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Constitution**

**Speech at Cardiff University's Wales Governance Centre  
A National Civic Conversation about our Constitutional Future**

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Thank you for inviting me to speak to you today and for the important work of the Centre which I value. I'm very grateful to you for hosting this virtual event today, at a very important and I would say crucial time in the history of Wales and the nations of the United Kingdom.

It's particularly pleasing to be here in my new role as Counsel General and also in my role as Minister of the Constitution, so early in the life of this new Senedd term and the new Welsh Government.

The First Minister, Mark Drakeford has made it very clear that he wants this new government to be bold and dynamic in tackling the many challenges we all face over the coming years and I'm sure the Wales Governance Centre will play its usual, constructive and probing role in helping us think through many of those.

And in many ways that's a good platform for my contribution today.

There is perhaps no challenge greater than that of the constitutional future of Wales. There are those who say that these issues are unimportant and we should just be concentrating on post Covid recovery and related issues.

Well of course, post Covid recovery, jobs, our youth guarantee, tackling the climate emergency, restarting NHS operations and many other issues are absolutely vital priorities. But a failure to recognise that the very ability to deliver on all of these is very dependent on the allocation of powers and resources within Wales and the UK. That is why constitutional reform is so important; it is the means whereby we can deliver what we have promised to the people of Wales and to future generations. It is the means for improving prosperity and job security; it is the means whereby we deliver those vital public services that we have come to recognise as being part of our essential economy.

It is the means whereby we build a fairer, more just and more confident Wales and the contribution we can make to the well being of the UK as a whole. If I am right in this, then a failure by governments across the UK to address these constitutional challenges would be foolhardy and wholly irresponsible.

The Union of the United Kingdom has never in my lifetime been under such strain. My position and the position of the Welsh Government is that we want that union to work better in the interests of the people and the communities of Wales and that will require radical reform.

Welsh Labour fought the election with what I believe is the most radical proposal for constitutional reform in our recent history. We were elected with a popular mandate for change.

So I will be setting out today a little more detail about the Constitutional Convention we will be establishing here in Wales, against that context of ever growing concerns about the state of our Union.

The Welsh Government believes in a strong, prosperous and progressive Union of nations.

We see it as a voluntary association of four nations that has the potential to be a positive force for good - for Wales and for all nations within it.

We benefit from the pooling of resources which support all of us in times of need. I will put this in my own words, if the UK means anything and is

to have a future it must be based on principles of partnership, justice, the rule of law, of greater equality and a fairer distribution of wealth between all the nations and regions of the UK.

Despite our many disagreements with the UK Government, there remain many areas of common and mutual benefit. Many of these do not work as they should, could be much more effective and much more progressive. Nevertheless, they exist and provide a framework to build upon. In recent months the furlough scheme has become an example of the powerful and important support it can provide – support for individuals and businesses based on principles of common interest and collective support. Something that individually all the nations of the UK would have struggled to achieve.

The UK is a powerful engine of redistribution – systems of welfare and healthcare testament to the criticality of the power of collective provision, but could be much more so. In fact, I would suggest that over the past decade the growth of inequality, the undermining of the welfare state and common principles of mutualism, on an unprecedented scale is a major contributor to the increasing instability of the UK

Yes, there are many differences, but the collective strength of what we can do together is something people across the UK I believe do recognise and value.

And as we sit here now in 2021, it is clear to me that only through radical reform – through genuine devolution and the recognition of shared sovereignty that can we build the strong and durable partnership that is so vital for the future.

The Welsh response to Covid has shown how important it has been to be able to take distinctive decisions in Wales to reflect the needs of people and communities in Wales based on Welsh circumstances.

The distinctiveness we see in policy responses across the devolved governments – response which are themselves innovative and creative responses to the challenges which face us – are often not given the recognition and the respect they deserve.

That distinctiveness that actually makes us stronger, yet is too often seen as a weakness and a threat by the UK Government at Westminster.

So there are growing concerns.

Concerns growing across the political spectrum.

Concerns that, today, the Union looks neither strong nor stable.

And for anyone committed to a long-term future for the United Kingdom, how we address and rectify that fragility is one of the major questions of our time.

Recent, unwelcome developments have contributed to that fragility and I'll say more about those in a moment.

