

# DÁIL ÉIREANN

---

## AN COMHCHOISTE UM GHNÓTHAÍ AN AONTAIS EORPAIGH

### JOINT COMMITTEE ON EUROPEAN UNION AFFAIRS

---

*Dé Céadaoin, 7 Feabhra 2018*

*Wednesday, 7 February 2018*

---

Tháinig an Comhchoiste le chéile ag 2 p.m.

---

The Joint Committee met at 2 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
David Cullinane,	Paul Coghlan,
Bernard J. Durkan,	Terry Leyden,
Seán Haughey.	Neale Richmond.

Teachta / Deputy Michael Healy-Rae sa Chathaoir / in the Chair.

## **Engagement with Mr. Michael Russell, MSP, Minister for UK Negotiations on Scotland's Place in Europe**

**Chairman:** The committee is in public session. We have received formal apologies from Deputy Colm Brophy and from Deputy Mattie McGrath who has let us know that he may be late. I ask that mobile phones be put on silent or turned off. I am delighted to be able to engage today with Mr. Michael Russell, MSP and Minister for UK Negotiations on Scotland's Place in Europe. I warmly welcome him, Ms Kirsty Hamilton and Mr. John Webster to our committee. We are delighted that they have taken time out of their busy schedule to be with us. It is not every day that we have a Scottish Minister join us. We appreciate the opportunity to engage with him.

The UK's vote to leave the EU is something that I very much regret but respect. As a committee, we have made an effort to track the negotiations, to engage with our own Minister, the European Commission, the European Parliament and committees from other parliaments, including Westminster and Mr. Russell's own parliament. Only two weeks ago, we met a delegation from the Committee on Culture, Tourism, Europe and External Relations of the Scottish Parliament. We also met ambassadors from EU member states. The British ambassador has also engaged with us. All of this has been helpful on all sides. It must be quite a challenge for devolved administrations so we are particularly pleased that the witnesses have been able to join us today to share their insights with us. While the move in December from phase 1 to phase 2 of the negotiations was extremely welcome, there is still much ground to cover and very little time in which to do it. From where we stand, we have to respect the decisions and stated wishes of the British Government to leave the customs union and-or the Single Market, but there are circles to be squared which are linked to all of these decisions. They are not without serious consequences. For our engagement today, I ask Mr. Russell to make an opening statement and we will then take questions from our members.

Before that, I have to say a word on privilege. Members are reminded of the long-standing parliamentary practice to the effect that members should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If they are directed by it to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable.

Before Mr. Russell commences, I welcome everybody in the Public Gallery, including our ambassador from Georgia. I remind our members of the good taste that Mr. Russell has. As Senator Coghlan knows, he had the good sense, a couple of weeks ago, to attend a very important conference in the tourism capital of the world, Killarney in County Kerry.

**Senator Paul Coghlan:** He made a great speech there, if I may say.

**Chairman:** He did and he was very welcome there. One thing that struck me about the

minister was his long experience in politics, his lifetime of dedication to public service, the fact that he represents a primarily rural area, including many islands. I found him fascinating to speak to. The only problem I had was that I did not get to speak to him for long enough which is why I knew that members of the committee would be grateful and appreciative of the fact that he could come here, which is why I asked him on that night. We welcome Mr. Russell and we appreciate and respect that he took time to come here in a politically busy time for him at home. I ask Mr. Russell to give us his thoughts.

**Mr. Michael Russell:** A Chathraiche, agus a Chomataidh, mòran taing airson cuireadh a thoirt dhomh tighinn a bhruidhinn ribh an-diugh. Ann an litreachas clasaigeach na h-Èireann, tha an duan “Deirdre a’ Fàgail na h-Albann” a’ sealltainn an ceangal eadar an dà dhùthaich againn a tha a’ dol air ais còrr is mìle bliadhna. San rann seo, tha Deirdre ag ràdh mu dheidhinn gleann sònraichte:

Gleann Da-Ruail, Gleann Da-Ruail,

Mo chean do gach fear dar dual,

Is binn guth cuthaige,

Air craobh chrom,

Air am binn os Gleann Da-Ruail.

I thank the Chairman and the committee for the invitation to give evidence today. As I have just said in Scottish Gaelic, a classic of Irish literature is Deirdre’s Farewell to Scotland. In that work, which links the ancient cultures of our two countries, she remarks on a particular Scottish glen, in my own constituency, Glendaruel, and says of it

Glendaruadh, Glendaruadh,

My delight in every man who belongs to it.

Sweet is the voice of the cuckoo

On the bending tree,

Sweet it is above Glendaruadh.

I not only represent that glen but have lived in it for 25 years, and I represent a constituency which includes the Mull of Kintyre, the closest spot in Scotland to the island of Ireland. Therefore, I feel close in every sense and deeply honoured to be, I think, the first Scottish Minister to give evidence to a committee of this Parliament.

