



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

The Constitutional and Legislative Affairs Committee

6/2/2017

Agenda'r Cyfarfod
Meeting Agenda

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

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. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Yr Arglwydd/Lord Dafydd Elis-Thomas Bywgraffiad Biography	Annibynnol Independent
Huw Irranca-Davies Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Dai Lloyd Bywgraffiad Biography	Plaid Cymru The Party of Wales
David Melding Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Yr Arglwydd Murphy o Dorfaen/Lord Murphy of Torfaen	Tyst Witness
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Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Sam Mason	Cynghorydd Cyfreithiol Legal Adviser
Gerallt Roberts	Dirprwy Clerc Deputy Clerk
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 14:30.

The meeting began at 14:30.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant Introduction, Apologies, Substitutions and Declarations of Interest

[1] **Huw Irranca-Davies:** Welcome—good afternoon—to this session of the Constitutional and Legislative Affairs Committee. You are very welcome this afternoon, Lord Murphy. It's great to have you here with us this very first session of our latest inquiry, which we've been anticipating greatly. So, I hope you enjoy the afternoon. We're looking forward to hearing from you, not least because you've been in pole position, not only on the two occasions when you've been Secretary of State for Wales, of course, but also as a Cabinet Member in different roles, and also as a long-time serving Member of Parliament, and now in the House of Lords.

Ymchwiliad Llais Cryfach i Gymru: Sesiwn Dystiolaeth 1 A Stronger Voice for Wales Inquiry: Evidence Session 1

[2] **Huw Irranca-Davies:** I thought it might be worthwhile just sketching what we're trying to do, because we're looking back down that long tunnel of devolution since the very first Government of Wales Act, and trying to look at, in effect, what has worked well, what doesn't work so well, not only in constitutional matters, but also in policy areas as well, which I know you were heavily involved with., the issues of cross-border issues, thematic issues, how that works when it does, and, when it fails to work, why does it fail. It's particularly interesting, of course, as we look forward from here, as well. But I wonder, in starting this very first session, perhaps, if I could ask you what your thoughts are looking back on your two periods as Secretary of State for Wales, what your reflections were on those two periods, and whether you saw a difference, as well, between the two spells that you had as the Secretary of State for Wales. So, what are your reflections?

[3] **Lord Murphy:** Do I have to press anything or is it automatic?

[4] **Huw Irranca-Davies:** No, it will pick you up automatically.

[5] **Lord Murphy:** Well, Chair, Members—and that's the last time I'm going to say that, because I think we know each other so well that, if you don't mind, we'll use our Christian names. But what are the reflections on the two

periods? Well, the first one was in 1999, when I started, and the second one was 2007. So, there's a long period in between, and the difference, I think, was enormous. Because, obviously, in 1999 the Assembly hadn't been going for long, really, had it? A couple of years, at the most, in terms of getting used to what Members had to do. I came at a rather tumultuous time, as you know, when there was a significant change in terms of the First Minister. I never quite thought I'd end up in what were, as I say, tumultuous and dramatic times. But, of course, the Assembly and the Welsh Executive, at that stage, was it, would it have been called—was in the process of coming to terms with their identity and what Government in Wales was all about. So, it was very much at the early learning stages for everybody, not just Members of the Assembly—members of the Welsh Government, as it became—but also us, who were Welsh MPs and Ministers, having to deal with the Assembly.

[6] By the time I'd returned in 2007, obviously the First Minister was the same, some of the Ministers were the same, and a good number of the Members of the Assembly were the same. But there was a world of difference, it seems to me, in terms of how, even in those relatively short number of years, the Assembly had matured, if you like—I don't say that in any patronising way, I say it in a constitutional sense. It got more used to itself, and understood how to deal with the issues that they were charged to deal with, and I think probably, most importantly, the people of Wales themselves, by then, were getting used to the concept of a different form of Government in Wales.

[7] Certainly, when the Assembly started—I can speak now as a Member of Parliament, rather than a Minister—it took a long time for my former constituents to get used to the idea that certain things were done by the Assembly, certain things were done by the United Kingdom Government and by Parliament. But, by 2007, it had changed dramatically, and I could see that difference in those intervening years.

[8] **Huw Irranca-Davies:** Did you find there was any difference between those two periods in the relationship with Whitehall as well, between the Wales Office and Whitehall? As you say, the first period when you arrived was tumultuous, but it was also the very beginning—the inception of the institution here in Wales. Was there a difference in how the relationship between the Wales Office and other Whitehall departments had changed as well?

[9] **Lord Murphy:** A bit. You know yourself, since you served with me in

the Wales Office in the second period, that it's wasn't always plain sailing and that ultimately I think it took—and has taken—Whitehall much longer to get used to the idea of devolution than the devolved Parliament and Government in Wales. So, I wouldn't say that there was a dramatic change for the better there, and that my role in terms of acquainting other Government departments and other Cabinet Ministers about the need to understand that things happen differently the other side of Offa's Dyke hadn't changed dramatically.

[10] **Huw Irranca-Davies:** It's fascinating that your observation was about how devolution had evolved here—quite understandably, a new institution had started to flex its muscles, understand what powers it had, grow in confidence—and yet within the Whitehall departments, you're suggesting that, in effect, very little had changed and the battle still had to be fought.

[11] **Lord Murphy:** I think, overall, little had changed. There may have been individual departments that had more to do with Wales that may have got better—put it that way. But I think, generally speaking—. That's why I've always maintained, by the way, that the role of Secretary of State for Wales is hugely important. English newspapers, London-based newspapers, usually say, 'Let's do away with it', and I can understand the superficial logic of that, but I do think there's a need for this linkage between somebody in Whitehall—perhaps it's not the Secretary of State for Wales; perhaps it's an overall—but nevertheless that someone is there centrally to keep on reminding other Government Ministers and departments that there are 11 million people in the United Kingdom who do not live under the domestic regime of England, and I think that's a hugely significant role of the Secretary of State and the Ministers, but it's always a difficult one, it seems to me.

[12] **Huw Irranca-Davies:** You've been quite outspoken on this previously, and quite frank in your observations on the relationship between other Whitehall departments and the Wales Office. I recall at one point, you suggested of the Whitehall departments that

[13] 'They rarely want to give anything away and there needs to be a central power with the Welsh Secretary, but with the help of the Prime Minister',

[14] which seems to be key as well,

[15] 'to ensure that those grudging Whitehall departments are, frankly, told

what to do.’

[16] It’s quite an interesting take, because your reputation very much—and you know, I would concur with this—is somebody who achieves huge things within your role as Secretary of State for Northern Ireland and so on, by gradually working with, and nudging and collaborating to get the desired outcome. So, for you to say, you know, ‘Frankly, sometimes these Whitehall departments need to be told what to do’—

[17] **Lord Murphy:** Told what to do to in the sense that—. I don’t know, perhaps that’s a bit over the top for me, but—

[18] **Huw Irranca-Davies:** Don’t retreat from it now; I was encouraged by that.

