



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

27/3/2017

Agenda'r Cyfarfod
Meeting Agenda

Trawsgrifiadau'r Pwyllgor
Committee Transcripts

Cynnwys Contents

- 4 Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant
Introduction, Apologies, Substitutions and Declarations of Interest
- 4 Ymchwiliad Llais Cryfach i Gymru: Sesiwn Dystiolaeth 6
A Stronger Voice for Wales Inquiry: Evidence Session 6
- 29 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
- 29 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
- 34 Gohebiaeth gan Arweinydd Cyngor Dinas Casnewydd: Menter
#SeneddCasnewydd
Correspondence from the Leader of Newport City Council:
#SeneddNewport initiative
- 34 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

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

Ieuan Wyn Jones

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

| | |
|-----------------|---|
| Gwyn Griffiths | Uwch-gynghorydd Cyfreithiol Senior Legal Adviser |
| Gareth Howells | Cynghorydd Cyfreithiol Legal Adviser |
| Gerallt Roberts | Dirprwy Glerc Deputy Clerk |
| Dr Alys Thomas | Y Gwasanaeth Ymchwil Research Service |
| Gareth Williams | Clerc Clerk |

Dechreuodd y cyfarfod am 14:00.

The meeting began at 14:00.

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

[1] **Huw Irranca–Davies:** Welcome.

[2] Croeso i chi i gyd. Welcome to you all.

[3] Welcome to this afternoon's session of the Constitutional and Legislative Affairs Committee. We're going to move straight into business, and before I formally welcome our first guests this afternoon, could I, under item 1, put forward the apologies we've received from Nathan Gill? We have no other apologies; we have otherwise a full attendance of our committee members. As per normal, we're not expecting a fire alarm. If there is a fire alarm, please follow the advice and guidance of our team here towards the exits. If you can make sure that all your mobile devices are switched to silent mode and, of course, we have simultaneous bilingual translation here at all times on channel 1. There is no need to touch the microphones; they work automatically.

Ymchwiliad Llais Cryfach i Gymru: Sesiwn Dystiolaeth 6 A Stronger Voice for Wales Inquiry: Evidence Session 6

[4] **Huw Irranca–Davies:** And with that, we will move immediately on to the first item of business, which is to take the next instalment of evidence for our inquiry into a stronger voice for Wales, and looking at inter–institutional working—inter–governmental, inter–parliamentary, inter–committee working; how we do this devolution better together. And we're delighted to have with us—. I should give apologies, first of all, for one guest that we were hoping to have today: Rhodri Morgan, former First Minister. He's slightly unwell today, nothing to be concerned about, but we send him our best wishes and we look forward to having him very soon with us fit and healthy, and raring to go. But we're delighted to have Ieuan Wyn Jones with us. Ieuan served as Deputy First Minister between 2007 and 2011 in the One Wales coalition Government, but he was elected way before that in 1999 and served as the Member of Parliament as well for Ynys Môn from 1992 to 2001.

[5] **David Melding:** [*Inaudible.*] [*Laughter.*]

[6] **Huw Irranca–Davies:** Indeed. So, you've had great experience, both ministerially but also at both ends of the M4 as well. So, we know we'll learn a lot from what you have to say to us today. I wonder if I can begin with this broad question, both from your own personal experience on the front line, but also your observations as well. When devolution has worked well, when those discussions—whether it's policy or constitutional matters—between Governments and Parliaments have worked well, why have they worked well? And when they haven't worked well, why is that? What makes devolution work and what hinders it?

[7] **Mr Jones:** A gaf i ddiolch yn y lle cyntaf am y gwahoddiad i ddod yma i roi tystiolaeth i chi? Mae gen i fantais, wrth gwrs, sef fy mod i wedi gallu darllen tystiolaeth y tystion rydych chi wedi'u cael o'ch blaen chi yn y gorffennol, felly mi fedraf i gytuno neu anghytuno efo nhw fel rwy'n gweld. Ond o leiaf mae yna lawer iawn o bethau rwy'n meddwl, o ran perthynas y Llywodraeth y pen yma a'r Llywodraeth yn San Steffan, lle mae ein profiadau ni rhywbeth yn debyg, yn yr ystyr bod yna strwythurau yn eu lle i geisio hwyluso'r berthynas rhwng Caerdydd a San Steffan. Ond, yn aml iawn, fel rwy'n meddwl roedd Paul Murphy ac eraill yn ei ddweud, mae llawer iawn yn dibynnu ar berthynas bersonol. Lle roedd y berthynas bersonol yn dda rhwng Gweinidogion neu rhwng gweision sifil, roeddech chi'n aml iawn yn teimlo ei bod hi'n haws gwneud busnes. Mi roeddech chi'n teimlo weithiau fod yna adrannau, yn enwedig yn San Steffan neu yn Whitehall, oedd ddim wedi deall beth oedd datganoli yn ei olygu, ac yn anfodlon, os liciwch chi, nid yn

Mr Jones: May I first of all thank you for the invitation to appear before you to provide evidence? I do have an advantage, in that I have been able to read the evidence of your previous witnesses, so I can agree or disagree with them as I see fit. But at least there are a number of things in terms of the relationships between the Government here and in Westminster where our experiences are similar, in the sense that there are structures in place to try and facilitate the relationship between Cardiff and Westminster. But very often, as I think Paul Murphy and others have said, a great deal does depend upon personal relationships. Where the personal relationship was strong between Ministers or between civil servants, then you often felt that it was easier to do business. One sometimes felt that there were departments, particularly in Westminster or rather Whitehall, that hadn't understood what devolution meant, and were grudging, if you like, in terms of not so much discussing, but in terms of releasing information and transferring powers,

gymaint i drafod ond i ryddhau gwybodaeth ac i drosglwyddo grym, hyd yn oed yn y manau bach yna a fuasai wedi gwneud bywyd lawer yn haws. Felly, fe fyddwn i'n dweud bod llawer iawn, yn y dyddiau pan oeddwn i yna, yn dibynnu ar berthynas bersonol.

even in those small areas that would have made life a lot easier all round. So, I would say that, in my days, a great deal relied upon that personal relationship.

[8] Roedd yna lawer iawn hefyd yn dibynnu ar yr arweiniad a oedd yn dod o'r brig, fel petai. Yn aml iawn, os oedd yna ddiffyg—. Er enghraifft, roeddem ni weithiau yn methu cael cyfarfod efo Gweinidog, ddywedwn ni'r adran drafnidiaeth, neu lle bynnag, ac roeddech chi weithiau yn gorfod mynd i fyny'r tsiaen, fel petai, weithiau i swyddfa'r Prif Weinidog. Weithiau roeddech chi'n cael help gan yr Ysgrifennydd Gwladol. Lle oedd o'n gweithio orau oedd lle oedd gennych chi gytundeb—neu, nid cytundeb, ond lle oedd gennych chi berthynas dda yn bersonol, a lle oedd gennych chi adran oedd yn deall anghenion datganoli. Lle nad oedd hynny'n bodoli, yna roedd yn gallu bod yn sefyllfa hynod o anodd.

Much also depended on the leadership that came from the top, as it were. Very often, if there was a lack—. For example, sometimes it wouldn't be possible to organise a meeting with a Minister in the Department for Transport, or wherever, and you sometimes had to go up the chain, sometimes to the Prime Minister's office. Sometimes you could get assistance from the Secretary of State. Where it worked best was where you had agreement—well, not agreement, no, but where you had a strong personal relationship, and where you had a department that understood the needs of devolution. Where that wasn't the case, then it could be very difficult indeed.

[9] **Huw Irranca-Davies:** Do you think it's understandable, Ieuan, that Whitehall departments sometimes may appear to have almost a built-in reluctance? We just had the latest Wales Bill going through, but they hold the sovereign power in certain areas and is it in the nature of the beast perhaps that sometimes they're reluctant to cede or to trade what they have—to treat fairly, if you like? It's interesting you're saying that it really relies a lot on the understanding and the interpersonal relationships with particular departmental heads and officials and Ministers. But is that understandable that at other times it just crunches—the gears crunch?

