



Select Committee on the European Union

Uncorrected oral evidence: Brexit: Devolution inquiry

Tuesday 7 February 2017

10.05 am

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Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Lord Jay of Ewelme; Earl of Kinnoull; Lord Selkirk of Douglas; Lord Whitty.

Evidence Session No. 6

Heard in Public

Questions 55 - 62

Witnesses

I: Andrew RT Davies AM, Conservative Group Leader Welsh Assembly; Leanne Wood AM, Plaid Cymru Leader; Neil Hamilton AM, UKIP Wales Leader.

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Examination of witnesses

Andrew RT Davies, Leanne Wood and Neil Hamilton.

Q55 The Chairman: Welcome to your own building, the National Assembly of Wales. This is a formal evidence session of the House of Lords EU Select Committee. We already know informally that when you get parliamentarians together you always get stimulating exchanges and sometimes quite a surprising interaction, but we are delighted to have the opportunity of coming to Wales as part of our formal inquiry into the implications for the devolved nations of the Brexit situation. We would like very much to get your handle on that, both as to specific problems and the general political state, and, in particular, how you feel you can influence the debate, given that we are poised on the edge of giving notice under Article 50 and initiating negotiations.

I should say for the record that we will be in contact with the First Minister, who was not able to come today. There is no question of anything other than wanting to get the widest possible range of political opinion and attitude to this in Wales.

If you are happy, perhaps I can kick off with a question to ask if you would each give your reaction to the Prime Minister's speech setting out the UK Government's approach to Brexit negotiations, which is now supplemented by the White Paper that the Westminster Government have produced. In particular, could you say what the political, economic and legal implications for Wales are of the Brexit model that the UK Government are pursuing? As it were, face to face, it would be appropriate to start with Leanne, and then perhaps you will divvy up and follow on. Leanne, would you like to start with that?

Leanne Wood AM: Yes. Can I start by saying "croeso i chi"—welcome to all of you to the Senedd?

The Chairman: Diolch yn fawr.

Leanne Wood AM: The Prime Minister's speech seemed contradictory to Plaid Cymru. There were some aspects of it that were positive and that we would welcome, but there were also areas of concern. We felt positive about the aspects of the speech where she confirmed that the devolved Administrations would be fully engaged in the process, but we also heard that she was ruling out a soft Brexit—maintaining our membership of the single market—which is something that we in Plaid Cymru, and it is a view shared by the Welsh Government, think is important to Wales from a jobs and economic perspective. We have a mixed response, I would say.

Andrew RT Davies AM: I am very inspired by the speech made by the Prime Minister at Lancaster House, as you would expect the leader of the Conservatives here to say, but I genuinely believe that. I believe in the package that the Prime Minister and her Government have put in place since it was formed in the middle of July. It is important to reflect that it is, in fact, a new Government since the referendum, albeit it is the same

party governing, and her speech needs to be taken in context with the measures that the Government have taken to lead us to the triggering of Article 50, announcing the legislative programme—the great reform Act—that will be laid before Parliament; but the speech gave the tenets of the negotiating position of the Government when they enter into those discussions with Brussels and the negotiating team from Brussels.

You touched on the legal position, and that has been clarified by the Supreme Court's decision. Economically, it is important for Wales and indeed the whole of the United Kingdom that we get a good trading relationship, and I do not think anyone is setting out to try to thwart that and turn our backs on Europe, but when people think of Wales within the context of this debate, it is important to reflect on the fact that Wales voted decisively to come out of the European Union. In excess of 70% of people in Wales participated in that referendum, whereas if you look at the general election 65% of people participated in it, and if you look at the Assembly election 45% participated in it. I am confident that the Prime Minister is taking us in the right direction. I believe the models she has put in place to involve the devolved voices and the devolved Governments in that are robust, and I look forward to the journey we are going to undertake.

Neil Hamilton AM: I think Theresa May is exactly on the right lines. The referendum result was decisive in Wales, as it was in England, and, fundamentally, it was about taking back control and, most notably, taking back control of our borders. All the talk of soft Brexit and hard Brexit is a confusion because Brexit is Brexit. We have decided by a majority of the people and Parliament will fulfil that desire. We will be leaving the European Union, and the future trading relationship between us and the EU is another question altogether.

The Government have set out their broad negotiating position of wanting to have a free trade agreement. That is clearly in the interests of both sides, but the ball is in the court of the EU as to whether it picks it up. If it does not, it will be significantly the loser because in 2015 we had a £61 billion-a-year trade deficit with it. That is a matter for the EU. The British Government's position is quite clear that we want to carry on a trading relationship much as it is now.

As regards the position of the devolved nations, I welcome the Prime Minister's statement that there would be no rowing back on the devolution settlement, and indeed Brexit gives us huge opportunities in Wales to repatriate powers, not just from Brussels to Westminster but to Cardiff, in particular our control of agricultural and environmental policy, both of which are very important to significant businesses in Wales. I see this as a massive opportunity and no excuse for doom and gloom.

Leanne Wood AM: Can I come back on this question because there is a lot of confusion around the different terms that are used in this debate, in particular the question of membership of the EU and membership of the single market? It is important to put on record that the two things are different. There are countries that are outside the EU but inside the single

market such as Norway. The word “confusion” was used, and often membership of the single market and membership of the European Union are conflated, but the two things are very different.

