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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

3/7/2017

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

Adrian Crompton	Cyfarwyddwr Busnes y Cynulliad, Comisiwn y Cynulliad Director of Assembly Business, Assembly Commission
Elin Jones	Aelod Cynulliad, Plaid Cymru; Llywydd, Cynulliad Cenedlaethol Cymru Assembly Member, Plaid Cymru; the Llywydd, National Assembly for Wales

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

Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Tanwen Summers	Ail Glerc Second 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:** Good afternoon. Welcome to this afternoon’s session of the Constitutional and Legislative Affairs Committee. It’s quite a busy session this afternoon, and in a moment we’ll be welcoming the Llywydd to give evidence this afternoon, but first of all, there are some basic housekeeping rules as normal. We’re not expecting a fire alarm, but as per normal, if there is a fire alarm, please follow the instructions from staff to leave via the exit. If we can make sure—and I’d better had myself—that all mobile devices are turned to silent. We have full translation facilities—they’re on our sets. You don’t need to press any buttons—channel 1 you will find the translation on. That’s it for all the housekeeping rules, although we do need to mention that we have one set of apologies today and that’s from Nathan Gill, but otherwise we have a full set of committee members here, so we will go straight into our session.

14:31

**Llais Cryfach i Gymru: Sesiwn Dystiolaeth 11
 A Stronger Voice for Wales: Evidence Session 11**

[2] **Huw Irranca–Davies:** Llywydd, good afternoon to you. We’re delighted to have you here with us, and as you know we’ve had a fascinating number of sessions with some key players in the evolution of devolution over the years—pretty much all of the main players have been in front of us. But we’ve been looking at not only the constitutional aspects of this place and its relation to the United Kingdom and to other nations and regions, but also the policy implications, the day-to-day working: how we do things well and when we don’t do things so well as well. Now, I’m sure you’ve been keeping an eye on that, but I wonder if I can begin by asking you, in your position—. This inquiry’s termed ‘A stronger voice for Wales inquiry’, but it’s in a changed context: a changed context of post 23 June last year—the referendum—a changed context post the new Wales Act 2017 and so on.

Have you got any particular thoughts on the inquiry that we're engaged in and its input, or otherwise, for where we currently are as an Assembly and as a Parliament?

[3] **Y Llywydd:** Mae'n siŵr taw'r peth cyntaf i'w ddweud wrth ateb y cwestiwn yna yw i ddweud pa mor amserol yw'r gwaith y mae'r pwyllgor yma yn ei wneud yng nghyd-destun y digwyddiadau sylweddol yna rydych chi wedi cyfeirio atyn nhw: y penderfyniad yn sgil refferendwm Brexit, a hefyd Deddf Cymru 2017 yn rhoi cyfleon i ni edrych unwaith eto ar sut rŷm ni yn cael ein llywodraethu, ond yn benodol sut mae'r sefydliadau seneddol yn gweithio ac, yn bwysig o ran y gwaith yma, yn cydweithio ar draws y Deyrnas Gyfunol, a'n defnyddio, efallai, refferendwm Brexit a'r penderfyniad i ddod allan o'r Undeb Ewropeaidd fel modd i edrych ar sut gallwn ni wneud pethau o'r newydd ac yn well, o bosib, hyd yn oed na'r hyn a gyflawnwyd yn y gorffennol. Felly, yn bendant iawn, fy marn i yw bod hwn yn amserol, ac rwy'n edrych ymlaen at weld beth fydd gan y pwyllgor yma i gynnig fel argymhellion i'r Senedd yma ac i'n chwaer Seneddau ynglŷn â sut gallwn ni wella ar ein dull ni o weithredu ar ran pobl Cymru.

The Llywydd: Well, I'm sure that the first thing to say in responding to that question is to say how timely this committee's work is in the context of those significant events that you have mentioned: the decision on Brexit through the referendum and also the Wales Act 2017 giving us an opportunity to look anew at how we are governed, but specifically how the parliamentary institutions work and, quite importantly in the context of this work, how they collaborate across the UK, and using, perhaps, the Brexit referendum and the decision to withdraw from the European Union as a means to look at how we can do things better than, perhaps, has been achieved in the past. So, I'm certainly of the view that this is a timely piece of work, and I look forward to seeing what this committee proposes as recommendations to this Parliament here and to our sister Parliaments in terms of how we can improve our modus operandi for the benefit of the people of Wales.

[4] **Huw Irranca-Davies:** Thank you very much indeed for that opening response, and I was remiss in not welcoming, as well, Adrian Crompton—you're very welcome here as well. Now, in light of those opening remarks—and we're all aware of the role that you have and the fact that you've outlined as your three priority areas for your tenure of this very important position as Llywydd the issue of accountability to the Assembly and the people of Wales;

of transforming the way in which we share information, and thereby making us more relevant, and you can see the relevance to our inquiry in that; and, of course, capacity, and strengthening the Assembly by putting the people of Wales at the heart of decision making and policy, which is something that runs through our inquiry as a theme as well—but in that respect and those aims that you have, what is the particular role of the Presiding Officer, of the Llywydd, in terms of inter-parliamentary relations? Is it simply as a caretaker, or is there something more fundamental than that, particularly in this changed context we've talked about?

[5] **Y Llywydd:** Wel, byddwn i'n dweud ei fod e'n bodoli ar ddwy lefel: yn gyntaf fel Llywydd sydd yn arwain ar gynrychioli'r Cynulliad mewn cyfarfodydd rhwng ein gwahanol Seneddau ni. Rŷch chi'n ymwybodol, wrth gwrs, o'r *quadrilaterals* rhwng Llefaryddion—*Speakers*—a Llywyddion y gwahanol Seneddau, ac mae modd inni ddefnyddio'r fforwm yna ar hyn o bryd i fod yn trafod ac yn dysgu oddi wrth ein gilydd. Ond hefyd fel Llywydd rydw i'n gyfrifol am sicrhau bod busnes y Cynulliad yma yn cael ei wneud mewn ffordd effeithiol, a bod gan y lle yma'r *capacity* i wneud ei waith yn effeithiol. Felly, mae caniatáu i swyddogion y lle yma, boed yn glercod y gwahanol bwyllgorau, i fod yn trafod yn anffurfiol waith y lle yma gyda Seneddau eraill, a chlercod a swyddogion mewn llefydd eraill, a hefyd caniatáu i bwyllgorau'r lle yma, a'r gwleidyddion sydd yn eistedd arnyn nhw, i fod, lle mae'n briodol, yn gwneud gwaith ar y cyd, yn sgrwtineiddio ar y cyd, yn datblygu polisi ar y cyd, os ydy hynny'n briodol ac yn ddewisol ganddyn nhw i wneud hynny. Felly, mae hyrwyddo'r

The Llywydd: Well, I would say that it exists on two levels: first of all, as the Llywydd who leads on representing the Assembly at meetings between the various Parliaments. You will be aware, of course, of the quadrilaterals between the Speakers and Presiding Officers of the various Parliaments and Assemblies, and we can use that forum to discuss issues and learn lessons from each other. But also as Llywydd I am responsible for ensuring that the Assembly's business is done in an effective manner and that this place has the capacity to do its work effectively and efficiently. Therefore, allowing officials from this place, be they the clerks of various committees, to be discussing the work of this place with representatives of other Parliaments and officials and clerks in other Parliaments in an informal setting, and also allowing the committees of this place and the politicians who are members of those committees to be, where appropriate, doing joint work, carrying out joint scrutiny, joint policy development, if that is appropriate and if that is how they

Ile yma yn ei wahanol amrywiaeth o wish to work. So, promoting this ffyrdd i fod yn gallu cyd-drafod a place in all its diversity so that we chyd-sgrwtineiddio gyda Seneddau can discuss jointly and conduct joint eraill yn rhan allweddol o'm rôl i scrutiny with other Parliaments is a hefyd. key part of my role, too.

[6] **Huw Irranca-Davies:** Fascinating—I'm sure we'll return to some of those elements. Dai, over to you.

