

Cynulliad Cenedlaethol Cymru

Comisiwn Silk Tachwedd 2011

Yn gynharach yn 2011, cyhoeddodd Ysgrifennydd Gwladol Cymru, y Gwir Anrhydeddus Cheryl Gillan AS, y byddai'n penodi comisiwn annibynnol i ystyried atebolrwydd ariannol Llywodraeth Cymru a Chynulliad Cenedlaethol Cymru ac, yn ddiweddarach, y setliad cyfansoddiadol.

Mae'r Comisiwn hwnnw wedi'i sefydlu erbyn hyn, a phenodwyd Paul Silk yn gadeirydd iddo. Mae'r papur hwn yn rhoi gwybodaeth am sefydlu'r Comisiwn Silk a'i gylch gwaith.

Gwasanaeth
Ymchwil



Cynulliad Cenedlaethol Cymru yw'r corff sy'n cael ei ethol yn ddemocrataidd i gynrychioli buddiannau Cymru a'i phobl, i ddeddfu ar gyfer Cymru ac i ddwyn Llywodraeth Cymru i gyfrif.

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Cynulliad Cenedlaethol Cymru

Comisiwn Silk
Tachwedd 2011

Alys Thomas

Rhif dogfen: 11/066

Gwasanaeth
Ymchwil



Cynnwys

1.	Cyflwyniad.....	1
2.	Y Comisiwn	1
2.1.	Aelodaeth	1
2.2.	Cylch Gorchwyl	2
2.3.	Gwaith y Comisiwn	4
3.	Moratoriwm.....	4
4.	Ymateb Gwleidyddol.....	5
5.	Y Ddadi yn Nhŷ'r Cyffredin	7
5.1.	Cyfraniadau agoriadol y Llywodraeth a'r Wrthblaid.....	7
5.2.	Materion Allweddol	10

Comisiwn Silk

2. Cyflwyniad

Ar 19 Gorffennaf 2011, cyhoeddodd y Gwir Anrhydeddus Cheryl Gillan AS, Ysgrifennydd Gwladol Cymru, y byddai'n penodi comisiwn annibynnol i ystyried atebolrwydd ariannol Llywodraeth Cymru a Chynulliad Cenedlaethol Cymru. Nododd ei bod yn disgwyl y byddai'r gwaith yn dechrau yn yr hydref. Yn dilyn hynny, dywedodd Ysgrifennydd Gwladol Cymru y byddai'r Comisiwn, ar ôl iddo gyflwyno adroddiad ar atebolrwydd ariannol, ac ar ôl i Lywodraeth y DU ystyried ei gynigion, yn ystyried setliad cyfansoddiadol Cymru ar sail profiad. Nod y Comisiwn yw **cyflwyno adroddiad ar ei ganfyddiadau yn 2013**.¹

Cyhoeddwyd datganiad ynghylch pwy fyddai cadeirydd y Comisiwn a'i aelodau ar 11 Hydref 2011². Y cadeirydd yw Paul Silk, sef Clerc Cynulliad Cenedlaethol Cymru rhwng 2001 a 2007; mae hefyd yn gyn-Glerc yn Nhŷ'r Cyffredin. Daethpwyd i'r arfer, felly, o alw'r Comisiwn yn 'Gomisiwn Silk'.

Mae'r papur hwn yn cyflwyno gwybodaeth am gylch gorchwyl y Comisiwn, ei aelodaeth, a'r ymateb iddo.

Gellir dod o hyd i ragor o wybodaeth gefndirol am sefydlu Comisiwn Silk mewn papur a baratowyd gan y Gwasanaeth Ymchwil: '[Y llwybr tuag at y Comisiwn Annibynnol ar ddatganoli yng Nghymru](#)'.

Ceir gwybodaeth fanwl am y trefniadau presennol ar gyfer ariannu datganoli drwy fformiwla Barnett mewn papur a baratowyd gan y Gwasanaeth Ymchwil: '[Fformiwla Barnett a newidiadau yng nghyllideb datganoli](#)'.

3. Y Comisiwn

3.1. Aelodaeth

Cyhoeddodd Ysgrifennydd Gwladol Cymru ar 11 Hydref 2011 **mai Paul Silk fyddai cadeirydd y Comisiwn**. Ef oedd Clerc Cynulliad Cenedlaethol Cymru rhwng 2001 a 2007, ac mae'n gyn-Glerc yn Nhŷ'r Cyffredin. Mae'r Comisiwn hefyd yn cynnwys **pedwar aelod a enwebir gan y pleidiau gwleidyddol yng Nghynulliad Cenedlaethol Cymru, ynghyd â dau aelod annibynnol**.