[19] **Lord Murphy:** Quite recently, actually—Dafydd will tell you—when we were in the various committee stages of the Wales Bill recently in Parliament, one of the weaknesses, it seems to me, of the Wales Bill is that there were so many Government departments who wanted to retain various functions. Some of them were piffling, to be perfectly honest, which eventually, I think, were transferred, but it showed dramatically, as an exercise, how individual Whitehall departments looked at and dealt with devolution. ‘Jealousy’ is not the word, really, but it’s a situation where they wanted to retain power, sometimes just for the sake of it. Now, there are obviously certain things we all agreed—like foreign affairs and defence and other things—were vital to be retained in London. With others, it wasn’t quite so vital, and this reserved powers notion that we’ve now got, and which is now the law, is very good, so long as Whitehall departments didn’t keep on trying to ensure that they kept so much to themselves. And that was a good illustration of how, in 2017, Whitehall departments in London still don’t quite get it with regard to devolution. You’re talking to someone who opposed devolution in 1978, by the way, and I’ve changed my view over the years.

[20] **Lord Elis-Thomas:** I vaguely remember that, yes.

[21] **Lord Murphy:** Leo Abse, Neil Kinnock and myself were all on the other side of the fence. Seventeen years of a different sort of Government, but also a change in attitude amongst Welsh people, and then, in my case, a change in my own mind as I got used more to doing the job of Welsh Secretary, has meant, for example, that when it came to the referendum on extra powers for Wales, I was a fervent supporter of that, because I could see, frankly, how

successful the Assembly had been—and the Welsh Government had been—in being closer to the Welsh people and being able to do what they had to do. I wouldn't have said that 20-odd years ago, and I've changed my mind over the years. But I'm not so convinced that the officials have, in England, or the politicians around the Cabinet table. Time and time again—I did it in when I was in Northern Ireland as well, but it was a different case, of course, because there was a peace process there as well—but the second time I was Welsh Secretary, I also had a wider responsibility for devolution. Time and time again I had to remind, around the Cabinet table when they were talking about X, Y and Z, that this didn't apply in Wales and it's different. They had to be reminded. That was my job. I'm not saying I resented doing that because I was paid to do that, and I'm assuming that all my successors in the role of Secretary of State for Wales have to do that, including Alun now.

[22] **Huw Irranca-Davies:** That's fascinating, your insights into this, and I assume that's why you refer to the importance of the Prime Minister also giving the Secretary of State that support. I only have one other area, because I know that colleagues are bursting to come in with questions as well. But to turn the telescope down the other way, down here towards Cardiff and the Welsh Assembly itself, we're quite interested in identifying when devolution works really well—when the relationship works really well. So, if we put Whitehall to one side for the moment, are there examples where there were particularly sticky, tricky issues that were resolved between a Welsh Government and the UK Government during your tenure? How were they resolved and why were they resolved successfully? What makes that relationship work, and what makes it fail?

[23] **Lord Murphy:** I'll link it into the very last point I made before about Prime Ministers. The relationship between the Welsh Secretary—and the Scottish Secretary for that matter—and the Prime Minister is vital. I think my own relationship with Tony Blair and Gordon Brown, because they were the two Prime Ministers I had to deal with, was pretty good, and I was able to, if you like, talk to them individually, and privately sometimes, about issues, because sometimes you can't do that in a committee setting or in a Cabinet meeting and you need to have a separate chat. So, from time to time, I would, with both Prime Ministers, have private sessions where I'd explain to them what the issues were. There were a number of examples—a host of examples—where it was the job of the Welsh Secretary and, for that matter, the Parliamentary Under-Secretary, as you know, to deal individually with Ministers here in Cardiff. It's all down to people, Huw, at the end of the day, and building up a relationship with people. Before I come to one or two

issues, my practice was, every week, to have a private meeting with either Alun Michael or Rhodri Morgan who were the two First Ministers when I was Secretary of State. Occasionally, I'd have a meeting with the Presiding Officer as well on various issues from time to time. But they were important because you could sit down around a cup of coffee, informally, without any press or public or the rest of it, to be able to iron out problems. I would say that, 80 per cent of the time—perhaps even more—you could resolve problems like that by simply having one-to-ones, and also the Parliamentary Under-Secretary doing the same with the other Ministers in Government. But not always; it's made easier, of course, if it's the same party. Although, I have to say that, in both coalitions—the Liberal one and the Plaid Cymru one—I had no problems. I found that—perhaps it was because we were Welsh; I don't know—it was a good relationship there too.

14:45

[24] Now, as to issues, the biggest was Objective 1 and the additionality. It led, of course, to the downfall of the first First Minister. A huge issue, it took over a year to resolve. Of course, Gordon Brown was the Chancellor of the Exchequer. There was a big issue of principle at stake: is this Objective 1 money going to be on top of the normal funding or does it simply plug the gap? That became a huge issue that took, as I say, well over a year to negotiate. That was probably the biggest single issue, but there were lots and lots of others, covering all issues: cross-border issues, for example, on health; education issues, obviously; constitutional ones; and, above all else, financial ones, of course, and the constant need to go to the Chief Secretary to the Treasury, not just on the formal occasions with the autumn statement or the budget, but also, from time to time, because of various issues that were raised with me by the Welsh Government at the time.

[25] **Huw Irranca-Davies:** Paul, thank you. I'm sure there's more on that that we'll return to if we've got time, but, Dai, perhaps I can pass to you.

[26] **Dai Lloyd:** Roeddwn i'n mynd i **Dai Lloyd:** I was going to ask my holi fy nghwestiynau yn Gymraeg—y questions in Welsh—the usual cyfarpar arferol o San Steffan. equipment from Westminster.

[27] **Lord Murphy:** It's working.

[28] **Dai Lloyd:** Da iawn. Rydych chi **Dai Lloyd:** Great. You've mentioned wedi sôn eisoes am bwysigrwydd already the importance of personal

cysylltiadau personol yn nhermau links and contacts in terms of cydweithio rhynglywodraethol, ond collaboration between Governments, rydych chi hefyd wedi sôn am eich but you've also mentioned your cynnig y dylid cael pwyllgorau gwaith proposal that there should be rhwng y sefydliadau datganoledig a working committees between the Llywodraeth y Deyrnas Unedig. A devolved institutions and the United ydych chi eisio ymhelaethu ar hynny? Kingdom Government. Would you Felly, nid jest cysylltiadau personol, care to expand on that? So, not just ond efallai rhyw fath o strwythur. personal links, but also some sort of structure.

[29] **Lord Murphy:** As you know, there are formal links set up over the last number of years—the Joint Ministerial Committee, the British–Irish Council and so on. But they are, ultimately, in my experience of them, terribly formal meetings where you issue communiqués afterwards. You go through a process that is overformal, to be honest. It does give you, I suppose, the opportunity, when you're at these meetings, to talk to counterparts from across the United Kingdom—Northern Ireland and Scotland—as well. As an aside, one of the most interesting ones I ever attended was on health, and listening to the Scottish and the Northern Ireland Ministers of health describing how they dealt with certain issues and how we in Wales dealt with them. For example, we talked a lot about our telemedicine in remote, rural parts of Wales, as you would know more than most people in your own profession. But I still think they're overformal.

