



Welsh Affairs Committee

Oral evidence: Pre-legislative scrutiny of the draft Wales Bill, HC 449

Monday 26 October 2015

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Members present: David T C Davies (Chair); Byron Davies; Chris Davies; Dr James Davies; Carolyn Harris; Christina Rees; Antoinette Sandbach; Liz Saville Roberts; Craig Williams.

Questions 1 -60

Witnesses: **Rt Hon Stephen Crabb**, MP, Secretary of States for Wales, **Geth Williams**, Deputy Director, Constitution and Corporate Services, Wales Office, and **Sue Olley**, Legal Adviser, Wales Office, gave evidence.

Q1 Chair: Secretary of State for Wales, Mr Williams and Ms Olley, thank you very much indeed for coming in to give evidence this afternoon. If I may, Secretary of State, I will kick off by asking what lessons you have learned from 17 years of devolution in Wales.

Stephen Crabb: That could take us the whole hour, Mr Chairman, but I will not.

Chair: No, no need to do that.

Stephen Crabb: In terms of broad lessons of the first 17 years of devolution, I think probably the headline lesson learned—observation, if you could call it that—is that devolution is here to stay. There has been a major shift in Welsh public opinion from the 1997 referendum, where even Cardiff, the capital city of Wales, voted by a very clear majority not to have an Assembly. If you look at the referendum results in 2011 to give that Assembly full law-making powers, you have to recognise, I might suggest, even a shift in Monmouth, Mr Chairman, of people in Wales warming up to devolution. That is the first observation I would make.

Over the last 17 years, we have had two major constitutional pieces of legislation that affect Wales; there has also been a third Wales Act, but two large flagship pieces of legislation for Welsh devolution. I would say both of them have been proved not fit for purpose. Looking back, you could be mistaken for thinking that they have been drafted specifically with the circumstances in mind that you would always have a Welsh Labour First Minister and a Welsh Labour Secretary of States for Wales in office. In the last five years, that has not been the case. The devolution arrangements have been found wanting, spectacularly so, I would say, given how vague, unclear and how silent the existing

devolution legislation is on so many aspects of policy that the two administrations need to work out who is responsible for.

Q2 Chair: I take your point that it is here to stay, for better or worse, but that is certainly the case, but is one of the lessons not that the Assembly will always seek further powers, and having gained further powers, will quickly demand further powers once more, and are you not simply responding to that never-ending demand for further powers?

Stephen Crabb: I think there is a measure of truth in what you say. There is a characteristic of Welsh politics under devolution of a continuous, never-ending constitutional discussion, which is incredibly divorced from the realities of what Welsh voters talk about and are concerned about. That is one of the big weaknesses of Welsh political culture at the moment; there is a disconnect between the almost obsessive desire to talk about more powers and have more powers and focus on devolution issues that I would say characterises Cardiff Bay politics and the issues that all of us who are politicians in Wales find that our constituents want to talk about when we are on their doorsteps.

But this is one of my big aims with these pieces of legislation, and not just what is in the Wales Bill, but the work that we are also doing on taking forward a funding floor that will give longer-term protection for Welsh funding under the operation of the Barnett formula, and also the work I am doing to try to push ahead with some aspect of income tax devolution. It is to get to a point where we draw a line and say, “Okay, now is a period for the Welsh Government, the Welsh Assembly to focus on delivering and using the powers and moving the debate on to how the economy is doing and the issues that matter to people in Wales”.

Q3 Chair: If this Bill goes through, are we done then for the duration of this Parliament?

Stephen Crabb: There will not be another Wales devolution piece of legislation in this Parliament under this Government.

Q4 Liz Saville Roberts: You mentioned that people are keen to see the Assembly dealing with the matters that affect their lives, but there are concerns that this piece of legislation, if it were to move ahead, would render previous pieces of Assembly legislation ultra vires. How many pieces of previous Assembly legislation, if this was in effect, would be ultra vires?

Stephen Crabb: Your question ties in with remarks that the First Minister made, that he believes that only a certain number, a small number of Assembly laws passed in the current session, would be able to be passed if this legislation was brought forward. I maintain what I said last week when that proposition was put to me, that it just is not the case. Our analysis—and I am very happy to share this with the Committee, Mr Chairman—shows that 20 out of the 25 Assembly Acts that the First Minister has identified as being blocked by the new model would have been made in exactly the same way under the new model, that is either without any requirement for UK Government or with such consents being required in the same way as now. We just do not accept this proposition that somehow we are rendering it less likely for Welsh Government to make law effectively in the areas that they are competent for.

Q5 Chair: I think Carolyn Harris has a question or two on that, so if I may, we will probably come back to that point. It is an interesting one.

Can I just also quickly ask you whether or not the precedents that we have already had, the precedents of reserved powers models of devolution, shaped your thinking in drawing up this Bill, and if so, how that happened?

Stephen Crabb: Absolutely, and we were not starting from a blank sheet of paper, because you have the reserved powers model for Scotland, which has been in operation there since devolution began in Scotland 16 years ago. We took the Scotland model and we made that our starting point and sought to transpose that into the Welsh context. There are some fundamental differences between Scotland and Wales, so it is not simply a case of take Scotland and read across, it has to be reshaped for Wales. But yes, absolutely, the team of lawyers and my policy team at the Wales Office and in other Departments across Whitehall did look very closely at the reserved powers model in Scotland, and to a lesser extent, Northern Ireland too.

Q6 Craig Williams: We have heard commentators—and I will not name any of them—and you have one side saying, “This is the next step towards independence” and one the side saying, “This is repatriating powers in the Assembly”. Where do you see this Bill?

Also in terms of the First Minister correspondence, which you alluded to, that he published, did he communicate with you before the publication of that, and would you be minded to publicise your side of that correspondence?

Stephen Crabb: I am very happy sharing information about the discussions I had with the First Minister ahead of publication of the draft Bill. He and I have had a number of meetings and discussions at an official level. We have been engaging throughout the summer and into the autumn on this and having some very constructive talks.

But coming back to the earlier part of your question, I do reject this notion that there is some kind of binary choice between being a stepping stone for an independent or more separate Wales and going backwards in terms of devolution. Both propositions cannot be right, and neither of them is right. What we are trying to do is craft a piece of legislation that is pragmatic, that moves devolution forward, a step change in devolution, but moves forward in line with the instincts and appetites of the Welsh people. Those people who have been criticising me the loudest in recent days from Cardiff Bay in attacking his legislation need to bear in mind that people in Wales have rejected the kind of nationalism that threatened the United Kingdom a year ago. That is not our starting point. Those people who always wanted the next major piece of devolution legislation for Wales to be that long-term aspirational stepping stone to independence are going to be sorely disappointed by this legislation. I make no apologies for that; that is not the policy objective. What we are trying to do is get greater clarity about the devolution settlement. Yes, I do want to make it stronger, and unashamedly I am passing more powers down to Cardiff, but in a way that I think represents exactly the centre of gravity and where Welsh public opinion is at.

