



## Constitution Committee

### Corrected oral evidence: Future governance of the UK

Wednesday 14 July 2021

10.10 am

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Members present: Baroness Taylor of Bolton (The Chair); Baroness Corston; Baroness Doocey; Baroness Drake; Lord Dunlop; Lord Faulks; Baroness Fookes; Lord Hennessy of Nympsfield; Lord Hope of Craighead; Lord Howarth of Newport; Lord Howell of Guildford; Baroness Suttie.

Evidence Session No. 7

Virtual Proceeding

Questions 81 - 99

#### Witness

I: Rt Hon Mark Drakeford MS, First Minister of Wales, Welsh Government.

#### USE OF THE TRANSCRIPT

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## Examination of witness

Rt Hon Mark Drakeford MS.

Q81 **The Chair:** This is the Constitution Committee of the House of Lords. We are conducting an inquiry into the future governance of the United Kingdom. We are taking evidence today from the right honourable Mark Drakeford, the First Minister of the Welsh Government.

First Minister, welcome, and thank you for joining us and giving us your time on an extremely busy day for you. You have said quite a lot recently about relationships with the Westminster Government. You said that things are rather fragile and that you are not particularly impressed with the attitude from Whitehall. Could you expand on that and tell us exactly what you think about the current state of the union from your Government's point of view?

**Mark Drakeford:** Thank you very much indeed. I would like to start by drawing attention to some of the positive things in the relationship between the Welsh Government and the UK Government. I will inevitably focus on some of the less satisfactory things, and I do not want to start by giving anybody the impression that there are not some positive elements to focus on as well.

Since the turn of the year, we have had a regular and reliable pattern of weekly meetings between the First Ministers of Scotland, Wales and Northern Ireland, and Michael Gove in his capacity as Secretary of State at the Cabinet Office. I think those meetings have been very valuable. I think their regularity has helped. I think they are run in a spirit, at least, that meets a number of the criteria that we set out in our *Reforming our Union* document, which we recently republished. I think they have evolved a little away from their origins. The origin was very much in the coronavirus crisis, but they have evolved to deal with other intergovernmental matters that arise in the normal course of business. That is a new, albeit ad hoc, feature of relations and, to my mind, a positive one.

The vaccination programme is another example of how things can be done well between us. The UK Government took responsibility for obtaining the supply of vaccine and have done so very successfully. We reached an early agreement that the centrally held volume of vaccine would be shared out on a population basis across the United Kingdom, and that it would then be for each of the four nations to implement a vaccination programme.

The Welsh programme, we think, has been particularly successful. We have the highest proportion of our population with first and second doses of the vaccine of any of the four nations. That joint way of doing things, with procurement at an all-UK level, with the extra clout you have in the marketplace if you are buying on behalf of 60 million people, but with local delivery through the on-the-ground capacity that the four nations have separately, seems to me to be another success story.

We work together on common frameworks. There has been some progress, albeit slow and not as quick as we would have wished. Progress has been made on almost 26 areas where provisional agreement has now been reached between us. The aim is to work to final agreement on them by the end of this year.

Below the surface, Chair, and out of the limelight of intergovernmental relations, it continues to be possible in some areas to make progress on joint matters. It has long been a preoccupation of the Welsh Government that there is no facility anywhere in Wales for women sentenced to imprisonment in Wales. Any woman sentenced to imprisonment in Wales serves that sentence outside Wales, with all the extra difficulties that creates for families and for the reintegration of people at the end of a sentence. We have agreed with the Ministry of Justice that the first of the new women's residential centres that the ministry proposes will be located here in Wales. We have a blueprint that we have jointly agreed with the Ministry of Justice on the whole area of female offending.

I start by saying all those things because I want to give you as balanced an account of the state of relations as I can. Having said that, if you want me to give my global sense of how things are, I would say that the state of the union is under the greatest pressure it has ever been in my political lifetime. I agree with what Sir David Lidington said in his recent lecture at Cambridge University. He said that the union was more imperilled today than at any time in his political lifetime. That would be my assessment as well.

With the current UK Government, we face, for the first time in the history of devolution, a Government who are instinctively hostile to devolution. The Prime Minister told Conservative Back-Benchers that devolution was the greatest mistake of the Blair Government. He was telling us something that I think we are sensible to attend to, and the actions of his Administration far too often bear the hallmark of that view. It is a confrontational approach, and an approach of muscular unionism that is aggressively unilateral in the way it goes about things.

That is different from any previous Government we have worked with. We have had differences of view with many Governments, of more than one political persuasion, but we have never worked with a Government where our experience is that they are instinctively hostile to the notion of devolution and to the way in which devolved Governments go about our responsibilities.

It certainly does not have to be like that. It has not been like that for most of the 20 or more years of devolution. We published our *Reforming our Union* document because we wanted to put forward a set of positive proposals for the way in which the union can go on functioning successfully. The Welsh Government are that rather vanishing creature—a Government who believe in the United Kingdom. I think that Wales's future is best secured by being a member of a successful United Kingdom. I think the United Kingdom is better off for having Wales in it.

Our *Reforming the Union* document sets out our prospectus for creating the conditions in which the UK can continue to survive and thrive. That is

not because we think it is the last word, and not because we think it has all the answers, but because we think that an urgent debate is necessary. If we are not careful, we are sleepwalking into the end of the union as we know it. The need for an urgent debate, with real, political energy devoted to it, seems to me to be ever more necessary, and the Welsh Government will always play a constructive part in such a set of discussions.

**The Chair:** Thank you. In view of what you have just said, can I ask you how far you think the problems are structural and how far you think they are political?

**Mark Drakeford:** There are very considerable structural problems. I noticed that when Angus Robertson was in front of the committee he suggested that even if you get structures right, if you do not have political buy-in to them they can still be undermined and fail to deliver what is necessary. However, they seem to me to be an a priori condition to getting this right. We simply do not have mechanisms in place sufficient to allow the UK to go on being a voluntary association of four nations in which we come together to discharge matters of common concern and with a common purpose. Let us get that right first, and then let us make sure that we have the political will behind those mechanisms to deliver them successfully.

**The Chair:** You are clearly hoping that that is possible.

Q82 **Lord Hennessy of Nympsfield:** Mr Drakeford, I do not think I have had the pleasure of meeting you before. If I was back in my old trade of journalism and my editor asked me to write a profile of you, I think I would portray you as the care worker of the union, not just because of what you said in your opening remarks but because of the way you have conducted yourself during Covid, and so on.

