

Cofnod y Trafodion

The Record of Proceedings

Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol

The Constitutional and Legislative Affairs
Committee

23/11/2015

Trawsgrifiadau'r Pwyllgor
Committee Transcripts



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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwylgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwylgor yn bresennol
Committee members in attendance

Alun Davies	Llafur
	Labour
Suzy Davies	Ceidwadwyr Cymreig
	Welsh Conservatives
Dafydd Elis-Thomas	Plaid Cymru
	The Party of Wales
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor
	The Deputy Presiding Officer and Committee Chair
William Powell	Democratiaid Rhyddfrydol Cymru
	Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Y Gwir Anrh/Rt Hon	Ysgrifennydd Gwladol Cymru
Stephen Crabb MP	The Secretary of State for Wales
Sue Olley	Swyddfa Cymru
	Wales Office
Geth Williams	Swyddfa Cymru
	Wales Office

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Stephen Boyce	Y Gwasanaeth Ymchwil
	Research Service
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol
	Senior Legal Adviser
Ruth Hatton	Dirprwy Glorc
	Deputy Clerk
Gareth Howells	Cynghorydd Cyfreithiol
	Legal Adviser
Naomi Stocks	Ail Glorc
	Second Clerk
Dr Alys Thomas	Y Gwasanaeth Ymchwil
	Research Service

Gareth Williams Clerc
Clerk

*Dechreuodd y cyfarfod am 13:33.
The meeting began at 13:33.*

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau **Introduction, Apologies, Substitutions and Declarations of Interest**

[1] **David Melding:** Good afternoon, everyone, and welcome to this meeting of the Constitutional and Legislative Affairs Committee. I start first with the housekeeping announcements. We do not expect a routine fire drill. If we hear the bell, please follow the instructions of the ushers who will help us leave the building safely. All mobile devices are to be switched at least onto the silent mode, please. These proceedings will be conducted in Welsh and English. When Welsh spoken, there is a translation on channel 1. Should you need to amplify our proceedings, you can do that on channel 0.

13:34

Tystiolaeth mewn Perthynas â'r Bil Cymru Drafft **Evidence in Relation to the Draft Wales Bill**

[2] **David Melding:** We move then to our main item of business, which is evidence in relation to the draft Wales Bill, and it's a great pleasure to welcome the Rt Hon Stephen Crabb, the Secretary of State for Wales. I think it's the first time you're appearing before an Assembly committee to give evidence, so, Stephen, you are most welcome. The Secretary of State is joined by Geth Williams and Sue Olley from the Wales Office. We would like to move directly to questions if that's all right with you, Secretary of State.

[3] **The Secretary of State for Wales (Stephen Crabb):** Yes.

[4] **David Melding:** I think it's important that we set today's session in context. The first part of the draft Bill has been largely welcomed—the new powers over energy, transport and local government, for instance, and also the power over Assembly elections and related matters to the Assembly. I fear it's in the nature of these proceedings that we will now concentrate on the more contested areas. So, I hope you will not think that discourteous.

[5] I think we would like to extract some of the more political evidence

and the heights rather than get involved in some of the very precise technical detail, although it's up to Members to pursue questions as they see fit. So, I'd like to start, Secretary of State, by just asking simply: does Wales not, at last, deserve a consolidated statute to act as its constitutional law? This will be the fourth Government of Wales Act. Should such fundamental legislation be subject to such a tight timetable?

[6] **Stephen Crabb:** Perhaps I'll pick up on the second part of your question first, about the timetable. I don't think the timetable is particularly tight. There's already been quite a long gestation period leading up to the publication of the draft Bill. I'll emphasise the word 'draft', and it's called a draft Bill for a reason. It's there in draft form. It's there for scrutiny; it's there for people to question and criticise and suggest improvements and modifications. That's why we've got this period before we publish the final legislation. A great many Bills don't ever have a draft legislative phase for pre-legislative scrutiny. The reason that we've built in that extra time is precisely because this is difficult, complicated stuff that we're talking about. So, I think the time that we're in—this period that we're in—I hope people will be using it constructively to think about the Bill and how we improve it.

[7] The final legislation will be brought in around about the end of February, early March, for a Second Reading, which will be a general debate on the floor of the House of Commons and a vote on the principle of the legislation before, essentially, a slight pause kicks in to allow for the purdah period around the Assembly elections. Then, when the new Assembly comes back, that will dovetail neatly with the new parliamentary year, when the passage of the Bill will recommence. It will take up pretty much all of 2016. So, those people who think that we're operating to a very tight timetable, I think that view is misplaced. I think there's bags and bags of time available for changes to be made, if they improve on the draft that we have in front of us. I do expect the final piece of legislation that gets Royal Assent to be significantly different from the draft, but let's see how people use this time to come forward with ideas.

[8] **David Melding:** Would you have preferred to produce a consolidated Act? It's very complicated. In fact, when this draft progresses, if it progresses and becomes an Act, it's not even a stable entity, is it, because it's so dependent on referring to other Acts of Parliament for its interpretation in many key areas, that it's going to be an ever-changing situation? Consolidation would have at least given us a firmer foundation, it can be argued.

[9] **Stephen Crabb:** So, the idea of a consolidated Act is one that we've discussed internally. I've discussed it externally as well with various legal interests and lawyers. I have to say, there isn't unanimity within the legal profession about the benefits of a consolidated Act. That's something that we're happy to consider for the future. But I think, at the moment, this is about implementing the very clear promises that we made in the run-up to the general election. They were promises that were in the St David's Day announcement. They were promises backed up in our manifesto to move to a reserved-powers model, akin to what Paul Silk recommended in the Silk commission report, and to give new powers to Welsh Government and to the Welsh Assembly to build in new clarity to the devolution settlement. So, I think, to that extent, the legislation is clear.

[10] **David Melding:** I intend, I think, for the first part, to call you in turn rather than to call you in to ask supplementaries, otherwise we're going to have difficulty, I think, in managing the session, but if anyone wants to pass me a note if there's a very critical reason to move from that. First, William Powell.

[11] **William Powell:** Diolch, Gadeirydd. Good afternoon, Secretary of State. You referred earlier to this draft Bill delivering clarity in terms of the constitutional settlement, but when you think again, does a piece of legislation that has in excess of 250 reservations, exemptions to so many of those reservations and an extended requirement for UK ministerial consent effectively meet any rational definition of clarity?

[12] **Stephen Crabb:** Let's take a step back and start from the position that we're in. As the Chair said, we've been through various iterations now of Welsh legislation to create a Welsh constitution and none of those previous attempts have actually spelled out which administration is clearly responsible for which area of policy. What this draft piece of legislation does do for the very first time is spell out very clearly which area of policy is the responsibility of which.