The Scottish Government recognises Ireland’s unique position in this Brexit debate and on the wider European scene. Ireland’s close links with the UK were reiterated by the Tánaiste in his speech at Chatham House last week, and its full and wholehearted membership of the EU were delineated well by the Taoiseach in the European Parliament last month. Scotland is therefore particularly pleased that Ireland is our closest international partner as it stands in a position of both great knowledge and great influence. Our countries have had strong links for generations and these links touch all of us in many different ways. For my part, I was honoured in 2013, as a member for Argyll and Bute, to welcome Ireland’s President to Iona, Eilean Idhe, as part of the 1,450th celebrations of the landing of another Irishman on that island, Colum Kille. I spent a considerable part of my time when I was much younger in this city building the

Celtic Media Festival, now in its 40th year, which I founded on the island of Benbecula in 1980 and which had as its first chairman Muiris Mac Conghail, then controller of RTÉ 1.

Those cultural exchanges thrive to this day. I do not need to tell the Chairman, with his deep knowledge of traditional music, that Ireland is a country of honour at this year's 25th Celtic Connections Festival which finished in Glasgow last weekend. I recall being in Kerry to give a lecture at the Blasket Centre some years ago, drawing on my own work on photographers of the Scottish islands. Our links, rooted in a shared and collaborative past, are robust. They continue to grow despite the difficult present, as is evidenced by the resources we have put into and the importance we attach to our innovation and investment hub in Dublin, led by Mr. John Webster. Such links will be of great importance for our future.

I will address the subject in hand, Brexit, and the questions of where we are, how we got here, and where are we going. The committee will no doubt be aware that Scotland voted overwhelmingly to remain in the EU. Current polls indicate that there would be an even bigger majority were the referendum to be held again today. Like our Irish neighbours, we have been placed into an unwanted situation not of our own making. There are two interconnected sets of negotiations. One is the UK-EU negotiations on the UK's exit and the other, probably less well-known to the committee, is the intra-UK negotiations on a joined-up UK approach to the key exit issues and on the implications of Brexit for the devolved settlements. We welcome that the principles of phase 1 of the negotiations were agreed in December. We have always been very careful to say and do nothing that would impede such an outcome. We are particularly mindful of the importance of ensuring that the progress to peace made in the North is not jeopardised in any way by either governmental action or careless talk. We regret the ambiguity from the UK Government on many of these matters and the constant appeasement of the hard right, ideological Brexiteers. We welcome the UK Government's guarantee that there will be no hard border in Ireland. That must be delivered and therefore we will watch with interest to see how that happens, especially after the Downing Street pronouncement on the customs union this week. It is imperative that the UK's exit not undermine the progress we have seen over the past 20 years.

Looking ahead to phase 2, the risks associated with negative outcomes are even greater. From a Scottish perspective, we have closely analysed the potential impact. Just last month, we published Scotland's Place in Europe: People, Jobs and Investment, which presents the potential implications for Scotland's economy if the UK finally exits the EU. It sets out the cost to Scotland of exiting the EU by considering three scenarios: staying in the Single Market and customs union; reverting to WTO rules; and the middle ground of some sort of Canadian-style free trade agreement. The evidence clearly demonstrates that, in any scenario short of full EU membership, Brexit will significantly weaken the Scottish economy and result in slower economic growth and lower incomes compared with remaining in the EU. For example, we estimate that a hard, WTO rules, Brexit could lead to a loss of 8.5% of GDP in Scotland by 2030, equivalent to £2,300 per individual.

Every committee member has a copy of the document and I would be pleased to elaborate on it. It concludes that the only acceptable alternative to EU membership is membership of the Single Market and customs union, although that would also result in some economic damage. Nothing less will do, which is a conclusion that we believe the UK Government's own internal analysis has also reached. In that regard, we are in full agreement with what the Tánaiste said today in County Louth, urging the UK to stay in the Single Market and customs union. He stated: "The closest possible customs and regulatory partnership is in the best interests of ev-

erybody ... across these islands, and indeed in the best interests of the European Union and its future also.”

We are committed to working with the UK Government as constructively as we can as negotiations and preparations progress. However, we have concerns around how it has managed this process to date and the impact that will have on the devolution settlement. I will address that matter briefly now.

We continue to press the UK Government to agree a means by which the Scottish Government can play a direct and representative role within the UK’s negotiation with the EU. As made clear by the terms of reference of the Joint Ministerial Committee (EU Negotiations), JMC (EN), of which I am the Scottish member, all four UK governments should have oversight of the negotiations to ensure as far as possible that agreed outcomes are secured. The deeply regrettable lack of a functioning Assembly in Northern Ireland has caused difficulties, but that is no excuse for the way the JMC (EN) has functioned or, rather, failed to function.

The next phase will be significantly tougher. It is therefore essential that all governments across the UK be fully involved in the negotiations on the UK’s future relationship with the EU, something that has not happened in the past. We also need to be fully engaged in agreeing on the endpoint, something that was again promised in the terms of the reference of the JMC (EN) but has not yet been delivered. This matter has been the subject of correspondence this week between the First Minister, Ms Nicola Sturgeon, and the Prime Minister.