Q7 Chair: But just to finish on that point before I go to Ms Rees, you believe the Assembly will have more powers as a result of this piece of legislation?

Stephen Crabb: It is not a belief, Mr Chairman. They will have more powers. This legislation gives them more competence.

Q8 Christina Rees: Secretary of State, how much time did Departments have to identify reservations?

Stephen Crabb: We made the announcement about moving to a reserved powers model way back way back in the autumn a year ago. We made the formal announcement on St David's Day this year with the illustrative list of reservations. Whitehall has been engaged for the best part of a year in identifying those reservations and trying to get, for the very first time since devolution began for Wales, Departments all across Whitehall to sit down and try to spell out where they consider the devolution boundary to fall, given that the existing legislation that over-arches Welsh devolution is silent on so many swathes of policy.

Q9 Christina Rees: Was have you done across Departments then? Did the Departments discuss that between each other then or was it insular?

Stephen Crabb: Yes, it was not just bilateral between us and individual Government Departments. There was plenty of discursive work across different Departments. Geth Williams, who is Head of Constitution at the Wales Office, I do not know if you want to elaborate further on that process.

Geth Williams: There are many examples where policies span more than one Department: planning is one, environment is another and energy is another. Yes, relevant Departments spoke to each other, spoke to us and spoke to parliamentary counsel as well.

Q10 Byron Davies: One of the issues I have noticed is that the First Minister has been saying that initially there was a lack of consultation between the Wales Office and himself. I am just wondering whether you could fill us in on what sort of consultation took place.

Stephen Crabb: We have always been clear about the timeline for this and we said that we would be publishing the draft legislation soon after the summer recess in early autumn. Up to that point, we were doing the detailed work of the parliamentary drafting, writing the draft Bill itself. At that point there was not consultation discussion with the Welsh Government at an official level, because we were concentrating on working up the model and the draft legislation. The assurance and commitment I gave the First Minister was that before we published the draft legislation, we would give an opportunity for private discussions between our officials at the Wales Office and other UK Government Departments and the Welsh Government officials to basically get a better understanding from them of the extent to which they shared our understanding and interpretation of the current devolution boundary and legislation. No surprises, that has identified a number of significant gaps, but there has been a period of consultation leading up to the publication of the draft. Sorry if I was not clear earlier: we had a period of about six weeks of quite intense discussions at the official level leading up to the publication of the draft legislation. Those discussions will carry on in parallel with the open period of pre-legislative scrutiny and consultation that the publication started.

Q11 Byron Davies: Just to clear the air, as it were, on the whole thing, would you be happy to publish any correspondence between yourselves?

Stephen Crabb: I think the First Minister has published that already, has he not, from what I read in the press? I will let you know about that. I will go away and see what it says.

Chair: Anyone further on that? If not, then Mr Chris Davies.

Q12 Chris Davies: Secretary of State, what work has taken place since the creation of annex B to work up the detail of how the reservations might operate in practice?

Stephen Crabb: The list of reservations is all of those items of policy areas that Government Departments across Whitehall have identified as what they believe falls within their competence, the reserved UK Government competence in accordance with existing devolution boundaries. As I said in answer to an earlier question, there is an element of interpretation here, because the existing devolution settlement is silent about so many areas of policy and the Welsh Government—

Q13 Chair: Can you give some practical examples of that?

Stephen Crabb: Agricultural wages: where we had long considered wages to be a reserved UK Government competence, obviously the Supreme Court decision has basically said that because that piece of legislation is linked with agriculture, now agricultural wages fall outside the UK area of competence. There is an area of policies that are contested, I would say, between us and the Welsh Government in terms of interpreting which side of the devolution boundary that they are on. This is what is leading to Supreme Court challenges and where we absolutely do need to get clarity. We have the list of reservations. It is up to people to give us ideas and comment on how they think those reservations would work in practice. When I read through the list, there are items there—and I am not going to share them with you now—where I am not sure that would work, it probably needs to be reserved to UK Government, but we need to hear from others on this and how it will work in practice.

Chris Davies: I am going to come back with a side question, but Antoinette may want to come in on this particular matter, if that is okay, Chair.

Q14 Antoinette Sandbach: I am very grateful. Secretary of State, you mentioned the agricultural wages matter that went to the Supreme Court. Would you say that this Bill is therefore a response to some of the uncertainties thrown up by that judgment and the lack of clarity in the Government of Wales Act in terms of it effectively moved Wales into a reserved powers model without the accompanying legislation; it did that through judicial law-making?

Stephen Crabb: I would not argue that it did that. Whether or not the agricultural wages decision had happened, I believe we would still be at the point where we would need to look at the existing devolution settlement, because it has not just been agricultural wages, there has been two other significant Supreme Court decisions because of the overwhelming lack of clarity. But moving to a reserved powers model was a deliberate policy choice and lots of people, not least in Cardiff Bay, were pressing UK Government to do this. I remember an answer to a question on the floor of the House of Commons maybe two years ago, warning that simply moving to a reserved powers model does not answer all the questions around complexity.

Whether it is a reserved powers model or a conferred powers model, the devolution boundary between England and Wales will always be a complicated one, because of the

nature of geography, history, legal structures and so many other factors. It is not a cure-all, moving to a reserved powers model. There was a deliberate policy switch that we decided to take, because we believe it gives us the best chance and the best basis for providing that clarity. Now, the alternative is just to stay with the status quo. Then what you have—and I think your question slightly intimated this—is that you get unelected judges and lawyers pushing the devolution boundary and setting the devolution boundary. I believe that it is up to elected politicians, whether you like us or not, to be the ones to make the decisions about where the devolution boundary falls and not leave it to the courts.

Chair: Minister, everyone wants to come in on this. Mr Davies, would you like to come back with a quick one and then I think we will go around this way?

Q15 Chris Davies: I would, if I may, Mr Chairman. You mentioned elected politicians, Secretary of State. With the amount of extra powers that will be devolved under these measures to the Welsh Assembly, clearly there will be a need in the Assembly for further Assembly Members.

Stephen Crabb: Why?

Chris Davies: I have tried to push your Department officers on this in previous weeks and did not get very far, quite rightly so. But clearly when one saw just a few weeks ago the First Minister removing a chairman of a scrutiny committee from her role, the gene pool of elected Members down there is getting less and less for those who can scrutinise, who can work and discuss and sit in Cabinet perhaps. What I would like to know—and I would not push you on how many Assembly Members you think should be responsible in the Assembly for these rules and regulations and laws; I hear the number of 80, 100 and so on mentioned—but after that, if this Bill goes through, what would your role or the role of Secretary of State for Wales and your Department be here in this Government? How do you envisage your particular role in the future?