Some of the threats to the union are deep-seated. In some ways the Union has failed to keep pace with, what I see, as the bold and radical change to the UK's Constitution that people voted for in 1999.

The full and very real implications of the creation of legislatures in Wales, Scotland and Northern Ireland has not been met by the UK Government with what it should have – a fundamental and honest look at the way the UK was itself governed against the backdrop of that newly devolved landscape.

In short, insufficient attention has been given, by successive governments, to the way in which our four nations should talk and act

**together** on matters of shared interest and which affect all parts of the UK.

That's why the Welsh Government has for the last decade sought to stimulate a debate about the constitutional future of the UK.

We sought to start the kind of fundamental debate that is vital to our future and that of the nation of the UK and indeed the regions of England.

As a Welsh Government we've consistently advocated the case for a constitutional convention.

We've tried to articulate our own vision for how a new model of shared governance could work.

The policy papers we developed as the debate about our exit from the EU developed, were a genuine, honest and transparent attempt by us to put concrete proposals on the table.

In 2019 we took this work on and through our original '*Reforming our Union*' paper set out twenty propositions for the future governance of the UK.

Not a final package; not a finished work – but twenty areas which we have consistently raised and which we believe are crucial to the reform of the UK.

However, the UK Governments has time and time again to recognise that there is a major problem, and address the major constitutional questions facing us.

I should stress that not all the answers to these challenges require substantive constitutional reform.

For example, for both devolution and the Union to deliver the best outcomes for citizens, we need a consistently constructive and collaborative relationship between all governments of the UK.

That ought to be entirely possible within the existing constitutional settlement.

But that is simply not our experience, particularly since late 2019.



The reform to the intergovernmental structures, including the JMC, which is essential if this constructive and collaborative relationship is to be put on a firm foundation, has simply not materialised.

Yes, there have been flickers of positive change, but it has simply not gone far enough, or fast enough, to provide a substantive answer to the scale of the challenges we face.

Instead of a constructive and collaborative relationship, based on fairness, social justice and subsidiarity, what we see from this current UK Government is an increasingly muscular Anglocentric unionism.

A top-down unionism that believes that the problem will simply go away if it shouts loudly enough and waves a few flags around. A Government that is in denial.

Since 2019 when we published our original 'Reforming our Union' programme, devolution has found itself under unprecedented assault.

I'll give one illustrative example.

In 2019 there were those who remained hopeful that the UK Government's disregard for the refusal of the Scottish Parliament to consent to the European Union (Withdrawal) Act 2018 was an isolated one-off decision.

Set against the background of the unprecedented upheavals of EU exit, the actions were unique to the situation we faced.

But since December 2019, the Sewel Convention has been breached with such regularity that the UK Government actions appear to signal a new, more combative position.

Perhaps the most damaging breach was that related to the UK Internal Market Act.

Here, we had a Bill which flagrantly cut across devolved powers, usurping functions that clearly sat within the competence of the devolved governments.

Rushed through the UK Parliament with unseemly haste and minimal scrutiny, it sat in defiance of a refusal to give consent from both the Senedd and the Scottish Parliament.

It's hard to understate the seriousness of such actions.

It's hard to understand how the provisions in this Act are anything other than a significant assault on the Senedd and our policies of social and economic reform by undermining the very powers at the core of devolution, and are little more than an attempt to achieve through this Act what the UK Government has been unable to achieve through the ballot box in Wales.

Powers endorsed in two referendums by the people of Wales.

But even if one does not share our assessment of the many flaws of that Act, it is simply not possible to argue that the **manner** in which the Bill was rushed through Parliament, and brought into law in defiance of the refusal to consent, demonstrated the proper respect for the democratic institutions of Wales.

It is simply not possible to argue that it respects the conventions upon which a strong, stable Union should be based, parliamentary democracy and the rule of law.

It is largely in response to that assault on devolution that we published, last week, a refreshed version of 'Reforming our Union'.

As the first version was, it is not a brand new vision for the future governance of the UK.

The 20 propositions we set out in the original document remain front and centre of this refresh, because they themselves remain a practical, pragmatic and coherent set of propositions for the way in which the UK should be governed.

But there are areas where matters have evolved and where things have happened which need to be reflected in the text.

One is in relation to justice.