[10] **Mr Jones:** Efallai y buaswn i'n **Mr Jones:** Perhaps I should make one

gwneud un pwynt yn fan hyn ynglŷn â'r gwahaniaeth o safbwynt Ysgrifennydd Gwladol, dywedwn, er enghraifft, Peter Hain, lle'r oedd o ac eraill, wrth gwrs, wedi bod yn trafod cynnwys Mesur Cymru neu Ddeddf Cymru 2006, lle'r oedd o'n gweld—neu oedd o wedi meddwl—mai'r ffordd gyntaf i drosglwyddo pwerau deddfu oedd o dan y sefyllfa LCO, lle'r oedd o wedi disgwyl y byddai adrannau yn Llundain yn fodlon trosglwyddo yn hawdd, os liciwch chi, lle roedd hi'n amlwg y dylai pwerau fod y pen yma i'r M4. Ond, mewn gweithred, nid oedd hynny'n digwydd. Felly, er bod yna ewyllys gwleidyddol weithiau i rywbeth ddigwydd, o safbwynt adrannau yn Whitehall, mae yna amharodrwydd hyd yn oed i ystyried y trosglwyddiad lleiaf, yn aml iawn, o bwerau. Dyna pam, rydw i'n credu, y daeth refferendwm 2011 ynghynt nag oedd neb yn ei ddisgwyl—nid oedd y system, yn amlwg, yn gweithio.

point here on the difference, let's say, in terms of the Secretary of State, say, for example, Peter Hain, where he and others, of course, had been discussing the content of the Wales Act 2006, where he had anticipated that the first approach, in terms of transferring legislative powers, was under the LCO system, where he had expected that departments in London would be willing to facilitate an easy transfer, where it was clear that the powers should sit at this end of the M4. But, in operation, that didn't happen. So, although there's political will on occasion for certain things to happen, from a departmental point of view in Whitehall, there's an unwillingness even to consider the smallest transfer of powers, often. That's why, I think, the 2011 referendum came sooner than anyone had thought—the system clearly wasn't working.

[11] **Huw Irranca-Davies:** But that reference to the old LCO system is such a good example, because I think the first one was the red meat levy, but then there was also the Welsh language LCO as well. And they were—each one was very individual in its level of complexity or controversy and so on. As you say, even if there was a will from, let's say, the Wales Office, it could be held up within other departments. Did you ever find within that—and I'm conscious that I'm exposing myself here as well because there was a time that I was a junior Minister within the Wales Office—there was a willingness from the other way around, from a Whitehall department, saying, 'We don't see a problem with this', but, from the Wales Office, whether it was in the LCO or elsewhere, saying, 'Well, actually, we've got a bit of an issue with this'?

[12] **Mr Jones:** Roedd o'n **Mr Jones:** It varied from one Bill to

gwahaniaethu o Fesur i Fesur, rydw i'n meddwl. Roedd gennych chi sefyllfa yn bodoli, a'r unig enghraifft bersonol fedraf i ei roi—ac efallai y medrwn ni ei drafod o ychydig bach yn nes ymlaen yn y dystiolaeth—oedd pan oeddwn i eisiau pwerau i ddeddfu er mwyn gwneud siwrnai plant ysgol ar fysiau yn fwy diogel. Wedyn, roeddwn i wedi cytuno efo pwyllgor yn y Cynulliad y byddem ni'n deddfu ar y mater hwnnw, ond nid oeddem ni'n gallu heb gael caniatâd yr Adran Drafnidiaeth. Wrth gwrs, beth oedd yn digwydd yn y fan honno oedd bod gennych chi sefyllfa yn codi lle'r oedd nid yn unig yr Adran Drafnidiaeth yn gorfod cytuno ar y telerau, ond bob adran yn y Llywodraeth yn Llundain. Felly, roeddech chi'n gorfod disgwyl yn hir am yr atebion ac os oedd yna un adran—efallai nid yr Adran Drafnidiaeth—yn dweud, 'Na, nid ydym ni'n hapus efo hwn', roedd y peth yn cael ei ddal i fyny ac roeddech yn gorfod ailnegodi ac ailnegodi ac ail-drafod a newid geiriau, a oedd yn golygu bod y system yn ofnadwy o glogyrnaidd. Felly, yn yr achos yna, mi gefais i gefnogaeth Swyddfa Cymru. Nid oes gen i dystiolaeth uniongyrchol o'r sefyllfa wahanol, lle'r oedd Swyddfa Cymru efallai yn anfodlon ac efallai adran yn Llundain yn hapus. Nid oes gen i dystiolaeth uniongyrchol o hynny, felly.

another, I think. You did have a situation arising, and the only personal example that I can give—and perhaps we can discuss this a little later in the evidence—was when I wanted powers to legislate in terms of making transportation to school by bus safer. I had agreed with an Assembly committee that we would legislate in that area, but I wasn't able to do that without consent from the Department for Transport. Of course, what happened there was that you had a situation arising where not only did the Department for Transport have to agree on the terms, but every other department in Government had to agree also. So, you were waiting a long time for answers and if one department—perhaps not the Department for Transport, but another department—said, 'Well, we're not happy with this', then the whole process was held up and you'd have to renegotiate and renegotiate again and change wording, which meant that the system was extremely difficult. So, in that case, I got the support of the Wales Office. I have no direct evidence of a different situation, where the Wales Office perhaps was not content and where a department in London was. I have no direct evidence of that.

[13] **Huw Irranca-Davies:** Fascinating. Before I pass to Dafydd, could I ask you to reflect on whether you think it makes any difference if there is a

different political make-up with the prime actors involved, either within a coalition Government or at either end of the M4? Does that make a difference or, actually, is it irrelevant in that, as long as the relationships are strong enough, it can work, whether it's Labour, Conservative, Plaid Cymru or whatever? As long as the understanding is right and the aspirations of what needs to be done match up, do the political colours matter at all?

[14] **Mr Jones:** Rydw i'n meddwl bod yna wahaniaeth. Y peth pwysicaf, rydw i'n credu—. Mae gen i brofiad—roeddwn i'n Ddirprwy Brif Weinidog, felly roeddwn i'n mynd i'r Gydgyngor Gweinidogion a Chyngor Prydain-Iwerddon, ar y naill law, oedd yn bethau ffurfiol, rhynglywodraethol, ac roedd gen i brofiad hefyd o ddeilio efo adrannau penodol fel Gweinidog yr Economi a Thrafnidiaeth, felly roedd gen i brofiad o'r ddau fath o berthynas, os liciwch chi. Roeddwn i'n cael yr argraff weithiau bod gwahaniaethau pleidiol yn cyfrif, ac roedd hynny'n aml iawn yn digwydd oherwydd roeddwn i'n teimlo weithiau bod yna Weinidogion ar y pen arall yn gwrthod cyfarfod oherwydd fy mod i o blaid wahanol. Nid oes gen i ddim tystiolaeth uniongyrchol, ond roedd yna deimlad weithiau fod hynny'n wir. Ond, wedi dweud hynny, pan oeddem ni'n mynd lawr i drafod o ddifrif, yna roedd gwahaniaethau pleidiol yn mynd allan o'r ffenest, oherwydd, os oedd pobl yn cytuno bod yna rywbeth yr oedd angen ei wneud, nid oedd gwahaniaeth beth oedd y pleidiau.

Mr Jones: I do think that there is a difference. The most important thing, I think—. I do have some experience—I was Deputy First Minister, so I'd go to the Joint Ministerial Council and the British-Irish Council, on the one hand, which were formal, inter-governmental structures, but I also had experience of dealing with departments as Minister for the Economy and Transport, so I have experience of both those relationships. I got the impression on occasion that party political differences did count, and that was very often because I felt on occasion that there were Ministers at the London end that wouldn't want to meet because I was from a different party. Now, I have no direct evidence of that, but there was a feeling that that was the case on occasion. But, having said that, when we actually got down to the real nitty-gritty of discussion and negotiation, then party political differences would go out of the window, because, if people agreed that something needed to be done, then it made no difference which party one was from.

[15] Un peth diddorol, gyda llaw, efallai y dylwn i ei ddweud ar y pwynt yma, oedd pan es i i mewn i'r

One interesting thing that I should perhaps say at this point is that when I went into Government as Deputy

Llywodraeth fel Dirprwy Brif Weinidog yn 2007, roedd y tirlun gwleidyddol ym Mhrydain wedi newid. Cyn hynny, roedd gennych chi Lywodraeth Lafur yn Llundain, a Llywodraethau yr oedd Llafur yn eu harwain yn yr Alban ac yng Nghymru. Erbyn 2007, roedd gennych chi bleidiau cenedlaetholgar yng Ngogledd Iwerddon a'r Alban a Chymru am y tro cyntaf. Felly, roedd y tirlun yna wedi newid, ac rydw i'n meddwl bod y sefydliad yn Whitehall wedi gorfod ystyried o ddifrif wedyn sut roedden nhw'n delio â'r gwahanol Lywodraethau datganoledig, ac rydw i'n meddwl bod hwnnw'n ffactor, efallai, sydd ddim wedi cael ei ystyried yn y trafodaethau rydych chi wedi'u cael fel pwyllgor.

First Minister in 2007, the political landscape in Britain had changed. Prior to that, you had a Labour Government in London, and Labour-led Governments in Scotland and in Wales. By 2007, you had nationalist parties in Northern Ireland, Scotland and Wales for the very first time. So, that landscape had been transformed. I do think that Whitehall had had to consider in earnest how they dealt with those different devolved Governments and I think that's a factor that perhaps hasn't been taken into account in the discussions that you as a committee have had.