[13] Where I think the complexity does kick in is in terms of some of the mechanisms in the Bill, whether you call it the necessity test or some of the consenting—the issues around ministerial consents. We can talk about whether complexity is injected at that level, but in terms of actually providing a clear separation, actually this legislation does that for the very first time.

[14] You talked about the long list of reservations—listen, my reading of it is that I think it's too long. I think the list of reservations is too long. I think the whole point of having a draft Bill is that we can look at that and do some work on that together to try and bring that down. I accept that, when you have a long list of reservations and exceptions carved out, that can create some element of complexity. So, maybe there's some work that we can do on that, but in terms of the fundamental principles of the Bill, spelling out what UK Government is responsible for and leaving the rest to Welsh Government to be competent for, then, actually, I do think this is a big step forward in terms of providing clarity.

[15] **William Powell:** I welcome very much the tone underlying that answer, Secretary of State. Could I ask you, in terms of the provenance of this Bill, to what extent have the Supreme Court rulings, during the course of the fourth Assembly, actually affected the drafting of this Bill?

[16] **Stephen Crabb:** That's a very good question. When I became Secretary of State a year and a half ago, one of the early decisions I took was to move to a reserved-powers model precisely because of some of the Supreme Court judgments. In terms of the specifics of the draft Bill, clearly, when you look at what it says around the fact that we recognise agricultural wages is now a devolved issue, taking account of the Supreme Court decision in that respect, but also taking account of the more recent asbestos decision as well, the boundary, if you like, that the draft Bill sets out, the devolution boundary, I think is fair and realistic, to use the Lord Chief Justice's phrase—a fair and realistic interpretation of that boundary.

[17] **William Powell:** What effect did the ruling in the local government bye-laws case have on your thinking?

[18] **Stephen Crabb:** That was all part of the—. I wasn't Secretary of State at the time, so I wasn't involved in the decisions around referral to the Supreme Court. I think if I'd been Secretary of State that Bill wouldn't have gone to the Supreme Court, but that's history.

[19] **William Powell:** I'm grateful. Thank you. That's good for me for now.

[20] **David Melding:** I call in Alun now, but if you go on too long now, Alun, you'll have less time later. I think that's a fair balance.

[21] **Alun Davies:** You warn me about that in the Chamber as well.

[*Laughter.*]

[22] You say, Secretary of State, that this has had a long gestation, this Bill, and there's a part of me that actually agrees with you. In your evidence to us, in the overview section, you say there's a political consensus in the St David's Day agreement; I think you mention the St David's Day agreement on three or four occasions in your overview. I'd like you to tell us between whom is this an agreement?

[23] **Stephen Crabb:** So, the process that I started almost exactly a year ago now, following the Scottish referendum, recognised where we'd got to by that point. Part 2 of the Silk commission—the report was lying on a shelf gathering dust. I took a decision at the time of the Scottish referendum, given that we were in such an important moment, constitutionally, for the United Kingdom, given that there was unfinished business and—I was recognising and seeing this for myself—a strong appetite in Wales for a stronger voice over their own affairs, for the Assembly to be given new powers, to become a Parliament, and to really take its place as a primary law-making body—. I took a decision not just to dust down the Silk commission report, but also to look at what the Smith Commission was saying about Scotland, and see whether there were new powers being proposed under the Smith Commission that could apply in the Welsh context. I took a decision not to do that unilaterally, but to do it in conjunction with a process that involved all of the parties—if you like, the senior Welsh party leaders in Westminster, but also involving meetings with the party leaders here in the Assembly. The approach that we took was, 'Let's work through the Silk commission recommendations in part 2. If there are recommendations there that command unanimity then let's sign up to them.' In that way, you create a baseline—a base set of commitments. Regardless of who won the election that we had in May, the people of Wales could see the direction of travel: that there was consensus around the energy powers, the environment powers and some of the transport powers. That gave a clear signal to the people of Wales of the direction of travel, plus the decision to adopt the overall, if you like, wraparound Silk recommendation, which was the move to the reserved-powers model.

13:45

[24] Now, if other parties wanted to go further than that, and they did—Plaid Cymru, in fairness to them, are very transparent about their aspirations and ambitions for a separate jurisdiction and other powers—they were free

to put that in their manifesto. That was always the process. So, the St David's Day announcement that the Prime Minister and the former Deputy Prime Minister made I think provided a very clear signal to the people of Wales about the direction of travel and showed a coherent package of powers that all parties were saying 'yes' to.

[25] **Alun Davies:** I'm sure you do think that.

[26] **David Melding:** Alun, this isn't a supplementary. You've gone on to new territory, which you can return to in your questions. Suzy Davies.

[27] **Suzy Davies:** Thank you. William mentioned earlier on that there is a long list of reservations here, with carve-outs for exceptions and exemptions, and it has led—. Some witnesses who we've had at this committee described that as a conferred-powers model in disguise. What would help us move away from that observation, shall we say, is some indication of how the list of reservations was arrived at. Now, I appreciate that you just mentioned the Silk commission—some items kept; some items not kept—but that didn't cover 250-plus subject areas. What was the process for deciding how those silent areas—well, on which side of the barrier should they fall?

[28] **Stephen Crabb:** The starting point for our reserved-powers model—and it is a reserved-powers model; it's not, as you quoted somebody else, a conferred-powers model under another name—was the 20 devolved areas. Now, that was also the starting point for Paul Silk and the Silk commission report. The Silk commission wasn't recommending a reserved-powers model starting from a blank sheet of paper. You are starting with an existing settlement, so, in a sense, you are taking the existing settlement and you're turning it around and then you're overlaying on top the additional powers that we committed to under the St David's Day process for the new powers for the Assembly and the new powers for Welsh Ministers, and developing it from there.

[29] In terms of the specifics of the reservations, it was an iterative process right across Whitehall; the first time, actually, that every single Government department across Whitehall has been engaged in an exercise thinking about devolution in a structured and coherent way. The request that we put out to our colleagues in Whitehall was, 'What is your interpretation of the current devolution boundary in your departmental areas given the existing legislation?' Some of information we had back—I took a decision to push

back on them, saying, ‘Do you really think that’s reserved?’ So, there was a bit of, you know, to-ing and fro-ing. So, the list that has been arrived at is not a fresh draft list—it has been worked through a bit—but I accept that there’s probably quite a lot of scope for looking at that again and simplifying it, but—

[30] **Suzy Davies:** Well, no, I’m pleased, and thank you for the explanation on that, because it seemed to me that the assumption was anything that was silent, the presumption was that it fell to the UK Government to deal with it. But the process that you’ve described—has that altered that in any way at all, or is there still a presumption in some Whitehall departments that, really, they shouldn’t be giving too much away in this process?