It seems to me that, like the probation officer you once were, you have tried very hard to deal with the difficult teenager in No. 10 who will not return calls and will not answer your letters. You try to help where you can with the family north of the border, who have engaged in this endless domestic row about the kind of country they should be. Is that how you see yourself? Is that the view from Cardiff Bay? Am I right in thinking that you would deeply regret a Scottish separation?

**Mark Drakeford:** To take your final question first, the answer is definitely yes. It would be a matter of huge regret to us, and it would absolutely not be in Wales's interest if Scotland were to leave the union, but the union has to be something that people want to belong to. It cannot just be asserted or required in their lives.

The Welsh position has always been this. What does Wales bring to the table? What is the strength that we can mobilise for our arguments? It can only be the quality of the arguments that we make. When we are working with our colleagues in Northern Ireland, we always have the difficult history and the troubles that they have lived through in the back of our minds. We attend carefully to what they say, and the continuing challenging circumstances they work in, with that in mind.

The Scottish Government come through the door always armed with, as they would argue, the mandate they have from the Scottish people to pursue their political project of separation. What we come through the door with, I hope, is the quality of the argument that we are able to make. My predecessor, Carwyn Jones, was absolutely in the same space. He argued for a constitutional convention a decade ago. We would be in a better place now if greater attention had been paid to what he said then.

I come into all these discussions believing, as I say, that the weight of opinion in Wales continues to be in favour of stronger entrenched devolution. People genuinely want to know that decisions that only affect people in Wales are made by people in Wales. I also think that there is a continuing belief in Wales in the additional benefits we get when we pool our resources, share out the rewards and work together to find solutions to the challenging difficulties that we face in all parts of the United Kingdom. That is the part we try to play in the different forums where we come together with our counterparts from England, Scotland and Northern Ireland.

**Lord Hennessy of Nympsfield:** Thank you very much.

**Q83 Lord Dunlop:** Good morning, Mr Drakeford. It is nice to see you again. In your initial remarks, you highlighted some of the positives. You said that the intergovernmental review has made some positive progress. Does the draft package of reforms published by the UK Government at the end of March provide a basis, in your view, for building the necessary trust and co-operation in intergovernmental relations that has been missing over recent years, particularly when one of the parties wants to leave the UK?

**Mark Drakeford:** I think the progress made in the intergovernmental review is real, and that we have reached agreement on a series of issues that would make the conduct of intergovernmental relations a lot better. There are parts in square brackets in the document that the UK Government published on 24 March that we would recognise as issues that are still outstanding. I was mightily cheered up yesterday to hear from my officials that they believe that further progress is still being made on those outstanding issues; that they have not just lain there on the page, but that there have been further discussions, further proposals and further progress made in relation to those outstanding matters. I take some heart from that.

The Scottish Government have a different view of the future of Scotland, and they are absolutely entitled to have that view and to draw on the support that they have had as a political party in Scotland. For what it is worth, my own experience of working with Scottish Ministers has been that in the considerable majority of instances they come into discussions still wanting to get the best for Scotland from the arrangements that are in place while Scotland remains in the union. They do not come through the door, as they are sometimes portrayed by some UK Ministers, as just wreckers. They come through the door with their own political ambitions, of course, but with a recognition that while Scotland remains in the union

it is in Scotland's interests to make the union work as well as it can. There is inevitably some ambivalence in that position, but I think those of us who want to remain optimistic about the future of the union have to take some comfort from the fact that in my experience—it would be true of the intergovernmental review as well—where we can reach agreement, the Scottish Government play their part in coming to that agreement.

The more ground we can gain in the IGR, the easier I think it will be to make the case to people everywhere in the United Kingdom that this is a union that they wish to continue membership of, because there is a set of agreements and arrangements that allow intergovernmental discussions to be carried out on the basis of parity of participation, respect for one another and independence of dispute avoidance and dispute resolution. I think all that builds confidence in the way we can go on operating together in the union.

**Lord Dunlop:** Building on that, for the benefit of the committee, can you give us a flavour of some of the outstanding areas of disagreement? How difficult will they be to resolve? If they can be resolved, do you think the reforms create a genuine forum for decision-making where powers intersect?

**Mark Drakeford:** I will give you just one example, because I think it summarises some of our concerns. As I said, on the broad front, the document now provides a mechanism for dealing with disputes that might arise between different nations. I completely agree with the review text that the first step should be to avoid those disputes arising. Let us put as much effort as we can into making sure that we do not have disputes, but, where we do, the document now allows for independent mechanisms for resolving those disputes.

When the Welsh Government tried to raise a dispute under the Joint Ministerial Committee mechanisms, when £1 billion was provided to the Executive in Northern Ireland with no parallel investment in Wales or in Scotland, we were told that in the view of the UK Government no dispute existed, despite the fact that I had just written registering a dispute. The UK Government replied that in their view there was no dispute, and therefore there was no mechanism that could be triggered to deal with it.

The IGR would make all that completely impossible, and thank goodness for that. When we tried to agree a parallel set of arrangements for the Finance Ministers quadrilateral, we came up against resistance from the Treasury to having the same independent capacity to deal with disputes that is in the agreement as a whole. I am afraid if we cannot get the same mechanism to operate in the area of finance, it has a fundamentally chilling effect on the whole of the document. That is one of the areas you will see in the square brackets, but it is one of the areas where, as I said, I was told yesterday that further proposals have come forward and there now may be a way in which we can move to resolve that outstanding matter.

To me, that is not a matter of detail. It lies in one specific part of the landscape, but it is such a fundamental part that, if we cannot get it right, the rest of the agreement will not have the force that it needs.

Q84 **Lord Dunlop:** I think we will be talking more about funding later on. Others may want to pursue that point.

I have one final question. You said that the IGR reforms should be underpinned by statute. What do you envisage is the scope of the statutory underpinning? In your view, how detailed does it need to be?

**Mark Drakeford:** We would be very open to discussions with other parties about that. What motivates us to make sure that these things are in statute is that we have lived through a period recently where the current arrangements simply do not operate at all. There has not been a single meeting of the JMC plenary since the current Prime Minister took office.

It is one thing to have a set of intergovernmental agreements, and the JMC is the current form of that agreement, but unless you put some force behind them, they can simply be set to one side by one of the parties to them. That is what motivates us. If we are to do all this work and come to an agreement, let us give it a basis in statute so that we can all have confidence that the agreement will actually bite and make a difference. As to the extent to which you would need the detail or the principles of it set out in statute, I think we would be very open to be part of a conversation that came to a conclusion on that.