Andrew RT Davies AM: There is no confusion, in my view. The slogan in the referendum was quite clear from the leave campaign, which was to take back control. You cannot be a member of the single market and be outside the European Union; you have to be one and the same, because it is about where the decisions are taken and who has responsibility for running the various parts that make up the European Union. The single market is an important part of the concept of further integration, but there is nothing to say that we cannot have a very good trading arrangement with the countries that make up the remaining EU that will be there when we have left.

Neil Hamilton AM: I would endorse what Andrew has said. Being a member of the single market means that you have to accept the four freedoms, one of which is freedom of movement of people to move across borders, not merely to accept jobs that have already been offered but to look for work. That means 450 million people in the EU 27 countries would have an unfettered right of access to this country. Given that we are adding a city the size of Cardiff every year to the population of the United Kingdom, the British people have decided that that is not an acceptable situation.

The Chairman: Thank you. We will move on to explore this with colleagues and dig a little deeper into the shape of public opinion here, because it was a distinctive result in the sense that the other devolved nations voted to remain, although, as has been pointed out, you have a high receipt of EU funds in Wales; it is £680 million, if I remember. We will look at that and then perhaps we can look later on at some of the intricacies of the relationship between the devolved Assemblies and the devolved Administrations and Whitehall in conducting the British side of these negotiations. We will go first to Charles Kinnoull.

Q56 **Earl of Kinnoull:** I speak famously quietly, so, if you cannot hear me, shout out. Thank you also for the warmth of your welcome. It is very nice having smiling security guards. I am a Cross-Bencher and from Scotland, and it is not always the case that the security guards smile at Holyrood.

I will start by asking a very simple question. We had a snapshot of public opinion seven months ago in Wales. What is your assessment as to where public opinion concerning Brexit is today? Is it where it was seven months ago or has it changed?

Andrew RT Davies AM: I think it is very much in a similar position, to be honest with you, to where it was seven months ago. There is limited opinion polling done here in Wales, but the one opinion poll that comes out periodically is called the YouGov ITV barometer poll, and this question has been asked within that polling mechanism. It shows quite decisively that the opinion polls have not moved much, and, if anything, they have most probably moved a shade towards the leave camp, if you want to call

it that. I do not believe we should put tags on leavers and remainers, but we will carry on with that for some time.

When I speak to people in my own region and across Wales as I travel around as leader of the Welsh Conservatives, I find that people just want to get on with the job now and they want the Government to engage in negotiations with the European Union to deliver on what was given to them on 23 June. Sadly, they do not see that the speed is being taken up certainly by this legislature and maybe politicians in other legislatures across the United Kingdom.

Leanne Wood AM: I would support much of that. There does seem to be a wait-and-see attitude and the opinion polls seem to support the actual result, but there are contradictory polls, or findings from polls, on the question of single market membership. There is an element of confusion there still, as I alluded to in the last question, but we are starting to see concerns from specific sectors now. Particularly, the agricultural sector has started to respond to the debate around trade deals with New Zealand and the United States, for example. I would imagine that we will see more concerns expressed by businesses as this question of the single market and trade pans out over the next year or so.

Neil Hamilton AM: I think Andrew was right. There was an Opinium poll that was published in the national newspapers—the UK papers—at the weekend showing that there was a bigger majority for leaving the EU now than there was last June. The reason for that, as Andrew said, is that there were people who voted to remain last June who now think this is a done deal and we must get on with it. We are not going back to where we were and considering the issue afresh. Therefore, more people are happy or prepared to live with the result than might have been the case on 23 June. Wales seems to be broadly in line with England on this issue, from the referendum results in June. If you look at the way constituencies that exhibit the same demographic characteristics in England compared with Wales voted, they are broadly the same. So, there is no reason to think that that Opinium poll would be reflecting a different result in Wales from the UK overall.

I do not think that people are more fearful of what might emerge from trade negotiations. It is true—and I am sure we will explore this later in the meeting—that certain sectors are going to be impacted more than others by whatever deal does or does not emerge. Agriculture is a specially protected area in most countries, most of all in the EU, so inevitably there are going to be challenges there, but those were obvious right from the start. Nothing has changed.

The Chairman: I think we know that mode of consensus, at least on the state of public opinion, as you approach these tests. Baroness Armstrong, you have a short intervention.

Baroness Armstrong of Hill Top: Lord Whitty and I were on the Committee that produced a report around what the future relationships would mean and we examined every opportunity. To put it baldly, with

any changed relationship and new relationship, whether it was totally outside and following the WTO route or not, or one of the other models that we know the Government are exploring—we know now that they have rejected some of the models that might have been on offer—whichever one you have, there is a compromise and there has to be some relationship that means you do not have total control. It is like any marriage; if you are doing a deal with any organisation, you have to make concessions and you have to agree terms of relationship and trade. Are you getting any feel of where the public are and of what compromise the industrial and agricultural sectors and so on think should be made on behalf of Wales?

Andrew RT Davies AM: I agree with you entirely, but it is who makes the decision about those compromises. When people talked in the referendum about taking back control, they meant taking back control so that Parliament and the parliamentarians whom they elected made those decisions on their behalf, on behalf of the electorate. That is an important consideration.