[31] **Stephen Crabb:** The starting point was what the previous legislation said, which spelt out 20 devolved areas. That is the starting point. So, in a sense, if an area is silent, it hasn’t been devolved, so that gives you a kind of indication of where the boundary was being drawn.

[32] **Suzy Davies:** Were some of the Government departments aware, though, of the secondary legislation? I’m not even thinking of the contentious Supreme Court decisions now—well, actually, our primary legislation as well. Even though we’ve always, as an Assembly, legislated in devolved areas, there are some cross-cutting considerations—for example, if you create a criminal offence, that immediately puts you into the area of criminal law that isn’t devolved. What sort of conversations took place in the Whitehall departments about these areas of multiple definition, let’s put it like that, because the criminal law can mean all kinds of things depending on the context in which you’re discussing it? I just use criminal as one example.

[33] **Stephen Crabb:** Okay, so let’s pick up on that example, as you mention it. The discussions with the Ministry of Justice were long, protracted, involved—you can use whatever adjective you want—because it’s probably one of the most challenging aspects in drafting this legislation. You rightly point out that the Welsh Assembly has been able to change criminal law as part of the existing settlement. There’s no intention for us to stop that. In making legislation, Welsh Government needs to be able to modify aspects of criminal law and civil law, to create penalties and to enforce its own legislation. It would be a nonsense, wouldn’t it, if we then brought forward legislation that stopped that? But meanwhile, as per the St David’s Day agreement, and ourselves and certainly the Labour Party—I think the Liberals and Plaid Cymru took a different view—but ourselves and the Labour Party

took a united view to preserve a single jurisdiction across England and Wales, which has served the people of Wales very, very well. So, in a sense, we were reserving that, but also, in recognising the need to give Welsh Government and the Welsh Assembly space to be able to modify criminal law to be able to enforce its measures, we had to create a carve-out, which is what we've done.

[34] **Suzy Davies:** Do you think the word ‘modify’ is capturing all the legislative intention in this? I’ve read your evidence, and I think it explains your point of view very well, but I’m still concerned about some of the terminology in the Act, because, particularly when we talk about private and criminal law, they’re so widely defined. In a Bill that’s trying to narrow and be very specific about certain actions and where the responsibility for them should fall, when we talk about criminal and private law, they’re so widely drawn that I don’t think it’s helped any of us at all. This distinction between the law of crime and the law of this and the law of that, rather than criminal offences or remedies to nuisance, shall we say—. Because I think we would all agree, for example, that nobody wants to change the definition of, let’s say, nuisance—this place may want to create different remedies or penalties for somebody committing a nuisance in Wales. I don’t think the Bill as it stands helps us decide where the boundary between those definitions lies.

[35] **Stephen Crabb:** I’ll bring in the lawyers here, and you’re a lawyer, Suzy, and I’ve had meetings with groups of lawyers—

[36] **Suzy Davies:** I’m sure that hasn’t helped either.

[37] **Stephen Crabb:** —in terms of discussing the drafting of the Bill, and if you get six lawyers in a room you tend to get at least six or seven different viewpoints.

[38] **Suzy Davies:** Trying to distinguish between the principles and the penalties with this, basically.

[39] **Stephen Crabb:** Absolutely. For me, one of my underlying principles behind this draft legislation is that I don’t want this legislation to do anything that prevents Welsh Government or the Welsh Assembly from legislating freely in devolved areas. I also don’t want to stop the Welsh Government or the Welsh Assembly being able to modify the law in order to give full effect to the measures that they’re creating. On the other hand, you do need to create some kind of boundary and safeguarding around the extent to which

the Welsh Assembly changes law that then impacts across the devolution boundary. So, this is where the so-called necessity test kicks in—the four areas: the way that changes to the law might affect England, reserved matters, criminal and private law. You do need to create some kind of boundary there if you're to maintain the integrity of a single jurisdiction, which we're committed to. In terms of the specifics of definitions, I might ask Sue to comment on that.

[40] **Suzy Davies:** That was just a random example, but just trying to illustrate the point that I was trying to get to, so I don't know if you want to help—

[41] **Ms Olley:** We really were just trying to capture what already exists in the Government of Wales Act 2006, which is the power to make provision to enforce or otherwise appropriate to give effect to, or consequential or incidental. We've applied that in relation to both private law, criminal law and civil penalties. Now, I agree that modification is a term that there may be lots of different interpretations of. Eventually, we do have to capture in some way, and define, the power of the Assembly, which is what we're trying to preserve, to make these new kinds of penalties, provisions or other quasi enforcement-type activity, and that's why we're listening to comments that people make to see if we can improve upon the draft. But the fundamental desire is to give some certainty that you've got the capacity to do that and some indication of where the limits might lie.

[42] **Suzy Davies:** Does it matter that much if we have different penalties and offences in Wales?

[43] **Ms Olley:** No, we accept that you will, in relation to devolved matters.

[44] **Stephen Crabb:** And there can be, and there probably already are.

[45] **Ms Olley:** Yes.

[46] **Suzy Davies:** Okay. And you're confident the Bill captures all that.

[47] **Stephen Crabb:** Yes, absolutely.

[48] **Suzy Davies:** Okay. Can I just ask you one, brief other question? It is on the necessity test, effectively. I come from the point of view that no legislature should pass any laws unless they're necessary in the first place.

So, who decides what's necessary?

[49] **Stephen Crabb:** Well, in terms of the strict operation, if the Bill becomes an Act, it would be for the Welsh Assembly to decide whether an Assembly Bill is necessary. It's there for the Assembly to take a view on that. It's not about whether the Assembly Bill per se is necessary, it's the extent to which it, as you say, modifies the law in relation to England, or modifies the law in relation to reserved or criminal or civil law matters. That's where consideration must be given to whether the effect is necessary—not whether the Bill is necessary. There's a subtle difference, but it's an important difference.

[50] **Suzy Davies:** Well, a legislature would argue that everything in the Bill is a necessary section, but I take your answer, and I'll leave it at that. Thank you.

[51] **David Melding:** Secretary of State, the word 'necessary' is a lot heavier than an alternative like 'appropriate'. Perhaps we could hear why it's a more restrictive word, which may, potentially, I think, by the time the courts interpret that, take you to some rather less pleasant places, if you're a legislator here, than the word 'appropriate'.