[7] **Dai Lloyd:** Diolch yn fawr, Gadeirydd, a diolch yn fawr iawn i chi, Llywydd, am eich geiriau agoriadol. Yn dal ar y thema cysylltiadau rhyngseneddol yma, rydym ni wedi cymryd cryn dipyn o dystiolaeth dros y misoedd diwethaf sydd yn gallu bod yn dweud—ac rwy'n rhoi crynodeb byr nawr—weithiau fod ambell Senedd arall ddim yn edrych y gorau ar y Senedd yma. Hynny yw, mae yna ryw fath o ragfarn yn weithredol. Ni fuaswn i'n disgwyl i chi ymhelaethu yn ormodol ar hynny, ond yn nhermau—a allech chi ddisgrifio faint o waith rhyngseneddol sydd ar hyn o bryd yn mynd ymlaen, o beth rydych chi'n gallu gweld o'ch swydd chi? Awn ni ymlaen at gwestiynau eraill, ond disgrifiwch yr agwedd bresennol o'r gwaith rhyngseneddol sy'n mynd ymlaen.

Dai Lloyd: Thank you very much, Chair, and thank you, Llywydd, for your opening remarks. Staying on this theme of inter-parliamentary relationships, we've taken a great deal of evidence over the past few weeks—and this is a brief summary of what we've heard—that sometimes some Parliaments don't view this particular Parliament in the best light. That is, that there's some sort of prejudice in operation. I don't expect you to expand on that too much, but could you describe how much inter-parliamentary work currently goes on, from what you can see in your post? We'll go on to other questions then, but please could you discuss the current inter-parliamentary work that goes on?

[8] **Y Llywydd:** Wel, fe wnaif i ddisgrifio'n fyr iawn yr hyn yr ydw i'n ymwneud â fe, ac efallai y gwnaf i ofyn i Adrian ddisgrifio, efallai, yn fanylach y gwaith y mae'r swyddogion yn ei wneud rhwng Seneddau.

The Llywydd: Well, I'll briefly describe my involvement, and I'll perhaps ask Adrian to go into more detail on the work that officials undertake in terms of inter-parliamentary work.

[9] O ran fy safbwynt i, wrth gwrs, mae yna gysylltiad a pherthynas gydag ochr llywodraethol Senedd San Steffan, yn sicr dros y flwyddyn ddiwethaf wrth inni ymwneud â Bil Cymru, sydd bellach yn ddeddfwriaeth. Felly, mi oedd yna drafodaeth ffurfiol ac anffurfiol gydag Ysgrifennydd Cymru yng nghyd-destun hynny, yn fy rôl i fel Llywydd, yn edrych i ddylanwadu ar gynnwys y ddeddfwriaeth yna. Wedyn, tu hwnt i hynny, mae'r hyn rydw i wedi cyfeirio ato eisoes, sef y cyfarfodydd ar y cyd, y *quadrilaterals*, rhwng *Speakers*, Llywyddion, y pedair Senedd. Dim ond un o'r cyfarfodydd hynny sydd wedi bod ers i fi fod yn Llywydd, ac mae hynny, o bosibl, yn adlewyrchiad o'r ffaith bod yna etholiad cyffredinol y Deyrnas Gyfunol wedi bod yn ddiweddar, a hefyd fod yna ddim Senedd yn cwrdd ar hyn o bryd yng Ngogledd Iwerddon. Felly, o'r un cyfarfod yna yr ydw i wedi bod ynddo, mae'n gyfarfod buddiol—nid oes yna amheuaeth am hynny—oherwydd mae'n creu'r cysylltiad yna a'r adnabyddiaeth yna rhwng y pedair Senedd a'u Llywyddion. Ond anffurfiol, ar y cyfan, yw'r cyfarfod yna, a dysgu oddi wrth ein gilydd, yn hytrach na chyfrannu, o bosib, at ddatblygiad perthynas mwy strwythuredig yw natur y cyfarfod, yn sicr y bues i'n rhan ohono.

From my point of view, of course, there is a relationship with the governance side of the Westminster Parliament, certainly over the past 12 months, as we have been dealing with the Wales Bill, which is now the Wales Act. There was some formal and informal discussion with the Secretary of State for Wales in that context, in my role as Presiding Officer, in terms of seeking to influence that legislation. Then, over and above that, I've already referred to the quadrilateral meetings between the Speakers and the Presiding Officers of the four Parliaments. There has only been one of those quadrilaterals since my election as Presiding Officer, and that perhaps is a reflection of the fact that there has been a UK general election recently, and also that there is no Assembly sitting currently in Northern Ireland. So, from that single meeting that I've attended, it was very beneficial—there's no doubt about that—because it does create those connections between the four Parliaments and their Speakers and Presiding Officers. But generally speaking, the meeting is relatively informal and we are learning lessons from each other, rather than contributing, perhaps, to the development of a more structured relationship. That's the nature of the meeting that I attended at least.

[10] Adrian, I don't know if you can contribute on the work that officials do.

[11] **Mr Crompton:** Yes, sure. So, at an official level there is a myriad of networks. Just about every part of the parliamentary service has an equivalent network from the other institutions, and they are, across the board, very effective, I would say, in giving us a forum to share information, intelligence and best practice and so on. Amongst committees, we have seen varying degrees of joint committee work, usually, again, at a relatively informal level, but that is becoming more prevalent and more necessary in the context of Brexit. I suppose that an important thing to note too is that we and Westminster are the only pairing of the various Parliaments of the UK that have a formal, procedural basis for our engagement as well. So, this was something, as you know, that was put in place a decade or so ago, but that is important and, I think, is potentially something to build on if we wanted to formalise these relationships a little more.

[12] **Dai Lloyd:** Diolch am hynny. Jest i symud ymlaen o hynny, sut y buasech chi'n mesur effeithiolrwydd y cysylltiadau rhyngseneddol sy'n gweithredu ar hyn o bryd? Ac, o ddweud wrthym sut yr ydych yn mesur eu llwyddiannau nhw ar hyn o bryd, sut y buasech yn mynd ati i geisio gwella cysylltiadau rhyngseneddol? Rŷch chi'n dweud bod yna gysylltiad swyddogol, felly, rhwng San Steffan a fan hyn. A oes yna unrhyw arwyddion ein bod ni'n mynd i allu cael cysylltiadau swyddogol efo'r Alban a Gogledd Iwerddon pan fydd gogledd yr ynys yna yn ôl yn weithredol yn seneddol?

Dai Lloyd: Thank you very much for that. Moving on from that, how would you measure the effectiveness of the inter-parliamentary connections that are currently in operation? And, in telling us how you would measure their success at present, how would you go about improving inter-parliamentary relationships? You say that there are official connections between Westminster and this place. Are there any signs that we are going to be able to have official connections with Scotland and Northern Ireland as well, when the north of that island is back in operation, in a parliamentary sense?

[13] **Y Llywydd:** Wel, o safbwynt y cysylltiadau ffurfiol hynny rhwng y Seneddau, fel yr wyf wedi'i ddweud o ran y cysylltiad rhwng y Llywyddion, mae'r cyfan yn weddol *ad hoc* ac anffurfiol. Byddwn yn sicr yn dweud 'nid da lle gellir gwell' yng nghyd-destun rheini. Rwy'n credu bod Brexit

The Llywydd: Well, in terms of those formal links between Parliaments, as I have said, in terms of links between Speakers and Presiding Officers, it is all quite ad hoc and informal. I would certainly say that there is always room for improvement in the context of those links. I do think that Brexit

yn rhoi'r cyfle inni edrych a ydy hi'n amser inni ffurfioli'r berthynas yna sydd rhwng ein Seneddau ni. Os edrychwn ni nôl dros y degawd o waith sydd wedi'i gyflawni ac sydd wedi ystyried y berthynas rhwng sefydliadau seneddol, p'un ai ydy'r rheini yng nghyd-destun yr Alban a'r Deyrnas Gyfunol neu Gymru a'r Deyrnas Gyfunol, mae Comisiwn Silk, Calman a Strathclyde i gyd, mewn rhyw ffordd neu ei gilydd, wedi argymhell rhyw fath o berthynas ffurfiol—pwyllgorau ffurfiol ar y cyd—ac roedd adolygiad Strathclyde yn cyfeirio at *committee for the Parliaments and Assemblies*. Felly, mae yna rôl yn hynny o beth, rwy'n credu, gyda Brexit yn enwedig, ac yn enwedig o gofio'r hyn y mae'r Prif Weinidog wedi ei ddweud am edrych ar greu rhyw fath o gyngor y Gweinidogion ar lefel Brydeinig. Mae sgrwtineiddio gwaith cyngor y Gweinidogion a phenderfyniadau ar y cyd ar lefel llywodraethol—mae sgrwtineiddio hynny wedyn ar lefel seneddol yn bwysig i ddarparu ar ei gyfer hefyd. Mae'n bosibl ei bod hi nawr yn amser i'r Senedd-dai, yn ogystal â'r Llywodraethau, edrych ar sut y gellid ffurfioli'r berthynas yma sydd rhwng y pedair Senedd yma ac i wneud hynny yng nghyd-destun y penderfyniadau sy'n dilyn allan o Brexit.

gives us an opportunity to look at whether it is time for us to formalise that relationship between our Parliaments. If we look back over the decade of work that has been done in considering the relations between parliamentary organisations, whether that is in the context of Scotland and the UK or Wales in the UK, we have had the Silk Commission, Calman and Strathclyde, which have all, in one way or another, recommended some sort of formal links—formal committee meetings—and the Strathclyde review referred to a committee for the Parliaments and Assemblies. Therefore, there is a role there, given Brexit particularly, and particularly bearing in mind what the First Minister has said about the creation of a council of Ministers at the UK level. In terms of scrutinising the work of such a council and looking at joint decisions taken at a governmental level—scrutinising that at a parliamentary level is of course very important. It may now be time for the Parliaments, as well as the Governments, to be looking at how we can formalise that relationship that exists between the four Parliaments, and to do that in the context of the outcomes and results of Brexit.