Baroness Armstrong of Hill Top: Yes, but in a relationship you cannot take the decisions totally on one side.

Andrew RT Davies AM: That is why we have politicians to do that for us and who then put themselves before the electorate. The point that concerns me greatly is the disconnect between this devolved institution and the mandate that the people of Wales turned out for and gave on 23 June. That is because the Government and the make-up of the Assembly have not changed since 23 June. In fairness to the Assembly, it was firmly in the remain camp. The Government—every single member—were in the remain camp, and it does feel very often as if the debates and the discussions are still stuck in the referendum here rather than having moved on to try to shape and create the landscape within which we are all going to live once the negotiations begin and are completed.

For me, as a politician, in particular, I believe that we as a devolved legislature need to be spending more time looking at what we can impact on, which are the transitional arrangements that might exist within the United Kingdom post the negotiations, and, if there are to be transitional arrangements, the constitutional arrangements. We have just got over one Wales Bill, but I personally believe that there will be another Wales Bill—not in this parliamentary term; I accept that, and the Government have said that in Westminster—to deal with much of the architecture that we will have to create. There is a positive role for this institution to play, but at the moment it is still playing out the referendum from last year.

When you talk about the economic and farming sectors, for example—I am a farmer myself—there is an acceptance that there needs to be a UK framework to continue to deliver the support and the trading relationships within the market that exists within the United Kingdom, rather than allowing four separate markets to develop across the United Kingdom with four separate jurisdictions. That is an important

consideration in the minds of a lot of businesses and educationalists, especially the HE sector; they want to see balance in that relationship.

The Chairman: Thank you. Do you want to follow on, Leanne?

Leanne Wood AM: Yes. I agree with your point entirely. There has to be compromise. There seems to be some sort of attitude that it is up to the British Government to decide what happens and there is little acceptance sometimes that there is a negotiation on two sides. I disagree that there is an element of still playing out the referendum. What we are talking about now is the kind of Brexit that takes place. We know, despite the evidence that you received about the numbers UK-wide, that the numbers in Wales in terms of freedom of movement are very small. There are 79,000 EU nationals living in Wales and they are concentrated in particular sectors such as the NHS, agriculture, tourism and some manufacturing. There would be dangers to those sectors if freedom of movement was suddenly completely ended.

The other danger in that is that, if freedom of movement was completely ended from tomorrow, because the numbers are so small, people would not notice any tangible difference in their lives. Because there are not large numbers to begin with, stopping those numbers would not have a great impact.

There are other considerations. Airbus, which I visited in the autumn, told me how important it was for its workers to be able to move to France very quickly, at short notice, with no paperwork. That kind of industry relies on an element of freedom of movement.

The question was about compromise. I pointed out throughout the campaign—and I am not harking back to that—the figures on immigration. I accept the result, but now, when we are talking about the kind of Brexit that we have, there is this question of freedom of movement. If you look at the White Paper that was jointly authored by Plaid Cymru and the Welsh Government, you will find in there a compromise to continue with freedom of movement but link it more to work. If the UK Government were prepared to consider a compromise like that, we would reduce the risk to Welsh businesses in some of the sectors that I have already talked about.

Neil Hamilton AM: As I understand it, that is exactly the Government's negotiating position, but that cannot be equated with membership of the single market, which imposes all sorts of other obligations upon us and in particular puts the European Court of Justice in control of all legislation governing free movement. There is no point in talking about the situation in Wales being different from England in terms of the number of EU citizens. Wales is part of the United Kingdom, and this is a United Kingdom negotiation. Eighty per cent of the people of Wales would not vote for independence from the rest of the United Kingdom and so we have to see this in the United Kingdom context. This is a reality, it is going to happen and the Government are not going to give way on

control of our borders. It is an issue that died on 23 June last year. There is no point in harking back to it time and time again.

It is true that Wales will be affected by the Brexit decision in a different way from other regions of England. For example, 92% of lamb exports from Wales go to the EU. The motor vehicle manufacturing sector is a bigger part of the Welsh economy than it is of the English economy, but I do not think there is any reason to be pessimistic on our chances of striking a deal that benefits us as much as the EU. We have a massive deficit on all these trading accounts by sector with the EU. In motor vehicles, for example, we export £1.3 billion-worth of motor vehicles to the EU and it exports £3.9 billion-worth to us—three times the amount. We have a trade deficit with Germany alone in cars of £1.8 billion a year. That is equivalent to almost the entirety of the UK's exports of cars to the EU. If that is not a strong negotiating hand, I do not know what is.

Whether, as I say, the EU will pick up this negotiation and go into it with the same kind of rational bargaining approach that the United Kingdom Government do, we do not know. All we can do is push for the best outcome for Britain and, I believe, for the EU. It is not a case of the British Government demanding things or ordering the EU to do what we want. A negotiation is a negotiation. There will be give and take.

The Chairman: Thank you. We are opening some wider things now. Lord Kinnoull, tidy up.

Q57 Earl of Kinnoull: I will try to draw a few things together. I will read out a brief quote from the Prime Minister's speech of 17 January, where she committed to "working with the administrations of Scotland, Wales and Northern Ireland to deliver a Brexit that works for the whole of the United Kingdom".

