



Wales Bill 2013-14: Progress of the Bill

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This is a note on the House of Commons Committee Stage of the *Wales Bill*. It complements the Research Paper [Wales Bill 2013-14](#) prepared for the Commons Second Reading.

The Bill devolves some tax-raising powers to the National Assembly for Wales. Stamp duty and landfill tax are devolved. Some powers over income tax are also devolved, subject to approval in a referendum.

The Bill also changes the term of the Assembly to five years, allows candidates to stand in constituencies and regions at the same time and removes the possibility of sitting in both the Assembly and in the House of Commons.

No amendments were made to the constitutional provisions of the Bill. There were some largely technical amendments to the financial provisions at Committee stage.

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1 Background

The *Wales Bill 2013-14* had its first reading in the House of Commons on 20 March 2014 and the second reading debate took place on 31 March 2014.¹ The Bill was considered in Committee on the floor of the House on 30 April 2014 and 6 May 2014.^{2 3}

The Bill has two main parts. Part 1 makes changes to the National Assembly for Wales and the Welsh Assembly Government. Part 2 creates new tax and borrowing powers. It devolves stamp duty and landfill tax. It also devolves some powers over income tax, subject to approval in a referendum.

The Government had published a [draft Wales Bill](#) in December 2013. The Welsh Affairs Committee published a [report](#) on the draft Bill in February 2014.⁴ Many of the financial provisions of the Bill were based on the recommendations of the [Silk Commission](#).

Full details of the Bill are on the [Wales Bill page](#) of the House of Commons website.

2 Second reading debate

The [second reading](#) of the *Wales Bill* took place on 31 March 2014. Introducing the debate, the Secretary of State, David Jones MP, said that the Bill “delivers an ambitious package of devolved powers for Wales”. He went on to say that the Bill provided:

powers providing incentives and opportunities for the Welsh Government to grow the Welsh economy and increase prosperity; powers making the devolved institutions in Wales more accountable for raising some of the money they spend; and powers that make devolved governance in Wales fairer.⁵

[...]

The powers devolved to Wales by this Bill will, for the first time, make the devolved institutions in Wales—both the Welsh Government and the Assembly—directly accountable to the electorate for raising some of the money they spend. The Bill will give the Welsh Government more levers to enable it to deliver sustainable economic growth in Wales. It will also deliver borrowing powers that will allow the Welsh Government to invest more in critical infrastructure, not only in transport links such as the M4 and the A55, but in schools and hospitals.⁶

2.1 Constitutional provisions

Owen Smith MP said the Labour Party would not oppose Clause 1 which makes provision for elections to the Assembly to take place every five years instead of every four:

...we accept that the First Minister of Wales and the Welsh Government would like to see the term extended to guarantee, as the Secretary of State put it, that there will not be a clash between elections in Wales and Westminster. In explaining Labour’s position, my hon. Friend the Member for Rhondda is entirely right. We still feel that four years is preferable, and that five is far too

¹ [HC Deb 31 March 2014 c606](#)

² [HC Deb 30 April 2014 c876](#)

³ [HC Deb 6 May 2014 c40](#)

⁴ Welsh Affairs Committee, *Pre-legislative scrutiny of the draft Wales Bill*, 4th report 2013-14, HC 962, 28 February 2014

⁵ [HC Deb 31 March 2014 c606](#)

⁶ [HC Deb 31 March 2014 c606](#)

long and diminishes accountability. That said, we will accept this shift and we will support this aspect of the Bill.⁷

The Opposition welcomed the provision in clause 3 to end ‘double-jobbing’:

On double-jobbing, the third aspect of the electoral arrangements, Labour has always been clear. It has always had an internal party position whereby it does not support people having dual mandates, standing for election and holding office in the Assembly and in Westminster. We are therefore pleased that the Government are moving into line with Labour on this and we will support this aspect of the Bill.⁸

However, the Labour Party opposed the ending of the prohibition on candidates standing for election to the NAW as both a constituency member and a regional member in Clause 2. Owen Smith explained the Opposition’s position on dual candidacy:

The changes in the Bill include a reversal of the Government of Wales Act 2006 ban on candidates standing both under first past the post and on the proportional representation list in Wales. The reason that the previous Labour Government decided to introduce that ban ought to be well understood by the Secretary of State, as it stemmed from a Tammany hall-style example of an election that took place in his constituency of Clwyd West in 2003. On that occasion, the winning Labour candidate was elected on first past the post, while the losing Liberal Democrat, Conservative and Plaid Cymru candidates were also all elected, by the back door and on the back list—Tammany hall in Clwyd West. The system was designed by an earlier Labour Government, but we decided that it was clearly at odds with democracy in Wales. We decided that the people of Wales would not understand how losers could become winners.