[30] I'm not saying they should be done away with, far from it. I think they should be enhanced, and more of them. But I think that there is a case for more informal working committees at both political level and official level. I'm sure that there is activity between officials in Cardiff and Westminster, but I'm not sure it's enough. I'll give you one example that came from the Wales Bill recently, which Dafydd and I were involved in, and that was on Henry VIII powers and how Parliament could actually introduce Henry VIII powers to affect Welsh legislation—and oddly enough, vice versa as well. One of the things we said that should happen was there should be more contact all the time. So, it seems to me—not on things that are routine or anything like that, but when there are issues, you could set ad-hoc ones up on specific issues that are causing problems. Let's say, for the sake of argument, cross border on health. Why couldn't there be a working committee of Ministers and/or officials on that? The thing is, it probably never enters the heads of people in Whitehall, because, as I said earlier, it's not on their radar very often, but I think it is something that you can pursue as a committee to

ensure that problems are identified before they become public and you can resolve them either at official or ministerial level. Sometimes, you can't, and it has to go public. Sometimes you can. It seems to me to be a good way of dealing with it.

[31] **Dai Lloyd:** Diolch yn fawr am hynny. Jest yn dilyn hynny, gwnaethoch chi sôn am Gyd-bwyllgor y Gweinidogion a'r gwendidau achos ffurfioldeb y peth. Sut, felly, ydych chi'n credu y gallwn ni wella gweithrediad Cyd-bwyllgor y Gweinidogion?

Dai Lloyd: Thank you very much for that. Following on from that, you mentioned the JMC and the weaknesses because of the formality of it. How then do you believe that we could improve the machinery of this?

[32] **Lord Murphy:** Well I think there's probably a case for the different administrations being asked to review the working of the Joint Ministerial Committee. Perhaps that's something you could think about in recommendations; that they become more meaningful. What is certain is that a system will become much more meaningful post Brexit—bound to be. Or, indeed, pre Brexit. Because there are going to be huge issues that will affect us in Wales as a consequence of our leaving Europe. It seems to me that—. Well, you've already had one haven't you, recently, some weeks ago here in Cardiff? That was the British-Irish Council, wasn't it? But nevertheless they're both fora where you can talk with each other. Megaphone diplomacy never works. It seems to me that there's a strong case for making the JMC more meaningful by having more committees of the JMC, so that you can identify various issues that are important, particularly in the context of Brexit.

[33] **Dai Lloyd:** Ie, diolch am hynny. Yn bellach, byddwch yn ymwybodol yn naturiol fod yna ganllawiau ar ddatganoli sy'n nodi'r cyngor ar drefniadau gweithio rhwng Llywodraeth y Deyrnas Unedig, y Llywodraeth fan hyn ac yn yr Alban a Gogledd Iwerddon. Nid oes gan y canllawiau yna ddim grym cyfreithiol. A ydych chi'n gweld bod gyda nhw rôl i'w chwarae yn gwella cysylltiadau rhwng fan hyn a Llundain, dywedwch?

Dai Lloyd: Thank you for that. Further to that, you're aware naturally that there are devolution guidance notes that exist in facilitating inter-governmental relations between the UK Government, the Government here and Northern Ireland and Scotland. Those notes don't have any legal power. Do you think they have a role to play in improving relations between here and London?

[34] **Lord Murphy:** Yes, I think they do. I don't think we had anything like devolution guidance notes in the early days, but later on they came. Because, of course, misunderstandings and disagreements developed, as obviously the Welsh Government and the Welsh Assembly themselves flourished over the years. So, yes, it's very important that they're there, but they have no, I suppose, legal basis. On the other hand, if they are breached then there is a very serious case to go to the JMC and complain about their being breached.

[35] But ultimately, as I said earlier to Huw, everything in this game is about—by which I mean the game of politics—individual personal relationships. Not always easy on a political level if you are dealing with a Minister in London who is diametrically opposed to the Minister in Cardiff on a particular issue. Education, I think, was an example of that; last year and the year before when it was quite difficult because they were really going down different pathways. But you have to accept that's going to be the case. I was very lucky, as I said earlier, in that there was no problem in that respect during the times when I was Secretary of State, but I knew it couldn't last either way. You know, there could be a different administration here from a Labour one and similarly in London. So, sooner or later this is going to happen. That's when the machinery becomes more significant, and the guidance, in that whereas you can within your political party try and resolve things sometimes, over a pint of beer or whatever it might be, there are times when you can't do that and you have to have more formal arrangements set up. Even so, it seems to me that my experience of Conservative Secretaries of State here in Wales is such that because we are in Wales they are of a different nature, so that you do get a better relationship between any Welsh Secretary from any political party in Wales than necessarily you would do from their Cabinet counterparts in London.

[36] **Dai Lloyd:** Diolch am hynny. Y **Dai Lloyd:** Thank you. The final cwestiwn olaf, rwy'n credu, achos question, I think, because you've rydych chi wedi ateb un ynglŷn â rôl y answered a question on the roles of ddwy wahanol glymblaid yn y lle yma the two different coalitions in this yn eich amser, ac wrth gwrs cryfder place during your time, and it was perthnasau personol, fel roeddech the strength of personal chi'n dweud, a oedd yn dod â relationships, as you said, that llwyddiant yn y fan honno. Roeddwn i brought success during that time. I jest eisiau gorffen fy rhan i beth just wanted to finish my part by bynnag drwy ofyn i chi: yn eich asking you: from your experience— profiad chi—a hefyd rydych chi wedi and also you've partly answered this

yn rhannol ateb hwn yn gynharach—pa mor ymwybodol ydy swyddogion yn Whitehall ynglŷn â gwaith dydd i ddydd y lle hwn? Achos weithiau, o brofiad dros y blynyddoedd yn fan hyn, rydym ni wedi bod yn cynnal ymchwiliadau gan ba bynnag bwyllgor yn fan hyn—dyweder y pwyllgor iechyd, ac ati, neu'r pwyllgor hwn—ac rydym ni wedi anfon gwahoddiad i ryw Weinidog neu arall i ddod i fan hyn, i ddod a rhoi gwybodaeth gerbron neu ryw fath o dystiolaeth, ac, yn aml, nid oes yna hyd yn oed gydnabyddiaeth bod y gwahoddiad yna wedi cymryd lle. Wedyn, hefyd rydw i wedi bod yn rhan o rai ymchwiliadau, ac yn wastadol pan rydym ni'n trio ymchwilio ar y cyd rhwng fan hyn a San Steffan a hefyd efo'r Alban, yn wastad, y peth ydy, mae'n rhaid i bawb fynd i Lundain. Nid oes sôn am bobl Whitehall yn dod allan i unrhyw le. Efallai bod pethau wedi gwella, er nid wyf yn gweld llawer o arwyddion o hynny mae gen i ofn. Mae'n deg nodi—sawl gwaith y gwnaeth y pwyllgor hwn roi gwahoddiad i Ysgrifennydd Cymru? Pedair gwaith? Ac ni wnaeth ymddangos yr un o'r pedair gwaith yna. Felly, jest o'ch profiad chi, pa mor ymwybodol ydy Whitehall ac Aelodau Seneddol o'r gwaith o ddydd i ddydd yn y lle hwn?

earlier—how aware are officials in Whitehall of the day-to-day work of this place? Because sometimes, from experience here over the years, we've had inquiries by whatever committee—for example, the health committee, or even this committee—and we have sent an invitation to some Minister or other to come here, to provide information or some sort of evidence, and quite often there is not even an acknowledgement that that invitation has taken place. I've also been part of some inquiries, and every time when we're trying to hold an inquiry jointly with Westminster and Scotland, every time, everybody has to go to London. There's no talk about Whitehall people coming out to anywhere. Perhaps things have improved, but I don't see many signs of that, I'm afraid. It's fair to note—how many times did this committee invite the Welsh Secretary? Was it four times? And he didn't appear on any one of those four occasions. So, from your experience, how aware is Whitehall and the Members of Parliament of the day-to-day work in this place?