The introduction of the European Union (Withdrawal) Bill in the UK Parliament represents a considerable problem for us, as it is clearly a power grab, reserving to Westminster responsibilities for matters currently covered by EU law in devolved areas. The Bill is the main vehicle for a legal withdrawal. *Inter alia*, however, it empowers UK Ministers to make changes in devolved policy areas without the involvement of the Scottish Government and Scottish Parliament. It also takes straight back to Westminster all the areas of devolved competence currently shared with Europe. Concerns about this approach are shared by all parties in the Scottish Parliament, including the Conservatives. The parties agree that the Bill is incompatible with devolution. The Welsh Government has similar concerns and worked with us to publish amendments, which would have enabled us to recommend consent to the Scottish Parliament.

Now that the Bill is in the House of Lords, in which the SNP does not participate because we believe that election is a pre-requisite for legislators, the disquiet has intensified. Lord Hope, the former distinguished Scottish judge and leader of the crossbenchers, said in the Second Reading debate on the Bill said last week: “I am astonished by this Bill’s failure to respect [the devolution] settlement in its formulation of the regulation-making powers given to Ministers.”

Unless there are significant changes to the Bill, we will not recommend that the Scottish Parliament should give its consent. The Welsh Government is providing the same recommendation to the Welsh Assembly. Such consent, though a constitutional convention, has never been refused in such circumstances. Discussions continue on the potential for amendments to be made, and the UK Government has expressed an intention to table amendments in the House of Lords. However, it has still not agreed to correct the key defects of the Bill or provided the wording of those amendments for agreement with the devolved administrations.

I am happy to give further information on the structures that exist and the difficulties that we are experiencing, but let me first make a couple of final points that may give us a little hope for the future.

Ireland is Scotland's sixth largest export market and there are already more than 100 Irish companies invested in Scotland. These companies employ approximately 6,300 people across the country and contribute turnover to the Scottish economy of £3 billion. During her visit to Ireland last year, our First Minister spoke of the opportunities ahead for Ireland and Scotland to move forward with a sense of shared self-interest. We believe that there is limitless potential for the economies of Ireland, the North and Scotland to become even more closely bound along what might be called a Celtic business corridor and to deepen our relationship in that way.

Just this morning, I was impressed by the ABP Food Group plant in Cahir, County Tipperary. ABP has a major plant in Perth, Scotland. The great brands of Irish and Scottish beef are building a global market together, but Brexit is a useless and unforeseen impediment to making that relationship grow and flourish.

We have much in common and much to discuss. Scotland needs to mitigate the undoubted damage that may be wrought on our economy and our society by Brexit. No matter how difficult, we need to find positive solutions. In passing, let me commend the Irish Government's approach in the matter of supporting SMEs to address the Brexit issues facing them, something that we are looking to emulate.

Brexit continues to cloud our horizon. As the UK and the EU 27 turn to phase 2 of the negotiations, Scotland not only continues to strive to establish a constructive relationship with the UK that allows us to offer compromises and to co-operate, but also wants to be heard by the 27 so that there is an understanding of our unique position, our need for differentiation and our desire, if it is at all possible, not to lose our European citizenship and the closest of links with a European ideal that has helped to deliver peace and prosperity on our Continent for half a century. In short, we must be heard, and we intend to be heard.

For those who want to drag us out of Europe against our will, their triumph can only come if there is, in the words of that great Kerry poet, Brendan Kennelly, the "Supremacy of silence". We will not be silent. Of course, we will continue to be steadfast in our support of an outcome that recognises the particular needs of this island. We will continue to forge a positive future partnership between us, recognising not just our shared interests, but also our shared identities, which will not change. Mòran taing.

**Chairman:** I thank the Minister for that thoughtful contribution and compliment him on his use of our language.

**Deputy Bernard J. Durkan:** I welcome our guests and thank the Minister for his interesting dissertation. As he said, we have a great deal in common. Unfortunately, people decided over our heads that they would go in a different direction. It was not a wise decision. Mr. Farage was in Ireland last week. At the time of the referendum, he illustrated to people the massive benefits that would accrue from leaving the EU. I have not seen them manifest since, but they amounted to multiples of billions of pounds. It is sad that people voted on the basis of what was at best misinformation. The Minister's assessment of it was correct.

On the other side of the coin, there are considerable benefits to being in a market of 500 million people. Regardless of what anyone says or the attitudes to be found within that market, this is especially the case for exporting countries like Scotland and Ireland.

Regarding the Minister's assessment of the Northern Ireland situation, we cannot move from that position. We are committed to it, given that we are joint sponsors of the Good Friday

Agreement alongside the UK, the US and the EU, all of whom signed up to it. It would be a catastrophe if we moved even an inch away from it. As everyone knows, if we move at all, that becomes the starting point and we eventually end up heading in that direction.