Stephen Crabb: I am not sure I agree with the premise of the question, in that it is inevitable that the number of Assembly Members should increase. I do not think the appetite is necessarily there in Wales for an increase in elected and paid politicians, but that is up to the Assembly to try to make the case to taxpayers in Wales as to why there should be an increase in AMs. Maybe I am not familiar enough with all of the workings of the Assembly, but I do not get the impression that there is a lack of spare capacity there.

Q16 Chris Davies: But can we can confirm, sorry, that you are devolving that power to the Welsh Assembly is it is now?

Stephen Crabb: Yes. No, absolutely, the Welsh Assembly will get the power.

Q17 Chris Davies: It is up to them to decide on the number?

Stephen Crabb: They will get the power to decide on the number. That is not a decision that we will be taking here. It is up to the Welsh Assembly to work out what they think is the right number of AMs. They will need to justify that to the Welsh public.

You asked about my role. The Secretary of State will continue to be UK Government and the overseer of the devolution arrangements, an overseer in the sense of the Cabinet Member who has responsibility for how devolution works in Wales, but of course the role

is broader than that, it is also about being, if you like, a voice for Wales around the Cabinet table, and within Wales the face of the UK Government across a whole range of policy areas. But we can spend a lot longer talking about residual roles of the Secretary of State for Wales.

Q18 Chair: Some quick-fire questions then, if I may, Secretary of State for Wales. Would the Agricultural Wages Bill have been passed under this model?

Stephen Crabb: It depends on where of course we drew the reservations. Under the model that we are bringing forward, yes, the agricultural wages measure would have been passed.

Chair: Okay, that is great. Liz Saville Roberts.

Q19 Liz Saville Roberts: Two questions. I would like to take you back five minutes or so ago. You were not prepared to share your thoughts, which implied to me that you perhaps were not entirely satisfied with some aspects in relation to the reservation matters. Is this the Bill that you want?

Stephen Crabb: It is the Bill I want. I have spent a year working on this. But I think the more important point is is this the final Bill, and we would not be beginning a period of pre-legislative scrutiny and we would not be publishing a draft Bill if there was not a serious intention on my part to be listening and wanting to get the detail of this right. We spoke a few moments ago about the decision to move to a reserved powers model. That was the big policy call, and as I suggested, it was by no means inevitable that the reserved powers model gives you always the best outcome. But that was the big policy decision that we took. Everything else then is about the detail and the mechanics of making it work in the best interests of Wales. That is what I am serious about and what I want to see. I want to see a rigorous pre-legislative scrutiny that does bring forth ideas and suggestions on how we improve things.

Q20 Liz Saville Roberts: If I could, exactly on that point there was the recent report from the Constitutional Unit at UCL and the Wales Government Centre and they set out, if you like, three criteria as to how to be identifying what should be reserved and what should not be. Those were, “Is this retention necessary for the function of the UK as a state? Does this retention make the Government of the UK generally less clear or comprehensible? Does it undermine the workability, stability or durability of that settlement?” Do you feel possibly that Government Departments have rather acted as though they had a free rein, rather than working towards this coherent approach that we would like to see in a Bill that is to work effectively?

Stephen Crabb: I would not accept that they have been somehow operating on a free rein. There has been plenty of pushback from myself and my officials when we felt that that is necessary and where we have challenged them on their view on the interpretation of the boundary because we do want, as you say, a coherent settlement. Again, this is where some of those who wanted the next major piece of devolution legislation for Wales, who wanted to start with a blank sheet of paper and work up from first principles and build a reserve model like that, doing exactly what you said, I think, in your first point, “Is this absolutely necessary to reserve it to UK Government?” We are dealing with the world as it is and we are inheriting a devolution settlement and the commitment that we made was not suddenly to put a red cross through that and start again. It was to take the existing model,

transpose it into a reserved powers model, but also look to ways to make it better, and also then the additional powers, the commitments that we made to adding additional powers, factoring that in as well. That is the approach that we have taken.

Q21 Christina Rees: Going back to reservations, what guidance did you give to your ministerial colleagues and did you ask the Departments for any rationale as to the reservations included in annex B?

Just a quick one at the end: would the Organ Donations Act have been passed?

Stephen Crabb: I am going to ask Sue Olley to come in on the organ donations point in a second.

Yes, we gave clear guidance and instruction to Whitehall Departments and this was agreed by the Cabinet sub-committee chaired by William Hague at the time, so this was coming right from the top of Government down and cascading through Whitehall. As I said earlier, it is the first time I believe that a thought process like that has gone on across Whitehall, thinking about devolution in a serious way.

We did ask Government Departments to give us a rationale for why they think certain items are reserved or not reserved. As I said in answer to Liz's question, there have been times when we have been challenging that and saying, "Are you sure about that? Can you justify why you think that is the case?" But the problem is—and this is the fundamental problem underlying all of this—that existing legislation is just absolutely silent on so many areas of policy, so this is why there is lots of scope for interpretation and why I think we need a serious pre-legislative scrutiny phase to try to get this right. But on the organ donations point, Sue.

Q22 Chair: Will you publish the guidance note that you sent out to ministerial Departments?

Stephen Crabb: I will write to you about that, Mr Chairman, if that is okay. Sue, do you want to come in on the organ donations point?

Sue Olley: I will deal with the Human Transplantation Act. It required UK consents because we were modifying the Human Tissue Act. It required them in the past; it would require them again. It would be passed. However, you have to remember that the tissues that are taken from patients are pooled UK and European-wide and we have two different systems of consent. In order to make tissue that was retrieved in Wales accessible in England and vice versa, we had to make modifications. Those are all technical; that has all been done. It was done with the consent and assistance of the Department of Health. That happened in the past and that would happen in the future. It would not have been blocked.

Stephen Crabb: I think the punchline is no dramas. This is about the effective workings of two administrations, the UK Government and the Welsh Government. Whatever underpinning system or model of devolution you have, you always need mechanisms to regulate that interface between the Welsh Government and UK Government.

Chair: Let me carry on around the room

Q23 Carolyn Harris: Two very simple questions. First, do you believe the draft Bill can work? Secondly, why is the new constitutional settlement for Wales being considered in isolation, not taking into account what has already been devolved in relation to Scotland, Northern Ireland and Manchester?

Stephen Crabb: Do I believe it can work? Yes. You only really know the answer to that when it is in operation, do you not, but we have gone through some quite rigorous processes internally as a team to try to test some of this. As I say, the pre-legislative scrutiny phase is an important phase for people outside of my Department to also test it and feed in their thoughts and ideas.

I do not accept that we are not looking at other devolution arrangements and we are looking at this in isolation. As part of the St David's Day process that identified extra areas of powers to devolve to Wales, we looked very closely at what was happening in Scotland with the Smith Commission. I have to say, there was not strong appetite from not least your party, Carolyn, to look at extra powers that were being devolved in Scotland under the Smith proposals and doing the same or the equivalent thing in Wales. That is the truth of it. Of course we look across the border at what is happening elsewhere.