[16] **Huw Irranca-Davies:** And, by logical extension, that will have changed now. The new reality—

[17] **Mr Jones:** Wrth gwrs, wrth gwrs. Beth rydych chi'n ei ffeindio rŵan, wrth gwrs, ydy bod y ddynmeg yn newid, mae'r tirlun yn newydd, ac nid oes gennym ni ddim syniad lle y mae'n mynd i ddarfod, nac oes?

Mr Jones: Of course, yes. What you find now, of course, is that the dynamic is changing, the landscape is changing, and we have no idea where it's going to end up.

[18] **Huw Irranca-Davies:** Indeed. Dafydd.

[19] **Yr Arglwydd Elis-Thomas:** Diolch yn fawr, Cadeirydd. Ieuan, mae hon yn barod wedi bod yn sesiwn ddadlennol, rwy'n meddwl, ac mae bron fel ddoe i mi, y bore est ti i mewn i Lywodraeth a'r drafodaeth y cawsom ni'r adeg honno, a fydd yn gyfrinach am byth cyn belled ag ydw i

Lord Elis-Thomas: Thank you very much, Chair. Ieuan, this has already been a very revealing and enlightening session. I remember as if it were yesterday the day that you joined Government and the discussion that we had that day, which will remain secret forever as

yn y cwestiwn. Ond y cwestiwn cyntaf yr hoffwn i ofyn yn wyneb y dystiolaeth yr wyt ti newydd ei rhoi, yw: a ydy hi yn briodol fod perthynas rynglywodraethol yn gorfod dibynnu ar berthynas bersonol, ac onid oes modd meithrin, rhwng Llywodraethau yn y Deyrnas Unedig, a rhwng swyddogion, y ddealltwriaeth bod y lle hwn yr un mor bwerus o fewn y meysydd datganoledig sydd gydag o ag yw unrhyw senedd arall yn y Deyrnas Unedig?

[20] **Mr Jones:** Rydw i'n cytuno'n llwyr. Hynny ydy, ddylai fo ddim gorfod dibynnu ar, os liciwch chi, berthynas bersonol. Fe ddylai fod yna strwythurau yn eu lle sy'n caniatáu i'r trafodaethau yna ddigwydd. Un enghraifft o hynny, wrth gwrs, ydy'r memorandwm cyd-ddealltwriaeth newydd yn 2012—roeddwn i'n teimlo nad oedd yn mynd llawer ddigon pell i drafod—. Mae yna bethau sydd yn cael eu trafod rhwng Llywodraethau datganoledig a'r Llywodraeth yn San Steffan sydd o dragwyddol bwys—a'r un mwyaf, wrth gwrs, ydy ariannu—a lle rydych chi eisiau rhyw fath o *arbitration*, os liciwch chi. Hynny ydy, lle mae Llywodraeth Llundain, ar y pwynt yma, sy'n penderfynu a ydy rhywbeth ac a oes yna arian ychwanegol yn dod o dan y Barnett *formula*, fedrwch chi ddim apelio yn erbyn hynny. Roeddwn i'n teimlo bod y memorandwm cyd-ddealltwriaeth yn 2012 yn osgoi'r cwestiwn, ac mae o'n gwestiwn mawr, ac, yn anffodus, nid ydy o wedi cael ei ateb. Felly, os

far as I'm concerned. But the first question that I would like to ask, as a result of the evidence that you've given, is: is it appropriate that the inter-governmental relationship has to depend on personal relationships, and can we not develop between Governments in the United Kingdom, and between officials, that understanding that this place is just as powerful within the devolved areas as any other parliament in the United Kingdom?

Mr Jones: I agree entirely, yes. It shouldn't have to rely on a personal relationship. The structures should be in place to allow those discussions and negotiations to happen. One example of that, of course, is the new memorandum of understanding in 2012, which I didn't feel went far enough. There are things which are discussed between devolved Governments and the Government in Westminster that are hugely important—and the major one is funding—where you need some sort of arbitration, if you like. That is, where the Government in London, at this point, decides whether additional funding is to be provided through the Barnett formula, say, well, you can't appeal against any decision made in those circumstances. I thought that the 2012 memorandum of understanding avoided that issue, and it's a major issue, and, unfortunately, it hasn't been resolved. So, if structures are in place that allow you to have meaningful

oes yna strwythurau yn eu lle sy'n caniatáu i chi gael trafodaethau ystyrlon, yna, wrth gwrs, mae hynny wedyn yn gallu digwydd beth bynnag ydy'r berthynas bersonol sydd rhyngoch chi.

discussion, then that, of course, can happen whatever the personal relationships involved are.

[21] **Yr Arglwydd Elis-Thomas:** A oes yna unrhyw awgrymiadau y buaset ti'n gallu eu cyflwyno yn y dystiolaeth i'r pwyllgor yma ar sut y dylid drafftio cyd-ddealltwriaeth—y memorandwm cyd-ddealltwriaeth—a sut y dylid gwella y canllawiau ar ddatganoli yn y sefyllfa newydd yr ydym ni ynnddi yn Neddf 2017?

Lord Elis-Thomas: Are there any suggestions that you could make in your evidence to this committee with regard to how memoranda of understanding should be drafted and how the devolution guidance notes could be improved in the new situation that we're facing as a result of the 2017 Wales Act?

[22] **Mr Jones:** Fy nheimlad i ydy bod yn rhaid i'r trafodaethau fod rhwng partneriaid cyfartal. Y broblem fawr efo'r holl ddarpariaethau hynny ydy eu bod nhw'n cael eu drafftio i gyd yn Whitehall ac yn cael eu hystyried wedyn gan gyrff datganoledig, ac mae Whitehall yn dweud, 'Rydym ni'n fodlon mynd cyn belled â hyn, ond dim pellach', ac nid oes yna ddim trafodaeth rhwng partneriaid ar yr un lefel ac ar yr un tir.

Mr Jones: Well, my feeling is that those discussions have to take place between equal partners. The major problem with all of those provisions is that they're all drafted in Whitehall and then considered by the devolved bodies, and Whitehall says, 'Well, we're willing to go this far but no further', and there is no discussion between partners on common ground.

14:15

[23] A byddwn i'n meddwl y byddai'n rhaid dod i'r man yna cyn y byddwch chi'n cael memorandwm cyd-dealltwriaeth neu ganllawiau, os liciwch chi, rhyng-adrannol a fyddai'n gwneud synnwyr mewn gwirionedd. Achos mae yna brofiadau gan y Llywodraethau datganoledig

And I think that you need to get to that point before you get a memorandum of understanding or interdepartmental guidance notes that would be meaningful. Because the devolved Governments have experiences that are just as valid as those of Whitehall. The difficulty is

sydd yr un mor ddilys â phrofiadau Whitehall. Y trafferth ydy nad ydyn nhw'n cael eu hystyried ar yr un lefel ar hyn o bryd. A byddwn i'n meddwl mai dyna'r ffordd ymlaen—bod y trafodaethau yn digwydd rhwng partneriaid, yn hytrach na rhwng, os liciwch chi, y Llywodraeth yn San Steffan sy'n ystyried ei hun y prif sefydliad, ac, wrth gwrs, y cyrff sydd wedi cael eu datganoli.

that they are not considered at the same level at the moment. And I would have thought that that's the way forward—that the discussions should happen between partners, rather than between the Westminster Government that considers itself to be the mother body and the devolved.

[24] **Yr Arglwydd Elis-Thomas:** Ond onid un o'r anawsterau ydy natur y modd y mae'r pwerau cadwedig a'r pwerau gosodedig drwy eithriadau wedi cael eu hysgrifennu? Er gwaethaf ymdrechion clodwiw yn yr ail Dŷ i gryfhau'r pwerau datganoledig gan leihau'r eithriadau, er gwaethaf hynny, mae'r pwyslais o hyd ar sefyllfa lle mae gan yr Alban bwerau sydd wedi cael eu hetifeddu oherwydd bod yr hyn a gadwyd i'r canol yn fframwaith ac yn llai, ac mae'r un peth yn wir yng Ngogledd Iwerddon—yn wir, mae'r eithriadau yng Ngogledd Iwerddon yn eithriadau sy'n rhoi mwy o rym i ogledd yr Iwerddon er mwyn iddi allu cydweithio â'r de—tra bod y sefyllfa yn hanes Llywodraeth Cymru, o dan y Ddeddf newydd yma yn 2017, yn dal i gynnwys cymaint o eithriadau fel ei bod hi yn anodd iawn, unwaith eto, i ddiffinio beth yw pwerau'r Cynulliad Cenedlaethol a Llywodraeth Cymru mewn gwirionedd.

Lord Elis-Thomas: But isn't one of the difficulties the way that the reserved powers and the conferred powers set by exceptions have been written? Despite the laudable efforts in the second House to strengthen the devolved powers by reducing the reservations, the emphasis remains on a situation where Scotland has powers that have been inherited because what was reserved at the centre was a framework and was smaller, and the same is true in Northern Ireland—indeed, the reservations in Northern Ireland are such that they give greater power to the north of Ireland so that it can collaborate with the south—whereas the situation with regard to the Welsh Government, under this new 2017 Act, still contains so many reservations that it's very difficult, once again, to define what the powers of the National Assembly and the Welsh Government are.