[52] **Stephen Crabb:** That's not a word that we've just invented. It's a word that's been taken from the existing Scottish devolution legislation, where the necessity test exists in relation to reserved matters. Of course, it's not in exactly the same form as it appears in the draft Wales Bill, because, of course, they have a separate jurisdiction—so, the necessity test in the Scottish legislation doesn't refer to criminal or private law. So, the necessity test is there, it's already in existing devolution legislation, and that's why we've used that. Now, if people think that the hurdle that that is creating for Welsh legislation is too high, then let's look at that. If there are other forms of legal definition that could be used that are not so problematic, then let's look at that. I have to say, from testing this against not just internal lawyers and officials, but some of the legal people externally that we're in touch with, there is a robustness around that; it's perfectly practicable as a legal concept. But, if people think that the necessity test as it's structured or as it's framed in this draft legislation creates too much of a problem, then I'd be really keen to understand that. But, for all of the criticism that's been made in the last few weeks, since we published the draft legislation, nobody has actually really been able to spell out very clearly why the necessity test is such a massive problem. What we're talking about is, after all, not preventing

the Welsh Government, the Welsh Assembly, making legislation fully. It's not preventing it from exercising all of its law-making functions fully, it's actually saying that, in doing that, and in enforcing that, where it's changing the law in relation to England, in relation to reserved matters, in relation to criminal and civil law, it needs just to take account of whether the overall effect of that measure is necessary. Now, there's a reasonableness around that, I think, but, if people have other views, then—

[53] **David Melding:** Strangely enough, 'reasonableness' has been another word that's been suggested to us. We've heard no-one who's said the actual word 'necessary' and the test that's been transferred from the Scotland Act is appropriate for a settlement that operates a single jurisdiction. It operates in Scotland because it's very narrow in its application; its ramifications are minuscule compared to, potentially, here, because, obviously, there's always been a separate jurisdiction in Scotland, so you do not have the same potential consequences that that heavy word in a legal context could have here. We've not come across one witness that thinks this test is the best way forward, but, if you have heard evidence, then we would be glad to receive it.

14:00

[54] **Stephen Crabb:** Chair, if I may, in some of the private discussions I've had in the last couple of weeks with people who've been quite vocal in criticism of the Bill, one potential solution put forward to me was to remove the necessity test altogether and have a power of intervention. Now, I want to reduce powers of intervention—I want to see fewer powers of intervention on the part of UK Ministers towards Wales, not more. And this is somebody who'd submitted evidence to this committee. So, I'm interested in hearing practical solutions to this, and, if there are other forms of words that have legal currency that we can look at, then I'd like to see them. But people need to be realistic about what we're trying to achieve here, and recognise that, actually, the underlying principles are important ones that need recognition.

[55] **David Melding:** Okay, we may well take you up on your offer, if we can come to some agreement. Suzy.

[56] **Suzy Davies:** Sorry, just a final question from me on this one. Thank you very much for your answers; I think they've been very helpful. Would the Bill lose anything if the test was just taken out?

[57] **Stephen Crabb:** It's a good question. If you remove the necessity test

altogether, you would—. The reservation around criminal and civil law would, effectively, be meaningless, because the Welsh Assembly would be able to not just create new offences and new penalties and enforcement measures, but actually change the underlying legal basis. You are then starting to split up the single jurisdiction. Now, it depends on the extent to which you value the single jurisdiction. Like I say, if you go back to St David's Day, we didn't accept as a Government the proposition that you should be moving towards breaking up and separating out the English and Welsh legal system. Neither, I have to say, did the official opposition, the Labour Party, which is why they didn't recommend that. We've committed to preserving the integrity of the England-and-Wales jurisdiction. Now, if you're going to do that, if you are going to preserve that single jurisdiction, you actually do need to build into legislation a way to give freedom to Welsh Government to be able to legislate and enforce its legislation, but also some kind of boundary that preserves the fundamental underpinnings of the single England-and-Wales jurisdiction. Sue, do you want to come in on this? Is there anything you'd want to add?

[58] **Ms Olley:** We have said that it's about creating protections for the reservations as much as delineating devolved powers.

[59] **Suzy Davies:** I accept that as well.

[60] **Ms Olley:** And I think, if you take them out, there really is nothing to inhibit the development of completely different bodies of law. You can make a decision that that's what you want to do and you might do things differently, but, given that we've made a decision to preserve a single jurisdiction and we've created a reservation for that, it seems to us the logical consequence that you should then have some inhibitions on modifying the fundamental precepts of that legal system in all its manifestations.

[61] **Suzy Davies:** Thank you. At least you've been very clear on the purpose of the test.

[62] **David Melding:** We might have time to tease out some of the issues on jurisdiction. I would recommend our report on this subject a couple of years ago, which was quite nuanced—it didn't come out with an emphatic way forward one way or the other, but did look at the likely options as they would probably develop. Alun Davies.

[63] **Alun Davies:** Yes, thank you very much. Just to complete the answer to

my earlier question—you nearly got there, Secretary of State—in terms of the St David's Day agreement, you said 'the leaders of the Westminster parties'. I presume, therefore, you mean Owen Smith, Elfyn Llwyd and Mark Williams.

[64] **Stephen Crabb:** Yes.

[65] **Alun Davies:** So, those were the people—

[66] **Stephen Crabb:** Well, Roger Williams was leading initially for the Liberal Democrats. But we also involved the Assembly leaders as well in those discussions.

[67] **Alun Davies:** But the Assembly leaders weren't party to the St David's Day agreement. What you're saying is that Roger Williams, Elfyn Llwyd and Owen Smith were the people with whom the St David's Day agreement was made—just for clarity on that.

[68] **Stephen Crabb:** I'm not sure what point you're trying to make. The fact is we were in the run-up to—. With a general election approaching, we felt it was right and transparent for the parties to engage in an exercise of looking, in a structured way, together, at the Silk commission recommendations, and also at the Smith Commission recommendations for Scotland, and seeing whether there was relevance for Wales, and to work through them and reach a common, baseline set of commitments. If other parties wanted to go beyond that and say that, if they were in power, they would bring forward more devolution, then they were free to do that, and, indeed, Plaid Cymru and the Liberal Democrats, in fairness to them, were entirely transparent about that.

[69] **Alun Davies:** It's your reticence on the subject that begs the question, Secretary of State. In terms of—

[70] **Stephen Crabb:** Sorry, reticence about what, Alun?

[71] **Alun Davies:** Just answering the question in a straightforward way. In terms of where—

[72] **David Melding:** The question has been answered, Alun.

[73] **Alun Davies:** In terms of where we are today, you described a process, which is a Whitehall process, about how this Bill was put together. You

described how you went around different departments and they gave you their views. We understand that you've also discussed with the Presiding Officer here, and with the Welsh Government. Would it not have been a better approach to have seen this as more of a joint venture with the Welsh Government, rather than being a Wales Act made in Westminster?

