for how they raise it.

The draft Bill also includes provisions relating to Assembly elections, on which we consulted in 2012, and several provisions that the Welsh Government have specifically requested. Taken together, Mr Chairman, I believe that the significant package of powers contained in the draft Wales Bill makes devolved governance in Wales fairer, more accountable and places more economic levers in the hands of the Welsh Government, which they hopefully will use to support economic growth in Wales and to give the Welsh economy a real competitive edge. Thank you very much, Mr Chairman.

Q373 Chair: Thank you very much. May I say that we are grateful for your recognition of the quite significant extra work this has put on the Committee? The members have been very happy to fulfil their obligation, of course.

One thing that would interest us is, given the amount of work the Committee has put into scrutinising this and the criticisms that we have heard, how willing are you as a Government, as Ministers, to amend the Bill following the report that we will be shortly writing?

Mr Jones: Predictably, Mr Chairman, I must say it depends on what the proposed amendments are. Clearly, we will give very careful consideration to them and we will respond in the usual course, but, without knowing what they may be, it is hard for me to comment further.

Q374 Chair: But you would be open-minded and willing to make those changes if you feel they are reasonable.

Mr Jones: If we felt that there were compelling reasons to make amendments, we would. What I would say, however, in all fairness, is that parliamentary time is very constrained now. We are anxious to proceed with this Bill as quickly as the parliamentary calendar will allow, and I would hope that that would be borne in mind by this Committee too.

Chair: Thank you very much.

Q375 Hywel Williams: Good afternoon. Both Gerry Holtham and the Silk Commission came out against the lockstep. The First Minister, giving evidence to us down in Cardiff, said that it would be an immense straitjacket, and he also went as far as to say that it would make the power unusable. Indeed, that was the evidence given to us by other witnesses, both people from the world of business and from political studies. Do you accept that the Welsh Government would be unlikely to call a referendum because of their perceived difficulties in using this power?

Mr Jones: I have to say, Mr Chairman, that that really will be a matter for the Welsh Government, because, as you know, we propose to devolve the competence to the Welsh Government to call a referendum at such time as they consider appropriate. But I disagree entirely with the suggestion that the powers proposed are unusable. I think that the powers proposed are extremely desirable. Frankly, too much focus has been placed on the issue of variation—of varying the rates.

The important thing about the proposed devolution of income tax powers is, first, that it renders the Welsh Government far more accountable to the people of Wales. It would provide that almost half of the income tax raised in Wales would be spent, if you like, by the Welsh Government. I think it is very important to introduce that level of accountability into the process. Importantly, too, it would act as a strong incentive to the Welsh

Government to grow the Welsh economy, because, clearly, the more the economy improves, the more likely it is that the tax take from the devolved element of income tax would increase—and that is desirable as well. Thirdly—and I think possibly, in the eyes of some, most importantly—it would provide a significantly enhanced income stream against which the Welsh Government could borrow. So, while on the face of the Bill we have £500 million-worth of borrowing powers, which is actually more than the Welsh Government should have strictly if we have regard only to the devolved small taxes, it could increase to around £1 billion once the income stream from the income tax is there. But, to complete my answer, I actually believe that Wales should be ambitious, and I believe that it could give a strong competitive advantage to Wales if they were to go for a modest reduction in the level of tax that they levy on the people of Wales.

Mr Gauke: Can I just add, with regard to the lockstep, that it is worth pointing out that our view, as a Government—and this applies across the United Kingdom—is that, in terms of the differentiation between rates, we do believe that that is something that should be determined on a UK basis in Westminster elections? I think, in a way, putting aside for the moment the merits or otherwise of the shadow Chancellor's announcement at the weekend, none the less that does demonstrate the degree in which the gaps between rates is a very important issue that should apply across the United Kingdom. That, as I say, is the approach that we have taken in Scotland, and we believe that the same case applies with Wales.

There is also an issue, looking at this, in terms of not causing any detriment to the public finances collectively in the United Kingdom. One possible result of allowing a different rate to be set for the additional rate is that Wales, for example, might decide that the rates set in Westminster are too high. They may be right in making that judgment, potentially, and in those circumstances we see a degree of tax competition, trying to get people to move from, say, England to Wales. That throws up a number of issues, but one consequence of that is likely to be a detriment to the overall public finances in the UK. So we are nervous about that.

Q376 Hywel Williams: I would like to question you about that particular issue next, but can I go back to the question I asked you, Secretary of State? I think most people would accept the points that you make about accountability, about growing the Welsh economy, and, of course, the point about the income stream, but the question I asked you was specifically, I suppose, aimed at the variation issue. I am in danger of repeating myself, but all the evidence we have had points to the lockstep making variation in rates across all the rates essentially unusable. Would you concede that—on that narrow point?

Mr Jones: No, I don't think it does. I think it is quite possible for the Welsh Government to be brave and decide to go for a modest reduction in the rate of income tax. That would be thoroughly good for the Welsh economy. It would give Wales that little competitive advantage and I think that that is what they should do.

Q377 Hywel Williams: Could you, for the purposes of the record, tell the Committee how much, say, a reduction of 1p across income tax in Wales would cost or generate?