Peter Hain (Labour) also spoke against Clause 2 and the reasons why the prohibition had been included in the *Government of Wales Act 2006*:

I want to remind colleagues of the reasons for the 2006 change. I did not act for politically partisan reasons, as was alleged by opponents of the change; I acted for democratic reasons. As one of the Ministers who also took the original 1998 Bill through the Commons permitting dual candidature, I never imagined for a moment then the abuses it would produce and the antipathy it would create among voters in Wales. Voters have never understood the widespread practice that has occurred since the Assembly was established in 1999, whereby candidates rejected by a particular constituency then secured back-door election as Assembly Members through the regional list and were even able to claim to represent the very constituency that had rejected them.

[...]

I am not making a politically partisan point; I am making a democratic point. The practice clouded political accountability and denied voters their right to reject a particular candidate at the ballot box. A change made by the Government of Wales Act 2006 requiring candidates to choose whether to stand for a constituency or on the regional list put the voters back in charge. It

⁷ [HC Deb 31 March 2014 c617](#)

⁸ [HC Deb 31 March 2014 c618](#)

cannot be right for losers to become winners through the back door, despite having been rejected by voters. That is an abuse of democracy.⁹

Roger Williams (Liberal Democrat) welcomed the provision to move the Assembly to five year terms which he said would ‘help ensure that issues relating to the Assembly will receive the hearing they deserve during election campaigns.’¹⁰ He also welcomed the lifting of the ban on candidates standing for election as both a constituency member and a regional member:

When legislating on a ban on dual candidacy in 2006, the then Labour Government said that the process

“devalues the integrity of the electoral system in the eyes of the public and acts as a disincentive to vote in constituency elections.”

However, in reality it has reduced voter choice and undermined the credibility of the electoral system by punishing parties for being successful. I believe that the Opposition’s often used argument that turnout would diminish because voters would be unprepared to vote in elections in which some losing constituency candidates were likely to be elected as regional candidates is unfounded. Dual candidacy is accepted by the electorate in Scotland and, indeed, for the London Assembly.¹¹

Stephen Crabb, the Parliamentary Under-Secretary of State for Wales, responded to the debate and, noting the Labour Party’s opposition to Clause 2, commented that all other parties supported this measure and that Wales was the only country with such a ban on dual candidacy.¹²

2.2 Financial provisions

Owen Smith MP said that Labour supported the devolution of stamp duty land tax and landfill tax to Wales.¹³ Labour also supported the extension of borrowing powers to Wales but argued that the limits on borrowing in the Bill were too low.¹⁴ On income tax, Mr Smith said that Labour was opposed to tax competition across the UK. Labour supported putting income tax powers to a referendum, subject to a number of conditions including that there would be fair funding for Wales and that Wales would be better off.¹⁵

Jonathan Edwards MP (Plaid Cymru) raised the issue of the lockstep.¹⁶ He said that the lockstep would handcuff the Welsh Government and pointed out that it was not a recommendation of the Silk Commission.¹⁷ In response, the Secretary of State said:

The Silk commission recommended that the Welsh Government should be able to set separate Welsh rates of income tax for each of the three income tax bands, but the Government believe that a single Welsh rate for all three bands—the so-called “lockstep”—is the right system for Wales. The same system is being introduced in Scotland under the Scotland Act 2012. The Government have a responsibility to take a UK-wide view: to consider the interests not only of Wales, but of the United Kingdom

⁹ [HC Deb 31 March 2014 c636](#)

¹⁰ [HC Deb 31 March 2014 c657](#)

¹¹ [HC Deb 31 March 2014 c657](#)

¹² [HC Deb 31 March 2014 c692](#)

¹³ [HC Deb 31 March 2014 c618](#)

¹⁴ [HC Deb 31 March 2014 cc620-21](#)

¹⁵ [HC Deb 31 March 2014 cc622-23](#)

¹⁶ Under the lockstep, the Welsh Government would be able to impose only a single Welsh rate of income tax.