Dyma aelodau eraill y Comisiwn:

- Dyfrig John CBE (Cadeirydd Cymdeithas Adeiladu'r Principality)

¹ [Swyddfa Cymru, Amlinellu'r Camau Nesaf ar gyfer y Comisiwn ar Ddatganoli yng Nghymru, Datganiad i'r Wasg, 19 Gorffennaf 2011 \[fel ar 8 Tachwedd 2011\]](#)

² [Swyddfa Cymru, Creu'r Comisiwn ar Ddatganoli yng Nghymru, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 8 Tachwedd 2011\]](#)

- Yr Athro Noel Lloyd CBE (cyn-is-ganghellor Prifysgol Aberystwyth)
- Yr Athro Nick Bourne (Enwebai'r Ceidwadwyr Cymreig, a chyn-arweinydd y Ceidwadwyr Cymreig yn y Cynulliad Cenedlaethol)
- Sue Essex (Enwebai Llafur Cymru, a chyn-Weinidog Cyllid Llywodraeth Cymru)
- Rob Humphreys (Enwebai Democratiaid Rhyddfrydol Cymru, a Chyfarwyddwr y Brifysgol Agored yng Nghymru)
- Dr Eurfyl ap Gwilym (Enwebai Plaid Cymru, economegydd)³

3.2. Cylch Gorchwyl

Dyma gylch gorchwyl y Comisiwn:

Bydd Comisiwn annibynnol yn cael ei sefydlu i adolygu'r trefniadau ariannol a chyfansoddiadol presennol yng Nghymru. Bydd dwy ran i'w waith:

Rhan I: atebolrwydd ariannol

Adolygu'r achos dros ddatganoli pwerau cyllidol i Gynulliad Cenedlaethol Cymru ac argymhell pecyn o bwerau a fyddai'n gwella atebolrwydd ariannol y Cynulliad, sy'n cyd-fynd ag amcanion ariannol y Deyrnas Unedig ac sy'n debygol o gael eu cefnogi'n eang.

Rhan II: pwerau Cynulliad Cenedlaethol Cymru

Adolygu pwerau Cynulliad Cenedlaethol Cymru ar sail profiad ac argymhell diwygiadau i'r setliad cyfansoddiadol presennol a fyddai'n galluogi Senedd y Deyrnas Unedig a Chynulliad Cenedlaethol Cymru i wasanaethu pobl Cymru'n well.

Wrth ymgymryd â Rhan I, dylai'r Comisiwn:

- ddarparu cyngor annibynnol ynghylch yr achos dros wella atebolrwydd ariannol Cynulliad Cenedlaethol Cymru gan gyd-fynd â fframwaith cyllidol a chyfansoddiadol y Deyrnas Unedig;
- ymgynghori'n eang ar becyn o bwerau cyllido a fyddai'n gwella atebolrwydd ariannol Cynulliad Cenedlaethol Cymru;
- gwneud argymhellion ynghylch a ellid datganoli pecyn o bwerau cyllidol i Gynulliad Cenedlaethol Cymru a fyddai'n debygol o gael ei gefnogi'n eang; ac
- ystyried a gwneud argymhellion ynghylch y ffordd orau i fynd i'r afael â materion deddfwriaethol a'r materion gweithredu ymarferol sydd ynghlwm

³ [Swyddfa Cymru, Creu'r Comisiwn ar Ddatganoli yng Nghymru, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 8 Tachwedd 2011\]](#)

wrth ddatganoli pecyn o bwerau cyllidol, gan gynnwys cysondeb o fewn y Deyrnas Unedig.

Bydd Rhan I yn cael ei chwblhau cyn i'r gwaith ar gyfer Rhan II ddechrau.

Wrth ymdrin â Rhan II, dylai'r Comisiwn:

- archwilio pwerau Cynulliad Cenedlaethol Cymru, ac yn benodol:
- y ffin rhwng yr hyn sydd wedi'i ddatganoli a'r hyn nas datganolwyd;
- a ddylid diwygio'r ffin ar hyn o bryd; ac
- unrhyw oblygiadau trawsffiniol i ddiwygiadau o'r fath;
- ymgynghori'n eang ar unrhyw ddiwygiadau arfaethedig i'r ffin bresennol;
- gwneud argymhellion ynghylch unrhyw ddiwygiadau i'r setliad sy'n debygol o gael eu cefnogi'n eang; ac
- ystyried a gwneud argymhellion ynghylch y ffordd orau i fynd i'r afael â'r materion deddfwriaethol a'r materion gweithredu ymarferol sydd ynghlwm wrth y diwygiadau hynny.

Ni fydd Comisiwn Silk yn ystyried, yn Rhan I, gynigion Comisiwn Holtham ynghylch diwygio cyllido yng Nghymru, gan gynnwys pwerau benthycia presennol Gweinidogion Cymru, sy'n cael eu hystyried drwy broses ddwyochrog ar wahân y mae Llywodraeth y Deyrnas Unedig a Llywodraeth Cymru yn rhan ohoni. Yn ogystal, ni fydd yn ystyried, yn Rhan II, strwythur Cynulliad Cenedlaethol Cymru, gan gynnwys materion mewn perthynas ag ethol Aelodau'r Cynulliad.

Cyhoeddodd Jane Hutt AC, y Gweinidog Cyllid ac Arweinydd y Tŷ, ddatganiad ar gynnydd y trafodaethau dwyochrog ar 10 Hydref 2011. Dywedodd y byddai'r trafodaethau cychwynnol yn cynnwys ymgais i ddod i ddealltwriaeth gytûn ynghylch:

- tueddiadau o ran gwariant yng Nghymru;
- astudiaethau blaenorol o anghenion Cymru; a
- sut y gweithredir y pwerau benthycia presennol.