We were in Holyrood last week and heard a lot about the Scottish Government position, which was for a significantly asymmetric deal for Scotland. Scotland wanted membership of the single market. Your White Paper calls for "participation in", both in the relevant section and in the summary of that section.

In migration, again, Scotland felt that it should take all migration decisions, and you appear to be saying that the United Kingdom should have a migration policy along the lines you recommend. How would it be possible to draw all those strings together and for the Prime Minister to deliver on that particular promise? How do you see it going? Are you also angling for an asymmetric deal here or just trying to prod the United Kingdom in a good direction?

Leanne Wood AM: If the Prime Minister wants to achieve her stated aim around keeping the United Kingdom together, she has to listen to the devolved Administrations. Given that the vote was different in Scotland and Northern Ireland, there has to be some sort of recognition of that different approach, otherwise the danger is that it looks like a diktat from the centre totally overruling the views of the people in those two countries. It is possible to recognise the results in Scotland and Northern

Ireland by trying to seek some sort of special status for those two countries in line with what both those Administrations have called for, but whether there is a willingness on the part of the UK Government to do that remains to be seen.

Andrew RT Davies AM: My difficulty about understanding what participation means is that, when I have put that question to the First Minister, when we have had the statement here, and in subsequent opportunities that I have had to question the authors of the White Paper, no one can tell me what participation means. I get what the SNP is saying; it talks about membership of the single market, but, as we said earlier, the vote on 23 June does not make it compatible to be outside the EU and members of the single market.

The SNP exists to break up the United Kingdom. It does not recognise that the United Kingdom has a right to exist with Scotland in it. Any argument it puts forward has to be prefaced with the knowledge that it is seeking to break up the United Kingdom. I do not believe that it would be in Wales's best interests to have a separate immigration policy from that of the rest of the United Kingdom, and I still await—and perhaps Leanne might be able to tell me today because she is one of the authors of that White Paper—what the word “participation” in the context of the single market means. Everyone can participate; everyone has access to the single market. It just depends on what rate you have to pay to get into that market or whether you are an actual member. The authors of the White Paper need to define what they mean by the word “participation”, and then we might be able to move down the road a bit further in discussing where the Government here are taking us on their negotiating position, because at the moment it is not very clear.

Leanne Wood AM: If I can respond to that, it is clear in the report that we give Norway as an example of what we mean by participation in the single market. My party has called for membership of the single market. The Welsh Government initially called for full and unfettered access to the single market, and I know these terms are probably of little interest to most people, but I believe—

Earl of Kinnoull: They are a lot of interest to us, I may say.

Leanne Wood AM: I believe that we need to try to keep that relationship as close to what it is at present. That is why the Norway model is, again, a compromise that was arrived at between Plaid Cymru and the Welsh Government in the co-authorship of that document.

Earl of Kinnoull: Do you accept, though, that getting the UK to put forward an asymmetric deal is one issue, but you have 27 countries, all of whom would have a veto to stop an asymmetric deal from taking place?

Leanne Wood AM: I accept that that is an issue, but we need to have a position in order to go into the negotiations. In the absence of defined detail from the UK Government, what you find in the White Paper is what we think is in the best interests of Wales.

Earl of Kinnoull: That is very helpful; thank you.

Neil Hamilton AM: The United Kingdom is a unitary state. An asymmetric deal is impossible. If Scotland was to be given an asymmetric deal, it would be the political equivalent of rebuilding Hadrian's Wall. The Scottish people have rejected independence in a referendum, and I believe if there were yet another referendum that the result of the last one would be confirmed. Perhaps we should test Nicola Sturgeon's resolve by giving her one, which she claims to want. That is just political posturing on the part of the Scottish Government. There is no legal way in which we could achieve that without breaking up the United Kingdom, which is of course what they want but which certainly Andrew and I do not want.

I believe there is an important role for the Welsh Government and for this Assembly in the context of these negotiations, which is to demonstrate what the different needs of the Welsh economy are compared with the English economy or the economy of the English regions, or Scotland or Northern Ireland. If it is true, as Leanne says, that we need specific types of skills in Wales that would not be available without immigration from other parts of the EU, let us identify those areas and needs, and feed that into the Government's decisions, which they will have to make, on the kind of immigration policy that we want for the United Kingdom.

The problem with this place is that, because of the agreement between Plaid Cymru and the Labour Government, Andrew and I and our parties have been wholly excluded from this process. If you look at the membership of the external advisory committee that the First Minister has appointed of the great and the good to advise him on the Brexit negotiations, they are overwhelmingly people who were in favour of staying in. The people who were on the other side of the argument are rigorously excluded. If you want to have a broad-based group of people who are all fighting in their different ways for the interests of Wales, you need to be able to take into account all sides of the argument on this, which I am very happy to do.

The Chairman: One point which, in a sense, comes from the preliminaries—they have taken a lot of time and I am conscious of that, but they have spilled into other areas—is the separate Supreme Court ruling on the Sewel convention. Can I ask you briefly whether you were surprised by that and what the implications are for the devolved Administrations and, of course, for the Assemblies? Does it mean that, having defined this as a political rather than, as it were, a legal role, you have to work even harder to get your voice across? Leanne, do you want to start on that?