Mr Jones: It depends which way you look at it. It would probably equate to a reduction in the block grant of £185 million and £200 million. That, of course, is not the net figure because clearly there would be more money in the economy. My suggestion is that a reduction in the rate of tax would stimulate the economy further. But I think I have to get back to the fundamental point: that does not render the tax unusable. The tax is extremely usable to the extent that it amounts to an incentive to the Welsh Government to grow the economy, and, of course, it gives that additional borrowing stream, which is enjoyed in Scotland, which does have the lockstep.

Q378 Hywel Williams: Is it your perception that—perhaps this is a rather political question—the Welsh Government, as presently constituted, are sufficiently courageous to take this step?

Mr Jones: Jane Hutt described the proposals on the day of their announcement as, and I quote, "a good deal for Wales," and I can only assume that she is enthusiastic about the proposal.

Q379 Hywel Williams: Can I therefore ask you about another position down in the Assembly? Your colleague Mr Andrew R.T. Davies was giving evidence this morning and he, to say the least, does not share your enthusiasm for the lockstep. I wondered—again, Chair, forgive me for being perhaps overtly political—who speaks for the Conservative Party in Wales. Is it you or him?

Mr Jones: I think that the view that Mr Davies is enunciating is very much a personal view of his own. It certainly does not represent the policy of the Welsh Assembly Group, nor, certainly, does it represent the policy of HM Government.

Q380 Stephen Doughty: To follow on from that, I find that rather strange, Secretary of State, given that he is the leader of the Conservative Group in the Assembly and the leader of the opposition. If you could dig into it a little bit more, what are the differences between you and him, and why have you come to those different positions? To the Minister from the Treasury, what assessment perhaps has the Treasury made of the differing positions of the Secretary of State and, indeed, of the leader of the Welsh Conservatives, because I think it is important to know and understand, obviously, what the implications of those two different policies would be?

Mr Jones: I find it hard to see that there are any implications at all. The Government's position has been set out clearly in the draft Bill. That is what we propose. Mr Davies has enunciated a personal opinion this morning.

Mr Gauke: I am not sure I have anything much more to add to that. The position of the Government, the Secretary of State for Wales and the position of the Treasury is one and the same.

Q381 Stephen Doughty: Has the Treasury made any assessment of the statements by the leader of the Welsh Conservatives?

Mr Gauke: The Treasury makes an assessment of what we think is the right policy to pursue, and we believe this is the right policy to pursue.

Q382 Chair: Mr Gauke, on this matter you made it quite clear in your earlier answer that you believed that progressivity is something that should be decided by the UK Government at a UK level. That is absolutely something you firmly believe.

Mr Gauke: Yes. That is the approach we have taken in Scotland as well.

Q383 Chair: So, if Scotland does not vote for independence, the devo max procedures that are being touted as an alternative will not include the end of the lockstep or freedom for Scotland to vary income tax outside of a lockstep mechanism. Am I correct?

Mr Gauke: Our position is that we believe that progressivity, the differentiation between rates, should be at a UK level. I am not going to get into—

Chair: No, but if that is your position—

Mr Gauke: —areas of speculation. That is the position that we hold and have held consistently.

Q384 Chair: Incidentally, I fully agree with you personally, but that is neither here nor there for the moment. If that is the UK Government's position, obviously we can assume that the UK Government will not suddenly change their mind and allow Scotland to have greater freedom over income tax levels if, after a referendum, the Scots decide to vote against full independence. We can make that assumption, can we not?

Mr Gauke: I am not in a position to bind what future Governments may do or over a long period of time.

Q385 Chair: It would be this Government.

Mr Gauke: In terms of the position of this Government, our view is that it remains the case that progressivity is a matter for the UK Government.

Chair: Thank you. Mark Williams?

Mr Mark Williams: The Chair has just pinched the question.

Chair: If I have, I apologise.

Q386 Mr Mark Williams: Don't worry—well, the theme anyway. I was going to talk specifically about Scotland and the line that we have heard so far about the need to have that consistency of income tax models between Wales and Scotland. It has been asserted by some, at least, that the real reason for the lockstep in the current political climate is that it would not be possible to give Wales a more advanced form of tax devolution than Scotland. How do you respond to those assertions, for instance, by Mr Gerry Holtham, who described the lockstep as a great flaw, with Wales getting hand-me-down policies that others have had? What is your analysis of those kinds of comments?

Mr Gauke: Perhaps I can say in response to this that I was the Treasury Minister involved in the Scotland Bill and the Calman process, and gave evidence to Select Committees of the Scottish Parliament on this matter. Calman recommended a lockstep arrangement. It was an issue that was not, if my memory serves me correctly, particularly controversial in Scotland. There was an acceptance of that as a principle and it was not one of the more contentious elements to that Bill. As I say, we believe that there is a very strong case that progressivity should be a matter for the Westminster Parliament. I would perhaps highlight the amount of interest there has been in the last few days in the general debate in the UK because of the intervention by the shadow Chancellor, which rather underlines that this is an important UK issue.