¹⁷ [HC Deb 31 March 2014 c613](#)

as a whole, including Wales. If the devolution of income tax is supported in a referendum, the lockstep mechanism would be the best way to maintain a progressive tax system that redistributes wealth across the whole of the UK but does not unnecessarily benefit one part of the UK at the expense of another.¹⁸

3 Committee stage debate

The Bill was considered in Committee on the floor of the House on 30 April and 6 May 2014.

3.1 Constitutional provisions

Clause 1

The Parliamentary Under-Secretary of State for Wales, Stephen Crabb, welcomed the cross-party support for the principle that as far as possible, ordinary general elections to the National Assembly should not coincide with general elections to the UK Parliament.¹⁹ Clause 1 would make this less likely by making provision for Assembly elections to be held every five years.

Owen Smith (Labour) moved a probing amendment to Clause 1 seeking clarification of the Government's position on whether the Assembly should have the power to determine its own electoral term.²⁰ The Minister noted that the Silk Commission had considered the matter of legislative competence for the National Assembly elections to be outside its terms of reference and had made no recommendations about this in its second report.²¹ The Government believed that the devolution of further powers to the Assembly should not be undertaken in a 'piecemeal fashion' and that legislative competence for elections should be considered in the wider context of possible changes to the Welsh devolution settlement by the next Parliament and the next Government.

The Opposition withdrew the amendment and Clause 1 was agreed stand part of the Bill.

Clause 2

Mark Harper (Conservative) moved an amendment which would require the Secretary of State to set up an independent review of the impact on the effectiveness of the Assembly of the removal of the restriction on standing for both constituency and electoral region, and also on the advantages and disadvantages of amalgamating the five Assembly regions into one for the whole of Wales.²²

The Secretary of State for Wales, David Jones, responded that that Government believed that the current ratio of constituency and regional Assembly Members was right and added that an all-Wales national list 'was not desirable as it would place more distance between regional Members and their constituents'.²³ Mr Harper subsequently withdrew the amendment.

Jonathan Edwards (Plaid Cymru) moved an amendment to add a new clause 4 to the Bill to transfer the responsibility for deciding the number of Assembly Members to the National Assembly.²⁴ Jonathan Edwards argued that the size of the Assembly should be increased:

¹⁸ [HC Deb 31 March 2014 c613](#)

¹⁹ [HC Deb 30 April 2014 c886](#)

²⁰ [HC Deb 30 April 2014 c876](#)

²¹ [HC Deb 30 April 2014 c886](#)

²² [HC Deb 30 April 2014 c887](#)

²³ [HC Deb 30 April 2014 c928](#)

²⁴ [HC Deb 30 April 2014 c897](#)

The Assembly at present is arguably buckling under the weight of the new powers it has been granted. It would be in the best interests of full and open democracy to ensure that there is an adequate number of AMs to keep the Executive in check. After all, aside from the Welsh Government Members, there are only 42 Back Benchers in the Assembly, which by any standard is not enough.²⁵

The Secretary of State for Wales said the new clause would pre-empt the recommendation of the Silk Commission that the size of the Assembly should be increased and this recommendation would be for the next Parliament to consider.²⁶ There was a division on the new clause which was rejected: Ayes 4, Noes 254.²⁷

Owen Smith reiterated the Labour Party's opposition to the ending of the prohibition on candidates standing for election to the NAW as both a constituency member and a regional member in Clause 2.²⁸ Peter Hain, who was Secretary of State for Wales when the ban was introduced, explained the reasons behind its introduction and compared the situation in Wales to that in Scotland:

On the issue of dual candidacy, two different paths were followed: in Scotland it was through greater clarification of the roles of Members and by turning to open lists; and in Wales we felt that the ban was the right solution to dual candidacy abuse. Nearly a decade on from the Government of Wales Act 2006 I feel that we made the right choice, but much more must be done to give regional Assembly Members more accountability to the electorate. On candidacy, this Bill does nothing to further the evolution of Welsh democracy—indeed it puts it into reverse.²⁹

The Secretary of State for Wales, David Jones, stated that the Government was legislating to remove an 'unfair prohibition' and would reintroduce 'the system that was in place and worked well between 1998 and 2006'.³⁰

Clause 2 was agreed stand part of the Bill after a division: Ayes 265, Noes 191.³¹

Clauses 3-5

Clause 3 of the Bill which disqualifies members of the House of Commons from being members of the National Assembly was ordered to stand part of the Bill without debate.