**Lord Dunlop:** Thank you.

**The Chair:** We will move on to funding arrangements in more detail now.

Q85 **Lord Howell of Guildford:** Good morning. I must say, as a fellow Welshman, that your approach, Mr Drakeford, is totally constructive and understandable. I relish a great many of your sentiments about the need to get things better in order to see a better union emerge in the future than the arrangements we have had in the past that have created so much frustration. That is my starting point.

How do you see the financial arrangements improving? You have been very critical in Cardiff of the internal market Act, but would you not agree that there is a need for the single market of the United Kingdom to be preserved and developed? I do not think that you want to break away from that single market. That inevitably involves overlap and a number of decisions being taken by the union Parliament at Westminster and by Whitehall. Can you give us a general feeling of how you see finance improving to remove some of the frustrations that you clearly feel?

**Mark Drakeford:** Lord Howell, perhaps I could separate a couple of issues. We will probably not have an opportunity today to talk about the very big picture on the Barnett formula and the way in which funding is calibrated across the union. On that, I was the Finance Minister in the Welsh Government when we agreed a fiscal framework with the UK

Government, with David Gauke as the Chief Secretary of the Treasury at the time. Challenging as it was, and many weeks and months of regular meetings went into agreeing it, we were able to agree a fiscal framework that I think has worked well in the meantime. Again, it is possible, even when different parties are in power in different parts of the United Kingdom, to reach agreement when there is a shared intention to do so.

The internal market Act is a far more specific issue. Of course, I absolutely agree that we need to have a single market within the United Kingdom and a shared set of rules to do so. That is what the common frameworks are all designed to bring about. It was very disappointing for us that the UK Government were not prepared to legislate in a way that allowed those matters to be taken forward by agreement, given that we had all demonstrated that agreement was possible. Twenty-six different areas were all signed off by portfolio Ministers, all of them underpinning an effective and operating single market without the need for the sledgehammer of legislation to override everything that can be achieved by the voluntary co-operation of the four nations.

If the voluntary co-operation was not working, and there was no evidence that people were able to reach agreement, I would have had at least some sympathy with the UK Government saying that a way had to be found through that. In fact, exactly opposite was the case. A huge amount of effort went in at official level involving all four nations, and that effort succeeded. It demonstrated that the United Kingdom can operate successfully by consent rather than by imposition.

When it comes to the specific finance aspects of the internal market Act, I think they are among the most destructive actions that the UK Government are currently taking. They are actions that undermine everything that I think the Welsh Government would wish to achieve. Far from helping to unite the union, every single day they create new tensions between us and go on persuading a growing sector of opinion in Wales that Wales would be better off outside the union.

We have example after example of powers that are devolved to Wales and have been in Wales since the start of devolution, but where the approach of the UK Government is to come in, spend money themselves in those devolved areas, undermining and undercutting devolution, and using that money less effectively. It is less efficient, it is more wasteful, and it stokes political tensions and gives ammunition to people who have come to the conclusion that the union is over and we would be better off outside it. I do not share that view at all, but it is a matter of huge regret to me that I have to roll the stone even further up a steeper hill to persuade people, because the UK Government act in ways that undermine the case for the union rather than strengthen it.

**Lord Howell of Guildford:** Are you talking mainly about infrastructure such as the Newport bypass, and the fact that a great deal of the infrastructure of Wales and England is completely interwoven? Is that what you are talking about, or are there other things as well?

**Mark Drakeford:** No, it is not simply a matter of infrastructure. It operates now at a much more everyday, mundane level. The UK



Government decided that they will not, to our great regret, continue in membership of the Erasmus+ scheme. The whole of education is devolved to Wales and in the normal course of events that funding would come to Wales to replace Erasmus+ for Welsh students. In fact, the UK Government did not do that. They kept all the money in Whitehall. They imposed a UK solution on Wales without any conversations with us and without seeking our agreement, just riding roughshod over the devolution settlement.

When it comes to a scheme for compensating fishers for the impact of leaving the European Union, fishing is entirely devolved to Wales. The normal course of events would have been a compensation scheme with the money coming to Wales. We would have devised a scheme for the Welsh industry, knowing the industry as we do and with the contacts we have with it. Did that happen? No, it did not. The UK Minister decided that he would decide the scheme, that he would keep the money, and that he would invent a scheme that would apply in Wales as everywhere else.

The use of the internal market Act to undermine devolution does not just happen at the large scale. It happens at the everyday scale as well. That is why I think it is so destructive.

**Lord Howarth of Newport:** You mentioned the Barnett formula as part of the wider funding arrangements. Am I right in supposing that, speaking on behalf of Wales, you want to see reform to the Barnett formula? If so, what procedures should be followed to achieve that? What if agreement could not be reached, say because Scotland, which enjoys very considerable advantages under the existing Barnett formula, refused to co-operate? How muscular, to use the word you used a little while ago, should Westminster be in putting right the injustice of the Barnett formula?

**Mark Drakeford:** Lord Howarth, thank you for that fundamentally important question. Many of the answers to it are to be found in some of the reports from House of Lords committees that are far more expert than I am and that have investigated all this.

I understand that it is a fiendishly difficult thing to reform, because once you start reforming formulas there are winners and losers. I am very familiar with it, having been the Finance Minister here, where our local government funding formula is regularly criticised and many demands are made to reform it. Whether you can get anybody to agree on what the reforms should be is an entirely different challenge.

We believe that the Barnett formula, as Lord Barnett himself said so many times, has long outlived its genuine usefulness. It no longer reflects one of the strongest cases for the United Kingdom: that it is a vehicle for redistribution and that it matches money to need. The Barnett formula no longer does that.

Its impact is mitigated for Wales by the fiscal framework that we have agreed. The only way to reform it in the end, I think, is by agreement. You have to be prepared to use the mechanisms of the IGR to put the

Barnett formula on the agenda. I understand why successive Governments have shied away from the struggle that would ensue, but if we were funding the United Kingdom on the basis of matching resource with need, Barnett no longer does that to any satisfactory extent.

**Lord Howarth of Newport:** Do you think therefore that the United Kingdom Government should initiate a process of reform? If Scotland will not play, what should the UK Government do?

**Mark Drakeford:** It would be very helpful if such a process were initiated. It would be a difficult and complex process. As I say, my experience of working with the Scottish Government in a UK context is that they do not approach things on a “We won’t play” basis. They are never shy in making their case, but I do not think they would refuse to engage at all. Just by starting the process of engagement, we would at least have moved on from the current logjam where everybody looks at the Barnett formula, agrees that it is not the right thing but shies away from trying to grapple with it.