The odd disconsolate word comes from within the EU. Every household has that problem from time to time and we do not worry about it. We have to deal with it in the ordinary course of the day's political and economic events. That is part and parcel of what we do. I agree with the Chairman that the best thing that could happen would be a reconsideration. That is still a possibility. I cannot see what the benefits of non-membership of the European Union could be for 65 million people. The suggestion is that it will enable Britain to open up new markets. The world is a different place from what it was 40 years ago and it is changing every day. The market beside us is the one we most treasure, the same is true for Scotland and the UK. We are all each other's best partners in trade. When it comes to football and rugby we differ slightly, otherwise we have many common interests.

Mr. Russell's use of Irish poets is interesting. I mentioned John Donne's poem "No Man is an Island" to Bill Cash when he was here. The opening lines are very important:

No man is an island entire of itself; every man  
is a piece of the continent, a part of the main;  
if a clod be washed away by the sea, Europe  
is the less, . . .

So are those who leave. It ends with: "And therefore never send to know for whom the bell tolls; It tolls for thee." It is very pertinent. Although it was written hundreds of years ago it identifies precisely what could happen in this situation and it is happening in front of our eyes.

I hope reason will prevail. I do not know whether it will but as long as there are people trying to point out the advantages of being outside the Single Market and its 500 million people I do not see any way for progress. The expectation in some quarters in the UK is that there will be a change, the situation will be watered down and we will return to having borders. That will not happen. It would be a travesty. It would be unbelievable for the political reality in this country, as the witnesses know. We hope that Scotland's views will prevail. As a member of the EU we will do our best to be a positive influence on the inside, to hold out the hand of friendship and to maintain the contacts that have been established with those who wish to maintain them in the coming years.

**Senator Neale Richmond:** I thank Mr. Russell for his very frank and forthright remarks. They are extremely welcome. I welcome him to this meeting and commend the work of the Scottish Office in Dublin on all it has been doing over the past few trying months in this area, and in developing other positive areas.

Mr. Russell mentioned the idea of a Celtic arc and one of his colleagues has imaginatively discussed a bridge from Scotland to Northern Ireland. That is well and good as something to aspire to but there is already obvious common ground between our two countries, in financial services, the arts, higher education and sport, that goes beyond the historical and cultural ties. I say that as a proud Ulster Scot of the Graham clan. How do we develop this post-Brexit? How does Mr. Russell view the end point, March 2019, when this delightful event comes to pass? What exactly does the lack of consent mean in respect of the Scottish Parliament and the Welsh

Assembly? I know it is a matter of course and is usually taken for granted but what would its impact be? Has the Scottish Government received any direct response to the First Minister's letter to Prime Minister May?

Brexit is an absolute disaster. There is no such thing as a good Brexit, for Ireland, Scotland, the EU or the UK as a whole. Senator Feighan has a great expression, the UK has gone and shot itself in Ireland's foot. My sympathies are with the Scottish people, because the English managed to get both of their feet and maybe a knee. The noise coming from Westminster is increasingly frustrating and the accusations being made of the Irish Government, the Irish people and the European negotiating team are scandalous. The hardline ideological Brexiteers who will not be materially affected by Brexit are stirring things up beyond their remit and making them worse for their constituents. If the UK leaves without a deal and the economy comes crashing down they will remain personally comfortable but their constituents will see factories close, foodstuffs rotting in the ground and animals stuck in ports. Every time we listen to British media and hear that noise coming from the extreme wing of certain parties it makes us blue in the face.

The European Commission and the Irish Government, which is Europe in this matter, take in absolute good faith, and want to proceed with, what was agreed twice in December, despite what happened in the week between. The lack of detail coming from the British Government, the sheer confusion and offensive language from supporters of that Government within the British Parliament make it extremely difficult for everyone to continue in a rational, reasonable way. We did not ask for Brexit. We do not want it. We cannot be expected to tell the British Government how it can develop its policy or how the Border will be enforced. The best situation is for the UK to remain within the EU. After that it is for the UK to remain within the customs union and the Single Market, and to maintain as close a relationship as possible. The Irish Government and the European negotiating team are desperate for a level of detail and understanding from the British Government that have not been forthcoming at any stage in the process. This was first requested back in July. A deadline was missed in October and in November, and a deal was made in December that will define the rest of the negotiations. I appeal to the Scottish Government and members of Mr. Russell's party in Westminster to keep the pressure up, be that within Westminster or at the committee Mr. Russell sits on. A deal has to happen. I do not mean to be dramatic but if there is no deal the sky will metaphorically fall in.

**Senator Paul Coghlan:** I welcome the witnesses. Mr. Russell's talk was as good and positive as the one he gave at our recent Brexit conference in Killarney. What he says about the Scottish stance and that Scotland will not be silent is heartening. It is inconceivable that the British Government would countenance proceeding without the agreement of the Scottish Parliament and the Welsh Assembly. That would mean that the United Kingdom would no longer be united.