[74] **Stephen Crabb:** We had a manifesto commitment to implement the St David's Day agreement. We're acting on that promise; we've brought forward the legislation in terms of preparing the legislation. Even before we published it in draft, I'd certainly had a lot of discussions with the Presiding Officer about new powers for the Assembly, and, in fairness, I hope that she would recognise that the powers in the draft Bill, the additional powers for this legislature, are pretty much in line with what she was asking for. So, she was intimately involved in the discussions leading up to the publication of the draft Bill.

[75] So, it's not, in any sense at all, a closed Whitehall exercise. We were elected to form a Government in May; we were elected as a Government to write legislation, and that's what we're doing. I'm trying to do it in a way that brings in and creates the most opportunity for people to feed in ideas, which is why I've taken the time to not just get the draft legislation in a good state, but also build in time for pre-legislative scrutiny. Don't forget there were people in this legislature, straight after the election, who were demanding that I publish the Bill straight away and, at the time, I said, 'No, we're going to take the time to do more work on this', which is what I've done. So, I'm not sure who I'm—. I'm not able to please anybody on the timetable at the moment.

[76] **Alun Davies:** But, in terms of both the Presiding Officer and the First Minister, who gave evidence to us last week, they spent a considerable amount of time rehearsing a significant number of difficulties with this draft Bill, most of which, in fact, could have been resolved had you worked more closely with the National Assembly and with the Welsh Government in what you've already described as a long gestation period for this piece of legislation.

[77] **Stephen Crabb:** I don't know that it would lead to a more efficient or shorter timetable for producing draft legislation. We have been in very close discussion with Welsh Government officials, not just since the publication of the draft Bill, but in the weeks leading up to it as well. That work is an important body of work. It's about understanding interpretations of drafting;

it's about also understanding differences in principle as well. And there are some very significant differences in principle between the Welsh Government's approach and our approach. And, I think, if you start off trying to do a joint venture, to use your phrase, when you have two parties with such differences in principle, I don't know that that would lead to a very concise or efficient way of producing the draft legislation. We have the draft legislation; we've got a period now for people to make recommendations and suggestions to improve it. We'll have plenty of time during the passage of the Bill to change the legislation, if that is the will of the House and the will of people in Wales, so I'm not sure what the problem is, Alun.

[78] **Alun Davies:** Well, the problem is that you've produced a piece of draft legislation that I can't easily think of anybody who's welcomed it. The witnesses that we've had in front of this committee, and the responses we've had to our written consultation, have uniformly said that it's a poor piece of work—a poor piece of work that doesn't seem to have any driving ambition or vision, with the exception of maintenance of joint jurisdiction, and certainly falls far short of your own rhetoric on this matter. I thought you made a very good and generous speech here in June this year. And so, my disappointment is heightened, reading the legislation, because of the ambition that you yourself have outlined. This is not a basis for a lasting settlement, Secretary of State.

[79] **Stephen Crabb:** Well, that is a view. I should make the point, again, that your own party, Alun, was thoroughly supportive of the approach that we took during the St David's Day process. There wasn't an awful lot of difference between ourselves and your own party in terms of the Silk recommendations, and our approach to that. So, I think that's worth putting on the record.

[80] In terms of the new powers in the Bill, the Electoral Commission, I think, have welcomed it; Paul Scully has talked about the radical package of powers for the Assembly. So, I think there is a lot in there—

[81] **Alun Davies:** You're being very selective there.

[82] **Stephen Crabb:** There's a lot in there to welcome. I accept there's a lot of critique about the way the Minister of the Crown consents mechanism works, and also the necessity test. I've said that I'm happy to look at those again, if we can find alternative ways of delivering that, while preserving the principles that I feel are important to preserve in this Bill, around clarity, but

also about respect.

[83] We haven't touched on it today, but actually, if you think about it, if the UK Government makes legislation that touches on a devolved area, rightly, there is a process in place to seek the approval of this place. We have, I think, on 50 occasions, as a UK Government, sought legislative consent motions here from the Assembly, where legislation has been made in Parliament that touches on devolved areas—and rightly so; this is the primary law-making body in devolved areas. Now, where the Welsh Government—the Welsh Assembly—is making legislation, that, for very good reasons, might touch on the functions of a UK Minister, or the functions of a reserved body, then isn't there an important principle there about consent as well? So, it cuts both ways, doesn't it? That's what we tried to build into the legislation.

[84] **Alun Davies:** Can I say, in terms of where we are now—you talk about ministerial consent. Ministerial consent is not always forthcoming in a reasonable way. As somebody who sought ministerial consents, I have to say the process can sometimes be painful. You have taken a particular view, which you've expressed very well this afternoon. I would be quite clear with you that your predecessor took a different view, and we're aware of some of those issues. And so, the problem that we have with this veto, if you like, over legislation, is that it is entirely dependent on the whim of a Secretary of State at any one time. Sometimes, ministerial consents can be provided in a reasonably straightforward way, and in a timely fashion. Other times—and I think, at the moment, we are looking at nearly a year for a particular ministerial consent on the Environment (Wales) Bill—I've had to wait a considerable amount of time for ministerial consents. Ministerial consents can be given in a conditional fashion, and not in an absolute fashion.

[85] So, to equate the requirement for an LCM—. I would make the point here that the UK Government has, at different times, as well, taken a view: 'This is not devolved, it's in our right to legislate. We are the supreme Parliament, and therefore we will legislate, whatever you say and whatever you think'. You know where that ends up. So, it's not an equivalent power—there's no equivalence at all—and it is very much a sense of a ministerial veto over Welsh legislation. You've said yourself this afternoon that you want to see this place legislating freely in devolved areas.

[86] **Stephen Crabb:** But it's not a veto over Welsh legislation, is it?

[87] **Alun Davies:** It is.

[88] **Stephen Crabb:** It's saying that, if, in making law in Wales, for Wales, for the benefit of the people of Wales, there needs to be a change to a UK Minister's function, or a UK reserved body's function, there should be a mechanism for the relevant UK Minister who is responsible for that area to consent to that. The vast majority of requests for ministerial consents, on the part of the UK Government, have been given. I accept—I am absolutely willing to accept—that the process is not always a very efficient one. Sometimes, that's our fault, in the UK Government. Sometimes, it's because, in reaching a decision about the consent, a UK Minister might say, 'Look, well, we just need a bit more information to help us get a clearer idea on whether the duties being imposed on a UK body are onerous or not', and sometimes we've been left waiting for further information from Welsh Government.

14:15

[89] So, it's a two-way street there. I'm willing to concede the point that, in going forward with ministerial consents, we need some kind of efficient process to enable quick turnaround of decisions, but the vast majority of requests for UK Government Ministers' consents have been given. One was refused, in the case of local government bye-laws; the other one, we're still in discussion between the two Governments about section 6 of the environment Bill.