Mr Jones: All I would add is that I was very surprised by Mr Holtham's comments about "runts of the litter," "hand-me-down policies" and other colourful bits of language. The fact is that Wales is being treated exactly the same as Scotland in this respect, and it seems to me that, far from treating Wales with a lack of respect, it is treating Wales with full respect and according Wales equal respect to that it accords to Scotland.

Q387 Mr Mark Williams: Thank you. Quickly on the lockstep again, one of the messages from the three party leaders—the Plaid Cymru leader, the Conservative leader and the Lib Dem leader—was that they saw the original Silk proposals—he used the phrase, I think—as a "package." Those three party leaders did similarly this morning, and somehow the lockstep is deviating from that principle that actually drew all four parties in the National Assembly to the process in the first place. What are your thoughts on that?

Mr Jones: All I can say is that we gave very careful scrutiny to what the Silk Commission proposed. We accepted almost all of the recommendations, as you know. The two respects in which we deviated from the recommendations were air passenger duty and the form of income tax devolution. It was not done lightly. It was done after careful consideration, and we believe, for the reasons that Mr Gauke has set out, that it is the right way forward.

Q388 Hywel Williams: Can I ask you about progressivity as a principle, as it were? You did refer, Mr Gauke, to uniformity across the UK and also to the dangers or otherwise of tax competition. However, thinking in terms of progressivity, the jump from one rate to another, if the Welsh Government increased, say, all rates by 1p, the actual progressivity of the system is lessened, is it not, because of the ratios of 1p to 30p, 40p, 45p, or even 50p, whatever we have as a top rate? So they would not have a uniform progressivity comparing Wales perhaps with England or Scotland, whatever their arrangements. The emphasis that you put on the UK actually would not be observed in that way, would it?

Mr Gauke: I can see the point that you are making in terms of ratios, but at a practical level the idea that any change in this way—that the ratio should be the basis rather than the percentage—would result in a great deal of complexity, with rates running into several decimal points before you got very far. I do think that that is not workable. But I think that—

Q389 Hywel Williams: But you can see the point, though.

Mr Gauke: I think in broad terms, with regard to the difference between 20 and 40 and 45, the significant point, particularly within the range that we are talking about here, is the difference of 20p and 5p—

Mr Jones: And, of course, in terms of pence it would remain exactly the same.

Hywel Williams: Yes, of course. Thank you.

Q390 Guto Bebb: My first question is to the Exchequer Secretary. Obviously, with the devolution of some taxes as a result of this Bill being passed there will be a need to cut the Welsh block grant. Could you explain how that process will work initially and what subsequent changes would then occur on a year-by-year basis to the formula used to reduce the block grant?

> ***Mr Gauke***: Yes, certainly. In terms of funding, the issue will be first of all to make an assessment of the amount raised from the devolved element of income tax. It will then be based on an assessment of changes in the UK tax base, excluding dividends and savings, versus the Welsh tax base. So there is an indexation in terms of what happens to the Welsh element, if I can put it that way, versus the changes to the UK tax base on a non-savings/non-dividend basis. The consequence of that means that changes in the Welsh economy relative to the UK economy will result in changes in the revenue coming to the Welsh Government. That, as the Secretary of State was pointing out, puts in an incentive within the formula for the Welsh Government to grow the Welsh economy.

Q391 Guto Bebb: To clarify, if the Welsh economy grows, the impact upon the block grant would be positive for the Welsh Government therefore?

> ***Mr Gauke***: Than where it remains—

Q392 Guto Bebb: So there is an incentive, in effect—

> ***Mr Gauke***: Absolutely.

Q393 Guto Bebb: —to use these powers for the benefit of the Welsh economy. That is fine.

The second point I would like to ask is in relation to the issue of the Barnett formula. We were taking evidence in Cardiff two weeks ago, and the First Minister made it very clear that he did not believe we should be approaching the issue of income tax devolution unless there was a review of the Barnett formula. Quite clearly, with the reduction in public spending over the past three or four years, the issues of the Barnett squeeze have gone into some degree of reverse. Is there a likelihood of a reassessment of the Barnett formula as it affects Wales prior to any potential referendum on income tax devolution?

> ***Mr Gauke***: The point I would make on that, and the point that we have consistently made as a Government, is that our focus is on reducing the deficit. That is the key challenge. Any change to the Barnett formula has to await the stabilisation of the public finances. That remains the case. Obviously, the Barnett formula is a UK-wide issue and we would need to evaluate that in its application across all parts of the United Kingdom.

Q394 Guto Bebb: I accept the point about the stabilisation of the financial position of the UK as a whole, but, in terms of going for a referendum on income tax as it stands, is it not the case that, unless the Barnett formula is actually revised, there is a potential that the issue of the Barnett squeeze will come back into play once income tax has been devolved to the detriment of the Welsh public purse, as it were? Is it not the case, therefore, that it would be irresponsible to go for that devolution of income tax powers without at least the issue of a floor under the Barnett formula being taken into account?