Britain will not walk away from a market of 500 million people, no matter what the hard Brexiteers say or wish to do. It will want the benefit of the Single Market and the customs union which it wants to leave, whatever the formula at the end of the day and no matter what it is called. That will be for the wordsmiths. It did a good job, even if there was a bit of fudge in phase one. I hope it will do as good a job in phase two which is going on at the moment. We all know that the British Cabinet and the Conservative Party are divided. As the negotiation proceeds, it has already been somewhat flexible. They are prepared to pay more money. They want to stay as part of the EU schemes and they know they will have to pay more. Maybe I am only hoping, but I think that in the give and take, this is what they will strive for. Despite all the



smog, at the finish they will have to get the detail of the wording legally right. That will ensure that we have the North-South and east-west arrangement as is.

I am keen to hear what Mr. Russell thinks is going on. I know we all have to put on our thinking caps and that we do not know. The UK Government is sending out somewhat different signals. What does Mr. Russell think is really going on in the negotiations that are proceeding in Brussels these days?

**Chairman:** Thank you, Senator Coghlan. Senator Leyden is next. He is Vice Chairman of the committee.

**Senator Terry Leyden:** I welcome Mr. Michael Russell, who is a Member of the Scottish Parliament and a Minister in the Scottish Government, along with Mr. Webster and Ms Hamilton. Mr. Russell put forward a positive approach in his submission to the committee. I thank him for his commitment to Irish culture and Scottish culture over the years. Mr. Russell has produced a document, Scotland's Place in Europe: People, Jobs and Investment. It is worthwhile research into the effects of Brexit, where Scotland places itself and the role of the Scottish Parliament and Scottish Government.

It is particularly regrettable that there is no power-sharing in Northern Ireland at the moment and that we do not have Ministers from the North coming to our committee. We have Scottish Ministers, people from Wales and people from the House of Commons and the House of Lords. However, we have no Ministers coming from the North coming to our committee for a combined effort to have a united approach.

I appeal again today to both the major parties in Northern Ireland to put every difference aside. Brexit must be the priority now. Whatever differences they have - it can be a serious matter to implement agreements made in the past - in the circumstances they should take an example from the Scottish and Welsh Governments. They are studying and are concerned about the future. They can play a vital role especially in respect of the Border and what the Border means. It runs to 499 km with 300 crossings that channel vast volumes of trade and the movement of people. It would be inconceivable that there would be border posts or controls whatever the outcome. A Northern Ireland Administration, Ministers and so forth would bring about a united approach from the island of Ireland as well. I have not much more to say. I appeal genuinely to all the negotiators to come together and to come up with the type of approach taken by Mr. Russell and his colleagues in Scotland.

From a cultural point of view, I note that Mr. Russell represents Argyll. I have been to the castle of Argyll. Mr. Russell might know about a lady from Roscommon called Elizabeth Gunning. She had the good fortune to marry the Duke of Hamilton and then she went on to marry the Duke of Argyll. I was in the castle in Argyll. It is a stunning location and a great tourist attraction. I hope that we could form some alignment between Roscommon and Argyll. We could form some sort of documentary on the extraordinary events taking place at the time. Her sister married and became a duchess as well. They were an amazing family. My mother was born in Glasgow but I toured that area. It is stunning and I know that tourism is vital for the area. I congratulate Mr. Russell on the work that he has done on the cultural side. Maria, the sister, married the Earl of Coventry. There are many connections between our county and the area of Argyll. I hope we can develop that in future and that we can work together. There is an extraordinary relationship between both countries.

I was disappointed that Scotland did not support the bid for the Rugby World Cup. That was

deeply disappointing.

**Chairman:** That is a small dig.

**Senator Paul Coghlan:** We will get over that.

**Senator Terry Leyden:** Our neighbours, including those in Wales, could have benefitted so much by putting whatever differences they had aside instead of opting for France. My friend at the table is more involved in the rugby scene, but I cannot let it go without saying that we were bitterly disappointed.

**Mr. Michael Russell:** We will not hold that against Senator Leyden.

**Chairman:** Thank you, Senator, for your valuable contribution and great research into history. We appreciate that very much. My compliments again on your small dig at the end. Deputy Seán Haughey is next.

**Deputy Seán Haughey:** There is a great degree of culture going on here. Years ago, I visited Glasgow when it was European capital of culture. Mr. Russell has whetted our appetite to visit some of the more rural areas, including his constituency.

I thank Mr. Russell for his briefing on the situation as he sees it. We appreciate his support for the position of the Republic of Ireland and Northern Ireland. Mr. Russell mentioned that we need to see the Good Friday Agreement provisions implemented and that there should be no hard border and so on. That support is greatly appreciated.

I had the pleasure of meeting the Scottish First Minister when she visited these Houses last year. She addressed the Seanad at the time and she made a big impression. It is great to see that Mr. Russell is following up her visit now as things progress.

There is a view that the agreement reached was perhaps something of a fudge in phase one of the negotiations. I note that new negotiating directives have been agreed and those involved are going to try to put legal text on that agreement. That would be welcome. I imagine Mr. Russell would agree with that.