[90] **David Melding:** If I could interrupt briefly at this point, just for a point of clarity, you could have adopted the practice in the Scotland Act of transferring virtually all executive functions in devolved areas to Welsh Ministers. Now, this would have helped greatly in this area, it seems to me. We've talked about the necessity test, which did come from the Scotland Act. Why do we not follow the model here, where, you know, it would seem to have been a really good way forward?

[91] **Stephen Crabb:** I think you're touching on, as well, the issue of pre-commencement functions, and we discussed that during the St David's Day process. Of course, it was a Silk recommendation to devolve all of that. Given that there is a lot of work to be done across Whitehall and in Government departments, identifying what are the existing Minister of the Crown functions in the devolved—

[92] **David Melding:** That's even more reason just to say they're all

transferred to Welsh Ministers in devolved areas, isn't it?

[93] **Stephen Crabb:** The position we reached on St David's Day was to say that, given the volume of work involved, let's just take a view that there will be a default assumption of giving a 'yes' to the consent for those pre-commencement functions. Now, if it is the strong view of this committee—and we'll see what the House of Commons committee says—I'm willing to look again at that issue, but that doesn't solve all of the issue around Minister of the Crown consents, Chair, because, you know, there will always be cases where making law in this place—. You know, there might well be a reason that Welsh Ministers want to change the function of a UK Minister or a UK Government department. So, we're not going to get away from the issue of consents altogether, and nor should we; it's an important principle about respect and who's responsible for what.

[94] **David Melding:** And that happens in Scotland, as well. Alun, back to you.

[95] **Alun Davies:** You said in June, Secretary of State,

[96] 'I think in Wales we're in danger of getting hung up on an old, twentieth-century model of devolution'.

[97] Isn't that really the basic problem with this Bill, that you yourself have said that we need to—. You've said that the

[98] 'centralised Victorian nation state does not provide for the dispersal of power and decision making needed in an age when information, knowledge and capital move at lightning speeds.'

[99] Those are your words.

[100] **Stephen Crabb:** Good quote.

[101] **Alun Davies:** It's a great quote; it's just a shame it's such a terrible Bill. This draft Bill does not provide for the sort of governance that you have described that you want to see. Time is moving on, Secretary of State. Let me say this to you: is it not the case that there's a fundamental issue here that we need to address? You can blame Owen Smith for all the problems that you're facing, if you wish, but I think you have to go beyond that and take a more fundamental view of this. You've said on a number of occasions, both

in written evidence and here this afternoon, that one of your ambitions—if you like, your objectives—for this legislation is to protect the England-and-Wales jurisdiction. Is that not really at the crux of our problems?

[102] I, probably about six or seven months ago, would have gone a long way towards agreeing with you that we didn't need a jurisdiction in Wales, that we didn't need to actually create the separation that you've described in more pejorative terms. Can I say this to you? Having looked—taking your words: clarity, a stronger settlement, a settlement that lasts—at all the evidence, from academics, from the legal establishment, from individual practising lawyers and that the debate that we've had, I've changed my mind. I've come to the conclusion that we do need a separate jurisdiction and, I think, a separate, not a distinct, jurisdiction, quite frankly. Is it not the case that too much of this Bill seeks to protect that jurisdiction at the expense of clarity, at the expense of workability, and at the expense of a durable settlement? I share your ambition; I'm as sick as you are of constitutional debate and discussion. That's why I want to end it next year with this Bill becoming an Act. I do not believe we will do that until we move away from the sacred cows, the centralised Victorian state that you described, and actually design devolution for the twenty-first century—and that includes a jurisdiction.

[103] **Stephen Crabb:** There is plenty in the Bill that's around preserving the integrity of the single jurisdiction. I have to say, if you're looking at all the things that are broken or ineffective about the devolution settlement, actually, our legal system isn't one of them. We've got a damn good legal system that has served the people of Wales well and will continue to do so. I think we need to just take a step back. I think one of the weaknesses in the Welsh devolution debate is the way people reach for what sounds like a catch-all solution. We had this two or three years ago following the second Silk commission report, where certainly lots of people started standing up and saying, 'What we need, what will answer all of our problems, is a reserved-powers model. That will be the thing that does it'.

[104] I remember, two years ago, being on the floor of the House of Commons and sounding a note of caution saying, 'If you think moving to a reserved-powers model solves all of the complexities of Welsh devolution, think again'. Because the whole nature of the settlement between England and Wales, because of the nature of how integrated economically and socially Wales is with England, also because of the single jurisdiction, means that whether you're talking about a conferred-powers model or a reserved-

powers model, it's going to be complicated. I can see exactly the same thing is now happening with this idea of a separate jurisdiction. The First Minister has been saying it. You've just said it. In fairness, Plaid Cymru have been saying this for a long time—'Separate jurisdiction will be the thing that's needed to simplify Welsh devolution'.

[105] It ain't. It won't. If you have a separate jurisdiction, it doesn't get you past the problem of Minister of the Crown consents. It actually doesn't get you past the issue of laws being made in Wales that might, for good reason, need to impact on England on reserved matters, which is where the necessity test kicks in. You don't get past those problems just by moving to a separate jurisdiction. What you do is you create a huge, very costly, separated Welsh legal system. There are a great many solicitors' practices just down the road from here who are dead set against that. One of the great recruitment factors into the Cardiff legal profession is their ability to punch well above their weight within an England-and-Wales jurisdiction. They are dead set against moving to a separate jurisdiction.

[106] **David Melding:** That's very clear, as was your position, Alun. To take us through the final questions, Dafydd Elis-Thomas.

[107] **Yr Arglwydd Elis-Thomas:** Mi fyddaf yn siarad yn Gymraeg. Rwy'n eistedd yma mewn rhyfeddod, a dweud y gwir, at ansawdd y drafodaeth. Fel un a fu â chyfrifoldeb am weithredu mewn tri Chynulliad yr hyn sy'n cael ei alw'n setliad, fy sylw cyntaf i'r Ysgrifennydd Gwladol hwn, fel rwyf wedi dweud wrth rai o'r blaen, ydy nad oes yna setliad o gwbl, a'r ffordd rydym yn cario ymlaen, rydym yn llai tebygol o gael setliad. Oherwydd, cyn belled ag yr wyf i yn y cwestiwn—a dyma'r cwestiwn rwyf eisiau ei ofyn—onid ydy pwerau gosodedig a phwerau cadwedig yn dibynnu nid ar natur y drefn ond ar nifer yr eithriadau? Felly, os ydych yn cynhyrchu cyfundrefn lle mae yna fwy o eithriadau, yna mae'r Lord Elis-Thomas: I will be making my contribution in Welsh. I sit here in wonder, if truth be told, at the quality of the debate. As one who had responsibility for operating, in three Assemblies, what is described as a settlement, my first comment for this Secretary of State, as I have told others in the past, is that there is no settlement here at all, and the way we're going, we are less likely to achieve a settlement. Because, as far as I'm concerned—and this is my question to you—don't the reserved-powers model and the conferred-powers model rely not only on the nature of the system but on the number of reservations or exceptions? So, if you produce a system where there are more

system ohoi ei hun wedyn yn mynd reservations, then that system in and yn llai dealladwy.

of itself is going to be less comprehensible.