Daeth i'r casgliad a ganlyn:

Ar ôl inni ystyried y tueddiadau gwario a'r astudiaethau o anghenion blaenorol, ac yn amodol ar gytundeb Gweinidogion Cymru a Gweinidogion y DU bod problem yn bodoli, bydd y cam nesaf yn edrych ar y dewisiadau ar gyfer diwygio.

Bydd y trafodaethau hyn yn parhau ochr yn ochr â gwaith y Comisiwn ar Ddatganoli yng Nghymru, y disgwylir i Ysgrifennydd Gwladol Cymru wneud datganiadau pellach yn ei gylch cyn bo hir.⁴

3.3. Gwaith y Comisiwn

Cyfarfu'r Comisiwn am y tro cyntaf ar 4 Tachwedd 2011 yn Stadiwm y Mileniwm. Yn ei datganiad i'r Comisiwn, dywedodd Ysgrifennydd Gwladol Cymru:

I expect the Commission to consult widely on its proposals, and building on the consensus we have sought to achieve in its formation, to make recommendations which are likely to have wide degree of support.⁵

Dywedodd Mr Silk:

It will now be up to us as a Commission to come together, gather evidence, speak to as wide range of people as possible and come up with a package of recommendations with a wide range of support. No mean feat but one which I am determined we can achieve. I am sure that we will encounter difficulties from time to time, but my aim is to ensure that all political parties and the two Governments in London and Cardiff retain confidence in our work.⁶

Yn ei gyfarfod cyntaf, a gynhaliwyd yn breifat, bu aelodau'r Comisiwn yn trafod sut y bydd y Comisiwn yn gweithredu a'i raglen waith ar gyfer Rhan I, a chytunodd ynghylch sut y bydd yn casglu gwybodaeth i gynorthwyo'i waith.⁷

Mewn erthygl yn *The Guardian*, dywedwyd bod Mr Silk wedi awgrymu y byddai'n dymuno cynnal cyfarfodydd preifat yng Nghymru a'r tu allan iddi, a'i fod yn rhagweld y byddai'r corff yn siarad â chyn-aelodau Comisiwn Calman yn yr Alban. Nodwyd hefyd fod Mr Silk wedi dweud y byddai pob treth yn cael ei hystyried, gan ychwanegu: "The taxes one will be looking at primarily are corporation tax, income tax and the smaller taxes like landfill tax and aggregates tax." Dywedodd hefyd y gallai'r Comisiwn ystyried a fyddai creu system farnwrol ar wahân i Gymru yn bosibl.⁸

4. Moratoriwm

Mewn cyfweiliadau â'r wasg a gynhaliwyd y diwrnod y cyhoeddwyd y byddai'r Comisiwn yn cael ei sefydlu, nodwyd bod yr Ysgrifennydd Gwladol wedi dweud

⁴ [Llywodraeth Cymru, Datganiad Cabinet Ysgrifenedig gan Jane Hutt AC, y Gweinidog Cyllid ac Arweinydd y Tŷ, Hynt y trafodaethau rhynglywodraethol ar gael setliad ariannol gwell i Gymru, 10 Hydref 2011 \[fel ar 15 Tachwedd 2011\]](#)

⁵ [Swyddfa Cymru, Creu'r Comisiwn ar Ddatganoli yng Nghymru, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 8 Tachwedd 2011\]](#)

⁶ [Swyddfa Cymru, tudalennau gwe'r Comisiwn ar Ddatganoli yng Nghymru, Neges gan y Cadeirydd, 24 Hydref 2011 \[fel ar 9 Tachwedd 2011\]](#)

⁷ [Swyddfa Cymru, Silk Commission to hold its first commission meeting, Datganiad i'r Wasg, 1 Tachwedd 2011 \[fel ar 9 Tachwedd 2011\]](#)

⁸ [The Guardian, Wales may get power to set its own income and corporation tax rates, 11 Hydref 2011 \[fel ar 10 Tachwedd 2011\]](#)

bod moratoriwm, i bob pwrpas, ar gael Gweinidogion Llywodraeth Cymru yn pwyso ar San Steffan am ragor o bwerau mewn meysydd fel ynni.⁹

Yn y ddadl yn Nhŷ'r Cyffredin ar Gomisiwn Silk, eglurodd y sylw hwnnw wrth ymateb i bwynt a gododd Hywel Williams AS, a ddywedodd:

Where others shy away from seeking greater responsibility for the Welsh people and our Government, my party want them to take it. We want them to do so because by taking responsibility for ourselves, we can create and build the better Wales—the Wales that we all want to live in. Devolution should not stop—indeed, it cannot stop, as Ron Davies said all those years ago—and it will not stop, despite the Secretary of State's apparent call for a moratorium, which I saw in *The Western Mail* about three weeks ago. It is clear that in respect of the requirements of good governance, this Government take action, as did the previous Government, to transfer powers to Welsh Ministers. We see statutory instruments appearing fairly regularly to transfer powers. They are perhaps minor powers—they are not changes of principle—but that process will continue.¹⁰