I note what Mr. Russell had to say in respect of membership of the customs union and the Single Market to the effect that these outcomes represent the next-best scenario. I wonder what is going on in the Conservative Party and the internal dynamics of that party at this time. Things are developing as we speak this week. Perhaps Mr. Russell could comment, unless he believes it would be undiplomatic, in which case I would understand. There is concern about what is going on internally in the Conservative Party with all of this.

I have two questions. Mr. Russell referenced the EU-UK negotiations that everyone knows about. He also mentioned the intra-UK negotiations but not a great deal is known about these. Are these real and meaningful negotiations within the UK? Does Mr. Russell believe he is getting a fair hearing? I note the position of the Conservative Party traditionally in respect of these matters. I am keen to know how those intra-UK negotiations are going.

My second question relates to the Scottish independence generally. Scotland held a referendum. What are the prospects for another referendum for Scottish independence in due course? What are the dynamics leading into that? I am keen to know what Mr. Russell has to say about that issue as well.

**Chairman:** Thank you, Deputy Haughey. Mr Russell, will you give your response, please?

**Mr. Michael Russell:** Thank you very much for the wide range of questions. I will do my best to try to address most of them. They fall into natural groupings. I will say something about UK Government and its function. I will say something about the processes, including intra-UK and legislative consent processes. I realise the detail will not be completely familiar to committee members. I will try to address some of the other issues, especially those relating to the Single Market and the customs union.

I will start with a quotation from the French Ambassador to the USA. We are swapping quotations this afternoon which is no great harm. He pointed out rather pithily that he could not understand how the cause of free trade was being furthered by the UK Government if it was abandoning the biggest free trade bloc in the work and 53 free trade agreements. There is no sense to this. Anyone who tries to struggle with it on the basis of reason will have to give up. There is no sense to this.

There has been a long-term campaign, by a small number of people to start with, to leave the EU. They hanker after a past that never existed. That campaign has continued to grow. It has been fed, often by the tabloid newspapers, and in certain parts of the UK it has been successful, although not in all parts. In Scotland, 62% voted to remain compared to 38% who voted to leave. I think the remain percentage would be certainly in the high 60s now. I have no wish to play it down, but in some areas and sectors there were genuine complaints about the EU. For example, I represent many fishing communities. There was a very strong feeling that the Common Fisheries Policy had failed those communities and I agree with them. It had failed those communities and it is not a policy that we could accept with equanimity. It would have to change very substantially in the future. However, there are many other policies that work particularly well and the general purpose of the EU has succeeded. It is important to remember when the UK joined the EU in the 1970s, it had two failed applications. When it joined at the third attempt, it did so out of economic necessity because it was almost an economic basket case. If we look at the figures, we can see that productivity and GDP grew. This was overwhelmingly a good thing for the UK economy. By extension, one would have to say that leaving must overwhelmingly be a bad thing.

In respect of the first question addressed by Deputy Durkan in terms of what the benefits of this are, they are entirely illusory. There are people who will go around telling us that there will be all these wonderful free trade agreements that will be possible and that this is not true in the EU. If this was true, why would Germany be one of the most successful trading nations in the world? There is no such restraint nor are all these countries queuing up to do these trade deals. India is a very good example. The argument has always been that India does not have a trade agreement with the EU and has, therefore, been held back in some way by the EU and the UK will do one. The holding back has been the UK's problem, not the EU's problem. It is the UK that has been the difficulty in securing that.

When the Prime Minister went to India last year, she went on the basis that she would find some pot of gold. She came away empty handed because the Indian deal will be dependent on an increase in migration. Migration is the *idée fixe* of the Tory Party. It cannot accept migration so that deal cannot be done. We find again and again that this is the situation. This is why one of the more worrying aspects of this is the attempt to take powers to Westminster that should rightly be in Scotland and Wales because they will require things to trade away. They will require agriculture to trade away. The issues relating to access by Brazilian beef are issues that they will attempt to trade away in order to get advantage so this is a really serious set of

circumstances. So on the issue of advantages, I must say there are no great advantages. This will not be a beneficial process. Senator Richmond was right. There is no such thing as a good Brexit. The Prime Minister uses the term all the time. It does not exist.

When one starts with that position, one must begin to go into some detail about what the alternatives are. I think we are all agreed that the only acceptable next step, which is not as good, would be Single Market and customs union membership. I do not believe rationality will kick in any time soon. Senator Coghlan is hopeful but I do not see that happening because this is an ideological battle. This is a battle for the soul of the Conservative Party, the most successful governing party in the world. No other party has held government longer. It is about the survival of the Conservative Party and in those circumstances, it cannot survive if it splits completely on this so there will be a fudge - a continuing fudge. This fudge will go on. I do not expect there to be much clarity about the final deal from the UK Government. I know it is very frustrating for the Governments of the 27 member states to negotiate with people who will not say what they want because if they say what they want, they will automatically alienate half of their own people.