Q24 Carolyn Harris: Would you have given consideration to a UK constitutional convention?

Stephen Crabb: The trouble is it is a nice thing for the academics to do. I just do not know that practically it takes us much further. What we are doing is looking at arrangements around the joint ministerial committee process, so that is regular meetings that we have with Ministers from all of UK Government and the devolved national Governments as well. We are looking at ways to improve that and make that more meaningful and strengthen that as a kind of an over-arching process that oversees devolution in all aspects of the country. Constitutional conventions have been useful after civil wars in some countries where they have been drawing up a brand-new constitution on paper from scratch and nation-building, but we are dealing with the world as it is and I do not know that it would be a particularly useful thing at this juncture.

Q25 Byron Davies: I think you have answered the main questions I was going to ask, you have covered it, but perhaps if I could put this to you: having spent a number of years myself as an Assembly Member, would you accept from me that compared with this place, for example, the level of scrutiny is appalling there, and do you not think that the additional burden, if you like, in this Bill will add to that?

Stephen Crabb: The best people to answer that question are the Assembly Members themselves. They have the best understanding of the capacity of their institution, the extent to which they have processes and capacity in place to scrutinise the legislation effectively. The point was made earlier about numbers of AMs available to do scrutiny. Often it is not about numbers, it is about the seriousness of focus and the quality of questioning rather than the amount of time or the numbers of AMs involved in that. I do not believe that somehow the Assembly structurally is unable to do a good job of scrutinising legislation.

Q26 Liz Saville Roberts: I think you mentioned right at the beginning of my question that 20 out of 25 pieces of legislation would have gone through. Which are the five that would

not, and are you certain the 20 would have gone through or would there have been room for a legal challenge with the rest?

Stephen Crabb: There is room for legal challenge on anything, is there not, if you think about it?

Liz Saville Roberts: A viable legal challenge.

Stephen Crabb: What I will do—probably most helpful—is to share the analysis that I have done with my team in the Wales Office about those Bills and share it with the Committee and you can have a chance to look at it. Maybe at a later session I will be happy to take questions on that.

Chair: That would be very helpful. We are going ask the library to do something similar, and I think the First Minister might send us something too, so we will enjoy matching them all up.

Q27 Antoinette Sandbach: There has been criticism from the First Minister that there was not a process of shaping the Bill together. Could you talk us through the consultation that you have had with the Welsh Government on the Bill?

Stephen Crabb: As I said, for about six weeks leading up to the publication of the draft Bill, my officials were engaged with Welsh Government officials, sharing with them in confidence the proposed reserved powers model that we spent months working up. I have also had a number of direct discussions with the First Minister; those continue, as does the official level engagement. What we have been doing fairly systematically is trying to identify the areas of difference in interpretation. Sometimes those can be relatively easily overcome, because it might be just a matter of my team explaining to the Welsh Government lawyers and officials what we have intended with a certain phrase in the Bill and some drafting. Already we are identifying areas where maybe the drafting can be tightened up or where we can come to common ground just by approaching things in a very technical way. I think there is some differences in principle as well, which will be harder to overcome, but we will keep working at that.

As well, I think there have been a lot of misconceptions around the Bill and a number of hares have been running. The idea that somehow the Bill prevents Welsh Government from bringing forward measures to enforce their own legislation and create penalties to enforce their legislation is just not true at all, yet this has had so much air time in the Welsh media, but that is not in the Bill. The Bill does not do that, so whether deliberately or whether unintentionally, I think a number of false hares—if I can call them that—have been set running, but we carry on the work with Welsh Government to try to come up with a piece of legislation that can work in the best interests of Wales. As I said, the big policy decision was to move to a reserved powers model. Everything else is about getting the detail and the mechanisms right to make it work. If you saw the kind of furious emotional reaction that we had from Cardiff Bay last week around some fairly technical and legal arrangements, for me that says everything about how messed up politics in Cardiff Bay is, when people are getting so angry and vitriolic about the technical and legal arrangements governing the efficient operation of devolution, rather than big issues of economic inactivity or standards in the NHS or performance of Welsh schools. That is the stuff to get emotional about.

Q28 Antoinette Sandbach: Would you say that you have been quite involved in the detail in the Bill? We have heard criticisms that this is an English veto on Welsh laws. Can you comment on that perhaps, please?

Stephen Crabb: I have been personally involved at the earliest of stages; I rolled my sleeves up along with my officials and got stuck in. My job is to set the broad policy objectives and negotiate those with Cabinet colleagues, but I stay very involved with the detail of what the officials are working on on a day-to-day basis.

This phrase that you have just repeated about English veto on Welsh laws, forgive me, that is the kind of language that we were hearing from the SMP a year ago, and it is just really unhelpful. For a start, it reflects an approach of trying to delegitimise UK Government. UK Government exists for all parts of the United Kingdom: Northern Ireland, Scotland, Wales and England. There is nothing particularly English about UK Government. What we are talking about is efficient operation of devolution arrangements that work for the people of Wales. As I say, whatever mechanism you come up with, wherever you draw the devolution boundary, whatever reservations you make or you do not make, you need effective mechanisms to make the thing work properly and effectively. That is what we are seeking to do for the very first time for Wales.

Chair: Ms Rees and Ms Saville Roberts had similar questions to this, so perhaps I could bring you both in on this general issue in a moment because, as is the way of these things, we are verging from one area to another, which is fine. But also this similar point: in the private meeting we discussed the hypothetical speeding issue. I do not know whether you want to come back with that as well in a moment.

Did you have any further questions on this point? Please do if you have. I just thought I would give everyone due warning that I am about to move on.

Q29 Antoinette Sandbach: The First Minister told the National Assembly that he did not think that this was the Bill that either you or the Prime Minister want. What do you think gave him that impression?

Stephen Crabb: I do not know. You would need to ask him that, to be honest, sorry.

Q30 Christina Rees: Secretary of State, you mentioned drafting, you brought up drafting, and the Government drafting QCs are exceptionally good. Would you say that they are acting on your instructions, so they have couched it in terms of your making?

Stephen Crabb: They are absolutely acting on my policy instructions. I do not claim to be a lawyer, so there is room to talk about the exact nature of the drafting and whether we are getting it right to satisfy our policy objectives and that is one of the things that the pre-legislative scrutiny can hopefully shed more light on. There is always more than one way to skin a cat, so to speak, but my role has been to set the broad policy objectives and also elucidate the principles that are underpinning this, so the need for clarity. I just do not think it is acceptable for devolution to rumble on without that level of clarity about who is responsible for what, the UK Government or Welsh Government, but also the value of respect. Every time we make legislation that, if you like, affects a Welsh devolved competence, be it in the fields of education and health or local government or whatever, we would seek a legislative competence motion in the Assembly. That is effectively

asking permission of Welsh Government to effect devolved arrangements through our legislation and that is exactly right, that is a proper way of approaching devolution.