Ymatebodd yr Ysgrifennydd Gwladol gan ddweud:

May I reassure the hon. Gentleman that what I had envisaged was that the major questions—such as energy, ports and the other areas that have from time to time come across my desk, with demands having been made that powers in those areas be passed down—should rightly be looked at by the Silk Commission, but I am certainly not ruling out transfers of administrative matters from time to time where it makes sense? To rule that out would be nonsensical and the door is always open on those issues. I think it is a question of common sense, but we must not undermine what the Silk commission will look at in part II.¹¹

5. Ymateb Gwleidyddol

Wrth groesawu sefydlu'r Comisiwn, dywedodd y Gwir Anrhydeddus Carwyn Jones AC, **Prif Weinidog Cymru**:

We have already looked into how Wales is funded through the Holtham Commission and this new inquiry will follow on from that work and its conclusions. I am pleased that the first phase of the Commission's remit is due to be completed by next autumn. I am sure that the Commissioners will be aware of the need to make quick progress.

We will seek to work positively with the Commission while also continuing to press hard for a funding floor and borrowing powers in the ongoing inter-governmental talks.

Those talks will continue while the new Commission carries out its work. But this is a twin-track process - progress on issues of accountability can only be made if there is also real

⁹ Ibid.

¹⁰ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1175 [fel ar 10 Tachwedd 2011]

¹¹ Ibid.

progress on fair funding and borrowing powers. Wales needs a comprehensive package of financial reforms that delivers a fairer, more stable settlement.¹²

Roedd Andrew RT Davies AC, arweinydd y Ceidwadwyr Cymreig, hefyd yn croesawu'r Comisiwn.¹³

Dywedodd Ieuan Wyn Jones AC, arweinydd Plaid Cymru:

Plaid Cymru welcomes the establishment of the commission and looks forward to playing a full role in the work it will undertake. It is important that the commission plots a clear and ambitious course for Wales in both fiscal and constitutional matters.

While it is now down to the current Welsh government to negotiate a fair funding deal for Wales in the short term, the commission must create a sustainable fiscal footing for our nation and increase the financial accountability of its democratically elected government. It must also be bold and ambitious as it looks at which areas of government should be matters for the Welsh people.

Plaid Cymru will take a constructive and co-operative approach towards the work of the commission, which has the potential to play an historic role in the development of our nation.¹⁴

Nododd Kirsty Williams AC, arweinydd Democratiaid Rhyddfrydol Cymru, fod y Democratiaid Rhyddfrydol wedi cefnogi cael rhagor o bwerau ariannol yn gyson, a dywedodd:

Wales' devolution package is missing a critical element. Unlike most families and businesses, the Welsh government has the luxury of spending money handed out by others. Uniquely, Wales has no power to borrow or raise money. This lack of accountability for how money is raised breeds and irresponsibility about how money is spent.

The process announced today cannot be about Wales whingeing for others to deliver. It is about building a persuasive case with maximum support across Wales that demands the respect of politicians in Westminster.

The Welsh Liberal Democrats will engage fully and constructively in this process. At every stage we will be pressing to bring more accountability and responsibility to the Welsh Government and to give Wales further powers to drive forward Wales' economic development, creating jobs and prosperity for people in Wales.¹⁵

Dywedodd Danny Alexander, Prif Ysgrifennydd y Trysorlys:

The creation of this Commission is the fulfillment of an important commitment to the people of Wales that we made in our Coalition Agreement. With its impressive membership, under the chairmanship of Paul Silk, I hope very much that this Commission will be able to form a

¹² [Llywodraeth Cymru, Croesawu Comisiwn annibynnol ar ariannu yng Nghymru, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 9 Tachwedd 2011\]](#)

¹³ [Y Ceidwadwyr Cymreig, Silk Commission welcomed, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 9 Tachwedd 2011\]](#)

¹⁴ [Plaid Cymru, Plaid yn ymateb i'r Comisiwn ar Ddatganoli yng Nghymru, 11 Hydref 2011 \[fel ar 9 Tachwedd 2011\]](#)

¹⁵ [Democratiaid Rhyddfrydol Cymru, Silk Commission can bring more accountability and responsibility to the Welsh Government - Kirsty Williams, Datganiad i'r Wasg, 12 Hydref 2011 \[fel ar 9 Tachwedd 2011\]](#)

broad consensus about the next steps in devolution of power to Wales, and in particular to give Welsh taxpayers a greater say in how their money is spent.¹⁶

6. Y Ddadl yn Nhŷ'r Cyffredin

6.1. *Cyfraniadau agoriadol y Llywodraeth a'r Wrthblaid*

Cynhaliwyd Dadl yn Nhŷ'r Cyffredin ar 3 Tachwedd ar Gomisiwn Silk. Wrth agor y ddadl ar ran y Llywodraeth, dywedodd **Ysgrifennydd Gwladol Cymru**:

...neither the Assembly nor the Welsh Government are accountable to the people of Wales for the money that they spend on the policies that they implement. The Welsh Government simply receive the Welsh block grant voted by Parliament, and spend it.