Q86 **Baroness Corston:** Does the legislative consent process, or the Sewel process, need to be strengthened or reformed? If so, how do you think it should be done?

**Mark Drakeford:** I absolutely think that Sewel has to be reformed and strengthened. We set it out in our *Reforming the Union* document. I think that the last Conservative Government, led by Theresa May, and with David Lidington as, in some ways, Deputy Prime Minister, worked very hard to preserve the Sewel convention. We had a long series of very challenging meetings involving the Scottish Government, the Welsh Government and Mr Lidington—there being no Northern Ireland Executive at the time—over the European Union (Withdrawal) Bill. That was a Bill that required the consent of Scotland and of Wales.

Because that Government recognised the fundamental importance of preserving Sewel, I felt they worked very hard to try to find a way through that would allow the Welsh Parliament and the Scottish Parliament to give consent. Indeed, the Welsh Government reached an agreement with the UK Government in April 2018 over that Bill. The Welsh Government put a legislative consent Motion in front of the Welsh Parliament and secured a majority for it. For Wales, the Sewel convention was preserved. The Scottish Government, in the end, took a different view.

More recently, I am afraid, the Sewel convention has withered on the vine. I would at least be prepared to understand why, in a major constitutional Bill—on arrangements for leaving the European Union—despite the fact that the Bill did not secure the consent of Wales, Scotland or Northern Ireland, a UK Government would feel they had to go ahead in those circumstances. When they did, the UK Government wrote a letter to the devolved Administrations making it clear that they regarded the overriding of Sewel in that instance as specific, and limited to that instance.

Unfortunately, that has not turned out to be the case. Sewel was overridden again in the internal market Act. As I have already suggested, I think that has been the single most damaging act to the union in the whole 20-plus years of devolution. The case was nowhere near as significant or compelling in relation to the internal market Act as it had been in the withdrawal Act.

Now we see Sewel being overridden not just in matters of high significance; we had an example in the run-up to our election in May with the Animal Welfare (Sentencing) Bill. That was not a Bill that you would think could not have been navigated through the Sewel convention. When it became inconvenient for the UK Government to observe Sewel, they just went ahead and rode roughshod through it. I am afraid that Sewel is in a very much more difficult place than it was even when the first edition of our *Reforming our Union* paper was published. What has happened in the meantime has made it a much less effective part of intergovernmental relations. We have far less confidence in it than we would have had at a time when Governments worked much harder to preserve it.

We put forward two proposals for reform. One would remove the “not normally” formula from Sewel altogether, and would simply say that unless the consent of devolved Parliaments can be obtained, the UK Government cannot go ahead and legislate in areas that are devolved. The other proposal is a system of entrenching the Sewel convention, making it justiciable by entrenching it. For example, if the UK Government were contemplating overriding the Sewel convention, they would have to give both Houses of Parliament in London proper notice of that. Both Houses would separately vote on that proposition. The devolved Government whose consent had not been obtained would have an independent right to make sure that their case was known to the House of Commons, and separately to the House of Lords, in advance of such a vote being held.

Those sorts of practical actions would bolster the Sewel convention in a way in which it clearly is not bolstered at the moment, and might give greater confidence to devolved Parliaments. This is not the Welsh Government withholding consent. This is the Senedd—the Welsh Parliament—withholding consent. It would give those parliamentarians greater confidence that Sewel was being taken with the seriousness that the convention was drawn up originally to demonstrate.

**Q87 Lord Hope of Craighead:** Mr Drakeford, I read your paper, published last month, with great interest. As you rightly said, it offers two alternatives, one of which is simply to delete the words “not normally”, although I have to say that I cannot see, frankly, how that can be achieved without legislation, which the Government are obviously not keen to engage on.

The other is to try to explore more fully what the words “not normally” mean, and how they can be made to work in the interests of the devolved Administrations. Unfortunately, the Supreme Court, which could have done that, was not able to take time to explore that issue in

the Miller case. I think it will be very difficult to get it back before the Supreme Court.

I think this committee has a part to play. Indeed, you make that point in your paper. You invite us to engage in the issue and try to do something to improve the convention with what we have. Could you be a little more explicit as to the way in which we might be able to define it better, by putting forward criteria or steps that should be taken to make the thing work? We have the opportunity to open up the issue for further debate in a way that, at the moment, seems rather closed off.

**Mark Drakeford:** Lord Hope, thank you very much for that and for the willingness to be a contributor to the discussion. As you indicate, at the moment the UK Government are judge and jury on the “not normally” phrase. They decide whether or not something is not normal, and they do not have to justify their decision to anybody else. They can simply assert it. We suggest in our paper that an important step would be for the UK Government to publish a document in which they set out the considerations that they would be taking into account in coming to a conclusion that the circumstances were not normal, and what things would be at play.

Let us flesh out the thinking of the UK Government in a way that the rest of us can understand. Then we can have a better chance of engaging with that, either to say, “Now that you have explained it to us, we can see and we agree that those were not normal circumstances”, or we can say, “Well, we don’t believe that those considerations have been properly engaged in this issue”. Having fleshed out the criteria, and the thinking that lies behind a “not normally” conclusion, let us see the steps the Government go through in order to reach their final conclusion. Where does it start from? If it clears that hurdle, what is the next hurdle it goes through, and so on?

We were disappointed, although we could understand it, that the Supreme Court decided in the Miller case that Sewel is just a political convention. The more we flesh it out, the more we think that we might reach the day when the Supreme Court would think it was justiciable. You would have something that a court could look at and begin to think about whether or not a Government had lived up to their own expression of the decision-making process that they were committed to.

I do not think I have anything more specific to offer. It is for the UK Government, in this instance, to flesh out for the rest of us their thinking processes, what they believe to be material and the steps they would go through. Then we would be in a position to engage and say that we think it is reasonable and helpful and that we can see it from now on, or we could try to improve it. We would be able to be more engaged in it than we have any opportunity to be at the moment.

**Q88 Lord Hope of Craighead:** The problem with the Miller case is that the court had a lot of other things to think about, and I do not think this issue was really given the prominence it deserved. Clearly, if you find a way to get back to the Supreme Court on a case devoted to the issue,

you might be able to get some more meaningful wording from the court. That would be the best solution of all, if it could be achieved, although it is not at all easy in view of what was said in Miller.

I have one more question. Can you see how the timetabling might work for the kind of statement that you suggest should be published? Let us take the internal market Bill, as it was. That Bill went through various amendments, as you know. One of them dealt with the common frameworks problem at the very end of the day. How does the statement you are considering fit into the timetable of the Bill as it goes through the various stages? Can you enlarge a bit on that?