[37] **Lord Murphy:** I actually don't think they're very—. If you're not a Welsh Member of Parliament, or a Scottish Member of Parliament, or a Northern Ireland Member of Parliament, it's all foggy to you as an English MP or peer. The Celtic mists. To their cost, actually, because they've realised, for example in Scotland, that you ignore it at your peril. I think Brexit will

undoubtedly start to concentrate minds more, to be honest, in that they'll realise that even though there may be no legal restraint on what they do, the fact is that they're going to have to consult and talk with the devolved administrations a lot more because of leaving the European Union. In fact, it was my view—with hindsight, I suppose—that the referendum itself should have been subject to the consent of the three devolved countries. But it wasn't to be. But nevertheless, with two out of the three who voted to stay in Europe—unfortunately we didn't, but nevertheless we have huge issues with Brexit—then it seems to me that that will concentrate their minds more.

[38] There may be a case within Whitehall—perhaps they've done it since I've left—where you can have some training sessions for people so that they can understand that it isn't quite the same anymore. The BBC have learnt. If you notice, in the last couple of days there've been lots of stories about the health service, but they always now qualify 'in England'. They didn't use to do that, by the way. We've had a long row about that with them over the years. But they are much more conscious of it. As I said, I do think both the Assembly and the Welsh Government now have an opportunity with Scottish and Northern Ireland counterparts to concentrate more on these relations, because of what's ahead of us. It's a big issue.

[39] **Huw Irranca-Davies:** Dai, wyt ti wedi gorffen? **Huw Irranca-Davies:** Dai, have you finished?

[40] I'm going to bring David in in a moment, but can I just return—? It's a curious journey, mine, from Westminster down here to the Senedd, and without commenting, actually, on the recent Wales Bill so much, I wonder what your views are on the propensity of UK Ministers, not necessarily from the Wales Office, but perhaps other ones, where there is a significant Welsh interest that a committee is looking at—. In this case it was the Wales Bill, and we had a mass of evidence that we thought was of use, but it could be another area where it would be worth asking a UK Minister to come down here, or for us to go up to there. Do you have a feel on whether UK Ministers should normally or should sometimes appear on a bona fide request in front of a committee from this place?

[41] **Lord Murphy:** Yes, I do. I think it works both ways, incidentally. I think that there are times in Westminster when Welsh Ministers could and ought to go to select committees, or whatever it might be, not just on obvious things like cross-border issues, but on comparing best practice. Often we're talking about where we disagree, but the great thing about—or the theoretical great

thing about—joint working is that you can learn from each other: learn from your mistakes, but also learn from your successes. It is an awful lot to learn on how you run services, and ultimately, of course, it's all about the people out there that matter—the 3.5 million people in Wales. Will they benefit from improved relations between the two Governments and Parliaments? Of course they will, and there shouldn't be an impediment.

15:00

[42] It's officials, very often, advising Ministers—and I've seen this in the past—because they know little about devolution. They say 'Ah, well, this is an unknown territory here. Don't get involved in any of this, whatever you do,' partly because they're a bit concerned that they may get caught out. But it's not a question of catching people out; it's about trying to ensure that there's a smooth relationship, but also that services can be improved in both England and Wales by looking at each other's best practice. So, the more that we do it, the better. Ministers should be encouraged, and if they're not from the UK Government point of view, then it should be the Welsh Secretary, in the end, if necessary, appealing to the Prime Minister. Here, if a Welsh Government Minister is reluctant to go to London, then the First Minister could be involved, if it's so important.

[43] **Huw Irranca-Davies:** Paul, could I push you a tiny bit further on that? Do you think, as we move through this imminent transition now, into this post-Brexit scenario that you referred to and the implications of that for devolution and for the United Kingdom, that that interplay, when Ministers from the different nations and regions, but also from the UK Parliament, see themselves as making themselves available, both ways, as you say, is more important, actually, now?

[44] **Lord Murphy:** Yes, it's hugely important in the context of Brexit—not the least of which is that a lot of the services we provide in Wales are, effectively, if you like, European services, whether it's fishing or agriculture, or whatever it might be. These are services, functions, if you like, of the Welsh Government and the Assembly that have been deeply linked in to the European Union over the years. Now, with our leaving and with Welsh Government Ministers being actively involved over the last 20 years in Europe, by going to council meetings and all the rest of it, there's a massive amount of work to be done. I think that both Cardiff and Westminster, at their peril, ignore each other on these issues—at their peril.

[45] **Huw Irranca-Davies:** Thank you, Paul. David.

[46] **David Melding:** Thank you, Chair. Very interesting exchanges. If I can be permitted one reflection, when I was the Chair of this committee, after the Wales Office, the best department of state by far in terms of our engagement with it was the Foreign and Commonwealth Office. I suppose they're used to other Governments, but they were polite and engaging. I remember a very useful session we had with the Minister of State who came to Cardiff to give evidence to us, David Lidington, on Wales's voice in Europe, but I have to say it's not common practice across Whitehall departments—

[47] **Lord Murphy:** But, I suppose, in a sense, you see, with the foreign office, they've got nothing to lose. [*Laughter.*]

[48] **David Melding:** They know how to deal—

[49] **Lord Murphy:** They're not threatened at all.

[50] **David Melding:** That's true. I think you've been very instrumental in setting up and then the operation of the British-Irish Council, and I wonder what value you place on that and how you think that operates, perhaps compared to the remarks you've made on the JMC, which tends to be a bit stiff and formal, and then doesn't quite have the natural networking that gets business done.

[51] **Lord Murphy:** As you know, the British-Irish Council was strand three of the Good Friday agreement, and myself and Liz O'Donnell, as an Irish Minister, chaired that strand for two years. It was something that, initially, the unionists were more concerned about, because they saw this east-west relationship as being, if you like, a counterpart to north-south. But, ultimately, as the time went by, I think politicians from across the island of Ireland, including nationalists as well as unionists in the north, found it to be a very useful way of getting together.