Leanne Wood AM: I was disappointed with the ruling on the Sewel convention. It stated that Sewel had political importance, though, and we need to ensure now that intergovernmental relations are put on a statutory footing. We need to have proper mechanisms to resolve disputes between the devolved and the UK Governments.

Andrew RT Davies AM: I was not surprised. It is a convention that has built up over time between the Governments in the devolved era and it was clearly understood as that. The justices gave their opinion accordingly.

Leanne has touched on a point in responding to Baroness Armstrong. This legislature should be spending more time working up those arrangements for dispute resolution and issues that will be the political and legislative landscape of the United Kingdom when we come out of Europe, instead of constantly harking back to the referendum and having those battles all over again. This legislature has a real job of work to do there. We have the new Wales Bill, which is awaiting Royal Assent, which brings forward a reserved powers model that clarifies many of the areas, but we are going into uncharted territory. I was disappointed that the Welsh Government chose—it was their right to do it; do not get me wrong—to go to the Supreme Court and ended up being so comprehensively defeated over the arguments that they put.

The Chairman: I think you are nodding, Neil.

Neil Hamilton AM: Yes. I was not surprised by the decision of the Supreme Court. A convention is a convention, by definition. It is not legally binding. I believe the convention should be respected, but that is a different matter altogether from saying that every “i” should be dotted and every “t” crossed by judges. As the dissenting minority pointed out, the judges themselves get into controversial territory when they start to make decisions that many people might regard as quasi-political. The outcome of the Supreme Court case was for the good of all, ultimately. I believe that there is a certain amount of doubt about the powers of this place, which the move to a reserved powers model in the Wales Bill creates, and that is unfortunate for my party. We are clear that there should be no diminution in the functions that have already been devolved; we see Brexit as an opportunity to enhance the powers of the Assembly in Cardiff and the Welsh Government, and we welcome that.

Q58 **Lord Jay of Ewelme:** You have covered some of the issues that I wanted to ask about, but I have one point going back to something that Mr Hamilton and Mr Davies were saying earlier on about the integrity of the United Kingdom. It is clear that Brexit is going to have different implications for Northern Ireland than for the rest of the United Kingdom because of the external border of the EU going across the island of Ireland. There is going to have to be some kind of special arrangement for Northern Ireland. Is your position, therefore, that there is a special arrangement for Northern Ireland, but, as far as Scotland and Wales are concerned, they should be treated as part of the United Kingdom, as England is? I have not quite got the feel of how far you still see an outcome that would respect the differences of Scotland and Wales in the same way as will be necessary, I think, for Northern Ireland.

Andrew RT Davies AM: Since the 1920s there has been a free movement agreement in the island of Ireland between the north and the south. Ireland creates its own unique challenges and opportunities, as we

see currently in the political situation out there. Hopefully, that will be resolved relatively shortly and we can get back to what can be termed normal politics in Northern Ireland. Arlene Foster, the First Minister, led the out campaign in Northern Ireland, but the Province voted firmly to stay within the European Union. She, like me, is leading a party with a divided view of opinion on this. My group split 50:50 on whether to remain or leave.

You have to make those accommodations, going back to the point, because that is what politics is about, but where those decisions are made and ultimately how they are held to account is the important narrative here that I believe people voted on in the referendum, about taking back control, to take it back to the simplistic jargon that appeared in that referendum. There will have to be accommodations on the island of Ireland. There is no doubt about that. Historically, those accommodations have worked before and I have no doubt that they will be able to work in the future.

Neil Hamilton AM: Unlike the Conservative Party, my party is united on policy and divided only by personality. We are in that happy position. Andrew is right: there has been a common travel area in Ireland since 1922, since the Irish Free State was created. The Irish Republic is not part of the Schengen agreement. If it had not been for the existence of a land border with the United Kingdom, it would probably have been in the Schengen agreement. This has been a reality that both Governments—the Republic and the United Kingdom—have recognised for many years, and we will have to arrive at some kind of accommodation on borders with the Irish Republic, which, so far as we can, keeps the existing freedom of movement across the land border.

Trade between the north and the south is highly integrated as well; 96% of our dairy exports from the United Kingdom go to the Irish Republic, for example. There is clearly an interest on both sides in maintaining the existing freedoms. I do not pretend to understand the Irish problem and I certainly do not have a solution to it, but there is a great governmental difference between Northern Ireland and the rest of the United Kingdom because of the power-sharing provisions and the constitutional settlement that was arrived at. I was the Northern Ireland Whip for two years in the 1990s and that was a highly instructive experience.

Things have moved on significantly in the last 25 or 30 years, and there is now a will on both sides of the border to enter into practical arrangements that would suit us both. We are only at the beginning of this process, and there will inevitably be a complicated series of discussions on this issue of how to maintain the British Government's position of retaining control of their borders and yet having a land border on the island of Ireland that is porous. It would be in the interests of the Irish Republic as much as us to solve that problem.

The Chairman: We will pass on to Lord Whitty now. Can I check at this point—because we started a few minutes late—whether you have a deadline of 11 o'clock or can you give us a few more minutes?

Leanne Wood AM: At 11 o'clock, I do, yes.