But it needs to work both ways, so if Welsh Government are making legislation that as a result impinges on the functions of a UK Minister or a UK reserve body, it is only reasonable that, as is already currently the case, the Welsh Government seek the consent of the UK Minister for that change. This idea that somehow you can have a devolution settlement where Welsh Government can make legislation for Wales that also affects England, but by the way, they do not have to have any regard for the views of UK Government Ministers as to how it affects England, if you follow the logic of some of the statements being made in Cardiff Bay last week in response to the draft Bill, that is the position you get to. That is lawless. You need devolution with rules; you need a rules-based approach to this to get clarity and that is what I want this legislation to provide.

Chair: Ms Rees, do you want to come back on that at all or perhaps in a minute?

Christina Rees: Yes.

Chair: I will bring Ms Saville Roberts in.

Q31 Liz Saville Roberts: That does beg the question whether that is a veto or not, but I would like to ask a separate question.

Stephen Crabb: As Sue explained with the Transplantation Bill, the consents are readily given and that is part and parcel of the normal operation of devolution, in the same way that for a lot of LCMs we require of Welsh Government, they are voted through, because that is, if you like, the oil in the wheels of devolution. That will continue under this legislation. There has only been one case where we have refused consent for a change and that was one of the cases that ended up at the Supreme Court, the local government by-laws. There is one case currently ongoing where we are still discussing it with the Welsh Government; that is the Environment Bill, where they are making legislation. That places a duty on UK reserve bodies. In those cases, you would expect the relevant UK Ministers responsible for that reserve body to be able to say yes or no, "That is fine, Welsh Government. You go ahead and change that". Without it, it is a completely unreasonable position.

Q32 Liz Saville Roberts: I would like to ask one specific process question. The civil engagement phase of this was through the Silk Commission. The Silk Commission counted, all in, the recommendations and sub-recommendations, a 100-odd recommendations. What proportion is now reflected in this Bill?

Stephen Crabb: That is a good question and I do not know, off the top of my head. Paul Silk and his Commission did a valuable piece of work but the fundamental weakness was that it was by consensus only, with party representatives who were not mandated by their parties to be a party representative. They were nominated by their parties, but they did not bind in their political parties to the recommendations. Whatever Silk came up with, you still need a political process to decide which of those Silk recommendations are acceptable at this point in time or not. That is what I sought to do with what we called the St David's Day process, where we sit down with the Welsh parties, Assembly level and up here, and grind through those Silk recommendations and say, "Right, is there a political consensus

among the Welsh parties for this or not?” As a result, you are right, 100% of Silk recommendations are not being reflected in this legislation. As a rough estimate, Geth, where did we get to? The majority?

Geth Williams: I do not think we have a rough estimate. Two things to remember: not all Silk recommendations needed primary legislation, so we are not taking them all through in any Bill; and some of the recommendations were about better inter-governmental working, and that has been taken forward by the work the Government is doing with the devolved administrations. It would not be a simple read-across.

Q33 Craig Williams: I suppose this ties into the debate, for example, on speeding, about the appropriateness of the enforcement and how UK Government can step in and enforce that appropriateness if, for example, taking it to its extremes, it is up there with life imprisonment for going over 30 miles an hour, that is clearly not appropriate. Could you reassure me as a layman, not a legal expert, whether road traffic offences are covered with the exemptions and whether that does go with it and comment more broadly on the appropriateness function of the Bill in terms of monitoring what the Welsh Assembly are doing?

Stephen Crabb: Do you want to pick up on the technical aspects of that first, Geth, and then I will come in?

Geth Williams: I think Sue is better-placed on road traffic offences.

Sue Olley: Working backwards, there is a specific clause—give me a moment—which says that you cannot modify road traffic offences.

Q34 Craig Williams: Can you create them though?

Sue Olley: No, they are reserve matters, but obviously speeding is being devolved. In order to enforce whatever speed limits you create, you have to create an offence, but other kinds of road traffic offences are not devolved.

Q35 Chair: Which is the relevant clause?

Sue Olley: Can you just give me one minute?

Chair: Yes, of course, sorry.

Sue Olley: I will find it.

Stephen Crabb: It is worth pointing out that the draft legislation does not prevent Welsh Government creating penalties to enforce speeding offences.

Sue Olley: It is schedule 7B, paragraph 4(3), which enables them to enforce their legislation, but it does not allow modification of the criminal law relating to road traffic offences.

Q36 Craig Williams: They could not, for example, create a new speed limit then? If they wanted a speed limit of 25 miles an hour for some roads in Wales, that would be a creation, would it not, not a modification?

Sue Olley: If they created a speed limit of 25 miles an hour, it would be an offence to break that speed limit, but the sanction, the fine or the points or whatever, would be the standard. It would just be a different limit at which it would kick in.

Craig Williams: I see, yes.

Q37 Carolyn Harris: To go back to the question of veto, you mentioned the Environment Bill. How long do you normally or would you normally take to give consent, because I believe that the Environment Bill, the consent to refuse, section 6 took, a year, did it not? To my way of thinking, this is just going to keep things slow.

Stephen Crabb: No. I will ask one of the team to come in on this, but it depends on the iterative process between us and Welsh Government. It might be that a UK Minister says, “Well I am not sure; can we have a bit more information, please?” and that is a normal part of the conversation that goes back then to Welsh Government to provide the justification and the reason why they want to change a UK Government Minister’s function or a UK reserve—

Q38 Carolyn Harris: So you have no concerns that this veto, call it what you like, that you would like to see is going to slow down the legislative process at all?

Stephen Crabb: It shouldn’t do.

Geth Williams: You know, there have been so many Minister of the Crown consents since the Assembly gained full legislative competence in 2011 and that has not held up the legislative process in the Assembly. As the Secretary of State said, you can’t give a fixed time because the complexity of consents really is huge.

Q39 Carolyn Harris: That takes me back to my earlier question, which was: do you think this Bill is going to work? For something to work effectively I think we need to have some kind of assurances that there will be no big time lapses between seeking permission and permission being granted otherwise it is not an effective legislature.

Stephen Crabb: That is an interesting and useful suggestion, that is there some kind of formal agreement between us and the Welsh Government on, if you like, standard operating procedure for how consent requests should be—

Carolyn Harris: As MPs we are used to that one.

Stephen Crabb: —granted. That is certainly something that we do need to be thinking about.

Chair: This is a very key issue so if any else would like to come back with a few further supplementaries on it?

Q40 Christina Rees: Carolyn has just asked the question I was going to ask. What factors did you take into account when deciding the legislative timetable, and have you balanced the desire to move quickly with providing a lasting settlement?

Stephen Crabb: I think I have struck the right balance. If you remember back to the days just after the general election there were various calls again from the people in Cardiff Bay to hurry up and get the legislation out and you might recall I received some criticism for

basically standing my ground and saying, “No, we will take the time that we need to get this right. We are going to stick with the original timetable to publish the draft legislation in the early autumn”. Then we did and people are saying somehow we should kick this into the long grass and pause it or delay it even further. So I do not think I can win either way on satisfying people on the timetable.