[52] It's a vital instrument. I don't exempt it from over-formality—the British-Irish Council, now. I think some of its committees work more informally, but my experience of the British-Irish Council is that it's more significant because of the personal relationships that can be built up, and, as you know, because you've been a long-standing member of the British-Irish Parliamentary Assembly over the years, David, you build up relations not just with Northern Ireland, Scotland and Wales, but also with the Isle of Man, with

Guernsey and with Jersey, as well as with the UK Government. So, there's a huge potential there, post-Brexit again. I keep coming back to this: the implications of Brexit for both Ireland and Northern Ireland, and for the relationship between those two places, and the United Kingdom and with Wales, are absolutely enormous. A lot can go wrong in the next couple of years on this, so I think that the British-Irish Council, which met recently, and its committees—and I'm assuming they've got committees set up to deal with Brexit—is a massively important vehicle by which they can try and resolve some of these huge issues. It isn't simply a question of the border in the north, for example; it's also the whole business of the Good Friday agreement, which was a semi-diplomatic, semi-legal document. How do you ensure that that is kept intact as a consequence of Europe? There are amendments being debated today in the House of Commons on precisely that. So, I think that, whereas it has been a bit over-formal, but has given an opportunity for personal relationships to build up, it's now going to become hugely significant, and should be. Again, I think there's something your committee might consider—that, within the context of Brexit, a lot more use should be made of it. It really should be.

[53] **David Melding:** That's very helpful. I take from this that these networks are very important, and I just wonder for the future whether some form of something analogous to the British-Irish Council is going to be required between the UK and the EU. Have you heard any thinking along these lines? I've picked it up in the occasional article in the *Financial Times* or something, but it seems to me quite a constructive suggestion.

[54] **Lord Murphy:** It's one way of certainly trying to soften the blow, I suppose, to those of us who vehemently wanted us to remain in the European Union. But it is a model. I think that there's a Nordic Council that brings together the Scandinavian countries. Norway's not in the European Union; the other three are. So, there is a case, perhaps, for looking at something like that and it's something that the British-Irish Council itself could look at, because I certainly know that the Irish Government is very perplexed about what's going to happen, not least of which, of course—is it £1 billion a month or something like that that comes between the United Kingdom and Ireland? There are huge implications in all this, so, if you could extend that, then all the better.

[55] To extend your point, David, about east-west relations, the British-Irish Parliamentary Assembly itself, which, effectively, is the parliamentary part of strand 3, and which has developed over the years, and which really

was instrumental in the early years in bringing Irish politicians—Dai was on it as well—together when things were hard and difficult, it's also a really good means at the moment by which politicians who are not Government Ministers can get together. Now, I understand from people who are on it—. I'm no longer on it, because I fell between two stools; I left the House of Commons and entered the House of Lords, and in the meantime they'd put the new people on, so, I'm out of it, but I do keep in touch with people, and they tell me that Europe and Brexit is a huge part of what they intend to do over the next couple of years. Very important. And the Welsh Government and Welsh Assembly have played big roles in these British-Irish organisations, and rightly so, too.

[56] **David Melding:** I have to say, I'm no longer on BIPA either in this fifth Assembly.

[57] **Lord Murphy:** No, well, that's two of us.

[58] **Dai Lloyd:** A sad blow.

[59] **David Melding:** Given your reflections when you were a member and Co-Chair of BIPA, as a parliamentary body, I suppose, in a way, it was the opposite to some of the criticisms we're making of, say, the Joint Ministerial Committee in that it was too informal. Would you say that that is fair—that it sometimes had a slightly lackadaisical agenda and wasn't quite—?

[60] **Lord Murphy:** It depended a lot on who the Co-Chairs were, of course. The Co-Chair would be responsible, effectively, for the agenda of the Assembly. Sometimes, it could be a bit mundane, shall we say? But I think, in a way, it was set up really centring on the peace process in Northern Ireland, so it was very much involved with Northern Ireland for its first couple of decades, inevitably. Since we've had a settlement in Northern Ireland—although there are issues there, of course, as we all know, that need to be resolved; that's going to be another headache, I think, over the next couple of months—they were really looking for a wider role beyond the Northern Ireland peace process, which is quite right, because it is much wider than that. I think sometimes they struggled to find something that was really significant. Now they've got it, on Europe and Brexit—something they can really get their teeth into. I hope that they'll be able to do an awful lot of good work, which I'm sure they will do, on smoothing this transition between one of the member states that has stayed in the European Union and the other one that is now leaving. So, as I say, there's a lot of work to be done on

that issue.

[61] **David Melding:** It's an interesting point, because it's such a pressing issue now; it's not quite up there with the peace process, but not far behind, is it, when you look at the consequences of Brexit.

[62] **Lord Murphy:** It's pretty significant. It also doesn't take away what you and I and Dai would have known over the years, and that is the opportunity for politicians from across these islands to get together and talk—this dreadful word 'networking', but you know what I mean. You could talk to each other and, very often, that destroyed barriers, certainly on the Northern Ireland peace process; it destroyed historical barriers brilliantly, but it can also help in other respects too.

[63] **David Melding:** And, finally, you said earlier that you thought it would be good if we were fairly relaxed and almost routine about the possibility of UK Ministers giving evidence to Assembly committees, and then Welsh Government Ministers also giving evidence to Westminster committees from time to time. Extending that, I'd just like to ask what you think the possibilities for future joint work between parliamentary committees and Assembly committees are, because that may align with that principle of joint working.

[64] **Lord Murphy:** Well, I think the principle is excellent. It's really getting your counterparts in London interested in these issues. Let's take, again, the obvious one at the moment. There is now a select committee on Brexit, chaired by Hilary Benn, and it seems to me that that committee in particular—there are lots of others, too; I'm just giving this as an example—the Brexit select committee would be an ideal parliamentary committee to liaise with its equivalent here in Cardiff, absolutely ideal. I think you could suggest that even before you finish your report, because time is moving on. When this great repeal Bill comes through, the implications of that for Wales are enormous in terms of the various functions that the Assembly has. So, that's one example, but there are others too that you can liaise on, including the Treasury select committee. Now that the fundraising powers of the Assembly have changed, there's another example; for example, after a year or two of looking at the new income tax arrangements or other tax arrangements, you could liaise with the Treasury committee. The Department for Culture, Media and Sport—all sorts of possibilities there that they could look at.

[65] **Huw Irranca-Davies:** It strikes me how radical the amount of change within the structures already that there has been, as we've gone through the stages of devolution. Now, Brexit has almost given a turbo boost to the necessity to look at these afresh, and are they fit for purpose, do they need a refresh, the review that you've mentioned of some of them. But, on that point, I think, Dafydd, let's go to your line of thoughts and questions.

[66] **Lord Elis-Thomas:** You mentioned in passing on a number of occasions the different way in which Northern Ireland and Wales and Scotland and England voted in the European referendum. What do you think are the short to medium to longer-term—giving you a broad scenario—implications of these votes to be? The implications in terms of relations within Ireland, north and south, but also the relationships between the devolved Governments and, indeed, the devolved legislatures.

[67] **Lord Murphy:** I think it could be a dramatic and tumultuous couple of years ahead of us, and that's why I think the subject of your investigation, inquiry, about relations between Governments and Parliaments is absolutely critical to this, because it could really explode, it seems to me—you know, the views of the Scottish Government have been very precise on this; Northern Ireland, having voted for remaining in the European Union, but big divisions within the political setup there as well; and ourselves, here, where the bulk, I rather fancy, of Assembly Members would be in favour of remaining, and yet Wales itself deciding, perversely, to go the other way. So, that, in itself, is a real recipe for—I wouldn't go as far as saying 'disaster' because that's wrong, because we can overcome these things, but it is a recipe for an awful lot of confusion and difficulty, unless politicians in all the different capitals decide to address some of the issues. It's really down to, for example, the Prime Minister, who's in charge of it all, really, to understand the devolved aspect to all this.