The Chairman: Then we must respect that. If you need to come in earlier, Leanne, please signify because we would not like to miss your evidence.

Andrew RT Davies AM: If I can make a point, Chair, I do as well.

Neil Hamilton AM: I can go on for ever.

The Chairman: We had better aim for 11 o'clock and be as short as we reasonably can.

Q59 **Lord Whitty:** I have a couple of questions, one of which relates to the Welsh Government's White Paper, which in part has been overtaken by the White Paper at Westminster. Plaid Cymru supported it and the other two parties clearly opposed it. Is there anything you want to add to what you have already said as to why you, Leanne, supported the White Paper and were indeed party to the White Paper, and would you like to pick out any other important issues as to the other two parties in terms of their opposition?

Leanne Wood AM: The first point is that we did not support it; we co-authored it. We were involved in the production of it from the beginning. As to the lack of UKIP and Conservative support, the lesson here is that there needs to be common ground between the parties in order to move forward. There is not common ground between the Conservatives and UKIP on this crucial question of the single market, as we have seen this morning. Previous experience of working certainly with the leader of the Conservatives on the Wales Bill was that, because there was not that common agreement to begin with, there ended up being almost a fight to the bottom and a lowest-common-denominator approach to that Bill, which weakened the ability of Wales to try to speak with a strong voice.

Andrew RT Davies AM: It is a missed opportunity that the Government did not seek to explore if there was this common ground. There was not even an exploratory conversation, because I think the paper would have been far stronger if it had come from a unanimous point in the Assembly or a clear majority point in the Assembly. I made an offer on 24 June to the First Minister—despite our political differences, the votes had been counted and the decision had been taken—"Let us work together to deliver this in the best interests of Wales".

I find it somewhat ironic that, when it comes to Plaid Cymru or the Labour Party in Wales in the shape of the First Minister, they purport to say that their voices are not being listened to by the Westminster Government, yet domestically in their own backyard they seek to exclude the Welsh Conservatives here in the Assembly from the process that they are undertaking. That is their right and prerogative, and it might have been that we could have got a quarter of the way down the road or half way down the road and we could not have found agreement; but on the transitional arrangements and on the way the UK might look post the EU negotiations, there could have been quite a bit of common ground and

that document could have been far stronger and a stronger White Paper by having the parties signed up to it, ideally on a unanimous basis, but, if that was not possible, as many as possible within this legislature.

Neil Hamilton AM: I agree with that. There is an opportunity for common ground. For example, on behalf of my party I have said that every single penny of British taxpayers' money that is currently spent by EU institutions in Wales ought to come to Wales after Brexit. The Government of Westminster have not so far committed themselves to that position. There are issues on which we will march together with Welsh Labour and Plaid Cymru, but there was no attempt to explore these possibilities. I am a grown-up person and I have been around for a very long time; I have been in Governments whose principal planks I have opposed internally, most particularly, as you will recall, from our time in the Whips' Office together—

The Chairman: I could not possibly comment.

Neil Hamilton AM: —on European issues. I was the internal market minister on the Council of Ministers for two and a half years, bizarrely, in the Major Administration, so I have quite a lot of negotiating experience on things to which I was not personally committed. I regret that the Welsh Government are not broad-minded enough to be able to see these possibilities, but Labour has been in charge here since the year dot and I think it still has a little bit of learning to do.

Q60 **Lord Whitty:** Can I pick you up on the point that you just touched on, which is Brussels powers post Brexit, and whether they should come to the devolved Assemblies or to you? Should money that is currently expended by Brussels be a Westminster responsibility or would that be part of the deal between Westminster and Cardiff?

Also, as to resources and capacity, if those responsibilities did come to the Welsh Assembly and the Welsh Government, do you have the capacity to deal with the whole range of agricultural and environmental issues and maybe other competencies that you think should come to you rather than to Westminster? Who wants to start on that?

Neil Hamilton AM: If Leanne and Andrew start, I can go on beyond 11 o'clock.

Leanne Wood AM: I will start with the question of capacity. I do not think that would be a major issue because we already deal with all the European structural funding programmes and so on, so there is an element of capacity there. I think that the powers should come directly to Wales. You would expect me to say that, would you not? There are particular concerns around agriculture and how all that is going to work, and the question of how agricultural programmes, for example, will be funded. At the moment, the UK Government fund Wales on the basis of population, whereas the funding that comes from the European Union comes to Wales on the basis of need, so there is a question there about how that money would be allocated post Brexit.

Andrew RT Davies AM: I am a fully signed-up supporter of a UK framework, and it is interesting to hear the farming unions, when you talk specifically about agriculture, and the other sectors involved—HE and structural funds—slowly but surely coming over to the view that there needs to be a UK framework, there must be no rowing back on policy provision made in this place and the money must follow the initiatives that come either from Westminster or that the Government here determine they require to fund the schemes that they wish to take over. At the moment, we have no issues about going out to Brussels and negotiating a common agricultural policy, for example, or Erasmus HE deals and structural funding. I do not see how that can be affected if it goes on to a UK framework because, ultimately, if we just move down the Barnett formula, Wales would be worse off on the crude mechanism of funding these schemes.