[25] **Mr Jones:** Wel, nid ydym ni wedi symud ymlaen felly, nac ydym,

Mr Jones: Well, we've not made any progress therefore from the 2006 Act

o Ddeddf 2006, yn yr ystyr yna, achos rydw i'n cofio, pan oeddw'n i'n trafod efo'n swyddogion i wneud y Mesur trafndiaeth diogelwch plant, roeddem ni'n edrych ar y cymal a oedd yn Neddf 2006, ac roeddech chi'n ffeindio bod yr eithriadau yn fwy na'r pwerau a oedd gennych chi. Wedyn, yn anfodds, roedd yr eithriadau wedi cael eu gosod mewn ffordd roedd hi'n anodd iawn i chi ddehongli beth oedd wedi cael ei ddatganoli a beth oedd ddim, achos roedden nhw'n llawer iawn rhy gymhleth. Ac rydw i'n meddwl y bu yna lawer o drafodaethau rhwng fy hadran i a'r Adran Drafndiaeth yn Lloegr jest i benderfynu lle roedd y pwerau yn gorwedd. Wedyn, roeddech chi'n gorfod ei wneud o.

in that sense, have we, because I recall, when I was discussing with my officials drawing up the Measure on safe school transport, we looked at the clause in the 2006 Act, and you saw that the exemptions were greater than the powers that you actually had. And, unfortunately, the exceptions had been set out in a way that made it very difficult to interpret what was devolved and what wasn't, because it was all so complex. And I think there were a great deal of discussions between my department and the Department for Transport in England just to decide where the powers lay. Then, you would have to move on from that point.

[26] Felly, rydw i'n deall y pwynt yn iawn. Yr ateb i hwnnw, y byddwn i'n ei ddweud, ydy ewyllys gwleidyddol yn y diwedd. A oes yna'r ewyllys gwleidyddol, os liciwch chi, yn San Steffan neu yn Whitehall sydd yn caniatáu i chi gael setliad cyfansoddiadol tryloyw ac sydd yn gwneud synnwyr inni?

So, I do understand the point that you make. The answer to that, in my view, would be political will, essentially. Is there the political will in Westminster or in Whitehall that allows you to have a constitutional settlement that is transparent and is sensible?

[27] **Yr Arglwydd Elis-Thomas:** Mae'n bosibl bod yna drafodaethau yn mynd ymlaen y prynhawn yma mewn lle arall i'n helpu ni yn y cyfeiriad yna. Oherwydd, yn amlwg— a dyma'r cwestiwn olaf gennyf i—un o'r anawsterau ynglŷn â'r gyfundrefn o'r ceisiadau yma am Orchmynion deddfwriaethol a gafwyd yn ystod yn y trydydd Cynulliad oedd bod,

Lord Elis-Thomas: Perhaps there are discussions going on this afternoon in another place to help us in that direction. Because, clearly—and this is my last question—one of the difficulties with regards to the regime of bids for legislative consent Orders that we had during the third Assembly was that, once again, Welsh powers were so different to those

unwaith eto, pwerau Cymru mor wahanol i bwerau y rhanbarthau datganoledig eraill fel bod yna, mewn gwirionedd, graffu dwbl yn digwydd, lle roedd pwyllgor dethol Cymru, ac yn y blaen, yn gorfod ystyried a mynegi barn ar briodoldeb ceisiadau deddfwriaeth a oedd wedi cael eu trafod yn barod yn y lle hwn. Mae'n ymddangos i mi ei bod hi'n bwysig iawn inni drïo symud y tu hwnt i sefyllfa lle mae yna graffu ddwbl, neu, o bosibl, bod yna un datrysiad arall, nad yw wedi cael ei ddefnyddio yn eang iawn yn y Deyrnas Unedig, sef bod yna gyd-weinyddu rhai meysydd polisi, ac, yn wir, ragor o gyd-ddeddfu rhwng pwyllgorau y lle hwn, y Cynulliad hwn, a San Steffan. A fuasai hynny yn rhyw fath o ddatrysiad?

[28] **Mr Jones:** Nid ydw i wedi meddwl—. Mae'n rhaid i mi gyfaddef bod hynny'n un sydd ychydig bach yn newydd i mi—

[29] **Yr Arglwydd Elis-Thomas:** Wel, rydw i wedi meddwl—*[Anghlyw.]*

[31] **Mr Jones:** Medraf i dderbyn hynny. Byddwn i'n licio tipyn bach o rybudd, efallai, cyn fy mod i'n ateb y cwestiwn yna. Ond, yn amlwg, mae angen ffordd ymlaen sydd ddim—hynny ydy, mae angen gwella'r system sydd gennym ni ar y funud, ac rydw i'n meddwl bod yna nifer o opsiynau posib, gan gynnwys yr hyn rydych chi newydd ei gynnig, a fyddai'n werth edrych arnyn nhw, yn

held by the other devolved nations that was double scrutiny happening, whereby the Welsh Affairs Select Committee, and so on, would have to consider and express an opinion on the appropriateness of LCOs that had already been discussed in this place. It appears to me that it's very important for us to move beyond a situation where there is that double scrutiny, or perhaps there is another solution, which hasn't been applied very widely in the United Kingdom, and that's that there is joint administration of some policy areas and, indeed, more joint legislating between committees in this Assembly and in Westminster. Would that be a solution?

Mr Jones: I haven't thought—. I have to admit that's a new one for me—

[30] **Lord Elis-Thomas:** Well, I've thought—*[Inaudible.]*

Mr Jones: I can accept that. I would have liked a little warning, perhaps, before actually attempting to answer that question. But, clearly, we need a way ahead. We need to improve the system that we currently have, and I think there are a number of possible options, including the ones that you have just outlined, that would certainly be worth considering.

sicr.

[32] **Huw Irranca–Davies:** I'm going to pass that over, but it's an interesting—. One that we've mulled over a little bit as a committee is, if, as many commentators say, we're still on a journey with devolution and the next stage—we have Brexit in front of us, but let's assume that there may be another stage of major constitutional reform—how do you do it in a way that actually garners the expertise of all places and so on? It seems to me quite a fundamental question: rather than being sourced from one place and generated from one place and one body of expertise, actually, there's a growth in expertise around the nations. But I'll leave that just for a moment—it's just an observation. David, if you'd like to take us on.

[33] **David Melding:** It is me next, is it? I don't mind.

[34] **Huw Irranca–Davies:** My apologies—Dai, not David.

[35] **Dai Lloyd:** Rydym ni mor **Dai Lloyd:** We're so alike.
debyg.

[36] Rŷch chi wedi crybwyll eisoes y cydgyngor Gweinidogion. Rydym ni wedi cael cryn dipyn o dystiolaeth o flaen y pwyllgor yma ynglŷn â sut mae hwnnw'n gweithredu ar hyn o bryd. Rwy'n credu mai Mark Drakeford a wnaeth gymharu sut yr oedd y cydgyngor Gweinidogion yn gweithredu, yn anffafriol, â Chyngor Cymuned Sain Ffagan, a dweud y gwir, ar ddiwedd y dydd. Felly, o gofio'r math hwnnw o dystiolaeth, beth oedd eich profiad chi o sut y mae'r cydgyngor Gweinidogion yn gweithredu? You've already mentioned the JMC. We've heard a great deal of evidence in this committee about how that operates at present. I think it was Mark Drakeford who compared how the JMC operates, unfavourably, with the St Fagans Community Council. So, remembering that kind of evidence, what was your experience of how the JMC works?

[37] **Yr Arglwydd Elis–Thomas:** Nid **Lord Elis–Thomas:** He's never been a yw erioed wedi bod yn aelod o member of St Fagans Community gyngor cymuned Sain Ffagan. Council. [*Laughter.*]
[*Chwerthin.*]

[38] **Mr Jones:** Na, felly, ni allaf basio barn ar y gwahaniaeth rhwng y ddau gorff, ond mae gen i brofiad o'r cydgyngor Gweinidogion. Roeddwn i'n cael yr argraff, pan es i i'r cyfarfodydd cyntaf yn 2007, bod San Steffan yn gorfod wynebu sefyllfa o newid tirlun gwleidyddol.

Mr Jones: No, so I can't express a view on the difference between the two bodies, but I do have some experience of the JMC. I got the impression, when I went to those initial meetings in 2007, that Westminster was having to face a situation where there was a transformed political landscape.

[39] O beth roeddwn i'n ei ddeall, pan oedd gennych chi Lywodraeth Lafur yn San Steffan ac yn yr Alban a Chymru, a dim Cynulliad yng Ngogledd Iwerddon, yn anaml iawn yr oedd y cyrff yma'n cyfarfod. Felly, o leiaf pan newidiwyd y tirlun gwleidyddol yn 2007, mi oedden nhw'n cyfarfod yn eithaf rheolaidd, ac maen nhw'n cyfarfod yn rheolaidd ers hynny, wrth gwrs.