That cannot be right. With power comes responsibility, and it is surely better for the devolved institution to be accountable to the people of Wales not just for decisions on public spending in Wales, but by being responsible for raising some of the money needed to pay for those decisions. Even local authorities, despite receiving block grants, have responsibility for raising local council tax, and consequently they recognise the difficulty of raising tax moneys before they spend money. There is no reason why one institution..... should be immune from raising taxes, and instead simply spend money and continue to ask for more.¹⁷

Yn dilyn hynny, dywedodd:

The first part of the Silk commission's remit is to look at financial accountability. It will consider the case for devolving fiscal powers and recommend a package of powers that could improve the Assembly's financial accountability. Those powers would need to be consistent with the United Kingdom's wider fiscal objectives.

The commission will consider the tax and borrowing powers that could be devolved to the Assembly and the Welsh Government. Those include powers in relation to landfill tax, air passenger duty and stamp duty, but they are not limited to those taxes. The commission's remit, however, is to recommend the devolution only of taxation powers that are likely to have wide support, and it will need to consult broadly to secure that support not only in Wales but in other parts of the United Kingdom.¹⁸

Wrth gyfeirio at Ran II o gylch gorchwyl y Comisiwn, dywedodd:

The commission will then turn its attention to the second part of its remit—to look at the current constitutional arrangements in Wales. Specifically, it will consider the powers of the Assembly and the boundary between what is devolved and non-devolved, and make recommendations to modify the boundary, if they are likely to enable the Welsh devolution settlement to work better. Again, the commission will need to consult broadly on its proposals and make only those recommendations for change that are likely to have wide support.

¹⁶ [Swyddfa Cymru, Creu'r Comisiwn ar Ddatganoli yng Nghymru, Datganiad i'r Wasg, 11 Hydref 2011 \[fel ar 8 Tachwedd 2011\]](#)

¹⁷ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1125 [fel ar 9 Tachwedd 2011]

¹⁸ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1125 [fel ar 9 Tachwedd 2011]

Currently, the Assembly has powers in all 20 devolved areas, and it will be for the commission to decide whether there is a requirement to tidy up the devolution boundary, but any further changes to the settlement will need to be right for Wales and right for the United Kingdom as a whole. I anticipate the commission reporting on part 2 of its remit in 2013.¹⁹

Yn ei hymateb i ymyriad gan **Huw Irranca Davies AS** yn y ddadl, eglurodd yr **Ysgrifennydd Gwladol** gwmpas cylch gorchwyl y Comisiwn yn Rhan II.

Huw Irranca-Davies: On a point of detail about the possible extension of powers that the Silk commission is considering, will that include energy consents? The matter has been debated a lot recently, as the Secretary of State knows, and it has some support, and opposition, on both sides of the House. Ministers have made it clear that they do not think that it should be part of the commission's deliberations. Will she clarify the situation?

Mrs Gillan: I am grateful to the hon. Gentleman for raising that matter, particularly as before the debate I was looking at the party manifestos for the Assembly elections. He will know that I regularly receive requests for powers over all sorts of areas, and I expect those areas to be looked at. It is fair to say that I expect the commission—this is subject to the way in which it wishes to conduct its business—to consider requests for energy consents for projects of more than 50 MW, and to consider trust ports, rail and separate Welsh legal jurisdiction, all of which have been raised up the agenda by one or other party, or the Welsh Government. It is right that it should have the opportunity to consider energy consents, but I have an extremely long list of things that other parties want fully devolved, which will not stop until the point of separatism is reached. He and I agree that that is not the way to go. The commission may find itself having to consider several other areas, but I am not going to restrict its operation by anything we say in the House. Indeed, I am looking forward to seeing the outcome.²⁰

Dywedodd yr hyn a ganlyn ynghylch yr amserlenni ar gyfer gweithredu unrhyw argymhellion a wneir:

Three have been set out. One has a shorter time scale, which assumes that, whatever the recommendations, manifesto commitments or referendum would be necessary. In fact, it would be very difficult to produce a Bill by the time of the next general election, and the time scale could be unfeasibly short. However, again, I am not ruling that out; I am simply saying that it would be difficult. If we did that, and if there were new fiscal and constitutional powers, they would be implemented post-2015.

Another scenario is based on a manifesto commitment and no referendum, which would lead us to believe that there would be legislation after the next general election. However, I do not know what the Silk commission will recommend, or whether it will require both manifesto commitments and a referendum, in which case the time scale would be slightly longer.²¹

I gloi ei chyfraniad, dywedodd:

¹⁹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1127 [fel ar 9 Tachwedd 2011]

²⁰ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1128 [fel ar 9 Tachwedd 2011]

²¹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1129-30 [fel ar 9 Tachwedd 2011]

This is also an important statement of intent by the coalition Government. The Welsh Government receive nearly £15 billion a year from the Treasury, but, as I have said, are not accountable for raising a penny they spend. We do not think that is right, and I am certain that taxpayers do not think it is right either. I want the argument, for once, to move away from whether there is enough money to how it is spent and whether it is spent effectively. It is true to say that a Government who take from Peter and give to Paul can always rely on the support of Paul. We are asking the commission to see whether Paul can also make a contribution.²²