No, I believe we have taken the appropriate amount of time to get the drafting—to work up a model that we believe is workable in terms of the advice that we get from parliamentary counsel on giving it practical legal effect, and doing what I think a responsible Secretary of State for Wales should do, which is to open the books and invite people to comment, cross-question and scrutinise that draft legislation. There will be a period now of a few months where you will be doing your work—you will produce a report presumably that we are obliged to respond to—and then we will bring forward, early next year, the final Bill. Then that begins again a period of scrutiny under the normal parliamentary processes, which itself will take a period of months. So, if you like, the sausage machine in this instance is quite a long one. They say there are two things you do not want to ever see being made, one is laws and one is sausages. Hopefully at the end of this there will be a piece of legislation that does the job and works.

Q41 Liz Saville Roberts: One specific question in relation to the Silk Commission. You did not act on the commission’s recommendation to develop long haul air passenger duty as it would create competition issues—I remember this last week as well—in essence it will enable Wales to have a competitive edge. Given that Scotland is allowed to have this competitive edge, I beg to propose that the Secretary of State for Wales would also enable Wales to have that competitive edge as well.

Stephen Crabb: A very live question. These are matters that the Chancellor of the Exchequer led on. We are very familiar with the arguments. There is a piece of work ongoing at the Treasury looking at the impacts of devolving APD to Scotland but if the Committee does feel strongly about this issue I would encourage you to look into it and make some recommendations. But, as I say, that would be a conversation for the Committee and the Treasury, I think.

Q42 Dr James Davies: I just want to raise first of all the Sewel Convention, which suggests that the UK Government would not normally legislate on matters that are devolved to the Assembly. Clause 2 of the draft Wales Bill enshrines that in law for Wales, but could you give me an example of unusual or abnormal circumstances in which the UK Government might wish to legislate with regard to devolved matters?

Stephen Crabb: Conceivably you can imagine there may occasions when emergency legislation requires being brought forward. It does not happen very often, hence it is not normal. In my first term in Parliament when we had the banking crisis I believe there was a piece of legislation that we had to basically vote on all the measures in one day. It might be difficult to imagine what circumstances we are talking about but normally it is relatively time-critical crises or pressure, when legislation is to be brought forward, which may touch on devolved aspects. But, as I say, those would be very much the rarity.

Q43 Dr James Davies: Thank you. You have talked about the growing number of Welsh laws and the need to recognise those. What do you think the implications of that body of law will be?

Stephen Crabb: Most obviously the laws affecting people and businesses in Wales become ever more distinct, different, and with that comes a growing challenge of how you deliver an effective justice function in Wales where you get aspects of law that are distinct and different. Tenant landlord law is changing between Wales and England, that is already happening. That is a challenge that the judiciary and the legal profession recognise but the overall quantum, although you are right it is growing, is still very, very small compared to the existing enormous body of law that is made on an England and Wales basis.

So the quantum is growing but it is a very, very small one. You could conceivably think that in the future there will be a lot more possibly, it depends on what laws Welsh Government make and how they use their powers. But we are nowhere near at the stage where we think that the existing—what I would regard as—pretty effective arrangements for a legal jurisdiction across England and Wales are put under any serious pressure as a result of areas of distinct Welsh law.

Q44 Dr James Davies: With regard to the legal jurisdiction, do you see the possibility of a distinct Welsh legal jurisdiction being a red line that should never be crossed or a possibility whose time is yet to come?

Stephen Crabb: I think it is a red herring, if I am honest with you. If you look at all of the aspects affecting devolution arrangements for England and Wales, the one thing that ain't broke is our legal system. We have a very effective England and Wales legal system and it is a legal system in which Welsh lawyers and judges seem to do very, very well career-wise; it is a system where the courts have shown themselves well able to apply what distinct Welsh law that there is. But it is something that we do need to bear in mind is how—whether it is training needs for the judiciary, how you disseminate information among the judiciary and the legal profession about where there are now differences between Welsh and English law. I think that is important. There is quite an important discussion to be had with the Ministry of Justice and the Welsh Government about how you adapt to those new circumstances and strengthen the delivery of the justice function in Wales. But to say that where we are at in terms of Welsh devolution, the logical next step is a separate jurisdiction, with all the consequence of that, I just do not accept it. I think the last thing we should be thinking about doing is tearing up the legal system that has worked for Wales and England very well.

Dr James Davies: Can I tackle a completely different question about speed limits?

Chair: Absolutely, but can I just bring in Craig Williams for a moment on that point?

Q45 Craig Williams: Secretary of State, you touched on housing and if you are a landlord in Wales, for want of any better description, and you find yourself in a Welsh jurisdiction in terms of that specific, has anyone brought any case law or any examples of where the judiciary or clients have fallen down or have felt that the judiciary is letting them down in that particular case? Is there any evidence out there to say that anyone is being let down?

Stephen Crabb: I have had a very useful discussion with a number of senior Welsh judges about exactly this kind of issue a few weeks ago and we recognised that there was an issue that needs to get dealt with for the future in terms of future proofing the arrangements, but there was no specific example that was raised with me. Sue, I don't know if you have come across any?

Sue Olley: I am not aware of any case where the court has applied the wrong law in the wrong jurisdiction and I do not think the judiciary is either. They would certainly tell us if that had happened.

Q46 Dr James Davies: A completely different subject. Craig raised the issue of speed limits before and the fact that penalties would remain reserved, but what is the rationale, as I have asked before, of devolving speed limits? So, for instance, in built up areas it is 30 miles an hour, the national speed limit is 60, motorway 70, those are well known UK-wide and do not require signage as a result. But when you have a long border with roads crossing is it really feasible to have different speed limits on either side of the border and, if not, why would we be seeking to devolve it?

Stephen Crabb: It was obviously there as part of the Silk work; they looked at this issue. A large measure of transport policy, not least around roads, is already devolved to Welsh Government. I think it is fair to say we have some distinct Welsh challenges in terms of road safety and it gives Welsh Government another tool to apply solutions in a Welsh context. You are right, with cross-border roads you get different speed limits, are they feasible? It is. You can drive through Europe and you can cross lots and lots of national borders in a single day and come across different road speed regimes. What tends to happen is they tend to harmonise naturally over time—you do not get an awful lot of variations in terms of cross-border—but it does give another tool to Welsh Government in terms of how they address transport and particularly road use in Wales. As I said, we do a pretty appalling road safety record.

Q47 Craig Williams: Since we have opened it up to picking up a particular paragraph, can I just touch very briefly on ports? I want to know the rationale about the trust ports. I get the shareholder side of it and then the turnover but in terms of devolving powers for all the ports bar one—and I am sure the Secretary of State knows the one extremely well—what is the rationale in terms of the turnover and the trust aspect, for example, if there was another port that meets the turnover aspect of not being reserved because it was a UK major infrastructure. Why the combination of trust and turnover.