From my understanding, when you had a Labour Government in Westminster and in Scotland and in Wales, and no Assembly in Northern Ireland, then these bodies rarely met. So, at least when the political landscape changed in 2007, they met relatively regularly and they have met regularly since then, of course.

[40] Prif fantais—rhaid i mi fod yn berffaith onest—y cyfarfodydd yna oedd y cydgyfarfod yr oeddem yn ei gael fel Llywodraethau datganoledig cyn y prif gyfarfod. Beth oedd yn tueddu digwydd oedd: aethom i'r cyfarfodydd cyntaf ac roedd fawr o ddim byd yn digwydd—roedd pawb yn mynegi safbwyntiau ychydig bach yn wahanol ac, wrth gwrs, roedd yn hawdd i'r Llywodraeth yn San Steffan i ymateb, achos nid oedd yna lais unol yn dod gan y Llywodraethau datganoledig. Erbyn yr ail a'r trydydd cyfarfod, roedd yna lawer iawn mwy o strwythur i'r cyfarfod, oherwydd roedd y Llywodraethau datganoledig yn cydgyfarfod cyn y cyfarfod *Plenary*, ac wedyn roeddem yn gallu

The main benefit, and we have to be quite honest, of those meetings was the joint meeting that we had as devolved administrations prior to the JMC. What tended to happen with those first meetings was very little—everyone was expressing views that differed slightly and it was easy then for the Government in Westminster to respond because there was no unified voice coming from the devolved Governments. By the second and third meetings, there was far more structure to those meetings because the devolved Governments would meet prior to the Plenary JMC and we could then express a view. Very often—not always because there were differences of opinion on some

mynegi safbwynt. Yn aml iawn—dim bob amser, oherwydd roedd yna wahaniaethau barn ar rai pethau—lle'r oedd yna unoliaeth barn, roedd yn fwy effeithiol wedyn i gael llais unol. Felly, dyweder fod cynrychiolaeth Cymru, yr Alban a Gogledd Iwerddon i gyd yn dweud yr un peth, roedd yn haws i chi gael ymateb cadarnhaol gan Weinidogion. Ond y gwirionedd amdani ydy mai newidiadau pitw a oedd yn digwydd yn sgil y cyfarfodydd yna.

[41] Wrth gwrs, yr un mawr lle methon ni â chael unrhyw fath o ddatrysiad iddo fo—ac rwy'n meddwl ei fod yn dal i gael ei drafod—ydy beth rydych chi'n ei wneud pan fod yna wahaniaeth barn rhwng Llywodraeth ddatganoledig ar faterion ariannol a San Steffan a'r Trysorlys. Nid yw hwnnw byth wedi cael ei ddatrys.

[42] **Dai Lloyd:** Na. Diolch am hynny. Jest i symud ymlaen at fater arall: eto, fel pwyllgor, rydym ni wedi derbyn tystiolaeth fod gan rai o weision sifil Whitehall ddealltwriaeth brin o ddatganoli a bod gan rai adrannau yn Whitehall, yn ogystal â'r gweision sifil, i fod yn deg hefyd, ddealltwriaeth brin o ddatganoli. A oes yna gydnabyddiaeth o ddatganoli o gwbl? Beth oedd eich profiad chi?

[43] **Mr Jones:** Roedd yna wahaniaethau yn aml iawn. Mi roeddwn i'n cael yr argraff bod yna rai swyddogion, dywedwn ni, yn yr

issues—where there was unanimity, it was more effective than to have a united voice. Therefore, let's say that when the Welsh, Scottish and Northern Irish representation were all saying the same thing, it was easier to get a positive response from Westminster Ministers. But the truth is that very minor changes would take place as a result of those meetings.

Of course, the major issue where we failed to get any sort of resolution, and I think it's still being discussed, is: what do you do when there's a difference of opinion between a devolved Government on fiscal issues in terms of Westminster and the Treasury? That has never been resolved.

Dai Lloyd: No. Thank you for that. Moving on to another issue: again, as a committee, we've heard evidence that some civil servants in Whitehall have a poor understanding of devolution, and that some Whitehall departments, as well as civil servants, to be fair, also have a poor understanding of devolution. Is there any acknowledgement of devolution? What is your experience?

Mr Jones: There was often a great variety. I did get the impression that some officials in the Department for Transport had no interest at all in

Adran Drafnidiaeth, nad oedd ganddynt ddim diddordeb o gwbl mewn datganoli—yn methu gweld pam bod Cymru angen y pwerau mewn gwahanol feysydd. Ond lle'r oedd gennych chi Weinidog wedyn a oedd yn fodlon siarad efo chi, fe newidiodd yr agwedd yn llwyr yn yr Adran Drafnidiaeth. Jest i'w roi ar y record yn fan hyn: pan es yn Weinidog yn gyntaf, fe drïais i sawl tro i gael cyfarfod efo'r Gweinidog trafndiaeth cyntaf, Ruth Kelly, a chael dim ymateb o gwbl, ond pan ddaeth Andrew Adonis yn Weinidog, fe newidiodd y peth yn llwyr. Roedd ganddo fo ddiddordeb yn y system newydd o ddatganoli. Roedd yn deall yr hyn yr oeddem ni'n trio ei wneud. Fo, er enghraifft, oedd yn gefnogol iawn i'r system o drydaneiddio'r rheilffordd i lawr i Abertawe. Hebdo fo, nid wyf yn meddwl y byddai hynny hyd yn oed ar yr agenda wleidyddol. Felly, roedd o wedi newid agwedd.

[44] Beth roeddech chi'n ei weld wedyn oedd agwedd y gweision sifil yn newid. Yn y gorffennol, roedden nhw wedi bod yn dweud, 'Na, nid ydym yn mynd i wneud dim byd'. Unwaith y daeth o i mewn, roeddech yn gweld yr agwedd yn newid. Felly, roedd y gweision sifil yn newid.

[45] Ar y llaw arall, yn yr adran arall yr oeddwn yn delio efo nhw, yr adran fusnes, roedd yr ymateb yn llugoer iawn, iawn, iawn drwy'r holl amser y bues i'n Weinidog. Yn aml iawn, byddwn i'n gorfod cytuno efo ambell

devolution—they couldn't see why Wales needed the powers in certain areas. But where you had a Minister who was willing to speak to you, then the attitude changed entirely within the Department for Transport. Just to put on record here: when I first became Minister, I tried, on a number of occasions, to get a meeting with the first transport Minister, Ruth Kelly, and got no answer whatsoever, but when Andrew Adonis came to office, then the situation was transformed. He was interested in the new devolution system. He understood what we were trying to do. He, for example, was very supportive of the electrification of the railway to Swansea. Without him, I don't think that would have even been on the political agenda. So, he changed attitudes.

What you then saw was a change of attitude among the civil servants. In the past, they had been saying, 'No, we're not going to do anything'. Once he came into office, then you saw a change of attitude. So, the civil servants changed.

On the other hand, in the other department that I dealt with, the department for business, the response was very lukewarm indeed, through all my time as a Minister. Very often, I would have to agree

i Weinidog yn yr adran honno jest i gael sgwrs ffôn weithiau, achos roedd hi'n anodd iawn cael y gweision sifil i drefnu cyfarfod ffurfiol.

with some Ministers in that department just to have a telephone conversation sometimes, because it was very difficult to get the civil servants to organise a formal meeting.

[46] **Dai Lloyd:** Diolch am hynny. Y cwestiwn olaf wrthyf i: rydym wedi clywed tystiolaeth gan Elfyn Llwyd, a dweud y gwir, cwpwl o wythnosau yn ôl, y dylai fod yna gwrs hyfforddi pwrpasol ar gyfer gweision sifil yng Nghymru. Beth ydy eich barn chi ar y pwynt yna?

Dai Lloyd: Thank you for that. The final question from me: we've heard evidence from Elfyn Llwyd, a few weeks ago, that there should be a bespoke training course for Welsh civil servants. What's your view on that point?

[47] **Mr Jones:** Rwy'n credu y byddai cwrs yn fuddiol, ond nid wyf yn siŵr pam y dylid ei gyfyngu i weision sifil yng Nghymru yn unig. Byddwn i'n meddwl bod efallai mwy o angen ar y pen arall weithiau. Ond, rwyf yn credu ei fod yn bwysig bod yna well dealltwriaeth rhwng swyddogion a gweision sifil. Yn sicr, unrhyw beth a fyddai'n hyrwyddo hynny, byddwn yn sicr yn ei gefnogi.

Mr Jones: I think a course may be beneficial, but I don't know why you should restrict it to Welsh civil servants. I would have thought that there's more need for it at the other end of the M4 on occasion. But, I do think it's important that there is a better understanding between officials and civil servants. Certainly, anything that could promote that, I would certainly support.