Clauses 4 and 5 relating to the Welsh Assembly Government were agreed to stand part of the Bill without amendment.

3.2 Financial provisions

No significant amendments were made to the Bill's financial provisions at Committee stage but some, largely technical, amendments were made. A range of financial issues were discussed at Committee stage, including the lockstep, the Barnett formula and "fair funding" for Wales and the Bill's provisions on borrowing.

²⁵ [HC Deb 30 April 2014 c898](#)

²⁶ [HC Deb 30 April 2014 c928](#)

²⁷ [HC Deb 30 April 2014 c937](#)

²⁸ [HC Deb 30 April 2014 c902](#)

²⁹ [HC Deb 30 April 2014 c912](#)

³⁰ [HC Deb 30 April 2014 c927](#)

³¹ [HC Deb 30 April 2014 c929](#)

Clause 6

There was a division on an amendment tabled by the shadow front bench which would require the Chancellor to “undertake a review of the benefits of symmetry in the devolution of taxes between Wales and Scotland” if the power to add new devolved taxes was used in either Wales or Scotland. Owen Smith said:

Our contention is that although devolution has, for all sorts of reasons—historic, political appetite and timing—developed in an asymmetrical fashion across the UK, which has often been desirable and necessary, on both sides of the House we recognise that it is potentially undesirable for that degree of asymmetry to continue in future. It is undesirable because with it has come a certain instability in our devolution settlement. It is not a pressing problem of instability that has in any way threatened the existence of the UK, until recent months and years, but it is increasingly problematic.³²

He went on to say:

The essential point we are making is that we, unlike the Conservative party, are not in favour of tax competition. We are not in favour of one part of the UK undercutting another, but the Secretary of State and the Tory party are.³³

In response, the Exchequer Secretary said that the amendment failed to take into account existing principles of tax devolution which state that changes should be evidence-based and be considered in a UK-wide context, including whether symmetry with the other devolved Administrations was desirable. He argued that the amendment sought to impose “an unnecessary statutory basis on a process that the Government would undertake as a matter of course” and could lengthen the process of devolving taxes. This amendment was defeated by 280 votes to 216.³⁴

Plaid Cymru tabled an amendment which would allow the National Assembly for Wales to introduce a new tax without the need for approval by the Houses of Parliament. In response, the Exchequer Secretary said while it was necessary to give the Assembly powers to help the Welsh economy grow, it was also necessary to strike a balance to ensure that this was not at the expense of overall tax receipts in the UK or the competitiveness of the UK economy. The amendment was withdrawn.

Government amendment 19 was agreed to. This ensures that the overview provisions relating to the Assembly’s power to set a rate of income tax can only come into force after a yes vote in a referendum.

Clause 7

A Government amendment was agreed to preventing the Assembly changing the functions of HM Revenue and Customs unless these functions relate to devolved taxes, in which case the agreement of the Treasury is required.

Clauses 8 and 11

One of the main financial areas debated during the Committee stage was the “lockstep”. If the income tax provisions of the Bill were to come into force following approval in a referendum, the basic, higher and additional rates of income tax would be reduced in Wales by 10 percentage points and the new Welsh rate added to each of these rates. The current

³² [HC Deb 6 May 2014 c50](#)

³³ [HC Deb 6 May 2014 c54](#)

³⁴ [HC Deb 6 May 2014 c62](#)

basic, higher and additional rates of tax are 20%, 40% and 45%, so reduction by 10 percentage points would reduce them to 10%, 30% and 35%.

Under the proposals in the Bill, a single Welsh rate would be set by the National Assembly for Wales and added to the 10%, the 30% and the 35%. The Bill says there can only be a single Welsh rate of income tax. It would not be possible for the Assembly to set a different Welsh rate to be added to the higher or additional rate from that added to the basic rate, for example. This feature of a single Welsh rate of income tax is known as the “lockstep”.