Therefore, I believe the sectors are all talking now about the importance of the UK framework, defining broad principles, as happens at the moment around the common agricultural policy, for example, and then the devolved Governments and Administrations formulating their policy areas that they have competence over, such as rural development, and delivering those rural development initiatives and schemes within their defined areas. That is a sensible model, which could attract support from the UK Treasury; ultimately it could have separate budget lines coming out of the UK Treasury and would not see a diminution in the money coming over to support schemes here in Wales.

The Chairman: I have a very simple question to you: will the great repeal Bill impact on the legislature in Wales or not? Will that all be handled at Westminster or, if there are devolved powers, will you have to handle some of the nuts and bolts of effecting that?

Andrew RT Davies AM: We have had the assurance from the Prime Minister that there will be no rowing back; there will be no land grab. That is a guarantee we can take at face value. The great reform Bill or great repeal Bill, call it what you will, ultimately will consolidate the existing European legislation. It is a must; it has to happen; but I go back to the point that, in my view, there will be another Wales Bill, just like there will be another Scottish Bill to deal with all these matters. People who are in denial about that are deluding themselves, but it will not be in this parliamentary term up to 2020.

The Chairman: Thank you. We have one more question from Baroness Armstrong. Then I am going to ask the two leaders who need to go to sum up, and, if they will allow me, I will ask Neil Hamilton to finish once they have left.

Q61 **Baroness Armstrong of Hill Top:** I want to ask your view of how the joint ministerial council is working in relationship to Wales, but also are you confident about the inter-parliamentary connections, because, at the end of the day, we now have the guarantee that Parliament will in some way be involved? We do not know exactly how, and that is part of the discussion in Westminster this week. I wondered about structures and

process.

Andrew RT Davies AM: On an inter-parliamentary level, I do not think these relationships are strong or robust enough, and if I could just take the point about capacity, which I did not deal with, because I think that feeds into the narrative, we are a small legislature. The Presiding Officer is undertaking a piece of work and has commissioned a working group to look into the ability of the Assembly—not the Government, the Assembly, because we do have a very strong Government, and I would suggest not necessarily a very strong legislature, just by its size—so that work will continue. Again, and I go back to my comments earlier to you, that is work that we can impact on and shape going forward. I would look to create those stronger links with the parliaments across the United Kingdom that we do not have at the moment to meet this challenge.

In respect of the joint ministerial committee, we had this only last Monday here in Cardiff and, by all participants' engagement, they were very pleased with the outcomes that came from that. Can there be more work done on that? Of course there can, especially with the workload that is going forward. There are grave concerns about dispute resolution in particular, but, given the time we have, I doubt whether we would be able to resolve that in this Committee.

Leanne Wood AM: The structures are there, but I am not confident that the channels are working as well as they could be. The Prime Minister in her speech and White Paper contradicted herself when she said that she was open to engagement and then went on straightaway to express a position on the single market that contradicted both the Welsh Government and the Scottish Government.

Plaid Cymru participated in aspects of the JMC that took place that was referred to earlier. We can say that the engagement was constructive and positive, and we have accepted in good faith that they are open to listening to us, but I am not convinced that the Prime Minister is in exactly the same place as David Davis, whom we met, because of the contradictions in the speech, as I outlined earlier.

We accept that Wales has less leverage compared with Scotland because of the way that people voted here, and we accept that is a fact of life, but Wales can have more influence by working together with the other devolved Administrations and it would be nice to think that the UK Government were concerned about their reputation in our countries to the point where they took seriously what it was we were prepared to say.

The Chairman: May I ask you to restrain yourself, Neil, for now, so that they can clear the field, as it were? Can I just say—and in a sense it is thanking two of our guests, who now have to leave—thank you very much? I did hear the words about engagement, and, certainly as regards our Committee, we are very anxious to promote that. I find the meetings that we have here under consultative machinery have always been very fruitful, and, given the challenges we are all meeting, the premium on that will be high. Are there any points that either of our guests want to

add before they leave?

Andrew RT Davies AM: I thank the Committee for allowing me, certainly, to give evidence to you. Closing on that point of engagement, it is really important that it should not be the Welsh Government that are the only voice here in Wales. This legislature has a really important role going forward, and I look forward to playing my part in taking this exciting opportunity forward for Wales and indeed the United Kingdom.

Leanne Wood AM: I echo the thanks to all of you for taking our views so seriously. I would also point out that the White Paper, of which you have copies, represents the views of two-thirds of Assembly Members, so it is a significant majority and should not be dismissed. Diolch yn fawr.

The Chairman: Thank you. We have noted it and we are very grateful. I am sure we will be continuing this relationship.

Lord Selkirk of Douglas: Can I say something very quickly by way of thanks? I had the pleasure to meet the delegations from the Welsh Assembly and the Scottish Parliament, and we had very positive and constructive meetings. One delegation member is now a Minister in the House of Lords—Lord Bourne of Aberystwyth. I just mention that in passing. Thank you very much.

The Chairman: Please feel free to go, but we are very grateful. Neil, we are grateful that you are able to stay on. I am prompted that we had not heard from Lord Selkirk previously. Is there anything else you would like to add at the moment on this?

Lord Selkirk of Douglas: We have run out of time really.