In 2019 our proposition on justice looked forward to the report and recommendations of the Commission on Justice in Wales, referring to the substantial evidence we as a Welsh Government had submitted to it.

That work has since completed and we now have the unequivocal backing of that Commission for the devolution of justice to Wales.

In 2019, we described our concerns about the Sewel Convention.

Its non-justiciability, the lack of any codification of what constitutes 'not normally', and the absence of any mechanism for Parliament to consider properly the implications of a refusal to give legislative consent to a UK Bill.

At that point we hoped that the UK Government's disregard of the Scottish Parliaments' refusal to consent to the EU Withdrawal Act would remain a one-off.

But since 2019, we have seen repeated and sustained breaches of the Sewel Convention, to a point where it now appears that the UK Government views compliance as an entirely discretionary matter.

This only adds weight to our calls for codifying Sewel and recognising it properly in UK Parliamentary procedure.

If this is not done, the case for our more radical solution, where the UK Parliament would be prevented from legislating in devolved areas without the Senedd's consent, will only continue to strengthen.

We recognise, of course, that such a fundamental change could only happen in the context of a much wider constitutional reform.

That's why we need to keep discussing and debating these issues.

We don't have all the answers.

We've never claimed to.

And that in turn is one of the reasons for our commitment to establish our own Constitutional Convention and Commission, to engage with the people of Wales to examine the governance of Wales, devolution and our future relationship with the UK and the principles on which it should be based.

We want this Commission to facilitate a genuinely national conversation about the future of Wales within the UK.

We want it to engage with citizens and with civic society.

In particular we want it to reach out to those who might not otherwise come forward to participate in such a debate, to those people and communities who are largely disengaged from politics or rather who have become sceptical about its relevance to their lives and that of their families and its ability to make a difference.

We will establish a commission of citizens. They will be people who will represent the diversity of our society and communities and who will have the skills and ability to reach out and engage.

Their task will be to seek to identify and build consensus about our values and the sort of Wales we want to be.

We will encourage the Commission to think about how its work can support the seven wellbeing goals, as set out in the Well-being of Future Generations Act and to operate in way which is consistent with the five ways of working the Act sets out.

We will encourage the Commission to identify and learn from the best examples of citizen engagement and to be innovative in the way in which it approaches its task. It must be a peoples commission engaged in a

people's conversation, a genuine grass roots engagement. How we achieve that will be our biggest challenge.

We will need to develop a new language of engagement, one that avoids the language of politics and constitutions that we are so used to, a language that talks about the things that are directly relevant to people's lives.

To assist the Commissioners, we will establish an expert panel to advise the Commission.

They will provide the expertise and the hard data and information, which we hope will free up more of the Commissioners' time to focus on the big conversation we want to initiate.

Our first step will be to appoint a Chair a vice chair or even co-chairs, this is work in progress and I hope to be able to say more about this in a statement I will be making to the Senedd over the next few weeks.

From there, we will work through the summer and into the early autumn to appoint the Commissioners, to put in place a secretariat and the other



structures necessary to enable the Commission to effectively fulfil its remit.

That remit will be designed by the Welsh Government, but in doing so we will work with the Chair to refine and finalise the Commission's terms of reference.

In appointing the Commissioners, we will strive to ensure that the Commission as a whole reflects the diversity of modern Wales, and reflects the citizens and the places with which it will need to engage.

We will need to strike the right balance between knowledge, independence, and representativeness as we appoint members to the Commission.

The Commission will be tasked with producing a report with its recommendations and conclusions within 18-24 months and to include recommendations about the possibility of a longer term standing commission to carry forward its work and the delivery of constitutional reform.

I intend to announce the formal launch of the commission in the early autumn.

I want to finish – as the First Minister did in his statement to the Senedd last week – on a positive note.

I remain of the fundamental view that it is possible to renew and revitalise our union.

Convinced that we can find a way for it to thrive and prosper for the long-term.

Not in spite of devolution, but very much because of it.

However, this requires thought, imagination and co-operation.

Genuine statecraft – on the part of all of us to think through honestly and creatively the challenges we face.

Above all it requires an acceptance that the status quo cannot and will not continue.

I am confident that the Commission will play a vital part in this renewal, and in making the positive case for strong devolution within a durable Union that, for all its current fragilities, remains good for Wales.

Thank you.