Jonathan Edwards MP said that the Bill was contradictory. He said that the Government argued that greater tax devolution was necessary to incentivise greater economic growth in Wales but that the lockstep made it “impossible” to use these powers.³⁵

Mr Edwards argued that the lockstep was a different arrangement than recommended by the Silk Commission. He proposed two ways to restore the Silk proposals: either proceeding with the lockstep income tax power but without a referendum (as proposed by amendment 1) or amending the Bill to reflect the Silk recommendation on income tax (as proposed by amendments 2,3 and 4) by removing the lockstep and holding a referendum.

Mr Edwards said:

The purpose of amendment 1 is to ensure that the referendum is on the ability of Wales to vary each income tax band individually, rather than the lockstep that is proposed in the Bill.³⁶

[...]

In reality the lockstep kills the ability to vary income tax at all, which strengthens the argument that I put to the Minister in an intervention—the lockstep hinders what the Government claim to be trying to achieve in the Bill, which is to incentivise the Welsh Government to develop their economy. Without the ability to introduce innovative income tax policy, how are they meant to achieve that?³⁷

[...]

We in Plaid Cymru are seeking ... to maintain the integrity of the original cross-party Silk commission recommendations. We believe that the Welsh economy needs that sensible package of reforms in order to increase its ability to bring about economic growth and create jobs. We believe that it is a necessary tool, which will help us to begin to rebalance the economy of the British state by giving greater power to the nations and regions, and will help Wales to begin to lift itself from the bottom of the UK economic league table.³⁸

[...]

We do support the Bill, but we want to use the opportunities provided by the Committee stage to strengthen and improve it. In my view, the lockstep is one provision that needs urgently to be removed. If the United Kingdom Government are

³⁵ [HC Deb 30 April 2014 cc947-8](#)

³⁶ [HC Deb 30 April 2014 c950](#)

³⁷ [HC Deb 30 April 2014 c950](#)

³⁸ [HC Deb 30 April 2014 c952](#)

determined to introduce it, let us devolve it in the Bill and then have a referendum on its removal. Why have a referendum on the lockstep mechanism?³⁹

Plaid Cymru moved an amendment which would allow a referendum to be held only if there were no lockstep and more than one Welsh rate of income tax were set. This amendment was defeated by 243 votes to 5. Plaid Cymru also tabled a number of amendments allowing the NAW to set more than one rate of income tax but these were not voted on.

For the Government, Mr Gauke said that it was necessary to find a balance between greater accountability on the one hand and the problems caused by tax competition, which could damage the UK as a whole, on the other.⁴⁰ He explained the Government's opposition to the lockstep:

Amendments 1 to 4, which were tabled by Plaid Cymru, relate to the single Welsh rate of income tax—the so-called lockstep system. Fundamentally, income tax devolution must work within the integrated UK-wide income tax system. It must work for Wales by increasing the accountability of the Assembly and the Welsh Government, and it must work for the UK by maintaining the stability of the tax system.

Following a thorough and robust assessment of the Silk commission recommendations, we have determined that that would be most effectively achieved through a single Welsh rate of income tax that applied to all bands. There are two main reasons for that. First, the pooling and redistribution of tax revenues is a key feature of our fiscal model and ensures that wealth is shared among the regions and countries of the UK. The income tax structure is a key mechanism for achieving wealth redistribution. It is surely right, therefore, that UK-wide redistribution is decided at the UK level. The lockstep ensures that that will continue to be the case.

Secondly, although there are many benefits of tax devolution, it is not without risk. Specifically, we need to minimise the potential for harmful tax competition, increased opportunities for tax avoidance and evasion, and higher administrative burdens. It is therefore crucial that when we devolve taxes, we do so in a way that minimises those risks. In particular, the Government have consistently been clear that tax devolution should not benefit one part of the UK to the detriment of another. Tax devolution is not about moving economic activity from one area to another, but about empowering the devolved Administrations to generate additional growth and increasing their accountability by linking their budgets to their decisions. That incentivises the devolved Administrations and increases their accountability to the people, in this case in Wales..⁴¹

A number of technical amendments to the income tax provisions in clause 8 were made without division.

Clause 19

Plaid Cymru tabled a number of amendments to clause 19 which deals with borrowing by Welsh Ministers. Only one of these was pressed to a vote where it was defeated.