> ***Mr Gauke***: I don't think so. I am sure the Secretary of State has his views on this, but I do think that, because of the case which the Secretary of State has set out in terms of the advantages for Wales of proceeding with this devolution, it would be a pity to miss the opportunity to proceed with that at a time when, rightly, our focus is on the stabilisation of the public finances and then we will return to it. The idea that one should wait until all

elements of uncertainty are eliminated before moving on this may result in waiting some time because there are always elements of uncertainty.

Mr Jones: Could I add to that too? In October 2012, HM Government and the Welsh Government made a joint statement outlining commitments on funding in Wales, including putting in place a mechanism to review convergence of relative funding levels in advance of each spending review, and in fact that was done prior to the last spending review. That, to a large extent, addresses the Barnett squeeze point that you made—plus, of course, convergence is not currently happening.

Q395 Chair: Mr Gauke, over the years we have heard compelling evidence on this Committee that Wales receives less than its fair share of funding as a result of the 35 or 30-year-old Barnett formula. I entirely agree with you about the need to stabilise public finances; I might even go further than you if I were in your position. But surely the issue of the Barnett formula is absolutely nothing to do with it, because the Barnett formula is a formula used to determine how much a given amount of money is divided up or, rather, to which parts of the country it is sent. The overall figure that is used obviously has an effect on the stabilisation of public funds, but the way in which that amount is divvied up does not affect UK finances at all. It is a matter of a fair division of spoils for everyone. Is that not the case?

Mr Gauke: The point I would make is that there is a very significant challenge for us as a country and as a Government in getting the public finances back under control.

Chair: Absolutely.

Mr Gauke: We have made considerable progress on that but there is still much more to do. In terms of dealing with public spending, departmental spending and spending in particular nations and regions within the United Kingdom, there is a very large task in front of us, which is to get public spending under control. Were we at the same time to be trying to re-open a well-established formula, it would add complexity and additional challenge to what is already a difficult task.

Q396 Chair: I may not be asking the question in a very clear way. I am not asking about the amount. There are some that would like more to be allocated and some might argue less, but that is not my question. My question is about the way in which it is allocated—the formula itself. We have heard compelling evidence that the formula is unfair to Wales—that it underfunds Wales. Is it not possible for the Government to look into this and to look at the formula rather than the overall amount, which I agree would have an impact on the stability of the UK's finances? I mean the formula itself. You say, Sir, that it is well established, but my interpretation is that it was made up on the hoof about 35 years ago and nobody has done very much about it since. That seems to be the verdict of the man who actually produced it, although I paraphrase him slightly.

Mr Gauke: Yes. I am not sure he ever quite used the phrase "made up on the hoof."

Chair: No, he did not put it quite like that; I agree.

Mr Gauke: But I appreciate where you are coming from. It is not possible to just remove the formula from the whole issue of the debate. The reality is that all nations and regions of the United Kingdom are having to make a contribution towards deficit reduction. It is particularly challenging to look also at a formula where, inevitably, there will be winners and losers, and put that into the context of significant deficit reduction.

Q397 Chair: This is my last go at this because I also take that point. Where formulas such as this have been changed previously and there have been winners and losers, what are called floors and ceilings are put in place. I think it happened with the police funding formula a few years ago in Wales. So it would still be quite possible to change the formula but to do so in a way that reduced the impact for the losers or, rather, brought in the changes over a period of years so that people were not affected overnight, would it not?

Mr Gauke: Yes, it would be, although that of course has consequences in terms of reducing the benefit for the winners as well as softening any loss for the losers.

Chair: Of course.

Mr Gauke: But, as I say, the position of the Government—we have been very consistent on this and I am sure, Mr Davies, you have heard others make this point before—is that we do believe that our focus has to be on stabilisation of the public finances before we re-open the Barnett formula.

Chair: I must not take up any more time.

Q398 Hywel Williams: Can I ask you bluntly whether your reluctance to re-open the Barnett question has anything at all to do with the question of the money that goes to Scotland, because changing the proportion that goes to Wales might have some implications pre-referendum for our Scottish colleagues?

Mr Gauke: The position has been very straightforward and very clear throughout this coalition Government that we were not going to look at the Barnett formula until the public finances were sorted. The focus is on the public finances. They need to be stabilised, and being in a position where public finances are strong is a much better time to look at a funding formula of this sort than at a time where it is already the case that, as I say, every nation and region in the UK is having to make a contribution towards deficit reduction.

Q399 Hywel Williams: I thought the agreement between the Welsh Government and the Government here was that the Barnett formula would be reviewed at every future spending review. Is that the case?

Mr Jones: No. It is the operation of the Barnett formula, which is a slightly different matter.

Q400 Mrs James: This question is for the Secretary of State. We have heard evidence that the partial devolution of income tax to the Welsh Government is not of “sufficient constitutional importance to warrant a referendum.” How do you respond?

Mr Jones: I think it is a serious constitutional issue. The Scottish people, of course, had the opportunity to vote on income tax devolution, and I think, frankly, the people of Wales would be affronted if they felt that income tax devolution was being imposed upon them without having their say. Of course, in Wales, a large number of people live and work very close to the border with England. A lot of people cross the border daily backwards and forwards to work. The issue of income tax devolution will be a very significant issue particularly for that particular category of people. I think it shows proper respect to the people of Wales, and, of course, it was specifically recommended by the Silk Commission.