[48] **Dai Lloyd:** Diolch yn fawr.

Dai Lloyd: Thank you.

[49] **Huw Irranca-Davies:** Thank you, Dai. Before we turn to David, it's fascinating, the emphasis that you're putting on this aspect of interpersonal relationships. Some Ministers can unlock things, other Ministers can be a barrier. I'm not sure how you put a mechanism in place to actually resolve that conundrum, short of—. I think there has been one suggestion from, I think it was Paul Silk in front of us—based on his conjecture, the one thing you should do is have some sort of assessment of how devolution is working. Maybe that could be a model.

[50] But, successive witnesses have appeared in front of us and have said, in one form or another, that the JMC model either needs strengthening so

that there's real meaningful engagement on the agendas, on the discussion and so on—and I note that you've actually said that perhaps as useful or more useful were the pre-meetings leading up to it—but some have even suggested that it needs to be changed quite significantly into something that looks more like a Council of Ministers with equals deciding what is discussed, what the outcome should be and so on.

[51] Do you have a view now on that? Is it a question of simply saying the JMC just needs to be made to work properly? Or, does it need a complete overhaul?

[52] **Mr Jones:** I think it needs an overhaul, in my view. I think, adverting to the earlier answer I gave to Dafydd, there's this issue of treating each partner as an equal, rather than as a subsidiary. As long as that remains, I think the JMC council is actually going to stay as it is. Once people regard it, for example, that Ministers can be treated as equals, and that there could be an agenda agreed by both sides, or by the four parties or whatever it is, then meaningful change can happen. If the Welsh Government, Scottish Government and Northern Ireland Government felt meaningful change could happen as a result of the JMC, I think it could be a very valuable body. I think the British-Irish Council is a totally different animal. Therefore, different things need to apply there. But certainly, in the Joint Ministerial Council, for it to be meaningful, I think it has to be a body that regards each party as a partner, not as a subsidiary.

[53] **Huw Irranca-Davies:** Yes, thank you. David.

[54] **David Melding:** Thanks, Chair. Good afternoon, Ieuan. Obviously, we've been talking about inter-governmental relationships and structures. We are also looking at inter-parliamentary relations. I realise you may not quite have had such direct involvement, given that you were leader of the party and a Minister, but are you able to reflect on things like the British-Irish Parliamentary Assembly, for instance? I don't know—you may have seen its reports occasionally. Is it a body that attracts interest and respect, would you say, as a network?

14:30

[55] **Mr Jones:** You're quite right. Obviously, I haven't got the same experience of the Assembly as I did of the British-Irish Council, but I certainly think that anything that brings parliamentarians together in that

context must be good. The thing that I found, mostly about the British–Irish Council, is that I learned a lot. I would say that Plenaries were a big turn-off because they were very formulaic, the agenda was—. I remember one particular occasion where the communiqué had been written before the meeting had taken place. It didn't actually reflect the discussion. There was an attempt, I think it was by Alex Salmond, to have a sentence included in the communiqué that better reflected the discussion and it was refused point blank because the communiqué had already gone. It was that kind of situation. Frankly, so far as the Plenary was concerned, it was just formulaic and agenda driven and reports and nothing was really agreed.

[56] But what I found interesting was those discussions that you had with Ministers from other administrations. You could share experiences, you could share good practice and you could share ideas. What you found was that, although there were political differences between us, there was a lot of common ground and lots of ideas that you could pick up about how to operate better in perhaps the field of economy or transport or whatever it may be. I'm sure that must have been the case on the parliamentary side as well. There must be lots of ideas exchanged, which mean that you come away bursting with, 'Why couldn't we do that in Wales?' or, 'Why can't they do that in Northern Ireland?' So, I think there is a benefit in exchanging those ideas. In terms of how it operated, of course, I have no experience.

[57] **David Melding:** It's interesting what you say, because I think some people who have been on—. I was on the British–Irish Parliamentary Assembly twice and I think quite a few of its members would share the view that sometimes the Plenary sessions were a bit formulaic, but the networking that went on outside and the committee work was really very useful. Sometimes, in fairness, the debates in Plenary were interesting as well.

[58] I'd just like to follow up in terms of that more detailed work that you've just referred to—Minister to Minister. I suppose the equivalent for those of us who just have the legislative experience is working sometimes with colleagues in the Scottish Parliament or in the Northern Ireland Assembly and, indeed, Westminster who serve on similar committees.

[59] I don't know if you've seen any of this sort of work that is of value, but I put a proposition to you that it's surprising how little of that sort of exchange goes on, even when it's maybe the case that a particular subject would have already been ventilated in Westminster or in Scotland and then we've decided to look at it—or the other way around; we've already looked at

something and then the Scots decide to have an inquiry along those sort of lines. There doesn't seem to me the decision, first of all, perhaps, to look at other parts of the UK to see if they've done any of this work. There's perhaps a lack of vitality there. If there is, how would we try to put that right?

[60] **Mr Jones:** One of the things that I often felt—. Obviously, I was Chair of a committee here for a little while and I was also on the Finance Committee after I'd left Government, so I have the experience of committee work. I was often concerned that those sort of joint meetings, if you like—or they didn't always have to be joint meetings; maybe exchanges of views or whatever—didn't happen.

[61] Apart from one notable exception, I can't ever remember an occasion, for example, where a Welsh Minister refused to go to Westminster to give evidence. I think there was a notable exception. But, by and large, Welsh Ministers always turned up if they were asked. But it never happened the other way.

[62] I remember that, when we were discussing the future financing of Wales in the light of discussion around the Barnett formula, there was a massive reluctance by Treasury Ministers to even countenance coming to give evidence to Assembly committees.

[63] I know there are time and logistical constraints but, by and large, I think we all benefit if there are opportunities for people to meet together and to exchange views and to break down a lot of barriers that exist. Sometimes, a discussion can change people's minds about a particular situation. If you haven't got that opportunity, I think it makes it a lot more difficult.

[64] I certainly would favour looking at ways of having more joint meetings and an agreement with Whitehall that their Ministers should turn up to the Assembly and give evidence when they're asked.

[65] **David Melding:** I think we've put it to one or two witnesses that the rural affairs and agriculture committees—and you could do it for housing and local government or the economy or whatever—within the jurisdictions of the UK, perhaps once a year, should meet up and have a two-day discussion on all issues in their policy portfolio, and you could go around the various jurisdictions in turn. And then you'd know people, you could pick up the phone and that sort of serendipity would develop with that sort of contact.

[66] Given where we are with the Brexit process now starting in earnest, it seems to me, if there are going to be UK approaches to some regulations, that type of work may become more valued. I don't know if you share that view.

[67] **Mr Jones:** I think you're absolutely right there. The whole Brexit scenario demands that there has to be greater discussion, because the whole argument about the repatriation of powers and where will they come—will they come to Whitehall or will they come to Wales or are they going to Scotland et cetera—there are big debates around that. How do you continue to finance, for example, projects that are currently financed by European structural funds? An issue which is now very close to my current work is the financing of universities and research. All that area now needs to be looked at. You can't simply do it by holding everything being discussed in Whitehall and not discussed with the devolved administrations. There are massive areas now that need joint working.

[68] **David Melding:** I think the Welsh Affairs Committee in Westminster has taken forward this agenda of joint meetings. It had one with us, indeed, to look at the draft Wales Bill. I don't know if you've had a chance to reflect on their performance. Obviously, they have an equivalent with the Scottish Affairs Committee, but presumably there's a lot in it for them to have these deeper relations with the legislature at a devolved level. How would you judge the work of the Welsh Affairs Committee in trying to form these working partnerships with our committees?

[69] **Mr Jones:** I can't say; I haven't got any experience of that. The only experience I have is that I was a member of the Welsh Affairs Select Committee before I came here. I was on that body for a number of years and I appeared before it when we had the LCO system, when I had to appear before them. That was a very interesting experience at the time. But, I'm pretty sure that the Welsh Affairs Committee does have a significant role to play in those linkages, because if it can't agree to meet jointly with us, well, who would? I think we would all benefit from having more joint meetings with them.

[70] My understating was that it was always—there was always this debate about where those meetings should take place, and whether they should be here or whether they should be in London or whether they should be on neutral territory and so on. But I certainly think that every effort should be made to try and increase the number, if you like. I think, if a proper

relationship could be established between the Welsh Affairs Committee and committees here, it would be easier to try to persuade others to do the same.

[71] **David Melding:** Given that you were, for many years, a Member of Parliament and you made a very interesting and revealing remark about training civil servants—that it shouldn't just be Welsh civil servants that should be trained in terms of these inter-governmental relations, but Whitehall civil servants as well—how would you rate some of your former colleagues in Parliament in terms of being able to get to grips with where we are with devolution? Do you think that mutual respect is there when they look at, say, the Assembly or the Scottish Parliament? Are they looking at an equal institution?