The Chairman: Might I ask you to do two things? One is to answer my question and sum up your own thoughts. We are interested, and if time had allowed we would have liked to probe more, in the detailed competence of the joint ministerial committee and the inter-parliamentary mechanism that exists. That is, I think, primarily directed towards your voice in Westminster and making sure that Wales is understood there. It is also possibly related to the fact that the other side of this negotiation in Europe is going to need to understand the particular needs as well. If you would like to comment on that and add any closing comments, we would be very grateful.

Neil Hamilton AM: I think the joint ministerial committee is working adequately, by all accounts. I am not part of it, so I am an outside observer. It is bedding in at the moment; it will take time to develop. It is a waste of time taking political positions on issues, which Leanne does, and Carwyn Jones has done on this question of single market membership, which they know are not going to be accepted, and therefore they are setting themselves up merely for political posturing rather than serious negotiation. I understand why, in political terms, they do this, but, as to the practical work of the JMC, clearly it is pointless.

The JMC needs to work, as I described earlier on, where it can, between us, on the different sides of the political divide and arrive at a common position on an issue. The one I mentioned earlier was on the question of funding for Wales.

The Chairman: Do you have any views on specific competencies that should transfer down to Wales?

Neil Hamilton AM: The principal ones are agriculture and environment, and I think Andrew's approach on this is wise. So far as we can, we do not want four different agricultural regimes for the United Kingdom and, therefore, there will be a continuing need for the Welsh Government, the Scottish Government, the Northern Ireland Executive and the British Government at Westminster to arrive at an outcome that suits us all. Whether that will be possible in all minute details, I do not know. Within Wales, we have a much higher proportion of upland farmers, just to take agriculture as an example, and their specific needs will or should loom larger in the minds of policymakers in Wales than perhaps they do in England. It is at this nuts-and-bolts level that we need to do more work to arrive at common positions within Wales to bolster the power of the Welsh Government to persuade the other parties to these discussions that this is the way policy should be decided.

As regards the great repeal Bill, that will just preserve the existing corpus, the *acquis*, if you like, of EU legislation and then it will be a long period, probably decades, in gestation as we decide to amend or repeal portions of it. It is an inevitable result of devolution that there will be divergences of detail in policy between Scotland, Wales, England and Northern Ireland. At the minute we have various practical problems with cross-border farms, for example, and the payment systems that do not integrate with one another. We must work much harder than we have been working together to try to solve those kinds of problems for the future.

Q62 **Lord Whitty:** Let us focus on the money as far as agriculture is concerned. If, as seems to be your view, the UK Government should be responsible for taking over what are currently CAP payments, that disproportionately favours Wales. In the long run, will the UK Government not make the allocation of farming subsidies within a new trading system, whatever it may be, on the grounds of the UK as a whole and not simply freeze the present allocation between the four jurisdictions? If that is the case, Wales will have significantly less influence over agricultural policy than it does now.

Neil Hamilton AM: That is debatable. In the longer term, the United Kingdom Government cannot be expected to freeze the existing financial funding arrangements, but I think for a transitional period of, say, five years from 2020, the existing deal should be preserved. It would be unfortunate if any part of the United Kingdom felt, as a result of Brexit, that it had been disadvantaged by the process. Politically, it is very important that we should avoid that outcome. Once agriculture has become a devolved matter, the fiscal framework within which the Welsh

Government have to operate is a matter for negotiation separately with the UK Government. In fact, we have just been through that process now in the context of the Wales Bill, and the Welsh Government have expressed their satisfaction with the outcome. This will be a continuing challenge for us so long as we do not have separate tax jurisdictions. There will be a devolution of some taxing powers as a result of the Wales Bill, but they will be minor and secondary, and I do not think that the process of devolution of taxation is going to proceed very rapidly beyond that.

There will be a continuing need for Wales to negotiate with Westminster on the overall fiscal framework within which it operates, and it will be for the Welsh Government then to decide what their priorities are with the block grant funding that they get within Wales. I understand that there is widespread apprehensiveness among farmers about whether a Labour Government based in Cardiff, which are overwhelmingly supported by Members that represent urban areas, are going to be sufficiently responsive to their needs. I am not going to make any political points about that at all and I am not going to say that it is going to be less or more advantageous for farmers in Wales, but it gives us a responsibility, as the decisions will be taken by elected Welsh politicians. The Welsh people will then have the opportunity to express their views on their record every five years. That is what independence, or a devolved Assembly, is all about. I am not apprehensive about this at all. We may not like every single aspect of the outcome, but, overall, I think it will be positive.

The Chairman: Thank you. In concluding, we thank you and, as it were, vicariously, your colleagues for giving us this picture, and we will be hearing from the First Minister directly on 15 March as well. It provides me with an opportunity of doing something belatedly, which is to declare my own interests in the agricultural industry, which are in our register, but I should do that, not least because there was a time when I used to buy sheep in Builth and very much enjoyed it—and very good they were, too. We are very grateful for the way you have set out the concerns at a leadership level and we will develop those themes during the day. It was nice to see you.

Neil Hamilton AM: I am most grateful to you for giving me the opportunity to give evidence. As Builth Wells is in the heart of the region that I represent, I will welcome you back there as often as possible to buy as many sheep as you can.

The Chairman: Thank you.