Q401 Mrs James: The Electoral Commission told us that a referendum should only be held when there is a clear campaign on both sides. Are you concerned at all that there may not be clear leadership from both sides of the campaign?

Mr Jones: I think that it is necessary for people to be fully informed about the pros and cons of the proposal. Therefore, I would agree entirely with the Electoral Reform Society that we do need to see a properly organised campaign, both yes and no, and this is a matter that we will be taking a very close interest in.

Q402 Mrs James: Are you confident in that, because in part of that evidence the issue comes up time and time again of the good, clear information that goes out and somebody has to pick up the cost for that?

Mr Jones: Yes, and of course there was an unfortunate experience, as you know, in the last referendum we had in Wales in 2011 when there was no "no" campaign, which of course had an immediate impact upon the "yes" campaign. I think lessons have been learned from that and we are quite clear that there should be properly organised campaigns on both sides.

Q403 Mrs James: Again, what do you think turnout would be for a referendum? Professor Scully thinks that it could be as low as 25%.

Mr Jones: If you are talking about tax devolution, it might be a fairly strong incentive to people to turn out and vote.

Mrs James: Thank you.

Q404 Nia Griffith: Secretary of State and Minister, I would like to turn to the issue of borrowing now. Could you give us a little bit more detail as to how you came to the conclusions that you did in terms of the amount of borrowing that is to be allowed in the first stage, pre-income tax devolution, and how do you respond to the comments from the First Minister about wanting to see £1 billion as the limit for borrowing rather than what you have been suggesting, which is half of that?

Mr Gauke: If you like, there are two stages there. First of all, it is worth looking at the amount of tax that is devolved and applying the same ratio that applies in Scotland where, of course, an element of income tax is devolved. That would give us a number in the region of round about £100 million. But we are very keen to proceed with the M4 improvements. That is the reason why we have a higher number, which is the £500 million. In terms of it going up and getting to the £1 billion mark, again, we do have to look at the relationship with the control over taxes which the Welsh Government would have, and in the circumstances where there is devolution of income tax, as is proposed, then, yes, the number would be around the £1 billion mark.

Q405 Nia Griffith: So you would tie that number to the devolution of income tax.

Mr Gauke: Exactly, yes, precisely.

Q406 Nia Griffith: How would you respond to comments by Jocelyn Davies AM, who chairs the Finance Committee in the Assembly, that there should not actually be a figure on the face of the Bill but it should be something that is negotiated between the Welsh Government and the UK Government?

> ***Mr Gauke***: It does provide a degree of certainty—a degree of reassurance, as I say. If we were just doing it purely on the ratio with the tax powers, the number would be significantly lower and one could look at the £500 million number as being generous, in these circumstances, and the reason is our support of the work on the M4. As to whether or not it is in the Bill, it provides a degree of certainty and reassurance. Particularly given that the sum is significantly more than would be the case if we simply applied the ratio, it seemed to me to be something that should be welcomed and supported.

> ***Mr Jones***: I think it is fair to say, for the information of the Committee, that that figure would be likely to be £100 million. So I think it is very unlikely that, having regard to that, a negotiated process would be preferable to having the certainty of the half a billion pound figure on the face of the Bill.

Q407 Nia Griffith: That is very useful. I move on now to the issue of bonds. Obviously, in the Scotland Act there is the provision that Scotland could, without further legislation, issue its own bonds, and we do have examples of housing associations doing likewise. Why is that not something which is being considered for the Welsh Government?

> ***Mr Gauke***: The reality is that the cheapest way of borrowing is through the NLF—the National Loans Fund. That was recognised by the Silk Commission. That, alongside commercial lending, which provides a degree of flexibility, we believe, provides the Welsh Government with the most suitable sources for borrowing.

Q408 Nia Griffith: But if the Welsh Government could obviously have the option to make their own mind up as to whether to issue them themselves or whether to work through the Treasury, could there not be some provision in the Bill to allow for that?

> ***Mr Gauke***: As I say, partly this is an issue where we have to look at the overall position of the public finances, and, particularly in the circumstances that we are in with the public finances, a degree of caution is always appropriate when it comes to these matters. But we do believe that, as a matter of practicality, the best ways open for the Welsh Government to borrow are through the National Loans Fund, with some flexibility as a consequence of commercial borrowing. In truth, as to the bonds that are issued by, for example, local authorities, it very rarely happens other than if you are looking at—I think in recent years—Birmingham and Transport for London. The reason for that is that there are better ways of doing it.

Q409 Chair: If I could put you on the spot there, is it not the case—and, if it is, by the way, I agree with you—that the reason you wish to do that is that the Treasury will maintain some control over how much the Welsh Assembly could borrow, because obviously the Welsh Assembly could issue its own bonds? There would be nothing to stop it from doing so left, right and centre. It would presumably have to pay higher interest rates, depending on what the international markets thought of the Assembly's creditworthiness, but ultimately the UK Government would become responsible for any debts that the Assembly might decide to run up. The route which you are taking allows you to have control over that. Some may disagree, but I actually think you are doing the right thing if that is what your motive is.