[108] Yn gysylltiol â'r cwestiwn yma, Related to that question, for me, is i mi, y mae'r cwestiwn moesegol the ethical question on democracy. If ynglŷn â democratiaeth. Os nad yw'r the people voting don't understand bobl sy'n pleidleisio yn deall am beth what they are voting for, if it is not y maen nhw'n pleidleisio, ac os nad clear to prospective Ministers who yw'n glir i ddarpar Weinidogion sy'n are prospective Assembly Members ymgeiswyr Cynulliad beth fyddan what they can do when they're nhw'n gallu ei wneud pan fyddan actually in power, then the only setliad felly yw tyfu sinigiaeth a diffyg purpose of such a settlement is to cyfranogiad gwleidyddol. Mae'n rhaid develop cynicism and lack of political i gyfansoddiad Cymru, yn fy marn i, participation. The Welsh constitution, Ysgrifennydd Gwladol, fod yn glir ac in my view, Secretary of State, must yn dryloyw, ac nid yw hwn. Fe be clear and transparent, and this is ddechreawn ni'n fanna. not. We'll start there.

[109] **David Melding:** Secretary of State.

[110] **Stephen Crabb:** Okay, well, thank you very much—

[111] **Lord Elis-Thomas:** Nothing I've said surprises you, I know that.

[112] **Stephen Crabb:** No, I'm not surprised in the least. I'm not sure what the question was—it was kind of a critique of the Bill. I've read your comments in the press. I think you said it's the worst Bill that's been brought forward since the days of King Herod—or something along those lines. [Laughter.]

[113] **Lord Elis-Thomas:** Since the days of Ron Davies.

[114] **Stephen Crabb:** The point about reservations—we talked about that earlier. When I read through the list of reservations I can see for myself that there are things where I think, you know, 'For goodness' sake, why is that being held back as reserved,'': street-peddlers, and there are other examples as well. I was surprised to see hovercraft mentioned. I had to explain to my children what hovercraft were, and I wasn't sure whether they were still a thing. So, look, there's some work we can do on that. The legislation that we

bring forward and that goes into Parliament—the final Bill—will have a list of reservations considerably shorter than the one that's in this draft text.

[115] **David Melding:** You don't want to say a rough order of magnitude, do you? We can't even get people to say how many reservations there are. 'It's over 250; it's probably fewer than 300', is the best we've had.

[116] **Stephen Crabb:** When I first suggested to officials we could reduce the number of pages of reservations, I think the first suggestion was to reduce the font size by a half. But look, I want to do a more fundamental change than that, so we will look at that. If there are suggestions that your committee have got, Chair, on improving the list of reservations, then I'm very happy to look at that.

[117] Dafydd, you make a wider point about democracy and transparency and the understandability of the Bill, and you're right. This needs to be understood not just by the legal practitioners, who will have great fun, whatever legislation you bring forward, in arguing about what it means, because that's what they are paid to do; but in terms of the practitioners—the politicians themselves—and, even more importantly, civil society, and the people of Wales, they need to be able to understand it. That's important too. So, you make a strong point. I fear, though, that however we might want to try and frame this next step of devolution along the journey—and this is just one more step, and I want it to be a significant step—it isn't going to solve all of the problems of complexity that we've been talking about this afternoon. But, what I would hope is that this takes us a big step forward in a way that doesn't add complexity and doesn't add more problems than currently exist.

[118] **Yr Arglwydd Elis-Thomas:** Wel, **Lord Elis Thomas:** Well, may I give a gaf i roi enghraifft fach arall? Mae you another example? Westminster San Steffan wedi bod yn diwygio ac has been amending and changing the yn newid cyfansoddiadau llawer o constitutions of many nations during wledydd yn fy nghyfnod i yno. Rwy'n my time there. I particularly recall the cofio'n arbennig y cyfnod o period of the returning of the ddychwelyd cyfansoddiad Canada i Canadian constitution to the daleithiau a gwladwriaeth Canada. Rwy'n gwybod bod y sefyllfa'n provinces and state of Canada. I know the situation is different, but wahanol, ond y bobl bwysicaf yr the most important people who were ymgynghorwyd â hwy oedd y bobl a consulted were the people living oedd yn byw yno. Rwy'n cofio barn there. I remember the views of

Québec, wrth reswm, ond barn y Québec, of course, but it was the gwahanol daleithiau oedd yn bwysig views of the various provinces that yn y trafodaethau hynny. Yn y cyd- were important in those negotiations. destun hwnnw, Ysgrifennydd In that context, Secretary of State, Gwladol, a gaf i ofyn i chi: pryd can I ask you: when did you read the wnaethoch chi ddarllen deddfwriaeth devolved legislation of Northern ddatganoli Gogledd Iwerddon Ireland last, and can you tell me how ddiwethaf, ac a fedrwch chi ddweud long the Schedule to that piece of wrthyf ba mor hir yw'r Atodlen i'r legislation is? ddeddfwriaeth honno?

[119] **Stephen Crabb:** So, to give you a direct answer to a direct question, I haven't read the Northern Irish devolution legislation recently, but on your recommendation, I certainly will.

[120] **Lord Elis-Thomas:** And please take note of the length of the Schedule.

[121] **Stephen Crabb:** Yes.

[122] **David Melding:** Do you have any further questions?

[123] **Lord Elis-Thomas:** I don't think so. That's about all I can think of saying. Oh, there is one more. What would you do, Secretary of State, were I able to persuade my colleagues not just on this committee, but in this Assembly, that we would request you to withdraw the draft Bill?

[124] **Stephen Crabb:** If we withdraw the Bill, what are we saying? We're saying that the legislative slot that's been set aside for this—we're not taking that. There's a risk, then, that we don't get another slot this Parliament. My fear is that, if we don't take the opportunity and make good use of the time that it's a draft Bill during the pre-legislative scrutiny, and make good use of the time that it's making its year-long passage through Parliament to refine and get the legislation right, and we choose instead what I think is the easier option—to say, 'Oh gosh, this is all so difficult; let's withdraw it'—then the opportunity is gone. I'm afraid that, if what you want—. I've read the comments that your colleague Jonathan Edwards made in the press, and I think Wayne David from the Labour Party, about possibly working together to block the Bill. Well, more fool them, because it won't be me spending the next 10 years explaining to the people of Wales why devolution in Wales is still in limbo. There's an opportunity to take a big step forward here today.