[14] Did you want to say anything?

[15] **Mr Crompton:** Just briefly, if I can add to that, in my experience, it takes a number of things to get formal inter-parliamentary work off the

ground. As the Llywydd says, people have been saying it's a good thing and that we ought to be doing it for donkey's years, but it needs political will to make it happen, first and foremost, in all of the institutions. It needs a common purpose and a focus for its attention, rather than just being a structure in its own right. With those two things in place, people like me can then iron out the sort of boring but important stuff about the practicalities of getting Members together, the rules of engagement, the rules of procedure and so on. But it needs those first two things in order to get it off the ground.

[16] **Dai Lloyd:** Great. Thank you.

[17] **Huw Irranca-Davies:** Thank you, Dai. Could I just ask you: what would your assessment be of the satisfaction of those two criteria? One is the suggestion of the proposed mechanisms of doing it—and there are many examples of good practice already going on—it's making them, as you said there, I think, more formal. But actually, the political goodwill—. Because what you're talking about is political goodwill amongst the parliamentary institutions, not the Government. That doesn't require the nod from anybody in Government. Do you think, from the UK Parliament and the others, albeit the current hiatus in Northern Ireland, that there is a changed context? Is it implicit, in what you're saying, a suggestion that there may now be an opportunity to move on from the 'Here are the formal mechanisms' to 'Let's do it'?

14:45

[18] **The Llywydd:** Well, I'd say that it's currently unexplored territory between the Parliaments and those of us who speak on behalf of the Parliaments, but it's a territory that I'd like to use this opportunity to explore. Obviously, in speaking on behalf of this Parliament, my voice is made clearer if committees and parliamentarians across the Assembly make their view known to me as to how they would want to see inter-parliamentary work developing. I suspect that this committee may be thinking of exploring your own view on that, which will be very useful for me in perhaps progressing this debate—even kick-starting the debate between Speakers and Presiding Officers of the Assemblies and Parliaments to see what our common view could be to the context now, using the context of Brexit, for the first time, properly, to look to see if there is an appetite across all Parliaments. It could only work if it was across all Parliaments and given equal validity by all Parliaments for inter-parliamentary co-operation or formal committee

coverage to actually be implemented.

[19] **Huw Irranca-Davies:** Brilliant. Thank you. Dafydd, I want to bring you in, but David, you wanted—

[20] **David Melding:** Yes. I'm just thinking, in times of great crisis of government—and we're clearly in that at the minute—power does tend to shift a bit more to the parliamentary sort of function of the constitution. We've seen it in the past, I think, when there have been great moments of 'Which way will our state develop?'—Parliament comes back in and plays a much stronger role. I just wonder if some sort of device like a Speakers conference—'Speakers' as plural as well as individual; you may regard Mr Bercow as first amongst equals, but obviously, he's now in a universe where there are other Speakers in the United Kingdom—. At the minute, the First Minister's calling for some sort of constitutional convention. It appears to me the weakness there is that it's very Government led and it's very much talking about the sort of mega bits of the constitution, whereas at least a Speakers conference would be dealing with how our institutions work, how they combine, and where they need to be improved at the moment, given the remarkable constitutional changes that we've had in the last 20 years, and now the real issues we may be facing, like 'Will there be majority Governments again in the future?'. There are all sorts of things that are up, I think, for debate.

[21] **The Llywydd:** Well, my response to that is 'yes'. I think the opportunity is there to hold that kind of debate, certainly. In the context of a Speakers conference, yes, I think if fellow Speakers feel that their Parliaments are up for looking finally at how we can make inter-parliamentary work—how we can formalise it—whether there are opportunities to do that in the context of what's likely to happen in possibly the creation of a council of Ministers at a UK level, intergovernmental co-operation and co-decision-making—that needs to have a parallel process. We certainly should be using the opportunity of this great crisis to see what can come out of that. I certainly believe that it's right for the role of Parliaments and scrutiny of Governments to work separately of each other, of course, and to do the accountability work to their population, but also to see how inter-parliamentary scrutiny can work as well.

[22] **David Melding:** That final point you make about accountability and scrutiny is really important, because the ongoing challenge in the Westminster model is how on earth you get to grips with Government. The

dirty secret, really, of the British constitution is that it has a weak legislative arm. There are times when that arm gets stronger, but, I mean, generally speaking, compared to the Government, you've got to fight very, very hard indeed to have that sort of robustness and independence of mind within the Parliament. If we're left with the JMC becoming a council of Ministers, I can see this being really mega executive driven again, you know? I'm just wondering where the voice is to sort of say, 'Hold on, that may need to happen, but we need to get together as well and really look at this'—if 'taking back control' meant anything. You don't want to replace the secret passages of the chancelleries in Brussels with the equivalents in Whitehall or Cathays Park. I'm not sure whether Edinburgh's is—anyway, I've made the point.

[23] **The Llywydd:** Yes, and I agree. The weakness of what we face is that some of the weaknesses of the way that the Council of Ministers used to work at an EU level were that there was very little transparency to it. There were great strengths to it—and I was a part of the Council of Ministers as agriculture Minister in the past—but we shouldn't be looking to just replicate that to a UK context of four Ministers meeting to discuss agricultural policy in a room somewhere where the public may not know much of what's going on there. But, as importantly, if not more importantly, the parliamentarians that they're accountable to and the Assemblies they're accountable to know not either what's going on there. So, looking to see and to develop in tandem—if not in front of, ahead of—the intergovernmental relations that will follow Brexit is important. I'm keen to use the opportunity that maybe you'll provide for me in some of your recommendations to pursue that with other Speakers from the other Parliaments.

[24] **Huw Irranca-Davies:** Because, certainly, following on from David's comments, there's been a lot of talk about the council of Ministers format putting forward a meaningful agenda—a meaningful agreed agenda, meaningful engagement, and meaningful outcomes. So, the question arises: where is the meaningful scrutiny of that? At the moment, you'd have to say, even within the First Minister's proposals, that that's the missing link. You were seeking to come in there, I think.

[25] **Mr Crompton:** Well, just to make the point, Chair, that I think one of the obstacles we have to overcome is clarity over who speaks for Parliaments and who takes the lead for Parliaments. So, in our own system, the Llywydd very explicitly has an authority in that area in our Standing Orders, and chairs the Business Committee and the Commission, and all that adds weight. But,

of course, we have the committees and the Assembly itself, and those sort of structures and divides are replicated across Parliaments. So, it is harder for Parliaments to get together in a co-ordinated way sometimes to put these structures in place. So, as the Llywydd said right at the start, anything that the institution can do to clarify its position and add weight to an agreed position makes that process a lot easier.

[26] **Huw Irranca-Davies:** Very interesting. Dafydd, we're in your hands.

[27] **Lord Elis-Thomas:** I'm not sure you'll want to be in my hands when you've heard what I have to say.