We suffer the same problem. We are negotiating. I come to intra-UK negotiations. We are negotiating with a UK Government that does not know what it wants. It knows what it does not want. I was very intrigued to see that this was apparently the summation of Michel Barnier's conversations with my opposite number in the UK Government, David Davis, this week, which was that when he sat down, he heard a great deal about what it did not want but when he got up, he still did not know what it did want. That is what we are facing so we have a serious set of difficulties.

Deputy Haughey asked about the relationship in negotiation. It is very poor. We endeavour to build it. We have been endeavouring to build it for the past 18 months. We have not really got very far and the reason is because the main vehicle is the Joint Ministerial Committee (EU Negotiations). I will not go into the full detail of the joint ministerial structure. Suffice to say that it was established at the time of devolution in 1999 to make sure devolved administrations had some sort of formal contact and context with the UK Government. By and large, it has been a complete failure. Lots of parliamentary committees and academics have examined it. It has no great strengths. It has no dispute resolution procedure, or none worth having. The UK Government decides the dispute resolution procedures but as the dispute is usually with the UK Government, it is scarcely fair. I think any of its committees have only met twice since 1999 outside London. It is always chaired by a Minister from the UK Government. I have been a member on and off of various parts of it. I attended one meeting of the Joint Ministerial Committee on Europe in London which was attended by 23 Ministers from the UK Government, the Welsh First Minister, Rhodri Morgan, and I. This was hardly fair or an equity of arms.

The structure does not work but there is nothing else. We established a new part of it called the Joint Ministerial Committee (EU Negotiations), which had a very clear written remit. The two most important parts of it were to seek to agree the terms of the Article 50 letter. We never saw the Article 50 letter. I am a member of it. It never happened. We were meant to meet every month. We met four times and then it stopped meeting because if it had continued to meet, my Welsh counterpart, Mark Drakeford, and I would have had to see the letter and we were never shown it.

The committee was weakened by Northern Ireland not being present. At the first two meetings, the Northern Irish representatives were Arlene Foster and Martin McGuinness. They were very important members and saw it as very important. When Mr. McGuinness became

ill, a number of other representatives came for two meetings and then they stopped coming. That does weaken the committee. I agree entirely with Senator Leyden that something has to happen. There must be an Administration because it is weakening the possibility of moving forward. That committee did not meet from February 2017 until the second week in October 2017 so it went without a meeting during that period. It met again on 12 December last year and we are still waiting for another meeting. I pay tribute to Damien Green who, as chair of that committee with responsibility for devolution, was making progress. He was streamlining it and trying to get it to work but we now have another Minister to replace him, David Lidington, and we do not know how this will work.

The second objective of this committee was to have oversight of the negotiations in so far as they addressed the devolved competencies. That committee is now vital because it should be meeting on a regular basis - monthly or more regularly - and discussing the negotiating process but it is not doing so. This reflects upon the basic core weakness of the situation, which is that the UK Government is paralysed by the ideological dispute and is, therefore, unable to move forward in a rational or constructive way. Therefore, everything suffers from that.

We recognise what we hear of the problems of negotiation with the EU 27 from our own experience. We do not want this to happen. We would much rather we were not here but if it is going to happen, it must happen in an intelligent and rational way. Scotland is the nation of the Enlightenment. We try to bring a rational and evidence-based view of policy and it is not happening. If the analysis carried out by the UK Government is the same as our own, it shows that this is pretty disastrous and, therefore, the only sensible thing would be to go for the Single Market and the customs union. The Irish Government knows that. We know that. The UK analysis knows that. The other 26 members apart from Ireland know this. Why then would the UK Government not accept that this is the case and find a way to do so because it also squares the circle in terms of negotiation? It makes the context of negotiation actually work.

I will address very briefly some of the other points that have been raised. I think I have covered some of them. I will not go into the minutiae of people who marry dukes or duchesses - I have never aspired to either. I will come to tourism because I think it is important. There are three areas where Brexit will touch almost everybody to a greater or lesser extent. One of them is people, usually labour shortages. There will be a massive shortage in hospitality. We already have a shortage. We know that there is a Europe-wide shortage of agricultural labour. This is why Ukrainian workers are working in Germany. That will continue to be the case. There will be shortages in a variety of other sectors. EU nationals in the labour market in Scotland are a bit like a horseshoe. There is a predominance in lower-skilled jobs and highly skilled jobs and something in between. We have five of the world's top 200 universities, which is unique for a country of our size, but 25% of staff are EU nationals so we are very heavily dependent on EU labour. In the Highlands and Islands of Scotland, the area I represent, one fifth of the workforce will retire in the next five to ten years, amounting to just over 80,000 people. We are not producing people to replace them so we either have migration or we lose services, businesses and other things.