[72] **Mr Jones:** No, I don't think so. I think it's a mixed view. I think those who have good relations or, at least, have a good view, if you like, of devolution, tend to be those who've got the greatest exposure, if you like, to it. I think the greatest the exposure to it, the better the relationships are. Where there is very little exposure, if you like, to the way devolution works, then I think there's a reluctance to actually engage with it. But I think it has to change. Some people would say, wouldn't they, that the strangest thing that happened as a result of the Scottish referendum was David Cameron's immediate response, which was, 'English votes for English laws', or whatever the phrase was. Now, that seemed to me to be the wrong response to the question. It was almost like, 'We have to look after ourselves now', rather than embracing something that I think called for a change. He'd have been a much bigger statesperson if he had said something else. That is what I felt was the mistake—a big mistake by him—because he was entrenching people's views that there was Scotland and England, and therefore was creating a division rather than trying to heal. That was a big mistake, in my view. I think that does reflect some of the thinking of his colleagues in Westminster.

[73] **David Melding:** I think we'd accept that Westminster is a great resource as well as, sometimes, an overpowering presence, I suppose, for the devolved institutions. I just wonder what our task is, really, because Westminster has some really important functions reserved to it in terms of the macro-economic, particularly in defence and foreign affairs, which obviously sets it apart from the domestic institutions. But I'm not sure there's always this understanding in Westminster that, when it does come to domestic issues, like housing, education, health and whatever, they are, perhaps because of their size, first amongst equals. But they are amongst

equals, aren't they? Trying to get that across is perhaps a task for—. That's particularly urgent, then, in terms of the Brexit debate that we're having now, with, perhaps, having to work with some powers and competencies. They're going to have to mix a bit and almost be like a mini version within Britain of the EU. You know, how you do environment policy—you can't do it all in Wales, can you? We all realise that. But you want to be there at the table with equal worth. I don't know whether you've got any ideas in this direction other than that we should be forceful and make sure our message gets across.

[74] **Mr Jones:** I've seen some of the ideas coming forward about creating better methods of joint working. I think Paul Silk has mentioned a few of them. But I certainly think that, in the post-Brexit world, greater effort has to be made to bring people together. I think that needs to happen. I think you make an interesting point there because one tends to think of these terms in terms of inter-governmental relations whereas the reality is that inter-parliamentary relations are just as important—just as important. Therefore, we need to find ways in which that can be strengthened as well. Because, even if you have all the will in the world at governmental level, if there's still this reluctance at parliamentary level for the thing to work, then you've still got problems. So, I think you're absolutely right, David; I think there is a key role here for bringing parliamentarians together as much as Ministers.

[75] **David Melding:** Diolch yn fawr, Ieuan.

[76] **Huw Irranca-Davies:** Thank you. It's been very interesting. I just want to extend to build upon what David was saying there. One of the themes that has come across from a number of witnesses is the idea that, yes, we can look at mechanisms, and we can look at strengthening them and putting forward recommendations on how to do it—and other eminent committees, including the Lords' Constitutional Committee and others have made such recommendations—but one of the themes that has come through, building on that exchange you've just had with David, is, 'Get on with it and do it' and actually do it and do it by practice. I wonder whether one of the things that might arise from our discussions and deliberations is almost saying, 'Well, part of the strategy of something like the Welsh Assembly, as opposed to the Welsh Government, should be to do this; to look at every opportunity for engaging—engage, engage, engage, mutually—both with other devolved nations and at the other end of the M4 to show our presence, to be there, to be there virtually, to be there physically, to engage on matters of importance, so that we are heard not just as a Government but as a Parliament'. I'd just

be interested on your thoughts on that, because we, of course, are constrained by time as well.

14:45

[77] **Mr Jones:** I think you're absolutely right. I think it just needs determination and a will to do it. I would subscribe to that view because, you know, the way these things work is that if you're expecting structures to be put into place, you could be waiting and waiting and waiting, but if you can put something together that would allow, for example, joint discussions, it's crucial now that they happen. You know, article 50 is being triggered tomorrow. Well, you know, the clock ticks and we can't wait, can we, for structures and all of these things to be put into place? We have to make our voice heard, and I think you're absolutely right that it's, 'Just get on with it.'

[78] **Huw Irranca-Davies:** Just get on with it. I only want to ask one other thing, and it does touch on where we are currently with Brexit, and it's this aspect of how we make Wales's voice heard, because that's the whole thrust of this—the broader scope of this inquiry is this stronger voice. How do we get our voice heard up and down the M4 and also around the constituent member nations of the UK as well? And yet, right now, it's right in front of us and, yes, we have committees being set up at the moment, we have some of the structures being put in place, which is good to see: the Brexit committees and the external affairs committee here, and so on and so forth. But, do you see this as a moment where there is an opportunity to actually change the game, change the rules of the game in the way that we engage between Governments, between Parliaments, out of necessity, or do you think this is actually a challenge that is too big too fast?

[79] **Mr Jones:** Well, no. I think the questions that we need to answer are so big that you have to engage, and have to engage forcefully, because my big fear is that—. The great irony, let's be honest, is that the areas that voted heavily against were the areas that should have benefited most from the European funding. I mean, that's one of the great ironies of life, I suppose. But the issues are substantial. I mean, there's the whole issue of the future of agriculture, which, clearly, is a key issue for many Members around the table; there's the whole issue of, 'How do you replace European funding?' and the extent to which that is replaced, and, 'What use do you make of the money that you're given?'. There's that issue. I'm really worried about the future of universities' research. I'm particularly worried about that because of my present position as director of the science park, and I can see that the whole

issue of research funding is going to be crucial, and that, to me, is linked to the future of the economy as well, in terms of innovation and all the other things.

[80] So, I see big challenges ahead, and I think Wales has to be up there, giving views on what is acceptable and not, post Brexit. So, it's not just about the money, which is clearly important in terms of the future of European structural funds, but it's also about all those powers that could be transferred from Europe to Westminster and not transferred down to the Assembly. So, you've got all these things coming together, you know, and these are massive questions, and I don't think we can say, 'It's too difficult for us.' We've really got to go ahead, and I think we've got to do it. I think articulating the issues and projecting them in a way which says, 'Wales has to have a voice at the table', I think is the only way to proceed. I think, you know, these are profound issues that we are all concerned about.

[81] **Huw Irranca-Davies:** Yes. Now, I'm looking at colleagues in case there are any other questions, but I think we've covered so much ground here and it's been really helpful from get-go in this session. I mean, it's been really illuminating once again. If there is anything further to this that you want to write to us or drop us a note about, please do. We will, of course, send you a transcript so that you can check it through for accuracy, but, on behalf of the committee, thank you very, very much. These sessions have been very interesting for us, very illuminating, and, one way or the other, all of us have played some part in this journey of devolution, but, at this critical juncture in time as we face the weight of Brexit on us as well, it becomes even more pertinent. But we're trying to find those ways in which we can make this work better and I think it's been a great help to us today. So, thank you very much indeed.

[82] **Mr Jones:** Diolch yn fawr iawn i Mr Jones: Well, thank you very much
chwithau. Rwy'n dymuno pob to you and I wish you all the best as a
rhwyddineb i chi fel pwyllgor wrth i committee as you consider these very
chi ystyried y materion pwysig yma important matters with regard to the
yn nyfodol Cymru. future of Wales.

[83] **Huw Irranca-Davies:** Diolch yn fawr.

[84] Do we take a small break or do we carry straight on?

[85] **Mr Williams:** Carry straight on.

[86] **Huw Irranca-Davies:** Carry straight on. There we are.

[87] **Mr Williams:** You could take a break if you want to.

[88] **Huw Irranca-Davies:** I'll check now. Are you happy to continue straight on? Yes. Diolch. Okay, thank you. Good, good.

14:50

**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**

[89] **Huw Irranca-Davies:** Okay, in that case, we will close that session of the inquiry and we'll move straight on to the statutory instruments in front of us. Item No. 4, we have several instruments there—six instruments, under paper 1, that raise no reporting issues under Standing Order 21.2 or 21.3. I won't list them all, because they're there within your papers. No reporting issues. Are you happy to note or do you have any comments? Happy to note. Content. Thank you. Diolch yn fawr.

14:51

**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**

[90] **Huw Irranca-Davies:** We move then to item No. 5, instruments that do raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3. The first of those is a negative resolution instrument, the Compulsory Purchase of Land (Vesting Declarations) (Wales) Regulations 2017. Now, our Legal Services have raised an interesting point of technical scrutiny under Standing Order 21.2 in respect of these regulations, and I'm going to pass to Gareth to tell us about that.

[91] **Mr Howells:** There's a small inconsistency between the English text and the Welsh text, and, because the Welsh and the English both have equal

status, they should be consistent. From my understanding, the Welsh Government has agreed to go back to correct the inconsistency.