**Mark Drakeford:** I can try. It is quite complex and there are arguments for more than one potential position. If we were debating it today, the Welsh Government's position would probably be that it would be relatively late in the progress of a Bill through its parliamentary stages, so that the Welsh Parliament was making its mind up on the closest-to-final version possible of the proposals. We have had some difficult moments over the years of devolution, in which the Welsh Senedd has been asked for its consent to a Bill that has then undergone material amendment post that consent being given, and we have had to go back and lay a further consent Motion to catch up with the parliamentary process.

Our view would be that it should be relatively towards the end of the process, when the Bill is in as settled a state as it might be, but the Government would have to be prepared to provide time for it to be done properly. When we talk, as we do, of both Houses of Parliament being able to take a vote, and being able to see the Government's case as to why consent is being overridden and the devolved legislature's case as to why that should not be so, we have to build in a bit of time to allow it to be done properly. If it is done in half an hour at the hurried end of a lengthy process, it will not give Sewel the meaning that it deserves. It should be towards the end, but with proper time built in to take it seriously.

**Lord Hope of Craighead:** Thank you very much indeed.

Q89 **Lord Faulks:** Good morning, First Minister. I want to ask you one further question arising from what you have just said in relation to the Sewel convention. I entirely understand your desire, as it were, to make the convention work much better than it has done recently.

Ultimately, there might come a stage when, despite the improvement in the process, there is a fundamental disagreement. The Supreme Court in Miller said that it did not think that the Sewel convention was justiciable. Whether it was right or not, that is what it decided. In the event that there is a continued issue or dispute, despite improved communications, ultimately do you think it is appropriate that the Supreme Court or any other court should decide these issues?

**Mark Drakeford:** From our perspective, we would prefer that Sewel could be heard, that a case could be heard, in a court of law, so that it is more than a political convention and more than a political decision. I do

not think that means that it necessarily takes the whole decision out of the political arena. It just means that the rules by which the decisions in the political arena are made have been independently assessed and confirmed. Political decision-making would continue, but it would continue within a framework that has been reviewed, considered and concluded on by a group of people who do not simply have political imperatives that drive them to a conclusion that an impasse has been arrived at and force majeure must be deployed to resolve it.

I share many politicians' queasiness over decisions going from an elected forum to a non-elected forum, so I do not say that lightly. As I said, I am not arguing for a wholesale contracting-out of decision-making. I am arguing that the rulebook by which decisions are made should have some form of independent oversight of them, so that they are not all in the hands of one party.

**The Chair:** Let us move on to further devolution. Baroness Fookes wants to start on this.

Q90 **Baroness Fookes:** First Minister, you have called for the devolution of further powers to the Welsh Parliament. Could you indicate which powers those might be?

**Mark Drakeford:** Certainly. Thank you very much for the question. There is a wide spectrum of things that the current settlement does not get right, where the line between reserved and devolved matters has not yet reached the sustainable settlement that I would like to see. I would like us to be in a position where we do not spend our time arguing about whether things are devolved or not because we have a settled position on them.

The current settlement is full of ragged edges. I will give you a very small example. When the last Government of Wales Act was put on the statute book in 2017, it concluded that public transport should be devolved to Wales, so we are in charge of the bus system, the train system and the ports in Wales. Hovercrafts, however, remain a reserved responsibility. Is there anybody on the call today who can help me understand why the UK Government felt it necessary to retain control of hovercrafts in Wales while devolving everything else? I have never been able to discover it myself. The system is shot through with anomalies of that sort.

I will give two examples of where we think the system needs to be improved. I am sure that many of you will have seen the commission report, chaired by Lord Thomas of Cwmgiedd, on the devolution of justice to Wales. That is a compelling report, I believe. It closely argued on practical rather than constitutional grounds why policing in Wales and community safety in Wales would be better run, and more effectively delivered for the citizen, if those responsibilities were devolved to Wales, as they are to Scotland and to Northern Ireland. That is a very big project. I, at least, am one of those who would be prepared to see its implementation on a step-by-step, incremental basis. The commission

argued for it to be done in a single move, but I can see arguments for its being done gradually. That is a very big issue.

There is a much smaller issue, but one which I think throws more light on the current state of constitutional relationships. The 2017 Act, put on the statute book by a Conservative Government, put in place a procedure in which the Welsh Government could make the case for new legislative capacity to be devolved to Wales. It is quite an arcane procedure, but the procedure is there.

We thought that we ought to test the procedure. Back in January 2018, we agreed with the UK Government that we would test the machinery by putting forward a proposal for a vacant land tax in Wales. We set off in a hopeful spirit and for quite a long time we made progress with it. There are tests in the Act, and we set about trying to meet the tests. We got to a point in March 2020 when we thought we had reached agreement on it all. There was then a long period of radio silence by the UK Government. I am prepared to concede that that was when coronavirus was preoccupying us all. When we eventually got a reply from the UK Government, in August 2020, it was to try to take us back to the very start of the process, asking us for lots of information and lots of steps to be gone through that we had already completed. We responded to that in September 2020, and we have heard nothing since.

That is a much smaller part of the devolution forest, where we were attempting to use a process which the Government themselves had put on to the statute book. While we had a Government who were interested, we made good progress. Now we are dealing with a Government who I think have a much more unilateral view that nothing further should be devolved, and that the devolution settlement should be rolled back in the opposite direction. In that context, the whole of that machinery has just fallen not just into disuse but, I would say, into disrepute. Despite our many efforts to make it work, the UK Government have dug their heels in, it seems to me, and are refusing to take it forward. It is all the more galling from our point of view when we see a UK Minister suggesting that such a vacant land tax might now be introduced by the UK Parliament.

That is the sort of spectrum we are dealing with. As I say, we need to work together to reach a position where we are not all spending time trying to get the settlement into the shape it needs to be in.

**Baroness Fookes:** When you received the decision to go back to square one, which I think is what you were saying, did it come from civil servants, from Ministers or from the intergovernmental departments—whatever you like to call them? Where exactly was the “no” coming from?

**Mark Drakeford:** It came in a letter from the Financial Secretary to the Treasury, so it was a ministerial decision. At official level, we believed—I must not speak for Treasury officials—that we had all agreed that all the necessary information and the different stages set out in the Act had been completed. I believe it was a political rather than an official decision to reverse a position that we thought we had agreed.