> ***Mr Gauke***: It is worth pointing out the overall limit, say, the £500 million limit, still applies.

Q410 Chair: Yes, but it would not if they were issuing bonds, would it?

> ***Mr Gauke***: No, it would still apply with bonds. As I say, the approach that the Treasury tends to take, and this is an historic approach, is a certain reluctance to give that power out. But the reality, on a practical level, is that that is not the cheapest way in which the Welsh Government would be able to borrow.

> ***Mr Jones***: I think that was recognised by Silk too, Chairman.

Q411 Chair: Framing the question slightly differently, it does allow you to refuse to allow the Assembly to borrow money if you felt that it had not made a good business case for whatever project it wanted to borrow money on.

> ***Mr Gauke***: The Welsh Government have the ability to borrow up to the limit, which is, as I say, £500 million, and were income tax to be devolved that number would go up.

Q412 Chair: Let me have one last try and then I will go back. Why not let them issue bonds? After all, if it is going to be cheaper to do it via the UK Government, there is no particular reason why they would go elsewhere anyway, is there, so why not just give them the power to do so?

> ***Mr Gauke***: If your argument is that we should give the Welsh Government power which is in reality not likely to be used—

> > **Chair:** That is what we are doing.

> ***Mr Gauke***: —that may be what you want, but I am not sure that necessarily adds anything to the capability of the Welsh Government to deliver for the Welsh people.

> > **Chair:** Well, I have tried. Thank you.

Q413 Jessica Morden: Moving on to the electoral issues, can I ask the Secretary of State what advantages you see to the ban on dual candidacy?

> ***Mr Jones***: The advantage I see is restoring the position to what it was prior to the Government of Wales Act 2006, when this proposal was universally condemned. In fact, Mr Chairman, looking around this Committee today, it is very much déjà vu because a lot of the members on this Committee sitting here today, myself included, actually carried out pre-legislative scrutiny of the Government of Wales Bill.

Q414 Jessica Morden: But why do you think it is the right thing to do?

> ***Mr Jones***: What I would like to do, if I may, is quote Professor Scully, who I think has given evidence to this Committee on this particular occasion. I was reminded of what he said when he appeared before this Committee on 18 October 2005. Someone had referred—you might remember, Mr Chairman—to the proposal as the “Mugabe-isation of

Welsh politics." That may strike a chord, Mr Chairman, with you. When I asked him about this, Dr Scully first of all disapproved of that label because he said it was intemperate, but he went on to say—and I think it is worth quoting— "Given that the reasons offered in the White Paper for doing this do not stack up, frankly, are not supported by the evidence, given also that Labour currently do not have any members coming through the list so if it is going to create problems for any parties it is going to create problems for the other parties, it is difficult to rule out the hypothesis of partisan motivation. I have no particular private evidence on that matter but, as we say, even if this is not intended it is unfortunate because it is going to look deeply partisan." He went on to say: "It appears to be trying to adjust the electoral system in favour of one party against the interests of the other parties, and it is not being done on an inter-partisan, cross-party basis."

Chair: Can we hear from Jessica Morden again?

Mr Jones: I agree entirely with everything that Professor Scully said.

Q415 Jessica Morden: Are you not just adjusting it back, though? Are we just ending up in a farcical situation where whoever is in just changes it back and forth?

Mr Jones: No. It should never have been introduced in the first place. It was a nakedly political measure intended to favour the Labour party. Every other party thought that it was thoroughly reprehensible and I am very proud of the fact that we are overturning the—

Q416 Jessica Morden: What are the positive advantages, though, of letting people stand on both lists for the election?

Mr Jones: Because they can stand in two electoral processes. In fact, under this particular electoral system, the ban on dual candidacy is unique to Wales, and were we engaging in a debate I would be asking you to justify its continued existence.

Q417 Jessica Morden: If you have, let us say, in an Assembly election local issues coming in in a particular constituency and on a particular local issue—closing something or another—the electorate vote tactically against a particular candidate and then that candidate gets in on the list and is able to call themselves the AM for a local area. Are you happy with that situation?

Mr Jones: That was the situation that was entirely envisaged until the Labour party decided that it was unpalatable to them politically, and I think it is right to revert to the position as it—

Q418 Jessica Morden: Would you be happy with that position then—yes?

Mr Jones: I am entirely happy. That is why I am proposing to put it in the Bill.

Jessica Morden: I was going to move on to double-jobbing then.

Chair: Nia wants to come in quickly on that point first.

Q419 Nia Griffith: Could you just clarify a couple of things on dual candidacy? First, as you well know, Secretary of State, in the impact assessment the response from the public was not for reversing the ban. In his evidence, Professor Scully makes a distinction between what he calls MMM and MMP—in other words the MMP, which is the proportional idea that we have in Wales where, if you like, the list people are in reverse proportion to what was elected in the constituency, over eight or nine constituencies or however many are in each block. It is a very unusual system, so most of his examples come from MMM where you have a parallel voting for your regional and voting for your own area, which we do not have. We have a proportional thing, which automatically calculates that. Most of the examples are not all that comparable. So the problem we have in our particular system is that, as my colleague has just said, you end up with a situation where people think they have not voted for somebody and they actually get them all the same, as you well know in your own seat, where not only did the Labour candidate get in for the constituency but all three of the opposing parties also all got in at the same time. In other words, you might as well not have bothered to go out to vote.