People are the first issue and the second is regulation. One cannot be part of something for almost half a century and not have an entwined regulatory system. Over 90% of our food standards regulation is European. How do we disentangle that? The third issue is money. There is a series of fiscal flows, one way or the other, and it will be difficult to unravel those to give guarantees for the future. In the area of agricultural payments, we believe Pillar 1 payments are guaranteed but there is no guarantee at all for Pillar 2 payments so rural development moneys

will disappear for a period, which will be disastrous, leaving aside a range of economic and social policy. There are big issues in all three areas.

Senator Richmond asked a number of very important questions. As for timescale, March 2019 is a date for leaving but the Prime Minister, who started off saying there would be no transition and no implementation period, now says the Government wants a transition period and is trying to negotiate it. If it gets one, the EU has suggested the end of 2020, which fits with the financial framework. I do not think anybody realistically believes the work can be finished by then so there is an indeterminate period in which something may or may not happen. There is no point avoiding a cliff edge if one is going to fall off it in 2020 so we need to find a way through. So far the Government is refusing to talk about it and that is a problem because at some stage it will have to say we are leaving formally in 2019. After that we will go into limbo, for example, in respect of the fishing negotiations where we will not be part of the annual quota discussions. That is a much worse situation. There will be a period in which things will change but we do not know what that period is. The driver of this, as ever, will be internal UK politics and the UK Government will have to go to the people before May 2022, if not sooner, so it will have to have something it believes it can talk about before then.

Some of the work Mr. John Webster and his team are doing to build businesses and investment is a good foundation for the Celtic arc. I have seen many proposals for fixed links and in the 19th century there was a proposal for a railway tunnel between the North of Ireland and Campbeltown. I believe it is a great idea as it would open up my constituency. A lot of talking needs to be done on that and recent coverage indicates it should happen. As a local MSP, I would support it.

We need to be honest about consent. We cannot veto the withdrawal formally, though the UK Government could decide that if we do not give legislative consent at the last amending stage, namely, Report Stage in the House of Lords, it could put the Bill through anyway. Legislative consent motions apply to parts of Bills so the UK Government could come to the devolved administration and identify the parts for which it required legislative consent, on the basis of legislating for our competence. If we refused to do so, convention demands that those parts of the Bill be dropped. What would probably happen is that the UK Government would impose those parts of the Bill, but the House of Lords seems to be increasingly of the view that a refusal of a legislative consent motion would be so serious that it would not pass the Bill. If that were to happen, it would be very problematic for the UK Government. We do not want a cliff edge and would rather agree a legislative consent motion but the Government knows what it requires to allow us to do that. There are no ifs and buts and we have spelt it out in words of one syllable. We put amendments forward which the Government voted down so now it has to tell us what amendments are acceptable. If it cannot do that, we could pass our own Bill and the Welsh and Scottish governments are considering doing just that. The Bills have been drafted and they are with our presiding officers for legislative scrutiny. That is not the best solution and is probably a more complicated solution but may ultimately be necessary. The UK Government would then have to veto the Bills and pass its own so it is a constitutional crisis. Having said that, I contend that we have been in a constitutional crisis for the past year and it is only getting worse.

As Senator Richmond said, it is a disaster but the rational response is to find a way forward. Membership of the Single Market and customs union is the way forward and we need to keep saying it, even as the Prime Minister, in order to appease one wing of her party, says it should not happen while others in her party say it might happen. It is the only possible compromise

that is left. We have been offering it for well over a year and far from being hardline, we have been trying to negotiate. It may well be, as Deputy Haughey said, that at the end of the process there will have to be a vote across the UK and there are a number of proposals for a second referendum, which is not unknown in this country. It could not ask people the same question but it could ask them if they agreed with a negotiated deal. In those circumstances we would have to have an arrangement which recognised that, if Scotland voted to reject a settlement and the rest of the UK accepted it, we would have to find a mechanism to take us forward. We could not repeat the crisis we are in now, with Scotland having voted to stay in the EU while England voted to leave. As Senator Coghlan heard me say in Killarney, in the end it is the people who will decide and that is how it has to be, whether it is through the ballot box or a referendum. It will probably be the most serious decision they will have to make in a long time. For our part, we regard the whole thing as one that must produce a result other than the one the UK Government wants.

**Chairman:** I thank the Minister and his delegation for their attendance, which we appreciate. We have had very close ties with Scotland over the years and we feel as though we are the same type of people. After our meeting in Killarney, both Senator Coghlan and I felt it would be beneficial to invite Mr. Russell to come before the committee and give evidence, and I think we were right about that. We can work on what we have heard in the challenging months and years ahead. Scotland will have the same problems as we will have and we will be close allies. I commend Mr. Russell on his great work ethic over many decades and for the way he has served his community. I read a bit about him yesterday evening and I was very impressed by everything I read. It is no wonder he has been around for a long time and we all agree with his views on many of the issues. I also thank Ms Hamilton and Mr. Webster. I hope the witnesses enjoy the rest of their trip to Dublin and Ireland.

*Sitting suspended at 2.59 p.m. and resumed in private session at 3.01 p.m.*

The joint committee adjourned at 3.11 p.m. until 2 p.m. on Wednesday, 14 February 2018.