**Baroness Fookes:** Have you contested it?

**Mark Drakeford:** Yes, we have. As I said, we replied in September expressing our dissatisfaction, as you would imagine, with being asked to go over a process that we were sure we had worked through faithfully and in quite a lot of detail, and with genuine constructive engagement from UK Government officials to try to make the process work. We expressed our disappointment and said, "We think you have everything you need".

**Baroness Fookes:** Thank you.

Q91 **Baroness Suttie:** Thank you, First Minister, for your very measured and considered responses this morning. I would like to follow on with the flip-side of Baroness Fookes's series of questions. In the better union that you would like to see, and for so long as Wales remains part of the United Kingdom, what powers do you believe should continue to be the responsibility of the UK Government?

**Mark Drakeford:** Thank you for the question. I am probably offering you a more personal view than would necessarily be shared by the wider public in Wales, or even some of my political colleagues.

I myself have always believed that we are better off having defence responsibilities discharged at UK level. For the most part, foreign policy should be a UK responsibility, albeit with an opportunity for devolved Governments to contribute our thinking to it. I think it is properly discharged at the UK level.

This is where I begin to get into slightly more contested territory. I have always believed that social security should be a UK responsibility. My own case for the United Kingdom is not a sentimental case. My case for the United Kingdom is always a practical case. I think that we do better when we act together, and that Wales does better. In that sense, the great engine of redistribution that the United Kingdom can be is in Wales's interests. The social security system, when it is operated with that spirit behind it, is part of the engine-room of a redistributive United Kingdom. In that sense, I think it is better done at UK level.

In recent times that has become a more uncertain area. The 2010 UK Government transferred a number of social security-type responsibilities to Wales against our wishes. We have become responsible for the Social Fund in Wales. We have become responsible for council tax benefit in Wales. Neither of those was a welcome move. There have been some push powers from Westminster, and there have been some pull factors as well, particularly at the Scottish end. The Scottish Government have been keen to obtain more powers in the social security field. My personal view is that social security ought to be part of the glue that keeps the United Kingdom together and therefore is best exercised at UK level.

**Baroness Suttie:** To be clear, do you feel that, for the better union that you would like, you would like to see the transfer of powers in both directions, with some repatriated to Westminster?



**Mark Drakeford:** I am not arguing for repatriation, although, as I say, I would have argued at the time that the safety net provided by council tax benefit and by the Social Fund was better operated as a UK-wide responsibility. It may be too late to put that bit of Humpty Dumpty back together again.

On the further devolution of social security, while I see the case for the administration of the benefits system being closer to where people live, and I am much more open to the idea that the administration of the system could be devolved in part, the essence of a common social security system, where people in all parts of the United Kingdom have that safety net strongly around them, seems to me to be part of what makes the UK worth having.

Q92 **Lord Faulks:** First Minister, I want to ask you about justice. I was proud to be called to the Bar of England and Wales. I have appeared in Welsh courts and I have usually been well received there, on the understanding that I do not go there too often, of course.

Lord Thomas's report was very well considered, as one would expect. Do you think the time for separating the England and Wales jurisdictions is really right, given what you have described as the intense fragility of the union at the moment, and given the way the Scottish Government in particular play the separate legal system as a real card in favour of separation and national government?

**Mark Drakeford:** I think the case for a separate jurisdiction for Wales is now pretty compelling. Lord Thomas certainly makes that case in his report. He makes it, as I say, on practical rather than constitutional grounds. It is simply the case that, every day, law is being made that applies only to Wales. I think he said that he could not find another example in the world where there were two legislatures sharing a single legal jurisdiction.

Wales has been the primary law-making legislature since 2011. The law in Wales is now, and will inevitably increasingly be, separate and distinctive. A separate jurisdiction would properly reflect that. I am sure we will be very pleased to welcome you to Wales on many occasions, just as members of the England and Wales Bar are able to practise in Northern Ireland, but they have to be able to demonstrate that they have the necessary competence in devolved law in order to do so.

For us, this is not at all about erecting barriers against people being able to practise. It does not even mean that people could not sit as judges in both jurisdictions. It would just be recognition of the facts on the ground, and the fact that the Parliament here makes law all the time, and it is distinctive and different law. The way the jurisdictions are lined up behind that needs to reflect that growing reality.

Q93 **Lord Howarth of Newport:** First Minister, you have used the metaphor of a devolution settlement. That, of course, is normal parlance. Politics is always dynamic. A previous Secretary of State for Wales spoke of devolution as not an event but a process.

Do you think it will be possible to achieve a state of equipoise between what is reserved and what is devolved that could be stable and permanent, or is the kind of devolution settlement that you have spoken of actually a will-o'-the-wisp? Are we not going to have to continue to live with uncertainty and friction?

**Mark Drakeford:** I would make a distinction, Lord Howarth, between stable and permanent. It ought to be possible to reach a period of stability, but I do not believe it will be permanent. You are right, of course, that these things are dynamic and they will continue to evolve. Views will change over time, but at the moment I think we have instability and impermanence.

I would like us to get to a state where we felt that the bulk of the work was done, and that we had a sense of stability about the settlement as a result. That is not to say that I believe that that is then it—aspic—and we have done it. There will always be new ideas, possibilities and dynamics in the political field. Yes to stability and no to permanence. That would be the formula that I would be keenest to—*[Inaudible.]*

Q94 **Baroness Drake:** Mr Drakeford, I want to come to the position of England in any future constitutional arrangements. There are two parts on which I would like to seek your view. Do you support the Government's proposal to repeal the EVEL procedures in the Commons? From a wider perspective, what is your view on England having a distinct voice in the UK's constitutional arrangements?

**Mark Drakeford:** I do not want to look as though I am ducking the question, but I really think that on the first question it is not for me to have a view. I am the First Minister of Wales. I am very keen never to put myself in a position where I look as though I am trespassing into responsibilities that lie properly with others, just as I try to argue that others should not trespass into responsibilities that are devolved to Wales.

There is a significant difference in the way in which the current UK Government are going about the whole issue of English votes for English laws. When the procedure was introduced, it was very high on a lot of political agendas. It is what Prime Minister Cameron chose to focus on in his first response to the Scottish referendum. The idea could not have been put into a hotter political atmosphere. There was a great deal of debate about it, and my Welsh MP colleagues were much better placed than me to have a view on all that.

The system came about as the result of a very high-profile set of debates. Its demise seems to have been smuggled out in one of those 4.30 pm Friday afternoon statements when Governments go about things on which they are not desperately keen to get a great deal of attention. I think you can distinguish them in that way. Whether it is the right idea, as I say, is not particularly for me to say.