Mr Jones: That was a perfectly foreseeable state of affairs from the outset. That was something that was inherent in the system that was put in place in the original Government of Wales Act, and, frankly, the ban, just to reiterate, on dual candidacy is unique to Wales under this particular system. If you have regard to the other system that you mentioned, it is still pretty rare. I think they have it in the Ukraine, South Korea and one or two other places. I think that it was a straightforward, nakedly partisan introduction by the Labour party and I am very proud of the fact that we are overturning it.

Chair: We had better move on to double-jobbing where I should declare an interest myself.

Q420 Jessica Morden: Less controversially then, double-jobbing. Can you explain why you want to ban double-jobbing?

Mr Jones: It is quite clear that the job of an Assembly Member is a significant one and has become more significant as a consequence of the devolution of primary powers after the 2011 referendum. We take the view that Assembly Members should concentrate on being Assembly Members, and Members of Parliament should concentrate on being Members of Parliament. It is a bit disrespectful to Assembly Members to suggest that they have the sort of job that they can fit in on a part-time basis—to sort of do a foreigner. I don't think that is acceptable.

Q421 Jessica Morden: Correct me if I am wrong, but did you double-job at one stage?

Mr Jones: No.

Q422 Jessica Morden: Then why does that not apply to being a councillor, a Lord or an MEP? Why should it apply just between AMs and MPs?

Mr Jones: It is generally recognised that the duties of a Member of Parliament and the duties of an Assembly Member are fairly onerous. It is possible to fit in the work of a councillor—which is still significant, but nevertheless not as onerous as either of the two functions—with the work of being an MP and an Assembly Member. It is important to distinguish between the level of commitment that we are expecting. I hear constantly that Assembly Members feel that they should be doing more work. In fact there was a suggestion this week that they should be doing more work. I think, therefore, it is really impossible to fulfil two important functions satisfactorily.

Q423 Jessica Morden: What about being an MEP?

> ***Mr Jones***: Well, that is a matter for Europe. They have already introduced a ban on Members of Parliament also sitting as MEPs, and we feel that if any prohibition should be introduced it should be from Europe rather than Parliament.

Q424 Glyn Davies: I want to ask you a question on this one, Secretary of State. I must admit that I am not wholly convinced about this. I agree with every point you make about the desirability of not having people sit as Assembly Members and as MPs. I think that is right. I actually think it is a fair point to be made about other jobs as well, including substantial private sector jobs and being an MP and being an AM. But why do we have to pass a law? The electorate has the power to deal with it. Every political party can ban it within their own systems. Generally speaking, I am suspicious of passing a law to ban something that nobody actually wants.

> ***Mr Jones***: It is not exactly unprecedented. Of course it is happening in Northern Ireland, as you know, too. Generally, the Government have made an assessment that, if people want to become Members of Parliament, they should be full-time Members of Parliament. Similarly, if they want to become Assembly Members, they should be doing that on a full-time basis too. So I take your point, but we will have to agree to differ.

Q425 Chair: But, Mr Jones, as a Secretary of State, you must have very many onerous duties in addition to your role as a constituency MP. Surely, your position as Secretary of State for Wales has not affected your ability to serve your constituents.

> ***Mr Jones***: It has not, Mr Chairman, but I work seven days a week.

Q426 Chair: But surely you can see that it would be possible to hold a position as an Assembly Member or an MP, and to also hold down another difficult and time-consuming position at the same time, as I did myself.

> ***Mr Jones***: I was going to say that you probably are now speaking from experience, and I am disappointed to hear that Ms Morden is confusing you and me.

Q427 Chair: I have never had the privilege of the red box, but I would have said that probably you have an even more onerous time of it than I did because all of my constituency casework was exactly the same, taking up no extra time. My problem was managing to do work in Parliament and the Assembly—the political or legislative side of it. But I found that it was possible to do it, albeit challenging at times, for a short period of time. I must say I agree with Glyn. I don't really see why we are making a law on this and why we can't simply allow the voters to decide.

> ***Mr Jones***: One has to bear in mind too that, since you were an Assembly Member, of course, primary powers have now been devolved. Again, I think we are going to have to agree to disagree. The view of the Government is very clearly that the focus of elected Members should be either in the Assembly or in Parliament, depending on where they are elected.

Q428 Nia Griffith: I have one small technical point on the time scale. We know that there are some current AMs who are going to put their names forward as candidates for the general election in 2015. If they are list candidates, then there will probably be someone else on the list who can take their place straight away without a by-election, but if they were constituency Assembly Members and they became Members of Parliament in 2015—and there is a six-month limit by which time an election has to be held—then obviously an election would be being held just six months before the actual Assembly elections. So is there a case for maybe revisiting that time limit in the Bill and considering whether a year might be more practical?

Mr Jones: I would be very interested to hear the views of the Committee, but the view that we took when considering the Bill was that six months was about right. But, clearly, it is not an exact science. If the Committee wishes to feed in its views, I will be very interested in seeing what those are.