15:15

[68] We'll see in Parliament in the next month, in the Lords and the Commons, how much time is going to be devoted to the needs of Scotland, Wales, and Northern Ireland, post Brexit, compared with anywhere else and see whether it's taken seriously by the Government itself. They say that they're taking it seriously, and I hope they are, because even though we don't add up in terms of population to much more than, as I say, 11 million people, we are, I think, a hugely significant issue now, which we wouldn't have been had there not been devolution. At their peril, they ignore Wales,

Northern Ireland and Scotland, when it comes to European Union issues in the coming months, but there's a real potential for an awful lot of difficulty there if we're not careful.

[69] **Lord Elis-Thomas:** I'm not sure that the Prime Minister of the United Kingdom is able to distinguish between the role of the United Kingdom in international negotiations on treaties and the particular implications of this treaty, because she keeps repeating that these are matters for the UK Government and UK Parliament. However, you will know very well that the Government of Wales Act 2006, as our constitution in Wales, defining our relationship, very much emphasises that everything we do has to be currently within competence of European legislation—

[70] **Lord Murphy:** Of course.

[71] **Lord Elis-Thomas:** —and our competence has to relate to that. It seems to me that, if our competence has to relate, then, when that constitutional plank of our activity is removed, surely we must have a voice.

[72] **Lord Murphy:** Yes, I think the problem was that the Government machine in London never expected a 'no' vote—or a 'leave' vote, I should say. They never quite got that. I'm not sure whether they've thought about the devolved aspect seriously, because they never thought it would happen. Now it has, they'd better get their thinking hats on, because each individual country—Scotland, Wales, and Northern Ireland—all have different takes, if you like, to Brexit. I've touched on the Northern Ireland one, but it isn't simply about the border; the whole of the Good Friday agreement is based upon joint membership of the European Union. Unless they address that, then there could be a hugely difficult implication for the peace process in Northern Ireland as well as the political situation in Scotland, inevitably, now, with the Scottish National Party Government, having had an independence referendum, and all of the significance of what's happened there, and then with ourselves with such a huge reliance on Europe over the last 20 years that our leaving Europe, in terms of the effect upon Welsh men and women, is much more significant than in many, many English regions.

[73] So, as I say, they do it at their peril. But what's got to happen is that the Cabinet and the Prime Minister is made aware of this. For example, as far as I know, the Northern Ireland—and, as far as I know, the Welsh—Secretary weren't members of the relevant committee dealing with Brexit. Now, that's madness. If they are not, then they should be. I would be fighting, if I was

Welsh Secretary, to ensure that I was a member of the important decision-making Cabinet committees on Brexit to make sure that they understand the issues that the Assemblies and Governments have.

[74] **Lord Elis-Thomas:** I think that particular position relates to the notion that only the United Kingdom deals with foreign affairs and international relations and treaties. But, of course, the European Union—. Obviously, it's an external relation, but it's a relation, in detail, with environmental policy, agricultural policy and fisheries policy—all those things—economic policy, regional policy, funding and structural funds. All that is the meat and drink of Welsh Government and local government in Wales.

[75] **Lord Murphy:** That's the ignorance that we started this session off with, which is that Whitehall departments, some of them, it wouldn't have entered their heads that this was going to be a huge issue, post the referendum decision. As I said, it's now the real responsibility of the three territorial Secretaries of State now to push very hard that they've got to look very carefully over the next couple of years, both in terms of the legislation and also in terms of policy making, for the Brexit decision on three countries—and also, I suspect, from the Welsh Assembly's point of view, I'm sure that the First Minister is making this point all the time, but keep on banging that door and sounding the trumpet that you can't keep on—. I mean, technically, yes, okay—technically, it's a United Kingdom function, but the implications of it on devolution are enormous.

[76] **Lord Elis-Thomas:** Yes, and given where my first question to you on this started, on the different futures voted for in the different countries or parts of the United Kingdom, that in itself should be enough of a warning to Government, I would have thought.

[77] **Lord Murphy:** I would have thought.

[78] **Lord Elis-Thomas:** But they don't seem to understand that.

[79] **Lord Murphy:** Not to mention also, Dafydd, the issue of money, because we rely so heavily in Wales on European funding. When that funding goes, are they going to plug the gap there? You know, that's the obvious one. There are huge implications for negotiation on the financial settlement that arises post Brexit, for all the different communities that rely on European funding in Wales.

[80] **Lord Elis-Thomas:** Globally, but it also applies very specifically to each income stream—for example, to Welsh farmers.

[81] **Lord Murphy:** Of course, yes.

[82] **Lord Elis-Thomas:** And Welsh fisheries. So, could I go on to ask: we've mentioned the Joint Ministerial Council and the importance of that structure and the co-operation that you were able to take part in as a multiple Secretary of State, if I can put it like that—do you think this structure is adaptable to the new situation? Because it seems to me that the evidence of the Joint Ministerial Council involving the Prime Minister and city hall hardly bodes well for what that organisation could or should do in this situation.

[83] **Lord Murphy:** No, it doesn't bode well. It may have been—and even then it'd be doubtful—okay for years gone by, but in this new context, it's over formal, it meets too infrequently, and whereas you do have to have heads of government meeting from time to time, and of course that's difficult to organise, a lot of the work doesn't involve heads of government; it involves Ministers, it involves junior Ministers, it involves officials. And so they need to have—and I think this is where, again, your committee, hopefully, would be able to make recommendations, and then to your counterparts in Edinburgh and Belfast as well—it's got to be a lot more significant to deal with the Brexit situation. It's too formal, it's too infrequent, and it's too bulky, unwieldy, an institution to deal with it. Simply to turn up on a day in Cardiff, issuing a communiqué that you've all agreed on this or disagreed on that, that's not the way to do it. You've got to do it a much more detailed, negotiating way. It will test it considerably.

[84] **Lord Elis-Thomas:** I'm going to have a joint reminiscence session for us now on our progress on the Wales Bill, and then I will leave you in peace, Paul—I'm very grateful to have you here.

[85] We have experienced, have we not, yet again, the difficult situation that arises when UK Parliament, and the UK Government in the UK Parliament, seeks to legislate where they don't really understand the practice they are legislating about. By which I mean it was fairly clear to me in our debates, particularly in the upper House, it was those who had been involved as participants, whether they were speaking for the Government, as in the case of Lord Bourne, or yourself, and myself—I don't know what I am now; I'm non-affiliated, actually, in the upper House; so, speaking as a practitioner of devolution on the Wales level, and you on the UK level

involving Wales and Northern Ireland—I would suggest that, in that situation, we seemed to know what we were talking about, but it seemed to me that there was no real interest in the rest of the House in what was going on, or understanding. Do you think there is a way in which we can improve legislative practice, whereby there is more co-legislation or co-operation between legislative committees on the way we make law that is for the United Kingdom and especially where it involves devolved law?