I took the trouble to bring a book with me. You probably cannot see it very well. It is called *Englishness* and it is written by a Scottish researcher and a Welsh researcher, Professor Richard Wyn Jones, a good

friend of the Senedd. It deals with the whole issue of England's place in a UK constitutional settlement in a far more thorough and nuanced way than I could in front of the committee. I am not just waving it at you for the sake of showing that I have a book on my desk. It would genuinely be a very useful text for the committee in grappling with the very important question that Baroness Drake has put to me.

**The Chair:** We know Professor Wyn Jones. He has been to the committee.

**Mark Drakeford:** That is very good news. His book says that, of course, we will not get to a settled position for the United Kingdom unless the English question is addressed in it. I looked with interest at the evidence that you had from the metropolitan mayor of Manchester, Andy Burnham, only last week. I thought he had some very interesting things to say, distinguishing between nations—Scotland, Wales and England—and the regional dimension that exists within England itself, and how an overall constitutional settlement might have to take account not simply of the issue of England as one of the four nations, but of the fact that within England itself there may be an appetite for greater devolution of powers and a settlement that is less varied in the way devolved powers within England have been allocated.

That is a very proper part of this debate, but not one in which I feel that I have a great deal of expertise, and I have a great deal of hesitation about intruding into things that are properly the responsibilities of others.

**Baroness Drake:** I will come back on that point, if I may. Obviously, we have been receiving evidence from people who have the view that there should be a distinct voice in the UK constitutional arrangements for England. Would there be, in your view, implications for Wales if there were such a distinct voice, given the population ratios? Would it, for example, risk making the UK Government even more muscular or unilateral? Do you think it could be easily balanced as regards what people in Wales would need to feel that the union was working for them as well?

**Mark Drakeford:** I think it can be balanced. I do not think it is easy. We put forward a proposal. It is one of the more tentative proposals in our paper because it genuinely is there for debate. We put forward a proposal for a form of qualified majority voting inside the United Kingdom if there were ever an occasion when it came to needing to resolve an issue in that way, so that England could never be outvoted by the other three nations ganging up, to use that pejorative term, on England, but that England could never operate unilaterally unless it had the support of at least one of the three devolved Governments. I am not putting that forward as a last word on this sort of mechanism, but it demonstrates that you can find ways to balance it.

I never want to sound as though I think that representing a nation of only just over 3 million people puts me in exactly the same position as somebody who has to represent a far larger population. We have to find a way of accommodating that. I think it is doable, and we have put

forward some suggestions to promote debate about the practical ways in which you could have opposition, and where the rights of England, as by far the largest component in the United Kingdom, could be properly protected while still offering assurances to the other component parts that they cannot just be overridden by a larger, dominant and assertive neighbour.

**Q95 Lord Howarth of Newport:** Can we talk about the sovereignty of the Parliament of the United Kingdom and the shared sovereignty that the Welsh Government have proposed? You said in your Government's document that "the traditional doctrine of the sovereignty of Parliament no longer provides a firm foundation for the constitution of the United Kingdom". You spoke to us earlier of your desire to see strongly entrenched devolution. Under our constitution, how can devolution be entrenched?

**Mark Drakeford:** Thank you for both of those questions. I will say a bit, first of all, about the sovereignty issue. One way or another, I have been knocking around in devolution since the very beginning of it. I have no doubt at all that in those early days the model of devolution that was in everybody's mind was one in which sovereignty was retained at Westminster and would be handed out to new institutions across the United Kingdom, and that, in the end, Westminster could take things back as well as handing them out. It was held in the centre, and that was very much the model.

Twenty years on, the facts on the ground simply do not reflect that model at all. In Wales today, all the decisions that are made about our health service, our education service, our local government service, transport in Wales, culture, sport, art and agriculture—the list goes on—are made here in Wales. Sovereignty is exercised here every day. It is now exercised de facto if not de jure in four different parts of the United Kingdom, and the world has moved on from the way it was when devolution was first conceptualised and put into place. That is why I talk about sovereignty now being dispersed.

In any practical, factual day-by-day sense of the term, it is exercised in four different nations. We should therefore catch up with that as a concept. It is not far at all, I believe, from what Mrs May said in a very important lecture. She gave it in Edinburgh a month before she stood down from being Prime Minister. There was much of it with which I did not agree, but I thought the fundamentals represented an understanding on the part of the United Kingdom of the way things had changed over 20 years. She described the United Kingdom as a voluntary association of four nations in which power cannot now just be rolled back to the centre. It is, in the popular sense, located at the different Parliaments. We choose to pool it for the common purposes that we discharge better together. I tried to give an indication earlier of the things where I think we would choose to do that.

How do we entrench devolution? To an extent, it is already entrenched. It is already the position that the Welsh Parliament cannot be wound up without its own consent. That is already in statute. There are some

statutory defences already. We covered a bit of this earlier in the session, when I was asked whether or not I would want to see the force of the law behind the intergovernmental agreement. I think, if we had the force of law behind the intergovernmental agreement, that would be another way in which devolution arrangements were entrenched; we would have reached that agreement and given it some force beyond the agreement of the parties that had reached it. I think there are ways in which we can entrench the current settlement.

Mostly, in the end, it is a matter of political will and political agreement. That is why I started the session by saying that we need an urgent debate, with genuine political energy behind it, to come to a sense of what the future of the United Kingdom should best be. Then there will be proper political buy-in, and that will entrench the agreement. It can be supplemented by statute, but I doubt that it can be substituted by statute.

Q96 **Baroness Doocey:** You have made it clear that you see the future of Wales as a devolved nation within the union. You have also said that this is not, of course, a universal view. Should the UK's constitutional arrangements recognise an explicit right of secession for Wales?

**Mark Drakeford:** I am turning the question into the negative, I guess, but I certainly do not believe that any part of the United Kingdom can be forced to be a member. If it is the settled will of any part of the United Kingdom to leave the union, a way for that to happen has to be found. I do not think you can hold anybody against their will. Imagine if the European Union had said, "The United Kingdom has voted to leave the European Union, but we're not going to let you". Some of us might have been glad to hear that, but you could not imagine it. Equally, it seems to me that, if it is the settled position of any part of the United Kingdom that they wish a different form of constitutional future, that has to be allowed to happen.

**Baroness Doocey:** I am not sure that you have answered the question. Do you think there should be an explicit right of secession for Wales?

**Mark Drakeford:** I suppose the answer to that has to be yes. If people in Wales choose to leave, they should have the right to leave.

**Baroness Doocey:** Can you say what, in your view, are the values that all the people of these islands share? How do we enhance them?