Stephen Crabb: Trust ports in themselves are a curious beast. There has been a lot of argument about them in recent years, about whether they are public sector ports or whether they are commercial. The truth is they fall somewhere in between and most of these trust ports are small harbours and ports. There are a number of very large ones. It just so happens that we have one in Wales that is of UK importance in terms of energy security. It is not just an energy port for Wales it provides a vital UK route for natural gas, crude oil and other refined petroleum products, and there are large amounts of energy storage capacity there as well. So as an energy port, and as one of the largest UK ports, and as a trust port that already has a direct link with the Department of Transport in London, we thought long and hard and involved other Ministers in this because, as you alluded to, I have a consistency interest here. The agreement that we came to as a team was that—and, I have to say, talking very closely with industry as well who are affected by these decisions—the existing arrangements work well for a strategic port that is of UK significance.

Geth, do you want to explain—because we haven't just invented this turnover threshold, this already exists in legislation?

Geth Williams: There is turnover threshold in the Ports Act 1991 that defines a trust port that Ministers could decide to prioritise. A decision was taken to apply an existing threshold, such as applied to trust ports in Wales, and trust ports over that threshold would be reserved. Milford Haven is well over that threshold by some margin.

Stephen Crabb: So this has not been plucked out the air. This does exist within legislation.

Q48 Craig Williams: I come from the other angle. In the initial plans for the Severn Barrage there was also a plan for UK-significant freight transport and a new port there. Being a trust and the turnover within the Bill do we tie ourselves for in the future? If there is another UK investment in a big UK freight transport plant, would the UK continue to keep sovereignty over that, because of course it will be a UK major asset, or would it have to be a trust port and turnover?

Stephen Crabb: That is something for the Committee to consider and you can take evidence on that, but a lot of the policy levers that affect port development in Wales are already devolved, so land-use planning, road connections, rail connections, some of the marine responsibilities are already with Welsh Government. So when we talked about ports as part of the St David's process, in terms of coherence arguments—one of the other Committee members mentioned coherence earlier—it makes sense for ports to be devolved as a policy area because that complements very well existing policy functions that the Welsh Government have that affect the wellbeing of these ports.

With regards to the one trust port that we have in Wales, that is currently linked to the Department of Transport in UK Government and is of national significance we were very clear during the St David's Day process that the final decision about devolving trust ports would hinge on a review the Department of Transport were having anyway. In consultation with the Department of Transport and with industry a decision was taken that the existing arrangement would remain for this large energy port.

Q49 Liz Saville Roberts: This is quite an important point. You have mentioned many times in the run up to publishing the Bill that one of the core principles is clarity and yet in schedule 7B we have this use of terminology such as “incidental”, “appropriate” and “necessary” in relation to dispensation. These are very open-ended terms, they are not necessarily clear in themselves and it does beg the question as who will be coming to a conclusion on what is appropriate and necessary. Are we going to be with a judge from the Supreme Court making those types of calls?

Stephen Crabb: I think that is a fair question, because all terminology in any Bill is open for challenge in the way it is applied. To repeat part of my answer to a different question, we have not just plucked these phrases out of the air; they have meaning already in legislation. The necessity test, which I think you are describing, exists in the Scotland Act. We have lifted it out of the Scotland Act. I accept there is a different context in Wales and the phrasing has never been tested in the courts but we felt that was an appropriate mechanism to use, as I described earlier, for regulating the way UK Government and Welsh Government need to interact. If there are better ways of coming up with a mechanism then I would be keen to hear it, but we have taken the existing wording as is.

Geth Williams: Phrases like “consequential”, “incidental” and “appropriate” are in the current Government of Wales Act.

Q50 Liz Saville Roberts: One other question. Given the history of what happened in my constituency 50 years ago, why is water still a matter for you to be deciding upon as Secretary of State, the concern that it would have an adverse effect in England? There is an addition to the 2006 Act to now include sewage as well as water in relation to possible adverse effects to England. Why can’t these be devolved and these decisions be made in Wales?

Stephen Crabb: Yes, we want to. We absolutely want to and as part of the St David’s Day process there was consensus on that. The difficulty is that it is a really difficult thing trying to align the boundary of the water companies with the existing devolution boundary, but we are giving it a go, Liz. This is again a decision I took, I didn’t need to, to set up an intergovernmental committee involving officials from my office, DEFRA and Welsh Government to sit down, roll our sleeves up and try to work out a solution to this. If it was simple and straightforward it would have been done before now, I am quite sure about that. But it is not. We are dealing with complicated geographical factors here. But the intent is there to try to reach a solution if we can.

Geth, do you want to elaborate?

Geth Williams: Just to say in terms of Capel Celyn and Tryweryn that is as much or more a planning matter than a water matter and would be devolved in the Welsh context.

Stephen Crabb: Yes, so in terms of the actual flooding, those would be land use planning decisions, which are already with Welsh Government. But I think you were hinting at the broader architecture of the water policy under devolution.

Antoinette Sandbach: I am grateful, Secretary of State, I know that my constituents have a great deal of concern around water issues because the arrangements across border in terms of England and Wales, and they are impacted potentially by decisions in Wales. So I understand some of the caution and the complications that are present in that particular issue because the companies span borders and there is not a single provider in Wales. Sorry, I just wanted to say that as we were on water.

Q51 Chair: Can I ask you this then? It is not really related but perhaps you could explain something to me, Minister. Energy projects of up to 350 megawatts will be devolved to the Welsh Assembly but contracts for difference are definitely not resolved, that is in one of the annexes. So the question is this—if I am right in thinking that CfDs are not devolved—would it not still be possible for the Assembly, if it wanted to, to pay a higher strike price for energy projects that generated less than 350 megawatts of electricity? It is a bit of a technical one and I do not mind if somebody wants to write back to me with a full answer on that.

Stephen Crabb: Yes, we will write back to you on that.

Chair: It is an interesting issue, though, isn’t it?

Stephen Crabb: In terms of the 350 megawatt threshold, of course that applies to offshore and onshore energy projects with the exception now of wind, because the decision was taken with the Energy Bill that is currently going through Parliament. Given that the

Government had taken a decision to change the legislation in terms of disapplying the Secretary of State's role in terms of energy consents and effectively now local authorities becoming responsible for all onshore wind applications and the existing legislation being England and Wales, that it should apply in Wales as well and that means it is a quicker delivery of the St David's Day commitment but it does mean that the 350 megawatt threshold does not apply.

Q52 Chair: If it was decided by a local authority and a local authority said no and an appeal was put in, obviously in Wales the appeal would be to the Welsh Assembly and based on what Welsh Assembly planning guidance was.