[86] **Lord Murphy:** Yes, I think so. It's something that, I mean, again, you can examine whether, if you were dealing with a Bill, for instance, that covers only Wales, as this one did, whether there could have been some other—although this committee did make its point of view well known to those of us who were taking part in the committee. Conceivably, you could have another stage put in the process, not one that necessarily takes a decision, but a consultative stage where the Welsh Assembly could come to Parliament in some form or another, i.e. you as a committee, or even Welsh Government Ministers, to turn up at some sort of pre-legislative scrutiny process to deal with issues like this. To my knowledge, there was no pre-legislative scrutiny of the Bill. One fell and then the other one came in.

[87] **Lord Elis-Thomas:** Although, we contributed to both—

[88] **Lord Murphy:** You contributed, but it isn't quite the same as being actually talking across the table to each other. I think there may be a case for Bills that affect Wales like that, which start life off in Westminster, where there's a more formal but not necessarily a decision-making stage where you can deal with it. I think, incidentally, that the debates on the Wales Bill were fuller than they were in the House of Commons, partly because they ran out of time. As you know better than me, we get more of an opportunity to talk about these things in there and some significant changes were made.

[89] **Lord Bourne—**of course, partly, I suspect, because of his big connections with the Welsh Assembly—was very accommodating. Lots of changes were actually made to the Bill. I rather fancy, if it had been somebody else from another department talking about these issues in the House of Lords, we might not have had quite the same treatment as we did. But because he knew about Wales and was involved for many, many years, leading the Conservative group here, we had a better deal, to be honest.

[90] There were still issues that Dafydd and I were unhappy about. Air passenger duty is one. We battled for a long time on that and lost. I think it

was a daft decision by the Government. I'm not saying it was Nick Bourne's fault—I mean, he's got to deal with collective responsibility. And back to the first question again, I'd bet your bottom dollar that that decision wasn't a decision that was taken by the Wales Office, but by the Department for Transport, or somewhere else, that would have dealt with that—to give you a small example but an important one there. Why should Wales be different from Northern Ireland and Scotland on air passenger duty? Because of Bristol. That was the essence of it. But that's just one grievance I've got on that one.

[91] **Lord Elis-Thomas:** Our conversation can't stop without reference to the Sewel convention.

[92] **Lord Murphy:** Oh, yes.

[93] **Lord Elis-Thomas:** I do think we are in interesting times on this as well, although maybe this has not been fully spotted or pursued, in that the Supreme Court, in its recent judgment, emphasised that, of course, it was for the United Kingdom Parliament to make a decision, the decision, any decision about any vote in relation to negotiations with the European Union. However, they also emphasised the importance of the growth of the Sewel convention as a way of defining the relationship between legislation in the UK Parliament and the devolved legislatures. I think we have not looked sufficiently, perhaps, at the potential of this, because if the Sewel convention implies—well, not 'implies' now, it's in law already for Scotland and will be for us when the Wales Bill has Royal Assent to become the Wales Act. There is the accepted view in law that, normally, UK Government does not legislate—

[94] **Lord Murphy:** Without the consent.

[95] **Lord Elis-Thomas:** —without the consent. That opens the whole question of on what should the devolved legislatures have an opportunity of having their consent sought. Because if it becomes a general principle that consent should be sought on those matters that are devolved, then the area of devolution being unequal between the different legislatures and the extent of powers devolved not being symmetrical—is there not a case for a pan-UK Sewel convention, which is fairly consistent, which brings us almost to a federal situation?

[96] **Lord Murphy:** Yes, I think there probably is a case and it strikes me that that's exactly the sort of thing that a proper JMC ought to consider, with heads of government on it. It was right, for example, that the Wales Bill

effectively wouldn't have passed without the legislative consent motion of the Assembly, because what's the point of passing a Bill that's going to be seen as a hostile Bill by the people who are going to operate it? Happily, that wasn't the case, but it was a good example of where the legislative consent motion system worked very well, it seemed to me. It had a good effect upon British Government Ministers too, because they realised that, for that Bill to go through, they had to really get most of it—not all of it, but most of it—agreed by the Welsh Government and by the Welsh Assembly.

15:30

[97] **Lord Elis-Thomas:** And the Minister helpfully indicated that he would not move to the third reading unless there was consent.

[98] **Lord Murphy:** Oh, he said that, absolutely. Yes, he did say that, and that was good, because it meant that, if you were going to get a workable solution to all this, you had to get both sides to agree, so to speak. But again, Brexit is going to test this to a great extent. Because what is effectively a UK function or a devolved function when it comes to European issues? Well, it's both. Does it mean, for example, that a legislative consent motion could be withheld here for some aspects of the great repeal Act, for example?

[99] **Lord Elis-Thomas:** Indeed.

[100] **Lord Murphy:** I bet your bottom dollar that they haven't thought of this one, but they'll have to get their thinking caps on.

[101] **Lord Elis-Thomas:** Well, we have thought of it down here.

[102] **Lord Murphy:** Because all three administrations will soon get themselves stuck into this particular situation big time. Inevitably, the way in which we benefit in Wales from our membership of the European Union is so enormous that you wouldn't be doing your duty in the Welsh Assembly if you didn't actually point out to the British Government and Parliament what the implications of all these different things will be for us.

[103] **Huw Irranca-Davies:** David, you wanted to come back.

[104] **David Melding:** Thank you, Chair. Actually, it's quite apposite because it pursues the point that you were making at the end there, in terms of the co-operation that's going to be required. There's been quite a lot of talk,

and I think it's fair to say that the Welsh Government has indicated that a UK framework for policy areas like agriculture and the environment could well be beneficial. But, in its White Paper, the Welsh Government says that that would require the JMC to be replaced by a council of Ministers with—and this is the very significant point, I think—independent arbitration. Now, if that were to happen, we would move very firmly in a federal direction, and I just wonder whether you think, you know, this is at all feasible. My view, as a long-standing federalist, is that it would be desirable. But I just wonder, given the state of English opinion: are they going to be able to see the four Governments co-operating as partners, rather than being, on common areas, led by the UK Government, with the Celtic fringe following obediently behind, as it were?

[105] **Lord Murphy:** 'Council of Ministers' is a better phrase than the JMC in some ways, because it gives it a better-sounding name. It is a European-sounding name and more significant, if you like. But I think that, in terms of the substance of it, the way things are going in Scotland and, to a lesser extent, here and in Northern Ireland, where devolution is so embedded—I'll reword what I've said—. Because of what's happened in Scotland in terms of the referendum, which was close, and in terms of what powers they've got, and the increased powers of the Welsh Assembly and Government—and, hopefully, the return of Northern Ireland—it will mean that they're going to develop more over the years. The big issue is England. What do you do with it? It's the big brother, both in terms of population, in terms of the economy and so on. Until they become more interested, if you like, in regional government, that's going to be difficult. I have always believed in some sort of federal system that involves English regional government, but it seems to me that there's no huge appetite outside London for that. But perhaps that will change in the context of Brexit.

[106] **David Melding:** I agree with that. Do you think it's at all feasible that the UK Government—say, if we had a UK framework for agriculture—would then submit itself to independent arbitration on—?

[107] **Lord Murphy:** No, I can't see them agreeing to that, personally. Who would be the independent arbiter, anyway?

[108] **Lord Elis-Thomas:** You, Paul.