**Mark Drakeford:** I am not very good on values, to be honest. It is not the basis that I use for my case for the United Kingdom. I am a socialist myself. In that sense, I believe that the interests of a working person in Tonypany are the same as those of a working person in any other part of the United Kingdom. If those are values, they are shared, I guess.

My case for the United Kingdom, as I say, does not rest on British values, which often seem to me to be at such a high level of abstraction that they are shared by many other people in many other parts of the world. My case for the United Kingdom is the practical case that we all do better when we are part of the larger union. We are better able to

discharge common responsibilities in that unit. There is a strong case for me for the United Kingdom in that way, but it does not rest on what I think is the rather vanishing concept that there is a set of values that are unique to the United Kingdom that make us exceptional, and that those are the things that bind us together.

**Baroness Doocey:** Thank you.

Q97 **Lord Hope of Craighead:** I want to come back to the idea of an explicit right to withdraw. I wonder whether we have something to learn from Article 50 of the TFEU, the Lisbon treaty. First of all, it gives any member state the right to withdraw from the Union. Then it goes on to say that in that event the Union must negotiate and conclude an agreement. That agreement, of course, would set out the arrangements for withdrawal and the future relationship with the Union.

If one is contemplating putting such a right into statute, would you favour that addition? Just to walk out without some sort of arrangement and negotiation would seem to be inviting an awful lot of problems to be resolved after the event. Would it not be better to do it before leaving?

**Mark Drakeford:** I sometimes have exactly that conversation with some of my nationalist colleagues here in Wales. I probably would not stick entirely to this argument, but I say to them that the main difference between us is that I want to solve the problems before we leave, and they want to solve them after we leave.

Yes, I absolutely agree. It is not enough to have a simple right to leave. You have to have a process by which all that could be triggered in the first place. What would be the threshold that was required? I referred to the settled will. How would you know that it was the settled will? If it were the settled will, of course there would have to be a proper process for resolving the many, many issues that there would be if that were to be the case.

There is lots to learn from Article 50. Lots of it is about the inadequacy, in the end, of the arrangements that Article 50 proposed, presumably because when they were drawn up people did not think they were planning for a realistic prospect. If we think it is more realistic that some parts of the United Kingdom may make that decision, let us plan for it properly and have an equivalent of Article 50 that would be a more robust set of arrangements to meet that day, not that I want that day to come.

Q98 **Lord Faulks:** I have a slight change of subject, First Minister: the House of Lords. In the document, *Reforming our Union*, you make some suggestions for reform of the House of Lords, one of which is an elected Chamber. I do not mean this to be disparaging, but it is not a novel suggestion. It is one that has been discussed for many years but has so far not come to pass. You also make a suggestion for better representation from Wales.

Let us assume for the moment that an elected Chamber is a little way off. Do you have any suggestions now from the Welsh perspective for the

better working of the constitution? Are there any reforms that could be made to the House of Lords?

**Mark Drakeford:** I am not terribly well placed to offer any thoughts on that. You are right that we propose an elected Chamber. The second part of what we propose is not particularly novel either, because it is very much in the current debate. It goes back, in a way, to the question I was asked by Baroness Drake about the position of England in a constitution for the future. As you know, a format we propose for the House of Lords is that it would be a place where the different parts of the United Kingdom were represented in a way that would provide some of the glue that I talked about, to make every part of the United Kingdom feel that it had a place where its interests could be spoken up for.

To the extent that the House of Lords already exercises a particular responsibility in relation to UK constitutional issues, partly because it has asserted it, our proposals would make that explicit. It would make it part of the purpose of the House of Lords. Until that day comes, I do not think I have any very particular thoughts.

If you would indulge me for a moment, I want to put on record our huge appreciation of the way in which individual Members of the House of Lords argued Wales's case during the passage of the internal market Bill. We had the most fantastic support from Cross-Bench Peers and members of all political parties, putting the arguments, parts of which I have rehearsed this morning. Given the significance of that Bill, we could not have had a better set of standard bearers. When we had really high-stakes issues, we as a Welsh Government had very close contact with the Lords and, it would seem to me, a very successful putting of our case. In the end, the Government were able to mobilise their numbers and they won the vote, even if they did not win the argument. On the argument side of things, the House of Lords was a huge asset to us.

Q99 **Lord Hennessy of Nympsfield:** In your *Reforming our Union* document, you rightly describe the system of constitutional change that we have operated before. System is not really the right word. It is inspired or uninspired ad hocery, depending on how you view the result. You want a more holistic approach. Given that we are, as Philip Ziegler, a very shrewd observer of these things, once said, a deeply back-of-the-envelope nation, how would your proposed convention get round that? Where would you find the people to be on the convention? What would be their remit? I know it is a bit of an unfair question this late in the proceedings, but help us to take the next step.

**Mark Drakeford:** I do not want to sound as though I do not see any advantages in the ability to be nimble and to reinvent things to meet urgent needs, but my experience of the pandemic has reinforced my belief that a wholesale reliance on ad hocery is not a sufficient way of dealing with the huge demands that come our way in a complex and global world.

There is a wide spectrum of codification of constitution issues. A written constitution does not have to be at the heavy duty and hugely detailed

end. You can have written aspects of a constitution that are more at the thinner, principled end of things. On the whole, I am more attracted to that.

The convention, as we saw it, and as my colleague Carwyn Jones usually articulated it, would be a bringing together of political leaders, of course. More than just that, it would need a body of expertise, either directly as part of the convention or immediately available to it, and it would need a willingness to go beyond that rather charmed circle and have a line out to the engaged citizenry. I am not going to say a citizens' convention, a citizens' jury or any particular mechanism, but we have always envisaged the need to have, alongside the convention, a direct line to an engaged group of citizens who would go on the journey with us. The issue of the extent to which we codify and operate as a union would be part of the discussions that the convention would have.

My own view is that to rely simply on the unwritten ways and the making it up as we go along ways is not adequate by itself. I am not dismissing them entirely, because they have some strengths, but they have been badly exposed at various points in the last 16 months.

**Lord Hennessy of Nympsfield:** Thank you.

**The Chair:** First Minister, we have covered an awful lot of ground. You have been very thoughtful in the answers you have given us. You have given us a lot to think about and a lot that I think we will wish to reflect on and discuss among ourselves. Thank you again for giving us your time on what is a remarkably busy day for you. We are very grateful to you. Thank you very much.

**Mark Drakeford:** Thank you all very much indeed. I look forward to reading the report at the end of your considerations.