Stephen Crabb: It is not the same thing as saying Welsh Government has competence for all onshore wind projects, which they will get through the Wales Bill, as part of our St David's Day commitment. What is going to happen before that through the Energy Bill and its secondary legislation is that local authorities in Wales will become the consenting authorities for all onshore wind. Then when the Work Wales Bill goes through, the Welsh Government will have to take a decision in terms of do local authorities remain the key decision makers or do they want to do something else.

Geth Williams: It is worth remembering that electricity as a subject, distribution, supply and so on, will remain reserves. So what we are talking about here in effect is planning permission for onshore wind for the generation of electricity.

Stephen Crabb: But for the grid connections that will stay with UK Government.

Q53 Chair: We are drawing to an end of the session now, you will be pleased to hear, so I am just throwing a few quick questions at you but obviously if anyone else wants to fire a few, please catch my eye.

The second question is going back to the main point earlier on, this model that we have now come up with about which you have obviously been thinking for a year or so. Did you look at models anywhere else in the world when you came up with this? Do other places like Spain or Germany have a kind of reserved model or is this something that we are pioneering here in the UK?

Stephen Crabb: I personally did not—whether my team did or not, ask them—but maybe there is a scope for the Committee to look at how these models work elsewhere.

Chair: No, we are not looking at that. No, I am just curious as to where the idea comes from for all of this and whether or not we have looked at best practice elsewhere in the world or this is entirely a UK based—

Stephen Crabb: We do have a unique set of constitutional arrangements that has grown up over the hundreds and hundreds of years and that is the issue here—we are very distinctive—but there is always lessons to learn.

Geth Williams: I seem to remember hearing as we were implementing a Silk recommendation that Silk did look broadly globally and their conclusion was the difference of the UK is quite marked and therefore comparisons are not wholly appropriate.

Q54 Craig Williams: In terms of the timetabling, which the Secretary of State touched on, you were going to find yourself in the middle of an Assembly election, a very politicised time, and I think the First Minister’s remark should be seen in that context. What kind of factors did you build into the timetable for the Bill and did you just think, “Right, we will take the Assembly election on the chin and try to get this Bill through”?

Stephen Crabb: Yes, you are right, we did anticipate there would be lots of political noise around that and we have not been disappointed; there is lots of political noise and that will continue, I am sure. But the people making those noises need to realise that we have a huge opportunity here to get a better devolution settlement for Wales. I think if they were to walk away from this, that would be a massive, massive own goal. The permanence clause that enshrines permanently the devolution arrangements; the additional powers to Welsh Ministers; the additional powers to the Welsh Assembly as an institution in terms of changing its structure, the way they are elected; in terms of allowing 16 and 17 year-olds to vote in elections, local authority or assembly elections: if politicians in Cardiff Bay, after having spent so long asking for every one of those powers were then turn around and say, “Sorry, we don’t want it after all, we would rather have the row with UK Government because it suits the political culture of Wales a lot better”, I just think that is ridiculous.

Q55 Chair: Would you be willing to try to pass this Bill through the Houses of Parliament if the Assembly made it quite clear that they, as a majority, opposed it?

Stephen Crabb: We cross bridges when we come to them. I am trying not to think about that scenario at the moment, because as you set off on a path where you are building in a contingency for failure—

Chair: It must have crossed your mind.

Stephen Crabb: —projects have a way of drawing you down that path to—

Chair: It must have crossed through your mind that you might face such a situation.

Stephen Crabb: Genuinely not, Mr Chairman. I want to spend the coming weeks and coming months getting this legislation right and, as I said at the start, this is a draft Bill, it is not the final Bill. It is draft for a reason. The reason is we want to hear views on it and get the detail right but we are talking about is getting details right. It is getting the fundamental mechanisms and the inner workings of the devolution arrangements right. What I do absolutely fundamentally believe is that the broad architecture set out in this Bill is the right one. I think it is future proof. If future Governments want to tweak the devolution boundary this Bill gives you some relatively straightforward and simple architecture with which to do that, which is why I make the point that it should stand the test of time.

Q56 Liz Saville Roberts: Following on from that, how are you taking forward the Silk recommendation in relation to intergovernmental relations? How would you characterise those relations during your time as Secretary of State for Wales?

Stephen Crabb: I addressed that question in part earlier on where I talked about the JMC arrangements—the Joint Ministerial Committee—in answer to the question about a constitutional convention. So that is the primary forum for intergovernmental relations.

We are reviewing that at the moment. We are also looking at scope for much greater bilateral relations, but also at evolving working groups on issues that affect all of the Administrations in the UK, so much more practically focused. The weakness of the JMC up until now, I would say, is that it tends to be not particularly focused on real outcomes. That is one observation I would make. But we wanted to make it much more purposeful and I think there is a lot of thought going into that, and that is the Cabinet Office and Oliver Letwin leading on that piece of work. It might be useful to call him in if you want to press him further on that. Geth, you have been a bit more plugged in on the intergovernmental side.

Geth Williams: Yes, as the Secretary of State said, Cabinet Office lead the work but it does involve all three devolved Administrations as well. They are looking at the overarching memorandum of understanding, which dictates relations between the four Governments of the UK looking at the JMC and looking at governance arrangements more widely.

In terms of Silk recommendations on intergovernmental working, they have been folded within that wider piece of work.

Q57 Carolyn Harris: I can't find it now, but you say you want to protect something called "reserved authorities of public bodies that are primarily non devolved". Presumably they will not be able to legislate without your consent if they are affected. What bodies would these be? Can you give me a list of what they would be?

Stephen Crabb: The legislation will spell out a number of named bodies and then there will be a general category of reserved bodies. The last time I was in front of this Committee we talked about the police, which we are not devolving, despite the fact it was a Silk recommendation. There wasn't agreement among the parties for that. So that will remain reserved, but what we have seen in recent years is Welsh Government, through its legislation on safeguarding, impose financial duties on the Welsh police forces. Now, that was done without the consent of the Minister who is responsible for those forces. For me, that is not an example of respect working in the devolution settlement. As I was talking about earlier, in terms of the way we make laws here in Parliament, if they impinge on devolved areas we quite properly seek the consent of the relevant Welsh Minister through the Welsh Assembly for that. So it needs to cut both ways and I think that is—

Q58 Carolyn Harris: Can we have a list?

Sue Olley: We can give you some examples but the point of having the reserved authority as a category is to avoid having a list because you always leave something off the list.

Q59 Carolyn Harris: I think for the sake of transparency it would be better if we knew what the reserved authorities were.

Sue Olley: I think you know clearly what are Welsh public authorities, because the definition is clear and it is not our intention to have a list but we are happy to give you some examples.

Q60 Carolyn Harris: But it will not be a full list?

Sue Olley: There will not be a full list in the Bill.

Chair: You have spent an hour and 15 minutes answering questions, Secretary of State, and we are very grateful to you for that. As I do not see any further people trying to catch my eye, I will draw this session to a close. We look forward to discussing further with you after we have finished our deliberations with other organisations and individuals. Thank you very much indeed.