Wrth ymateb ar ran yr Wrthblaid, dywedodd y Gwir Anrhydeddus Peter Hain AS:

We welcome the establishment of the Silk commission, which, as the Secretary of State said, has been established on an all-party basis. The Welsh Assembly, which is well over a decade old, is now truly embedded into Welsh civic society, so there may be a case for looking at increasing its financial powers and flexibility. As the First Minister, Carwyn Jones, has indicated, devolving stamp duty, aggregates tax and new borrowing could be advantageous to the Welsh Government and, indeed, to the people of Wales.²³

Fodd bynnag, mynegodd rai pryderon hefyd ynghylch cymhellion Llywodraeth y DU:

I am deeply suspicious of the real Tory agenda that lies behind the Silk commission. The commission's terms of reference state that any devolution of powers must be "consistent with the United Kingdom's fiscal objectives.

Can the Secretary of State explain what is meant by that? I wonder whether, in drawing up the terms of reference, the Chancellor, the Secretary of State and others were thinking of Switzerland, which has a highly federalised and separate tax system in its various cantons, and which demonstrates how such a system can lead to lower public expenditure—not a model that we desire or will accept for Wales. Silk must not become an excuse for this right-wing Government to offload their financial obligations to lower-income parts of the UK, such as Wales.²⁴

Ymatebodd yr Ysgrifennydd Gwladol gan ddweud:

The right hon. Gentleman asked me a direct question, and I will give him a direct answer. Devolved funding rules, as set out in the statement of funding policy, operate within the UK's fiscal framework. We therefore expect any changes that come out of the commission's work or intergovernmental talks to be consistent with that framework, for example as set out in the programme for government. As he knows, that is because macro-economic policy is a reserved matter for the UK.²⁵

²² Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1131 [fel ar 9 Tachwedd 2011]

²³ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1132 [fel ar 9 Tachwedd 2011]

²⁴ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1134 [fel ar 9 Tachwedd 2011]

²⁵ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1134 [fel ar 9 Tachwedd 2011]

Ymatebodd Mr Hain gan ddweud:

I am grateful. The Secretary of State is confirming, then—I am not challenging her on this point—that should there be a derogation in the case of, for instance, stamp duty, that would be taken from the Welsh funding block. That is what I understand her reply to mean.²⁶

Aeth ymlaen i ddweud:

My second element of disappointment is that the Silk commission will not consider the Holtham commission's proposals for funding reform in Wales.....

.....We are aware that Holtham does not offer a quick solution, and that there would be impacts on the other devolved nations and regions. The introduction of a Barnett floor, which was a Labour manifesto commitment and a proposition featured in the Holtham commission's two reports, would have ensured that Wales's position did not become worse. Why have the Government not considered introducing a floor similar to the one that we proposed, which was agreed with the Treasury? It could be implemented relatively straightforwardly, again with the agreement of the Treasury.²⁷

Wrth ystyried sefyllfa lle y byddai'r opsiwn “**datganoli i'r eithaf**” sy'n cael ei grybwyll ar gyfer yr Alban yn cael ei weithredu yng Nghymru, dywedodd Mr Hain:

Under devolution-max, as we understand it from the Scottish model, Wales would be responsible for raising all its own revenue, but we simply could not do it. It would be impossible suddenly to halve public spending in Wales. With devo-max, income tax and other taxes would literally have to double overnight just to maintain current spending levels, which is clearly a preposterous scenario—if ever implemented, it would have a devastating impact upon the Welsh economy and people's way of life.....

..... We should celebrate both the successes of devolution and the economic, social, cultural and political ties that bind us together—they are probably stronger now than ever before—but devo-max, or independence-light, is not the answer to the economic problems that Wales still confronts. Labour's vision is of a Britain in which the stronger, richer parts support the weaker, poorer parts—a Britain fairer, more just and more equal, not an unfair, unjust, unequal Britain where the weakest go to the wall. I hope that the Silk commission will take close account of that important principle.²⁸

6.2. *Materion Allweddol*

Cyfeiriodd Aelodau Seneddol at nifer o faterion allweddol yn ystod y ddadl.

Roedd nifer o Aelodau Seneddol Llafur o'r farn nad oedd yn glir sut y byddai'r **grant bloc yn cael ei ddiwygio** pe bai Cymru'n cael pwerau mewn perthynas â threthi. Dywedodd y **Gwir Anrhydeddus Paul Muprhy AS**:

Finally, we have to be careful that the proposals are not based on a hidden agenda from the Government—what I call the Trojan horse. The hon. Member for Monmouth referred to the

²⁶ Ibid.