[109] **Lord Murphy:** I could see what I could do, but not on agriculture—not exactly my field. Huw might manage it better than me, as a former

agriculture Minister. But I think the trends are going in different directions. I think what you are discussing and investigating at the moment is so important because of the context of Brexit and all these things.

[110] **Huw Irranca-Davies:** Paul, thank you very much. We have run a little bit over, but it's because I think we found the session so very interesting. We could carry on, but we don't want to delay you. One thing that strikes me here, Paul, is that it is not only the simply the massive journey that devolution has been through, and we now face Brexit in front of us, but also the way in which your views have changed, faced with where we are at any moment in time, and also that unfailing optimism that if we get the relationships right, as well as the structures, we can find a way through whatever confronts us on a governmental or a parliamentary basis, and that's quite reassuring. But you do, I think, hold out for us, quite wisely, both the threat and opportunity. Brexit actually provides us with some crashing scenarios of threat but also, potentially, if we and the UK Government and the nations and regions choose to do so, to refresh the way in which we interact within these islands, and perhaps to futureproof it as well. Because you mentioned the unfinished business, in many ways, of devolution within England. Well, perhaps what we need to do is think a little bit further ahead, then—what do we need in place to make sure that this is fit for the next 20, 30 or 40 years? But thank you very much. Is there anything else you want to add, Paul?

[111] **Lord Murphy:** Nothing other than to thank you for a very interesting session, and to say that Brexit, for all its enormous faults, gives you an opportunity to look at these issues in a fresh light. But thanks very much.

[112] **Huw Irranca-Davies:** Thank you. Could I emit my apologies for not giving Nathan Gill's apologies at the very beginning? So, I've put those on record now. Thank you very much indeed, Paul. We will send the transcript to you for checking. If there is anything else that you want to add when you've gone away and you think, 'There was a gem I was going to say', please just drop us a line. Thank you very much.

[113] **Lord Murphy:** Thank you very much indeed. All the best.

[114] **Huw Irranca-Davies:** Diolch yn fawr. Now, can I just ask Members—do you want a short rest break or are you happy to continue?

[115] **Dai Lloyd:** We'll soldier on.

[116] **Huw Irranca-Davies:** We will soldier on. Okay. Thank you very much. We'll return in private session to consider the evidence that we've just heard, but if we can move now on to the items in front of us today.

15:37

**Offerynnau Nad Ydynt yn Cynnwys Unrhyw Faterion i'w Codi o dan
Reol Sefydlog 21.2 neu 21.3
Instruments that Raise No Reporting Issues under Standing Order 21.2
or 21.3**

[117] **Huw Irranca-Davies:** Under item 3, we have instruments that raise no reporting issues under Standing Order 21.2 or 21.3, and we have four negative resolution instruments there—all of which are statutory instruments with clear reports. I won't read out the long titles of them; they're all there in the papers. Do we have any observations from members of the committee or are you happy to note them? They are with clear reports.

[118] **David Melding:** Content.

[119] **Huw Irranca-Davies:** Content. Thank you very much.

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

[120] **Huw Irranca-Davies:** We then move on to item 4. It's an instrument that does raise a small merit issue, not a technical issue. I think the notes that were circulated may be slightly worded wrongly there, suggesting that there are no issues to report on this one. This is a statutory instrument that does have a small merit report, and I'll turn to Gareth in a moment, just to highlight it with us. It's the affirmative resolution instrument on the Education Workforce Council (Accreditation of Initial Teacher Training) (Additional Functions) (Wales) Order 2017.

[121] **Mr Howells:** I'd like to pass it on to Sam, our trainee who's with us today.

[122] **Huw Irranca-Davies:** Thank you very much, and thanks for joining us as well.

[123] **Mr Mason:** No problem, Chair.

[124] **Huw Irranca-Davies:** Okay, do you want to highlight for us what this issue is?

[125] **Mr Mason:** It's merely that the criteria for the accreditation of the initial teacher training, which is referenced in the Order, wasn't made entirely clear in the Order, but there are follow-up regulations which are meant to be addressing that issue. It has been indicated that regulations are going to follow if the Order is approved by resolution. We have seen a draft of these regulations and they do appear to plug the gap.

[126] **Huw Irranca-Davies:** Very good, okay. So, we have the assurances that, by the time this is laid in the Assembly, those accompanying papers will be there. Apparently this is not unprecedented. The question arises as to whether we simply note that, or whether, when this does appear on the floor of the Senedd, we note it and simply say a couple of lines that say, 'When we considered this, we did it noting that this was coming forward, and in time it has, so we are content'. But it's simply, if for nothing else, to keep the Government on their toes, that we are checking this.

[127] **Yr Arglwydd Elis-Thomas:** I agree with that, Rydw i'n cytuno efo hynny, Chair. It's rather an unfortunate Gadeirydd. Mae'n sefyllfa anffodus situation when any legislative iawn pan mae unrhyw bwyllgor committee or parliamentary body, deddfwriaethol neu gorff seneddol, such as the Assembly, discusses megis y Cynulliad, yn trafod orders and then discusses gorchmynion, ac yna'n trafod y regulations arising from those orders rheoliadau sy'n codi o'r without having them in front of it. So, gorchmynion, heb fod y cyfan it's time that we grew out of that and gerbron. Felly, mae'n hen bryd i ni I think that the Chair should say dyfu mas o hynny, ac rwy'n credu y something on that point. dylai'r Cadeirydd ddweud rhywbeth ar y pwynt yna.

[128] **Huw Irranca-Davies:** Rwy'n **Huw Irranca-Davies:** I agree, Dafydd. cytuno, Dafydd.

[129] I agree. So, if we can—. I don't think we need to be in any way overbearing on this, but we will make that observation when it comes to the floor and then perhaps consider whether we need to continue doing that if it keeps on happening. Because ideally, we would see the accompanying documents here in front of us as we do it. Although, we have had, Sam, the assurance that not only have they been seen, they do exist and we thoroughly expect them to be there. In which case, fine; we will stand up and say it's good to see them and it would've been good to have had them together at one point.

[130] **Lord Elis-Thomas:** Have you actually seen them, to make sure that they exist?

[131] **Mr Mason:** I have seen them, yes.

[132] **Huw Irranca-Davies:** Okay. Well, thank you. In that case, we're content to note that with those comments and action point.

15:41

Papur i'w Nodi Paper to Note

[133] **Huw Irranca-Davies:** We move on to item 5, which is the paper to note. It's the correspondence from the Chair of the External Affairs and Additional Legislation Committee in response to our committee's call for their views in relation to the inquiry. Now, we have that letter there—if I can just find it. At the moment, it's simply to note, but David Rees, the Chairman, draws our attention in particular to their findings in chapters 9, 10, 11 and 12 of their report, 'Implications for Wales of leaving the European Union', so we've brought hard copies along.

[134] **Dai Lloyd:** [*Inaudible.*]

[135] **Huw Irranca-Davies:** There we are. Well, thank you for that. Thank you to our team. Are we happy to note that correspondence? Thank you very much.

15:42

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

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

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o weddill y exclude the public from the
cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in
17.42(vi).*

*accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[136] **Huw Irranca-Davies:** If Members are content, we will now move into private session. Content? Thank you.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 15:42.

The public part of the meeting ended at 15:42.