[28] Mae'n rhaid i mi fynegi tipyn o anniddigrwydd ynglŷn â'r syniad yma bod eisiau rhyw fath o 'mega-craffu' ar draws y Deyrnas Unedig, oherwydd rydym ni wedi cael trafodaethau gyda phaneli o ddinasyddion ar ddechrau'r broses yma, ac maen nhw i gyd yn pwysleisio pwysigrwydd bod y sefydliadau seneddol i fod i barchu ei gilydd. Oni allai hynny fod yn barch i'w gadael nhw i gario ymlaen â'u busnes eu hunain? Nid oes rhaid i mi eich atgoffa chi bod yna Lywodraethau o liw gwahanol yn yr Alban ac yng Nghymru, ac mae yna Lywodraeth o ryw liw nawr—nid wyf yn gwybod beth yw'r cymysgedd rhwng glas ac oren, na beth yw canlyniad hynny. Ond rydym ni mewn sefyllfa, fel y mae David wedi cyfeirio, sy'n sefyllfa argyfyngus, ond mae'n sefyllfa argyfyngus, gyda phob parch, o greadigaeth Llywodraeth y Deyrnas Unedig ei hun. Felly, nid wyf yn teimlo'n frwd iawn i geisio achub croen y Llywodraeth honno. Ydy hynny'n rhy ymosodol?

I have to express some discontent about this idea that we need some kind of mega scrutiny across the United Kingdom, because we have had discussions with citizen panels at the beginning of this process, and they all emphasised the importance of the parliamentary institutions having mutual respect, but could that not be respect to leave them to get on with their own business? I don't have to remind you that there are Governments of different colours in Wales and Scotland—and I don't know what the mix of blue and orange is—but we're in a situation now, as David has mentioned, which is a crisis, but it's a crisis, with all due respect, that has been created by the UK Government itself. So, I'm not very eager to try and save the skin of that Government. Is that too aggressive?

[29] **Y Llywydd:** Na, rydw i wedi **The Llywydd:** No, I've heard you far

eich clywed chi'n llawer mwy ymosodol na hynny. Wel, rydw i'n cytuno taw'r atebolrwydd cyntaf yw i'r Cynulliad yma ac i'r Senedd yma, felly os oes yna fater o sgrwtineiddio penderfyniadau Cyngor y Gweinidogion pan fo Lesley Griffiths yn cwrdd â'i chyd-Weinidogion amaeth, yna ei hatebolrwydd cyntaf hi, a'r sgrwtini cyntaf, yw i'r lle yma. Fe wnes i rywfaint o sylwadau ynghynt ynglŷn â sut mae gwneud yn saff fod y sgrwtini hwnnw yn sgrwtini effeithiol. Un o'r materion y byddwn i'n awyddus iawn i'w weld yn gwella o fewn y gyfundrefn sydd i ddod yw bod tryloywder Cyngor y Gweinidogion yna, ar ba bynnag bwnc y maen nhw'n ei drafod, yn well na'r hyn rŷm ni wedi'i weld yn y gorffennol, o bosib, gyda Chyngor y Gweinidogion ar lefel Ewropeaidd. Ac felly, o gael gwell tryloywder yna, yn sicr mae hynny yn arwain at well atebolrwydd a sgrwtini i'r Cynulliad yma a pherthynas y Gweinidog â'r Cynulliad yma, ond nid yw hynny i ddweud nad oes yna le, yn enwedig, o bosib, yn y tymor byr, wrth i ni weithio allan beth yw'r cyfundrefnau gorau i ni fod yn eu datblygu, a dyna le y gallai rhywbeth fel *Speakers conference* fod yn fodd i fod yn gatalydd i gael y drafodaeth yna ar beth y gellir ei wella o ran y rhyngbartneriaeth a'r cyfundrefnau ar y cyd, o bosib, y gellid bod yn elwa arnynt. Ond, fy marn i, fel chi, Dafydd, yw taw'r berthynas gyntaf—y *first among equals*—yn sicr yw'r atebolrwydd i'r Cynulliad yma gan

more aggressive than that in the past. But I agree that accountability primarily is to this Assembly and to this Parliament, and if there is an issue of scrutinising decisions of the Council of Ministers, when Lesley Griffiths meets her fellow agricultural Ministers, then she is first and foremost accountable to this place. I made some comments earlier on how we ensure that that scrutiny is effective. One of the issues I would be very eager to see improved in the forthcoming system is that the transparency of the Council of Ministers, whatever issue they're discussing, is greater than what we've seen in the past, perhaps, with the Council of Ministers at the European level. So, having that greater transparency, then, certainly leads to better accountability and better scrutiny for this Assembly and the relationship of the Minister with this Assembly, but that's not to say that there isn't scope, particularly, perhaps, in the short term, as we unpick what the best systems are for us to develop, and that's where something such as a Speakers conference would be a catalyst to having that debate on where we could make improvements in terms of the interrelationship and the joint systems of which advantage could be taken. But, like you, Dafydd, my view is that the first-among-equals relationship is that accountability to this Assembly for any Minister.

unrhyw Weinidog.

[30] **Yr Arglwydd Elis–Thomas:** Rydw i'n meddwl y byddwn i'n dadlau, erbyn hyn, y berthynas gyntaf a'r unig berthynas sydd yn briodol i Senedd Cymru, yw delio â Gweinidogion Cymru a pheidio, ar unrhyw gyfrif, ddod yn rhan o ryw fath o strwythur o gyd-graffu gyda'r Deyrnas Unedig ar y difethdod sydd wedi dod ar gyfansoddiad y deyrnas oherwydd beth mae Llywodraeth San Steffan wedi'i wneud. Rydw i'n meddwl bod rhaid i ni feddwl am y cwestiwn yna o ddifri. O'm cof i—

Lord Elis–Thomas: Well, I think that I would argue that the first and foremost and only relationship that's appropriate to the Parliament of Wales is to deal with Welsh Ministers and not on any account to become part of a structure of co-scrutiny with the United Kingdom of the mess that's been made of the constitution of the United Kingdom because of what the Government has done, so I think we need to think about that question seriously. As far as I recall—

[31] and you can help me here, Adrian—

[32] nid ydw i'n cofio, ar unrhyw adeg, ein bod ni wedi cyd-graffu ar yr un darn o ddeddfwriaeth. Rydym ni wedi cyfrannu i bwyllgorau Seneddau gwahanol i geisio gwelliannau, ac roedd dy gyfraniad di, fel Llywydd, a swyddfa'r Llywydd, i'r broses ar Ddeddf Cymru yn bwysig iawn. Mi gawsom ni ryw fath o gonsesiynau ar hynny. Ond rydw i'n meddwl bod hwn yn llwybr peryglus iawn, oherwydd Senedd Cymru ydy'r lle yma, nid is–Senedd y Deyrnas Unedig o gwbl.

I don't remember at any time that we'd undertaken joint scrutiny on a single piece of legislation. We've contributed to different committees at different Parliaments to try and ensure different amendments, and your contribution, and that of your office, was very important to the process of the Wales Act, and we did have some sort of concessions made there. But I think this is a very dangerous path to be treading, because we're the Parliament of Wales here, not a sub-Parliament of the United Kingdom.

[33] **Y Llywydd:** Cytuno.

The Llywydd: I would agree.

[34] **David Melding:** Well, I don't altogether—. Can I interject?

[35] **Lord Elis–Thomas:** I do want a little answer from Adrian. Does he ever remember an opportunity where we actually did joint scrutiny on any piece of

legislation properly?

[36] **Mr Crompton:** Well, you added ‘properly’ at the end. That was—

[37] **Lord Elis–Thomas:** Well, I would say that, wouldn’t I?

[38] **Mr Crompton:** There has been formal joint scrutiny of draft Bills and Bills passing through Westminster by the Welsh Affairs Committee and committees of the Assembly.

[39] **Lord Elis–Thomas:** But not by Assembly Committees and other proper committees. I don’t call the Welsh Affairs Committee a proper committee. I mean an actual respected and proper legislative committee—a standing committee, in the equivalent—dealing with a Bill in Westminster, with a standing committee, to use those parliamentary terms, doing a Bill here.

[40] **Mr Crompton:** So, the provision at the Westminster end for any committee other than the Welsh Affairs Committee to meet formally with our own does not exist. And so, at the moment, from the Westminster end of the telescope, it’s restricted solely to the Welsh Affairs Committee.

[41] **Huw Irranca–Davies:** Thank you, Dafydd. We’re going to continue this in a slightly different shape, but can I just go back a couple of steps? Earlier on in this session, I think you said at some point that part of your role as the Presiding Officer was to try and seek to influence in legislation. Were you talking about constitutional legislation there, or legislation broader than constitutional issues?