The amendments related to the limit on capital borrowing and the sources of that borrowing. The amendments sought to increase the capital borrowing limit in line with inflation and ensure that if the limit were raised, it could not subsequently be lowered. On the sources of borrowing, the amendments sought to allow Welsh Ministers to issue bonds. The power to

³⁹ [HC Deb 30 April 2014 c953](#)

⁴⁰ [HC Deb 30 April 2014 cc948](#)

⁴¹ [HC Deb 30 April 2014 c947](#)

issue bonds would be in line with that recently granted to Scotland and also in line with the recommendations of the Silk Commission.

The Government opposed these amendments. On the issue of borrowing limits, the Government argued that the mechanism already proposed was adequate and that preventing the lowering of the limit could act as a disincentive to increase it. The Government had already said in the Command Paper accompanying the Bill that it was willing to consider the case for Welsh bonds. The Exchequer Secretary went on to say:

That remains our position. But it is right that the UK Parliament retains the competence over the sources of borrowing available to the Welsh Government so that the UK Government can properly execute their macro-economic responsibilities. For example, it should be for the UK Parliament, rather than the Welsh Assembly, to decide whether it is appropriate for there to be another entrant into the sterling bonds market. As is consistent with that, although we are providing Welsh Ministers with these important new borrowing powers, it is right that the Treasury retains sufficient control over aggregate levels of public borrowing.⁴²

Clause 21

A Government amendment was passed relating to a financial statement laid before the Assembly each year by the Secretary of State.⁴³

Plaid Cymru tabled an amendment allowing the Welsh Government to rename its finance department following a resolution of the Assembly. The Secretary of State argued that there was no need for legislation on this:

Mr Llwyd: Am I to understand that, if they were so minded, the Welsh Government and the National Assembly could call their Finance Department the Treasury, without recourse to Westminster?

Mr Jones: That, of course, is entirely a matter for the Welsh Government, but, in practice, that is what they are calling it at the moment.⁴⁴

A number of amendments were tabled relating to the provision of health services in England and Wales. The Secretary of State said that the Wales Bill was not “a suitable vehicle” for dealing with the issues raised but said he would welcome the House returning to them at Report stage so that he could provide an update on the measures being taken to address the concerns raised.⁴⁵

Plaid Cymru tabled a new clause which would require the Secretary of State to review the options for reforming the Barnett formula to take account of public spending needs in Wales. Elfyn Llwyd MP argued that Wales was underfunded by £300 million to £400 million a year under the current arrangements. In response the Secretary of State said that the Government’s priority was to reduce the budget deficit. Any changes to the Barnett formula would have to wait until the public finances were stabilised. He also pointed to the October 2012 agreement between the Welsh and UK Governments on Welsh funding. The House divided on the new clause which was defeated by 260 votes to 5.

Clause 28

⁴² [HC Deb 6 May 2014 c84](#)

⁴³ [HC Deb 6 May 2014 c109](#)

⁴⁴ [HC Deb 6 May 2014 c110](#)

⁴⁵ [HC Deb 6 May 2014 c114](#)

Owen Smith MP, said that Labour had been clear about the need for a triple lock before income tax powers were devolved to Wales. The three elements of this triple lock were:

- That the measures would be good for Wales and the Welsh budget
- That fair funding was secured for Wales
- Agreement in a referendum

Labour tabled amendments to clause 28 which would require a Welsh Government Minister to state that the Welsh Government was content with the funding arrangements for Wales. Labour did not press these amendments as “there is such a long period until the measure comes into force” but said that it would “maintain our concerns about the motivations that lie behind it”.⁴⁶

New clauses relating to the Crown Estate in Wales

Plaid Cymru tabled a number of new clauses relating the Crown Estate in Wales. These provided for legislative responsibility for the Crown Estate in Wales to be transferred to the Welsh Assembly, that Wales should receive the revenue from the Crown Estate in Wales and that a Crown Estate Commissioner with particular responsibility for Wales be appointed. The last of these was a recommendation of the Silk Commission.

In response the Under-Secretary of State said that the amendments went further than the Silk Commission had recommended and that the Government did not regard the Bill as the appropriate way of implementing the recommendations in part II of the Silk Commission report. The new clauses, which were probing amendments, were withdrawn.

⁴⁶ [HC Deb 30 April 2014 c958](#)