²⁷ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1134-35 [fel ar 9 Tachwedd 2011]

²⁸ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1137 [fel ar 9 Tachwedd 2011]

West Lothian question, and the Silk commission's hiving off financial responsibility to the Welsh Assembly, and perhaps taking away the block grant—we do not know for sure—is part of the agenda of the new Conservative party.²⁹

Mynegodd **Wayne David AS** y farn a ganlyn:

I am concerned that the terms of reference are written in such a way that the work of the commission will be conducted within the parameters of the United Kingdom's fiscal objectives. We all know what those central Government objectives are—to make cuts, cuts, cuts, and nothing but austerity, austerity, austerity. It is important to realise that when we are talking about fiscal matters regarding Wales, we are talking about not increased resources but fewer resources. The question is how that reduction in resources will be introduced.³⁰

Dywedodd **Huw Irranca-Davies AS**:

Although there is significant merit in addressing the two matters that the Silk commission will examine—power and fiscal responsibilities—there is a worry that Wales will be done down. To her credit, the Secretary of State has made it clear today that she does not want that to happen, but there is a great deal of concern among Opposition Members that we might end up in that situation, particularly given the coalition's approach to constitutional affairs since it was formed. The concern is that this process will not be about looking after the best interests of the people of Wales, or even the best interests of the institutions of Wales—that is, in fact, a decidedly secondary consideration—but that instead it will be a way to look as if we are giving with one hand, while in reality taking away with the other. That is a concern, and we must monitor what happens.³¹

Roedd nifer o Aelodau Seneddol Llafur yn dadlau nad oedd argymhelliad Comisiwn Holtham ynghylch sicrhau **arian gwaelodol** ar gyfer fformiwla Barnett yn cael ei gyflwyno ar unwaith. Wrth gloi ar ran yr Wrthblaid, dywedodd **Nia Griffith AS**:

We are disappointed that the Secretary of State has decided to make setting up the Silk commission a priority over tackling the challenge of delivering a fairer funding system for Wales—an issue that is specifically excluded from the commission's remit. If her Government were really interested in delivering the best for the people of Wales, they would have made it a priority to introduce the so-called Barnett floor—a concept that was explored in the Holtham reports and adopted by Labour in our 2010 manifesto as the most practical and immediate step to protect funding to Wales.³²

Yn gynharach yn y ddadl, roedd yr Ysgrifennydd Gwladol wedi pwysleisio bod hynny'n destun trafodaeth ddwyochrog barhaus rhwng Llywodraeth y DU a Llywodraeth Cymru.³³

Ategodd Aelodau Seneddol y Glymblaid y ddadl o blaid **atebolrwydd ariannol** a amlinellwyd gan yr Ysgrifennydd Gwladol. Dywedodd Roger Williams AS:

²⁹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1155 [fel ar 10 Tachwedd 2011]

³⁰ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1162 [fel ar 9 Tachwedd 2011]

³¹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1192 [fel ar 9 Tachwedd 2011]

³² Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1197 [fel ar 9 Tachwedd 2011]

³³ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1198 [fel ar 9 Tachwedd 2011]

When Wales said yes to having a Welsh Assembly in 1997, the devolution package was missing one critical element. The Welsh Government have the luxury of spending money handed out by others..... as has been suggested, they have fewer powers than local authorities.³⁴

Nododd Guto Bebb AS:

every Member in the Chamber will also recognise that local authorities are accountable to the electorate because local councillors are elected; yet they are accountable through the council tax increases they impose as well. Therefore, it is certainly arguable that there is a need for some financial and fiscal accountability in how the Welsh Assembly operates.³⁵

Cytunodd Jonathan Edwards, Aelod Seneddol dros Blaid Cymru, â'r ddadl ynghylch atebolrwydd ariannol:

My party fully agrees with the points made by the Secretary of State and Tory Back Benchers about accountability. Before I came to this place, I served as a town councillor in Carmarthen. We were responsible only for very local matters, but we had taxation powers. For the life of me I cannot understand why anybody would oppose giving the Government of Wales similar powers, as this would, not least, focus the minds of Assembly Members on wealth generation, which is very important. If we are serious about creating a more prosperous and just society, we have to focus on wealth generation, as do the Welsh Government. Giving them tax-raising powers would make them focus more on such issues and on some of the give-away processes that we are seeing at the moment.³⁶

Fodd bynnag, mynegodd David T.C. Davies AS bryder ynghylch y posibilrwydd o roi pwerau cyllidol i Gymru.

It is hard to see how we could maintain the integration of the various parts of the United Kingdom if we were all doing different things fiscally. The Silk commission has apparently ruled out borrowing, but I have been told by those in a position to know that it has ruled out only some kinds of borrowing, and anything can be examined. There are certainly ongoing discussions about different kinds of borrowing.³⁷

Rhoddodd yr Ysgrifennydd Gwladol eglurhad ynghylch benthyca:

The Silk commission can look at future borrowing, whereas current borrowing is at present the subject of bilateral discussions between the Treasury and the Welsh Government. The Silk commission can look at future borrowing.³⁸

Yn ddiweddarach yn y ddadl, nododd y Gwir Anrhydeddus Paul Murphy AS:

I cannot understand from the response of the Secretary of State to the hon. Member for Monmouth the difference between current and future borrowing. Either one agrees with the concept of the Welsh Government being able to borrow, or one does not. The Northern Ireland Executive and the Scottish Government will be able to borrow, and local government

³⁴ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1158 [fel ar 10 Tachwedd 2011]

³⁵ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1165 [fel ar 10 Tachwedd 2011]

³⁶ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1195 [fel ar 9 Tachwedd 2011]