15:00

[42] **The Llywydd:** No, I was speaking—. I think the reference was specifically to the Wales Bill and the Wales Act that now is, of 2017, where I sought to influence that legislation, and I suspect future Presiding Officers will want to influence any future constitutional legislation or should influence future constitutional legislation if it affects this Parliament. And certainly that was, I saw, part of my role in influencing the Wales Bill that’s just become an Act.

[43] **Huw Irranca–Davies:** And you would see that very much on a par with the role of not only other Presiding Officers in the nations and regions, but also with the Speaker of the Commons in safeguarding, from, let’s say, from

Speaker Bercow's perspective, the constitution as it currently stands. Similarly, you make sure, as Presiding Officer, that you have an input into constitutional arrangements to safeguard the interests of the Assembly and Wales.

[44] **The Llywydd:** Yes. So, there was the practical manifestation of that during the legislation on Wales during the past 12, 18 months and I suspect that, in the next few years, that will be particularly used. My role will need to make sure that the devolution settlement we have in the context of Brexit will be similarly protected and that the consent of this place is sought and received if there is any change to that proposed from any place.

[45] **Huw Irranca-Davies:** Now, for students of the constitution out there watching in on these proceedings or poring over the transcripts afterwards, how would you explain to them that the role of a Presiding Officer in this Assembly or any Assembly—? How would you explain that relationship where they engage not simply with other Presiding Officers or Speakers, including of the UK Parliament, but with the UK Government? So, trying to unravel this: an institute of the Parliament and you as the figurehead of that Parliament engaging with a Government as opposed to another Speaker, another Presiding Officer.

[46] **The Llywydd:** Well, I'd explain it practically as the legislation that's under scrutiny and being influenced is coming from a Government. So, the Wales Bill came from the UK Government via the Secretary of State for Wales and it was my role then, in protecting and also seeking to influence some of the content of that Bill, to do that in a relationship both with Welsh Government but directly also with the Secretary of State for Wales. And when that may not have been completely successful, I then sought to have a relationship with parliamentarians in the Houses of Parliament—the Houses of Commons and Lords—in seeking to amend that legislation. So, in that case, it was both with the UK Government and the UK Parliament.

[47] **Huw Irranca-Davies:** That's excellent. Let me just take that one stage further, because that's very, very clear in your role as a defender of this institution and how this institution is established, and a protector of the interests of the Assembly, of this Parliament. Would that ever extend into spheres of policy beyond the constitution? Has it ever?

[48] **The Llywydd:** I've no doubt that I'll slip into policy at various points, but it may not be the right thing to do and I may be told off by Adrian

Crompton if I do that. Well, it certainly hasn't done, as far as I—

[49] **Huw Irranca-Davies:** For example, if there was an instance where, clearly, within the Wales Bill, a next Wales Bill or elsewhere [*Interruption.*]—not another one; let's park it for a while—or in a hypothetical future Wales Bill, it looked like an area of competence was at risk of being diminished, is that something you would think you would possibly express a view on and engage with the UK Government on?

[50] **The Llywydd:** Yes, very possibly. I would need to make a judgment call on how controversial I would believe that my intervention would be at that point, and, as I think Adrian said earlier, the strength of my voice or of the Presiding Officer's voice can depend on how much cross-party support there is, whether she/he speaks on behalf of the full Assembly via motion or whether it's just an individual whim of the Presiding Officer. And there have been many of those in the past, and I suspect there will be many in the future as well.

[51] **Mr Crompton:** Just to add to that, the Llywydd has a number of formal responsibilities under the Act that make this sort of intervention important. So, one of the most obvious ones is her role in judging competence of Bills introduced. And so, for a lot of the interventions we made around the Wales Bill, that was because we wanted to ensure that the settlement was as broad as possible, but also as clear as possible. So, the thrust of our representations was clarity and no rollback on the existing settlement.

[52] If I can just add one other thing in terms of where the mandate, as it were, comes, it comes from that. It comes from the Chair of the Business Committee and the Assembly Commission—it's not quite the same parallel for Speaker Bercow—but also because our Standing Orders set out the functions of the Llywydd. And so, the Assembly has said that one of the functions of the Llywydd is to represent the Assembly in exchanges with any other bodies, whether within or outside the United Kingdom, in relation to matters affecting the Assembly. That covers just about everything.

[53] **Huw Irranca-Davies:** An excellent clarification; excellent. And it brings me to my final point. All of that laborious building up to the point of: how do you then decide on the level of engagement or otherwise with the Welsh Government on areas such as the Wales Bill, where there might indeed be an overlap of interests and where the objectives might be the same, but, in many areas, might be nuanced or fundamentally different in future? But how

do you decide in representing the issues of the defence and interest of this Parliament? To what extent do you engage directly with Welsh Government in advancing that cause? How did you do it on the Wales Bill?

[54] **The Llywydd:** Again, Adrian can discuss maybe some of the work that was done between officials of both Welsh Government and Welsh Parliament and the Wales Office in developing that Bill, and in the work of amending and improving that Bill. But, in terms of my relationship with Welsh Government, at times when there is legislation of this nature that requires input from both Welsh Government and the Parliament, then we bring different priorities to the table. And there were very many priorities that Welsh Government had in the context of the Wales Bill, and some of the priorities that we had were probably quite low down in terms of their priorities, and completely understandably so. Therefore, we were able to focus on some of those areas of particular interest to the Parliament on our internal workings, and those issues that were of primary interest to us. And, therefore, we have good, open discussions with Welsh Government as to what is appropriate for them to prioritise, and us to do so likewise.

[55] **Huw Irranca-Davies:** Yes. And that continues in terms of shaping the agenda of yourself as a Presiding Officer, but also where the Welsh Government might stand on the issues surrounding the exit from the European Union—that same dialogue is going on at the moment, understanding areas of difference and areas of commonality where you both might want to push together. You have that discussion, and that's a valid way to proceed, to understand where those areas of where you stand in common cause are.

[56] **The Llywydd:** Well, I think that an area of discussion at this point is how we deal with legislation that will come our way—the great repeal Bill, the legislative consent that will be required as a result of that, the role of Welsh Government and how we protect the time of this Assembly to scrutinise and to vote on those issues. Therefore, we have an ongoing discussion with Welsh Government as to how we address the issues and the challenges that Brexit legislation will mean for the Government, yes, but how do we protect the role and the scrutiny role of this Parliament in that as well. That's work that's ongoing at this point.

[57] **Huw Irranca-Davies:** Dafydd, I'm worried I'm trespassing, sorry, on areas that you were going to go into, but—

[58] **Lord Elis-Thomas:** No, you wouldn't trespass on anything that I'm going to say.

[59] Ond onid ydy'n allweddol bod unrhyw drafodaethau rhwng Llywodraeth Cymru a Senedd Cymru gyda'r Deyrnas Unedig ddim yn gyfyngedig i drafodaethau gyda Swyddfa Cymru? Wedi'r cyfan, rhyw fath o is-gwmni, is-adran, o Weinyddiaeth Gyfiawnder Llywodraeth y Deyrnas Unedig yw Swyddfa Cymru. Nid ydw i'n credu bod gyda nhw—. Gyda phob parch i'r Ysgrifennydd Gwladol, sydd yn gyn-Aelod o'r lle hwn ac yn gyfaill personol i fi, nid ydw i'n credu bod swyddogaeth Swyddfa Cymru yn werth trafferthu gyda hi yn y materion yma. Ond mae'n rhaid inni ffeindio ffordd o ddelio sydd yn golygu ein bod ni yn nes at ganol trafodaethau, ac yn enwedig yn y trafodaethau ynglŷn ag amser seneddol. Oherwydd mae'n amlwg i mi, o beth rydw i wedi gweld am beth sy'n digwydd yn San Steffan, fod amserlen San Steffan yn llawn o ddim byd ond diddymu'r berthynas gyfansoddiadol â'r Undeb Ewropeaidd am fisoedd a blynyddoedd i ddod. Wel, nid yw'n gwneud dim rheswm i'r lle yma fod yn yr un sefyllfa. Felly, mae'n rhaid inni ddeall yn glir iawn sut y mae ein cynigion cydsyniad deddfwriaethol ni yn berthnasol i'r sefyllfa yma.