Chair: Which in your first answer you kindly said you would be taking great note of, so we will definitely feed that in. Could I ask Siân James if she has some questions?

Q429 Mrs James: I have a quick couple of questions about changing the term and the length of the Assembly. Why do you think it is important that the Welsh Assembly elections do not coincide with the UK general elections?

Mr Jones: I think it is generally accepted that there would be a strong possibility—if not a probability—that, if you like, Assembly issues would be overshadowed by national issues. I think it is proper that, at an Assembly election, the focus should be given to those issues for which the Assembly is responsible. What we are seeking to do, as you know, is to ensure, so far as possible, that general elections and Assembly elections do not coincide.

Q430 Mrs James: We have a possibility of a clash in 2021 with the local government elections. You are always in some part of the cycle going to have a clash with something. So that could apply to other elections as well.

Mr Jones: That is true. On the other hand, of course, you have two bodies with primary powers. I believe it is essential that the elections to those two bodies should not become confused and that the important issues to be considered in an election for the Assembly should not be drowned out by the debate about general election issues.

Q431 Mrs James: Again, we have had evidence that the Welsh Government believe that the changes to the Welsh electoral arrangements should be a matter for them and for the Assembly rather than Westminster. Would you prefer to maintain the status quo?

Mr Jones: Certainly for the purpose of this Bill we do not intend to make any changes. The Silk Commission, of course, has yet to produce part 2 of its work. It remains to be seen what they recommend in that regard.

Q432 Guto Bebb: I have a question on the issue of the capacity of the Welsh Assembly to deal with the proposed new powers that are to be devolved. We have heard a lot of evidence claiming that the proposals in question will put a strain on the current number of AMs, which is 60. Do you in any way share those views, or is it your view that the devolution of further power should result in a change in the working practices of the Welsh Assembly?

Mr Jones: That, of course, has attracted interest only this week, and it seems to me that a significant number of Assembly Members do believe that their own working practices should be reviewed. But I was heartened by, I think, the First Minister's comments, who said that he was quite satisfied that the Assembly, in its current form, could deal quite happily with the fiscal powers as proposed that will be devolved to it.

Q433 Guto Bebb: Therefore, in your view, 60 Members should be sufficient even if there are further powers given.

Mr Jones: Yes, otherwise we would not be recommending the devolution of powers to the Assembly.

Q434 Guto Bebb: On the issue of whether the decision as to whether there could be more Members or not could be taken in the future, should that be an issue for Westminster, or could it be an issue for the Welsh Assembly itself?

Mr Jones: That is not something within the contemplation of this Bill, and, interestingly, it is not something which is within the remit of the Commission itself because that is something that has been excluded. Again, to reiterate, I take heart from what the First Minister says. I believe there is plenty of capacity in the Assembly to deal adequately with the powers that are to be devolved—or we hope will be devolved.

Q435 Guto Bebb: We certainly have some evidence to support that viewpoint, which I am quite sympathetic with.

The other issue I would like to highlight is the issue of the Silk recommendations in terms of legislative control of budgetary issues. Currently, there is no proposal within the Bill as it stands to devolve those legislative competencies and controls over the budgetary issues. Is there a specific reason why there is a view that we are going to devolve income tax powers perhaps, subject to a referendum, but no devolution of the issues in terms of legislative control of the budgetary process?

Mr Jones: I believe it is something that we are giving further consideration to, but, again, I think it is a matter that we would welcome the Committee's views on.

Q436 Guto Bebb: From a purely practical viewpoint, the Government would be open to practical suggestions in relation to that issue.

Mr Jones: Yes. It is a matter to which we are giving consideration and I think that any recommendations that this Committee were to make would be paid close attention.

Mr Gauke: Indeed, and I think the response to the Silk Commission very much confirmed what the Secretary of State has just said.

Chair: We are coming to a close, but I am quickly looking round to see if anyone has any final questions for the Ministers while they are in front of us. Nobody seems to be catching my eye.

Q437 Nia Griffith: I have one question about time scale. When does the Secretary of State think that he will be bringing forward the actual Bill itself?

Mr Jones: Clearly, a lot depends upon the work of this Committee, and that was why I was at pains at the outset to thank this Committee for the hard work it is putting in, and particularly the speed with which it is proceeding. We hope to publish the Bill as soon as parliamentary time allows, and I think we have made that clear repeatedly. We look forward to your report, which will be an important stage of the process.

Q438 Nia Griffith: Are we saying it would be through its parliamentary stages by the next election?

Mr Jones: I sincerely hope so. As I say, we have made a commitment to proceed with it as soon as parliamentary time allows, and I do not think I can give a clearer indication of our intention to proceed with it than saying that.

Chair: We are grateful to you, Secretary of State. I think the Committee will not mind my saying that probably we would have welcomed it if we could have had a look at the draft Bill earlier given the amount of meetings that we have had to have this month. I am about to call this session to a close, but we are going to meet afterwards in private and start to discuss our findings, for those who are still available. But thank you very much indeed for coming along this afternoon to both Ministers. Thank you very much.