³⁷ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1149 [fel ar 10 Tachwedd 2011]

³⁸ Ibid.

can borrow, so why on earth can the Welsh Government not borrow? It is quite incongruous that that is the case, and I am glad at least that they can discuss borrowing, even if they cannot discuss borrowing at the moment.³⁹

Mae'r benthyciadau cyfredol y cyfeirir atynt yn ymwneud yn bennaf â'r gallu i fenthycia i ariannu seilwaith (cyfalaf), fel y pwerau a roddwyd i'r Alban yn ddiweddar. Mae benthycia at y dyfodol yn cyfeirio'n bennaf at fenthycia (refeniw) i sicrhau cydbwysedd pan fydd yr incwm a geir o drethi'n amrywio, os yw pwerau dros drethi'n cael eu datganoli.

Dywedodd **Jonathan Edwards AS**:

Taxation powers and borrowing go hand in hand, and I am grateful that the Silk commission will be able to look at borrowing powers. In a situation where we will have a varying income stream as a result of having taxation powers, borrowing is the best measure for smoothing out those differences, and it is right and proper that the Welsh Government will be able to have those powers if the commission so recommends.

Barn Mr Murphy oedd: "[it] would not be constitutionally right or proper for there to be tax-raising or tax-varying powers in Wales, so far as income tax is concerned, **without the people's saying so.**"⁴⁰

Cyfeiriodd Aelodau Seneddol o'r pleidiau i gyd at y pwerau y gellid ceisio'u cael o dan Ran II o waith y Comisiwn, er enghraifft o ran y system farnwrol. Nododd Mr Murphy:

Most Members of the House of Commons would be wary of transferring policing and justice to the Welsh Assembly. We have a different system from Scotland, and we are so bound up with the English judicial and legal system that I would not agree.⁴¹

Nododd **Hywel Williams AS**:

There have been persistent complaints from members of the legal profession in Wales and others, including academic lawyers, who have looked at the changes to the body of law in Wales and found that it is difficult to keep track. There are people who are doing a heroic job of trying to keep track of the implications and I only wish that they were better resourced. Unsurprisingly, my opinion is that there should be a devolution of jurisdiction to Wales, which would make things rather clearer, but I shall say something about that later.⁴²

Roedd **David Hanson AS** yn pryderu am faterion **trawsffiniol**:

Will the Secretary of State ensure that the commission looks carefully at the impact of the border? My constituency, and that of many others, is close to the English border. People who live in my constituency work in England, and people who live in England work in my constituency. The differing rates of VAT, corporation tax and quarrying tax, and of expenditure, are important on both sides of the border. I do not want the commission to

³⁹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1154 [fel ar 10 Tachwedd 2011]

⁴⁰ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1153 [fel ar 10 Tachwedd 2011]

⁴¹ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1154 [fel ar 10 Tachwedd 2011]

⁴² Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1176 [fel ar 10 Tachwedd 2011]

look specifically at Welsh issues without taking representations from the English side of the border.⁴³

Ymatebodd yr Ysgrifennydd Gwladol gan ddweud:

I could not agree more with the right hon. Gentleman. I refer him to the commission's specifications, in which we state that it should

“consider and make recommendations on how best to resolve the legal and practical implementation issues from devolving a package of fiscal powers”.

I think that says it all: we are keeping an open mind. The right hon. Gentleman knows that since becoming shadow Secretary of State, I have been concerned about the implications of the permeability of the border. The commission offers us the chance to look not only at recommendations that might be made but at the practical difficulties.⁴⁴

Roedd yr Aelodau a gyfrannodd i gyd yn croesawu sefydlu'r Comisiwn yn gyffredinol, ar wahân i David T.C. Davies AS, a ddywedodd: “unlike some Members, I shall **not be offering a welcome**, cautious or otherwise, to the Silk commission”. Dywedodd yr hyn a ganlyn am Gymru: “We seem to be locked in a kind of constitutional groundhog day, with the same sequence of political events repeating itself over and over again”: hynny yw, bod cael comisiynau olynol yn arwain at gael rhagor o bwerau i'r Cynulliad. Aeth ymlaen i ddweud:

I would be delighted if we really were going to consider varying the powers of the Welsh Assembly, because I assume that varying can cut both ways. It could mean that, rather than just handing the Assembly new powers, we could look at taking a few powers away from it, once in a while. I suggested that in a Westminster Hall debate a few years ago, when Wales was doing particularly badly on the health service, but it did not seem to meet with much approval from anyone—certainly not anyone in my political party. The very fact that it had been suggested was a source of outrage to many.

The Welsh Assembly can take powers away from local authorities that are failing in Wales and, quite rightly, it has used them from time to time, so I see no reason why the Silk commission should not look realistically at the possibility of removing powers from the Welsh Assembly in devolved areas if standards have clearly dropped below those that all in the United Kingdom are entitled to expect.⁴⁵

⁴³ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1124 [fel ar 10 Tachwedd 2011]

⁴⁴ Ibid.

⁴⁵ Dadleuon Tŷ'r Cyffredin, 3 Tachwedd 2011, col 1145 [fel ar 10 Tachwedd 2011]