But isn't it vitally important that any discussions between the Welsh Government and the Parliament of Wales with the United Kingdom aren't restricted to discussions with the Wales Office? After all, the Wales Office is some kind of sub-department of the Ministry of Justice in the United Kingdom Government. That's what the Wales Office is. I don't think they have—. With all due respect to the Secretary of State for Wales, who is a former Member of this place and is a friend of mine, I don't think that the function of the Wales Office is worth bothering with with regard to these matters. We have to find a way of dealing with these issues that means we are closer to the heart of discussions, especially those discussions with regard to parliamentary time. Because it's clear to me, from what I have seen of what's happening in Westminster, that the Westminster timetable is full of nothing but abolishing the constitutional relationship with the European Union for months and years to come. Well, there is no reason for this place to be in the same situation. So, we have to understand very clearly how legislative consent motions are relevant to the situation here.

[60] Roeddwn i'n flin iawn bod y Gweinidog, David Davis, wedi—mae'r peth wedi cael sylw yn y wasg fel I was very angry that the Minister, David Davis—it's been mentioned in the press as some kind of

rhyw fath o gonsesiwn—dweud eu bod nhw'n fodlon caniatáu i Senedd yr Alban a Chynulliad Cenedlaethol Cymru a Gogledd Iwerddon fynegi eu barn drwy'r broses cynigion cydsyniad deddfwriaethol ynglŷn â'r materion yma. Nid mater o gonsesiwn, yn fy marn i, yw hynny—mae'n gonfensiwn cyfansoddiadol sydd wedi'i sefydlu. Rydw i'n derbyn nad yw'n gyfansoddiadol angenrheidiol yn ddeddfwriaethol, yn y cyfansoddiad fel deddf. Ond, ac mae yn nhraddodiad y Deyrnas Unedig, mae gan gonfensiwn cyfansoddiadol, yn enwedig mewn perthnasau rhwng Seneddau â'i gilydd, rym deddf, fe fuaswn i'n dweud.

[61] **Y Llywydd:** Wel, rwy'n cytuno â thipyn o'r hyn a ddywedwyd fanna—wrth gwrs y mater ynglŷn â'r cydsyniad deddfwriaethol a'r cynnig i wneud hynny. Mae'n hawl i ni fod yn rhoi'r cydsyniad yna yn y meysydd lle mae hynny'n briodol ac yn glir lle mae hynny.

[62] Efallai taw'r hyn sydd wedyn angen ei ddiogelu yw, pan fo yna gynnig cydsyniad wedi cael ei basio yn y lle yma, beth sydd yn digwydd i'r cynnig yna wedyn yng nghyd-destun y ddeddfwriaeth sydd yn Nhŷ'r Cyffredin a Thŷ'r Arglwyddi, a lle mae'r adrodd yn ôl ar hynny, ac a oes yna unrhyw *consequence* i hynny yn Nhŷ'r Cyffredin a Thŷ'r Arglwyddi.

concession—has said that they are willing to allow the Scottish Parliament and the National Assembly for Wales and the Assembly in Northern Ireland to express their opinions through the LCM process with regard to these issues. That's not a matter of concession, in my opinion—it's a constitutional convention that is long established. I accept that it's not vital, constitutionally, with regard to legislation, in the constitution as it stands in law. But, and it's in the United Kingdom's tradition, a constitutional convention, especially in inter-parliamentary relationships, does have legislative force, I'd say.

The Llywydd: Well, I would agree with a lot of what you said—of course on the issue of LCMs and the proposals for LCMs. It is a right for us to give that consent in those areas where that's appropriate and is clear where that is.

Perhaps what needs to be safeguarded is, when a legislative consent motion is passed in this place, what happens to that motion then in the context of the emerging legislation in the House of Commons and the House of Lords, and how is that reported back on, and are there any consequences to that in the House of Commons and the House of Lords.

[63] Ar hyn o bryd, mae'n cael ei adrodd fod y cydsyniad wedi'i roi neu, erbyn hyn hefyd, yn cael ei adrodd fod y cydsyniad heb ei roi. Ond mae'n fater o ddiddordeb a ddylid '*trigger-o*' rhywbeth hyd yn oed yn fwy allan o hynny. A ddylai fod yna bleidlais ar lawr Tŷ'r Cyffredin os yw'r cydsyniad heb ei roi gan Gynulliad Cymru ar unrhyw fater?

At the moment, it is reported to them that that consent has been granted or not been granted. But it's a matter of interest whether something greater should be triggered through that process. Should there be a vote in the Commons if the consent hasn't been given by the National Assembly on any particular issue?

[64] Felly, yn sicr, rwyf o'r farn bod angen trafod sut y gellid gwella beth yw'r canlyniad os nad yw cydsyniad yn cael ei roi, yn enwedig. Os yw'n cael ei roi, wrth gwrs, mae'n hawdd delio ag ef. Os nad yw'n cael ei roi gan y Cynulliad yma, yna beth yw'r *consequence* i hynny yn y lle arall?

So, certainly, I am of the view that we need to discuss how we can improve the outcomes, particularly when consent is not granted. If it is granted, then it's easily dealt with. But if it's rejected by this Assembly, then what are the consequences of that in the other place?

[65] Mae'r pwynt ynglŷn â thrafodaeth polisi a hyd yn oed trafodaeth ar y berthynas gyda'r Ysgrifennydd Gwladol—wrth gwrs, yng nghyd-destun deddfwriaeth sy'n cael ei arwain gan Ysgrifennydd Gwladol Cymru, yna fanna mae'r berthynas yn bodoli.

The point on policy discussion and even discussion on relations with the Secretary of State—of course, in the context of legislation that is led by Secretary of State for Wales, then that is where the relationship properly lies.

15:15

[66] Ond, wrth inni weld Brexit yn cael ei weithredu, yna fe fyddwn i—ac rydw i'n siarad, mae'n siŵr, fel cyn-Weinidog fan hyn, yn hytrach nag fel Llywydd—yn anfodlon iawn pe byddem ni'n cyrraedd pwynt lle mae trafodaethau ar ddyfodol amaeth ar lefel Brydeinig, os bydd yna unrhyw cyd-drafod i fod, bod hynny yn sydyn iawn drwy Ysgrifennydd Gwladol

But, as we see Brexit unfolding, then I would be—and I'm speaking here as a former Minister, perhaps, rather than as Llywydd—very dissatisfied if we reached a point where discussions on the future of agriculture at the UK level, if there were to be any joint negotiations, should all of a sudden happen through the Secretary of State for Wales rather than the four

Cymru yn hytrach na rhwng y pedwar agriculture Ministers in the UK.
Gweinidog amaeth.

[67] **Yr Arglwydd Elis–Thomas:** Ie, **Lord Elis–Thomas:** Yes, we need to
mae eisiau watsied hynny. watch that.

[68] **Huw Irranca–Davies:** Thank you. David, do you want to take us on
now?

[69] **David Melding:** Yes. I want to take us back, actually, with your
indulgence.

[70] **Huw Irranca–Davies:** Well, as you always do. [*Laughter.*]

[71] **David Melding:** Well, it's a traditional function, perhaps, of irascible
old Tories.

[72] **Lord Elis–Thomas:** Or irascible lefties. [*Laughter.*]

[73] **David Melding:** We'll agree on the 'irascible' bit—we'll form the club of
irascibles.

[74] The reason I demurred slightly, but only slightly, with what Dafydd was saying earlier is that it seems to me that, in the spheres of government, you do have certain areas that are quite clearly binary—so, they rest here in Wales or with Westminster, or in Edinburgh and Northern Ireland. But it seems to me that modern government has an awful lot of co–decision making. That's formally, but also, especially in a state that has such a vastly disproportionate make–up in terms of the size and power of England, things can bleed in, even to where there is a fairly binary divide. So, decisions on social care taken by a London Government, but, you know, perhaps especially if it changes the law in terms of what's insurable and subsidies for insurance, and makes a decision to shift the tax base a bit, you know, to wealth away from income, and funds social care differently—despite that being devolved in Wales, we, in effect, would be very much in the shadow, or the sunshine, depending on what you thought of that particular policy shift in London. Energy is another classic example, and now the frameworks we'll get with Brexit, if we do see what seems to be a compelling argument that there's going to have to be a level of UK governance on environmental and agricultural matters and other issues, these require co–decision–making structures and the scrutiny of them, and that's where it seems to me a real

weakness. And, do you know, when you talk to your equivalents, and particularly Speaker Bercow—and Adrian may reflect on this in his conversations with staff in Westminster—are they aware of the implications and the power they have, and the inadvertency, sometimes, of decisions that are made at Westminster having quite a knock-on effect elsewhere?