[125] **Lord Elis-Thomas:** With respect, Secretary of State, devolution in Wales is not in limbo. It is defined by the Supreme Court and by two of the greatest legal brains known to me, certainly.

[126] **Stephen Crabb:** We have a devolution settlement that is unstable. Regardless of the Supreme Court decisions, we have a devolution settlement that—

14:00

[127] **Lord Elis-Thomas:** Are you seriously saying the Supreme Court is unstable constitutionally?

[128] **Stephen Crabb:** Not at all—nor any of the members on it, absolutely not—but we have legislation that doesn't spell out which body is responsible for which area of policy. We'd also, if we withdrew the Bill, be denying the opportunity for this place, this Assembly, to get greater powers to become the place, when I made my speech down here a few months ago, the kind of place I think it's destined to be. I want this to be a strong primary law-making body for the benefit of the people of Wales. That's a vision that I share with you.

[129] **David Melding:** I think we do concede, don't we, Dafydd, that Parliament can change the law, even if that means, in effect, overturning interpretations that have come out of the Supreme Court? Secretary of State, can I just clarify that the Bill, in your view, will require the assent of the Assembly? In the world of practical politics, if the Assembly were to say it didn't approve the legislation, presumably, at the later stage, as it goes through the formal procedures in Parliament, would that, in effect, stop the Bill proceeding?

[130] **Stephen Crabb:** Well, we will cross that bridge when we come to it, but I don't want to set out on this process preparing for failure. I think if you plan for failure and prepare for it, then, normally, that's where you arrive at. I want us to work constructively together to get this document right. Where there are fundamental issues of principle that need to get addressed within it, let's do that. If it's a question of drafting and rephrasing things, we can look at that. If it's a question of how we simplify and make the list of reservations more concise to give more clarity to the workability of the devolution settlement, then we have an opportunity to do that. But I fear, with the level of rhetoric that's coming from some quarters around this,

which is disproportionate to whatever the issues are in this draft piece of legislation, we're creating a climate in which this Bill might not see the light of day, and I think that would be a massive missed opportunity for the people of Wales.

[131] **David Melding:** And you have said you're open to suggestions. In our view, the most comprehensive and positive alteration has been suggested by the Presiding Officer. I don't know if you've had a chance to see that evidence yet. Do you have an initial view on that as a basis for alterations to the draft that may reassert the consensus that did exist earlier in the process, if I can put it that way?

[132] **Stephen Crabb:** You're right that the Presiding Officer has sent us through some quite detailed recommendations. She sets out a number of options in different areas. I've had a quick read through; I'm not in a position to give a definitive view right now, but what I would say is that what we won't be doing, I think, is changing the wording of things to such an extent that you end up making some of the principles meaningless. The principles that I was describing earlier about clarity, about a clear understanding of the separation of powers between what the UK Government's responsible for, what the Welsh Government's responsible for and the need for that principle of respect built into the legislation whereby if, in its law making, the Welsh Government and the Assembly are making law that touches on reserved matters and the responsibilities of UK Ministers, surely to goodness people can recognise it's an entirely reasonable principle that the relevant UK Minister should be in a position to say what happens in his or her department and the public bodies that he or she is responsible for. I think people outside this place would understand the reasonableness of that principle.

[133] **David Melding:** Finally, I think, is there any deadline for comments in terms of—? Presumably, the work of redrafting goes on, but you're probably working to some sort of timetable where you want to produce the definitive draft, I guess, or whatever we call the version that will be more or less what you will introduce to Parliament.

[134] **Stephen Crabb:** The House of Commons select committee have said, I think, that they're going to publish their report and recommendations by the end of the year. That will give us some time to go away and reflect and consider their recommendations with a view to, two months or three months later, bringing forward the final legislation. I think that's a perfectly practical

and reasonable timescale.

[135] **David Melding:** Okay, thank you very much. That concludes the questions we want to put you. Thank you for that.

[136] **Stephen Crabb:** Thank you very much.

[137] **David Melding:** It was a very, I think, candid session. I think we've put questions that were quite pungent and direct, and we had answers that delivered a variable degree of consensus and agreement. But I think it was a useful session in terms of you being able to explain your motivation and purpose, where there may be room for change, and also I think we've raised some of the reservations that have been raised with us. I think it's good that you get a sense of that view which has been formed in the Assembly. So, thank you very much.

[138] **Stephen Crabb:** Thank you very much.

[139] **David Melding:** Also, thank you to your officials, Secretary of State.

14:35

**Offerynnau Nad Ydynt yn Cynnwys Materion i Gyflwyno Adroddiad
Arnynt o dan Reolau Sefydlog 21.2 neu 21.3
Instruments that Raise No Reporting Issues under Standing Orders
21.2 or 21.3**

[140] **David Melding:** Item 3 then is on instruments that raise no reporting issues under our Standing Orders. They are listed there for you. Are we content?

14:35

**Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad Arnynt i'r
Cynulliad o dan Reolau Sefydlog 21.2 neu 21.3
Instruments that Raise Issues to be Reported to the Assembly under
Standing Orders 21.2 or 21.3**

[141] **David Melding:** Then item 4 lists the one instrument that does raise reporting issues. Are we content with that?

14:36

**Papurau i'w Nodi
Papers to Note**

[142] **David Melding:** Papers to note. I think we could discuss them all, really, in the private session, but can we just note that there's a series of letters from committee Chairs, which is very useful, I think, for our work. Also, we have a letter from David Davies in relation to the joint meeting that we had.

[143] **Alun Davies:** Can I make a point on that letter from David Davies?

[144] **David Melding:** You can do that later if you don't want to do it now.

[145] **Alun Davies:** I'm happy to do it in the public session.

[146] **David Melding:** Yes. Okay.

[147] **Alun Davies:** I thought it was a very good letter. I thought that the points that he made were very good and very powerful. I think that we should review how—. I know that he refers to the constitution of House of Commons select committees, but I think that we should respond positively to that, to emphasise our commitment to joint institutional working.

[148] **William Powell:** Hear, hear.

[149] **David Melding:** Okay. We'll discuss that fully now.

14:36

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting**

Cynnig:

bod y pwylgor yn penderfynu

Motion:

that the committee resolves to

*gwahardd y cyhoedd o weddill y
cyfarfod yn unol â Rheol Sefydlog
17.42(vi).*

*exclude the public from the
remainder of the meeting in
accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[150] **David Melding:** I now move the relevant Standing Order that we conduct the rest of today's meeting in private, unless any Member objects. I don't see any Member objecting, so please clear the public gallery and switch off the broadcasting equipment.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 14:37.

The public part of the meeting ended at 14:37.