[92] **Yr Arglwydd Elis–Thomas:** A Lord Elis–Thomas: May I make a point here? Now, I don't need to mention the work that I've been doing in the sphere of bilingualism in the past, but I do think that it's about time that the Welsh Government woke up and smelled the coffee, as I am currently doing here. It's not acceptable for any regulations or Bills or any sort of legislation to be presented to this Assembly that are not entirely accurate in both languages. I would like to send a strong message from this committee to that end. There is no excuse for it. We pay a great deal in the Assembly Commission to ensure that we have quality in the translation of our reports as committees, and in all of the scrutiny that we do, and in the Record of the Proceedings also, and the Government should show us respect by improving their legal bilingualism as a matter of urgency.

A allaf i ddweud rhywbeth am hyn? Nid oes yn rhaid i mi sôn am y gwaith yr ydw i wedi bod yn ei wneud yn y maes dwyieithrwydd yn y gorffennol, ond rwy'n meddwl ei bod hi'n hen bryd i Lywodraeth Cymru ddeffro ac aroglï'r coffi, fel rwy'n ei wneud ar y foment fan hyn. Nid ydy o'n dderbyniol i unrhyw reoliadau na Biliau nac unrhyw fath o ddeddfwriaeth gael eu cyflwyno i'r Cynulliad hwn nad ydyn nhw'n fanwl gywir yn y ddwy iaith. Fe garwn i anfon neges gadarn o'r pwyllgor yma i'r perwyl yna. Nid oes dim esgus drosto fo. Rydym ni'n talu yn sylweddol yma yn y Cynulliad yng Nghomisiwn y Cynulliad i sicrhau bod gyda ni safon o gyfieithu yn ein hadroddiadau fel pwyllgorau ac yn yr holl graffu rydym ni'n ei wneud—ac, wrth gwrs, yn y Cofnod—ar ein gweithgareddau, ac fe ddylai'r Llywodraeth ddangos parch i ni drwy wella eu dwyieithrwydd cyfreithiol a hynny ar fyrder.

[93] Is that too strong, Chair?

[94] **Huw Irranca–Davies:** I wonder whether then we can happily contact the Minister and make it clear that, whilst we're happy that they have made the necessary changes and they've identified this misnumbering error that they've done, we hope that in future, in translating into both our languages, these technical errors are not made in future. We have had these before though, haven't we?

[95] **Lord Elis–Thomas:** We have.

[96] **Huw Irranca-Davies:** Yes, we have.

[97] **David Melding:** It might be worth, for the past year, because they'll be in the reports, won't they, just adding up how many times we've had to point these out, and that would give the letter a bit more force, perhaps.

[98] **Huw Irranca-Davies:** There we are. Yes. So, if we could do that, please. There we are, thank you. Thank you, Dafydd—which brings us interestingly to the next one on which we do have items to report, which is a negative resolution instrument, SL(5)082, the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. It's another issue over Welsh and English, but it's a different issue. It's not a technical, numbering issue. Gareth, did you want to take us through what the issue is here?

[99] **Mr Howells:** Every so often, we see these instruments that are laid before the Assembly and the UK Parliament. They're produced in English only, because the same version has to be scrutinised here and in Westminster, so it's only in English and, because it's only in English, then Standing Orders require us to report on that.

[100] **Huw Irranca-Davies:** Any comments?

[101] **Yr Arglwydd Elis-Thomas:** Wel, yr unig sylw sydd gen i i'w ddweud yw: a fyddai fo'n beth dychrynlyd pe byddai Senedd y Deyrnas Unedig yn gorfod darllen dogfen gyfreithiol ddwyieithog? Os mai dyna ydy'r broblem, nad oes modd cyflwyno deddfwriaeth i San Steffan neu reoliadau neu unrhyw fath o Fesurau sydd mewn iaith heblaw Saesneg, yna mae'n well iddyn nhw ddeffro hefyd, yn ogystal â Llywodraeth Cymru. Well i ni gael *go* arall at y rheini, os caf i fod mor hy. Efallai dylwn i wneud rhywbeth amdano fo fy hun—mae'n siŵr byddwch chi'n dweud hynny wrthyf i. [*Chwerthin.*]

Lord Elis-Thomas: Well, the only comment I would make is: would it be a terrible thing if the UK Parliament had to read a bilingual legal document? If that's the problem, that we can't table legislation or regulations or any sort of measures or Bills to Westminster in any language other than English, then it's about time that they woke up, as well as the Welsh Government. So, perhaps we could have another go at them, if I could be so bold. Perhaps I should do something about it myself—I'm sure that's what your response might be. [*Laughter.*]

[102] **Huw Irranca-Davies:** What would our normal response—? Because, again, this is not the first time. This happens not infrequently with this particular type of SI, but we are duty-bound under Standing Orders to report on this. What would normally be our response, and what was our predecessor committee's response to this?

[103] **David Melding:** As I understand it, we had a ruling—well, perhaps not a ruling, an opinion—from the Clerk of the House of Commons that instruments could be laid in in Welsh and well as English, but, obviously, for them the only version they'd look at was the English one, as I recall. I'm sure we got somewhere with this, didn't we?

[104] **Mr Williams:** We had some contact with colleagues in Westminster. I don't think the matter was fully resolved. I know in the committee's legacy report from the fourth Assembly the committee said this was something they wished to consider further, perhaps, or recommended that this committee in the fifth Assembly looked into further. So, it may well be that the committee writes at a political level to Westminster to see whether there's anything that could be done, rather than doing it—

[105] **David Melding:** We could be slightly pointed and say that the UK Government places great store on the unified jurisdiction and therefore there are obligations on that when it comes to—

[106] **Dai Lloyd:** Otherwise make us a single jurisdiction, which is a good point.

[107] **Huw Irranca-Davies:** Okay. Well, let's do that. Let's do that.

[108] **Dai Lloyd:** A significant drawback to the combined jurisdiction.

[109] **Huw Irranca-Davies:** There we are. Let's do that and in that way: pointed but diplomatic. Pointed but diplomatic. And could I perhaps request, for myself as much as anybody else, but also for one absent Member today: it might be helpful to have a short briefing paper circulated over the next couple of weeks to Members on these issues that these two have raised around bilingualism as well—where we've come from, how we've got to this point, what Standing Orders require us to do and why, and what the responses that we've had traditionally have been on this. It would be interesting to look at, and we might decide that there is—because there'll be more of this now. There will be more of this as we have a weight of statutory

instruments descend on us over time. So, we should think through what our approach would be.

[110] **Dai Lloyd:** Can I just say, the mother of all parliaments has shifted in the last 18 years? I recall in the first Assembly when matters like this came about, obviously the reply was, ‘Well, the overwhelming language of these islands is English, so tough’, and that was just to us. But, recently, obviously, the Welsh Affairs Committee now can hold its meetings in Welsh, and the Welsh grand, so there is movement in the mother of all parliaments, so—

[111] **Lord Elis-Thomas:** It’s not the mother of all parliaments. There are other parliaments, mothers and fathers.

[112] **Dai Lloyd:** Well, I think the ongoing history is that this mother of all parliaments up there has engendered, begotten, the smaller institutions—back to our previous, because we’re not actually—

[113] **David Melding:** You don’t accept this bit of Whiggish propaganda, do you, about the mother of all parliaments? I’m shocked, Dafydd, shocked. *[Laughter.]*

[114] **Huw Irranca-Davies:** Gentlemen, gentlemen—

[115] **Lord Elis-Thomas:** I’ve been working there too long—*[Inaudible.]*

[116] **Huw Irranca-Davies:** Can I bring you back to order, please?

[117] **Dai Lloyd:** That’s why everybody regards this place as a subsidiary; we’re a child.

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

[119] **Huw Irranca-Davies:** Yes, indeed. We’ll bring you back to order. We will draft a letter based on the discussion now and put it forward, and we’ll see if we are pushing at an open door a little bit, or not. But that briefing paper I think would be quite helpful, as well, for myself and others, and then we might take some time in a private session in a future session to mull over our approach to this generally as well. By that time, hopefully, we’ll have had some response back that can help with that briefing note. Okay, if you’re happy with that.

15:00

**Gohebiaeth gan Arweinydd Cyngor Dinas Casnewydd: Menter
#SeneddCasnewydd
Correspondence from the Leader of Newport City Council:
#SeneddNewport Initiative**

[120] **Huw Irranca–Davies:** Now then, under item No. 6, we have correspondence from the leader of Newport City Council in response to the #SeneddNewport initiative. If you recall, we were planning to actually go and meet with the leader of Newport City Council to do with the council's City of Democracy project. It couldn't quite happen because of time constraints while we were up there, but she's written to us quite a fulsome letter, and maybe we'll discuss that in private in a moment as well. But we've had the response. So, happy to note that? Okay.

**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:

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.

[121] **Huw Irranca–Davies:** If we move on to item No. 7, which is the motion under Standing Order 17.42 to resolve to meet in private: are Members content? Content. Okay, and we'll go into private and clear the gallery.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 15:01.

27/3/2017

The public part of the meeting ended at 15:01.