[75] **The Llywydd:** Well, I think that the challenge will be, if there is to be any move towards formalising inter-parliamentary work, whether that is scrutiny or some kind of oversight of policy—that the challenge will be that the four Parliaments do that equally and see it as something that they sign up to doing properly, that it adds value and doesn't detract from the proper accountability to the home Parliaments. I don't think there's a perfect model out there at this point, but I think it's a conversation that does need to be had in this context. But I certainly wouldn't want it to duplicate effort by creating joint committees when altogether separate committees would work just as well, and I wouldn't want it to be a talking shop of the kind that we may have already in some contexts. So, I think it's right to investigate this at this point and to see whether there is an appetite from all Parliaments for it. I suspect it would be the UK Parliament that would prove to be the most challenging, possibly, in seeing a role for it as an equal partner to four Parliaments, rather than a superior partner.

[76] **David Melding:** I have to say, I mean, I agree with Dafydd in that engagement can only start if our own processes are robust and our own committees are up to strength. Because I certainly wouldn't envisage an alternative framework, where everyone came together and formed that. It's got to be the sharing of what's in the existing institutions, and not undermining those at all. But the body of work they have to do, I think, probably will require flexibility, as you say. I mean, life is messy, constitutions are messy, in reality, even the ones that are very clearly defined in a written constitution—you know, real life soon changes things in all sorts of unanticipated ways, and we've just got to cope with it, really, haven't we? It's not mission impossible, but it does require, I think, constant energy and imagination, because you've got to adapt all the time.

[77] You said something interesting in your evidence, that you thought the weakness of Sewell is that it's a Government-to-Government convention, and we need a Parliament-to-Parliament convention. I wonder if you could develop that thought.

[78] **The Llywydd:** Well, I think I probably hinted that the most obvious part

of it would be what happens to our consent, or not consenting, when it returns the UK Parliament. There is, I think—

[79] **David Melding:** So, some great trumpet should sound, should it? It should at least be acknowledged that this has happened.

[80] **The Llywydd:** From what I'm told, currently, it's a footnote of some kind, and something between a footnote and a trumpet is probably what I'd suggest. I mentioned in passing—and I'm not an expert on what happens in the House of Commons or Lords—but it could be that, when consent is not agreed by the Parliament here, that triggers a vote in the House of Commons.

[81] **Lord Elis-Thomas:** I think the first thing that happens is a person in a wig walks in, with a piece of vellum wrapped, probably, in green ribbon, in our case, saying 'not consenting'. That's what we want.

[82] **The Llywydd:** Would you do that for us, Dafydd? Would you wear that wig?

[83] **Lord Elis-Thomas:** No, I don't currently have that power. It would have to be a clerk of Parliament, would it not, Chair, who would do that.

[84] **Huw Irranca-Davies:** I think you—*[Laughter.]*

[85] **The Llywydd:** I think Adrian wants to say something.

[86] **David Melding:** Oh sorry.

[87] **Mr Crompton:** I'd love a wig, if I could—

[88] **Dai Lloyd:** We have a volunteer. *[Laughter.]*

[89] **Mr Crompton:** I think there are two aspects in my head. At the Westminster end, our consenting, or not consenting, as the Llywydd said, triggers a formal notification process, but nothing else procedurally, in parliamentary terms. It is left to the Governments to sort that out. So, I think that's the element that needs addressing. But also, at the earlier stage in the process, by and large, it is left to the Governments to negotiate what we're asked to consent for, and so that process can take time, that eats up the time available to the Assembly to examine and come to its conclusion. So,

the process ideally should not be the presentation of an LCM that's simply voted through rapidly; it should be a more thorough and long process.

[90] **David Melding:** Then, obviously, Brexit is a great test, really, of how we are cooperating. And you raised the issue with the European and External Affairs Committee that the timeliness of information and the programming, in Westminster, will affect our planning as well. How are discussions going on that side? Obviously, it's a time of some volatility in Westminster. But beyond that—I mean, are the, at least behind the scenes, personnel that are dealing with this most on the Government and the parliamentary side showing some consideration to our requirements as well?

[91] **Mr Crompton:** We're talking, as much as we can. Very few people seem to know very much more than we do, and so we're all still in something of a black hole at the moment. But, clearly, I think there will be some tension, potentially, because of the volume of legislative work that, one way or another, we will have to undertake within a very short time period. And so there will be natural concerns on the part of Government here, and at a UK level, for speed, and a push back from us for openness and transparency and thoroughness and time. And so those two things are inevitably going to collide, I think. But at this point, yes, we are all talking, and, yes, we are all trying to work it out in the best way possible. It's just that we're not fully equipped with all of the information we need at the moment.

[92] **David Melding:** And then my final question is still on this theme, but it takes us to a different example, really. We could look at much more informal and looser networks. The British–Irish Parliamentary Assembly would be a classic example, obviously, involving all the legislatures within the United Kingdom, including the dependencies, and another state, in the Republic of Ireland. I wonder: does BIPA give us any clues to how we might see better inter-parliamentary working, or would that be too loose a model, given the nature of much of their core work, and the fact that, as I said, they involve so many jurisdictions, including another state altogether?

[93] **The Llywydd:** Well, I'm not somebody personally who's had much to do with BIPA, and it's now led from the Presiding Office by Ann Jones. What strikes me from what I've seen of it work is that it's quite a loose, informal discussion of aspects of common interest. I know that the most recent Wales BIPA conference looked at an area of work of particular interest to us as a Parliament, and that is the establishment of a youth parliament. And, certainly, we can learn from some others on that. But it strikes me that our

first port of call is probably not to look at a BIPA model, if we're going to, in the context of inter-parliamentary work between these four Parliaments, but to look at something that is more specifically aligned to the post-Brexit model of governing these islands that we will have, and whether there is a role for inter-parliamentary work or not.

[94] **David Melding:** Diolch yn fawr.

[95] **Huw Irranca-Davies:** Dafydd, do you have any remaining questions you want to ask, just to close this?

[96] **Lord Elis-Thomas:** Very briefly, and no preamble this time.

[97] **Huw Irranca-Davies:** No, no.

[98] **Yr Arglwydd Elis-Thomas:** Pa Lord Elis-Thomas: What ystyriaeth mae'r Llywydd a'i phrif consideration has the Llywydd and swyddog yn y maes yma wedi gallu ei her chief official in this area given to rhoi i'r cwestiwn o beth fyddai the question of what the relationship perthynas y Cynulliad Cenedlaethol of the National Assembly for Wales gyda Chynhadledd Cynulladau would be with the Conference of Deddfwriaethol Rhanbarthol Ewrop, European Regional Legislative Assemblies, CALRE that is, after our CALRE felly, ar ôl i'n perthynas ni relationship has changed? And a newid? A'r cwestiwn arall cysylltiol linked, related question: to what ydy: i ba raddau y dylem ni fod yn extent should we be doing much more as an Assembly in our ein perthynas ag addysg bellach ac relationship with further and higher uwch, er mwyn sicrhau ein bod ni yn education to ensure that we can give gallu rhoi mwy o wybodaeth ar lefel greater information on a higher level uwch am ein gwaith, ar linell rhyw about our work, along the lines of a fath o gwrs agored, ar-lein enfawr, fel ein hadroddiad diweddar 'Creu massive, open, online course, such as Deialog Ddigidol'? Dyna'r ddau the recent 'Creating a Digital gwestiwn olaf sydd gen i. Diolch yn Dialogue' report? Those are the two fawr, Gadeirydd. questions that I had. Thank you, Chair.

[99] **Y Llywydd:** Ar y berthynas **The Llywydd:** On the relations with gyda Senedd-dai rhanbarthau a the Parliaments and Assemblies of gwledydd eraill yr Undeb Ewropeaidd the other nations of the European yn dilyn gwledydd Prydain yn gadael Union once Brexit has taken place,

yr Undeb Ewropeaidd, yna'n sicr, hyd at y pwynt hynny, fe ddylai'r berthynas, a rôl Cymru a'r Cynulliad hwn yn y bartneriaeth yna, barhau. Ac fe wnes i ymweld â'r cyfarfod a ddigwyddodd ym Milan ar ôl y refferendwm Brexit i roi'r neges ar ran pobl Cymru, ac ar ran Senedd Cymru—ein bod ni'n awyddus i ymwneud â gwledydd a rhanbarthau Ewrop hyd at a thu hwnt i ymadael â'r Undeb Ewropeaidd.

then, certainly, up until that point, the relationship, and the role of Wales and this Assembly in that partnership should continue. And I attended the meeting in Milan, following the Brexit referendum, to convey the message on behalf of the people of Wales, and on behalf of the Welsh Parliament, that we are eager to engage with CALRE, up until and beyond our exit from the European Union.

[100] Yr union berthynas gyda chorff felly yn dilyn gadael yr Undeb Ewropeaidd—fe fydd yn rhaid i ni drafod hynny. Ond fy ngobaith i, fel Llywydd, a gobeithio ar ran Aelodau yn y lle yma, yw bod ein perthynas ni gyda'n cyd-wledydd Ewropeaidd yn para, pa un ai ydyn ni'n aelod ffurfiol o'r Undeb Ewropeaidd neu ddim.

What the exact relationship with such a body will be following our departure from the European Union will have to be discussed. But my hope, as Llywydd, and, hopefully, I'm representing Members in this place in saying this, is that our relationship with our fellow European nations will continue, whether we are a formal member of the European Union or not.

15:30

[101] Ac yna ar y pwynt ynglŷn ag adroddiad Leighton Andrews ar sut mae defnyddio'r lle yma i gynyddu ymwybyddiaeth drwy fodelau dysgu, yn enwedig yng nghyd-destun, efallai, tipyn o anwybodaeth mewn rhai o'n Senedd-dai eraill ni, ac yn San Steffan, yna, rwy'n agored i weld sut gallai hynny weithio. Bydd yn rhaid inni edrych ar yr argymhelliad yna mewn tipyn bach yn fwy o fanylder, ond erbyn hyn, wrth gwrs, rydym ni'n ymwybodol bod nifer fawr o bobl yn eu meysydd gwaith nhw yn

And then on your point on the Leighton Andrews report on using this place to enhance awareness through learning models, particularly the context of some ignorance in certain other Parliaments, and in Westminster, then I'm open to considering those options and how they could work. We will have to look at that recommendation in a little more detail, but we are by now, of course, aware that many people in their workplaces are using such mechanisms to enhance their

defnyddio mecanweithiau felly i wella eu gwybodaeth nhw a'u sgiliau nhw o fewn eu llefydd gwaith. Ac fe fyddai, o bosib, cael rhywbeth sydd yn fodiwl ar y Cynulliad Cenedlaethol yn rhywbeth digon diddorol i edrych arno.

[102] **Yr Arglwydd Elis-Thomas:** Lord Elis-Thomas: Thank you. Diolch yn fawr.

[103] **Huw Irranca-Davies:** Thank you, Dafydd. We've reached the end of our questioning and evidence session, but I wonder if I could just ask for one final thought from you, which is: if we are—and I think you used the term earlier on that there is an opportunity at the moment to look at these things. If we do so, whether it is on inter-governmental mechanisms or inter-parliamentary mechanisms, do you see that as simply a response to the emerging turmoil that we need to resolve, temporarily, and sort it out so we can get through this, or should we be looking at something that is actually more enduring, so a response to where we are in devolution, quite frankly, as well, and where we are in terms of the UK constitution?

[104] **The Llywydd:** Well, I certainly think that the Brexit referendum and the turmoil, as you describe it, are a catalyst that allows us to look again at inter-governmental relationships and inter-parliamentary relationships and to see what needs to be put in place most urgently in order to ensure that what we do over the next two or three years works as well as possible. Whether it has any lasting legacy, whether it forms part of an enduring constitutional settlement—I'm not a constitutional lawyer, or even a constitutional politician, for that matter, but I suspect that there's nothing enduring about this constitution. [*Laughter.*]

[105] **Huw Irranca-Davies:** Thank you very much. What a note to end on. Thank you, and we really appreciate your evidence today, both of you—Adrian Crompton, as well as you, Llywydd. Diolch yn fawr iawn. We will send you the transcript, obviously, for you to check for accuracy and so on, but thank you for sharing your time with us and being as frank and open with us as you always are. Diolch yn fawr iawn. Thanks.

[106] **Y Llywydd:** Croeso. **The Llywydd:** You're welcome.

[107] **Huw Irranca-Davies:** We'll just take a moment while we prepare for the next item of business, then.

[108] There we are, and we're still in public session at the moment. We'll return to that later, perhaps, in private session and reflect on the evidence that we've just heard.

15:33

**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**

[109] **Huw Irranca-Davies:** If committee members are content, we will move on to the next item of business, which would be item 3. We have one instrument that raises issues to be reported to the Assembly under Standing Order 21.2 or 21.3, and we have several papers related to this negative instrument. It's SL(5)112, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017, and we have the regulations, the explanatory memorandum, the report, and also, in paper 4, a letter to the Llywydd from the Leader of the House and Chief Whip that we circulated as part of the papers today.

[110] Now, this is quite an interesting one, because it touches on the implementation of regulations coming from a Council directive, Council directive 2008/90/EC, on the marketing of fruit plants and propagating material and fruit plants intended for fruit production. They revoke and replace the Marketing of Fruit Plant Material Regulations 2010.

[111] What we have is a situation where the regulations have breached the 21-day rule. If Members are content, what I'll do is I'll pass over to Gareth to explain how this came about—because there's quite an interesting background to this—and where it leaves us. Gareth.

[112] **Mr Howells:** Diolch. This specific area of EU law should have been made part of Welsh law by 1 January 2017. The Welsh Government missed that deadline and agreed with the European Commission an extended deadline of 19 June 2017. That extended deadline has been met, but in order to meet that extended deadline, the 21-day rule has been breached. That is the rule that subordinate legislation comes into force at least 21 days after

it's been laid before the Assembly. The Welsh Government has provided a helpful and open explanation of the delays behind these regulations. The explanation is in the explanatory memorandum and the letter to the Llywydd. The reasons include a delayed consultation because of the Assembly election and the EU referendum, and the fact that these regulations mirror the Department for Environment Food and Rural Affairs regime, and so the Welsh Government has, in effect, tied itself to the DEFRA timetable. So, add all of that up and the regulations meet the extended EU deadline, but in doing so, they come into force just three days after being laid before the Assembly, and so they breach the 21-day rule.

[113] **Huw Irranca-Davies:** So, we're in that slightly unusual situation, but I note as well, in terms of the explanatory memorandum, it explains that there was a consultation between 30 September and 25 November, in which the responses from the interested parties—there were a limited number of responses, but those from the industry sector affected were favourable towards this actually being brought in. The impact assessment suggests that there will be additional costs of labelling and reduced costs for inspection with a small overall benefit. So, the context of this unusual situation here, where there is a breach of the 21 days, is set against the context of broad support for this and minimal cost implications. Do we have any particular comments on this?

[114] **Lord Elis-Thomas:** Can I just add to that? Are we aware, or have we been made aware, of any persons or groups of people or organisations that are adversely affected by this legislation, and therefore would not have had the opportunity to express their views within the 21 days? If not, then I think we can waive the position.

[115] **Huw Irranca-Davies:** A very important point. My reading of this was that there were no negative consequences here that were highlighted.

[116] **Mr Howells:** No, and there's a Government response on page 63 of the pack, which seems to suggest that the industry has been kept informed of these changing deadlines.

[117] **Huw Irranca-Davies:** Yes. Are we happy to note that, then? There we are. Thank you very much indeed. Thank you, Gareth.

15:37

Papurau i'w Nodi
Papers to Note

[118] **Huw Irranca-Davies:** We will move on to item No. 4—papers to note. We have correspondence regarding subordinate legislation deriving from EU law: a letter from the Leader of the House and Chief Whip of 28 June 2017, and a letter to the Leader of the House and Chief Whip of 21 June. I would just invite you to note that response that we've had, now that the leader of the house has noted the way in which we are going to flag up secondary legislation that raises issues in terms that we have described before.

[119] We also have a letter from the Cabinet Secretary for Education in respect of the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017. This is something we chose to pick up from a previous meeting. The response from the Cabinet Secretary for Education is in the pack. It's a very positive response. It's a very succinct response. We toyed with the idea earlier on of sending this around to all Cabinet Secretaries to say, 'This is the ideal response, where you just respond to our findings and our recommendations, and say, "That's absolutely right. We'll do what you're saying".' But I suspect that we won't get that always. If you're happy to note that response there—.

15:39

**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.

[120] **Huw Irranca-Davies:** Item No. 6: under Standing Order 17.42, could I ask the committee if you're content to resolve to meet in private?

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

[122] **Huw Irranca-Davies:** We are. Diolch. Okay, we'll go into private session.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 15:39.

The public part of the meeting ended at 15:39.