

SENEDD - INTRODUCTION AND COMMENT ON LORD HODGE LECTURE

INTRODUCTION

Annwyl gyfeillion. Noswaith da. Gadewch imi ddechrau gan ddiolchi chi am eich gwahoddiad i fod yma yn eich cwmni heno. Diolch am eich croeso mor garedig.

Mae'n bleser mawr imi cyflwyno fy nghyfaill a'm cydfarnwr, Patrick Hodge, yr Arglwydd Hodge, Dirprwy Llywydd Goruchaf Lys y Deyrnas Unedig.

Good evening. Thank you for your invitation to join you this evening and for your warm welcome. It is a great pleasure to introduce my friend and colleague, Patrick Hodge, Lord Hodge, Deputy President of the Supreme Court of the United Kingdom.

Patrick is a Scotsman. Although he studied history at university in Scotland and embarked on a career as a civil servant in Scotland, he saw the light, read law at Cambridge and then had a distinguished career at the Bar in Edinburgh and as a Scottish judge, before his appointment to the Supreme Court in 2013.

In that capacity, he has sat on most of the important cases decided by the Supreme Court in the last decade – including both *Miller 1*, *Miller 2* and the *Rwanda* case – and has made an immense contribution to the jurisprudence of the Court.

His subject this evening is “The Supreme Court Fifteen Years On: Continuity and Change” and we greatly look forward to his lecture.

[Lecture by Lord Hodge]

A short footnote from me if I may.

Over the last twenty years or so – coinciding with the period of political devolution – we have seen important changes in the administration of justice in Wales intended to ensure that it is responsive to the needs of the people of Wales. These have played a major part in establishing the separate identity of Wales within the legal system of England and Wales. In particular,

- The coming of devolution meant that legal challenges to the decisions of the newly created institutions and other public bodies in Wales required to be brought, heard and decided in Wales. Wales took full advantage of the general reform of public law hearings in England and Wales which occurred in 2009 with the result that the Administrative Court now sits throughout Wales as required, deciding issues of public law
- Both the Civil and Criminal Divisions of the Court of Appeal sit frequently in Wales, the only place where they sit regularly outside London..
- Wales is served by a professional judiciary with a strong Welsh identity.
- Every effort has been made to facilitate and promote the use of the Welsh language in courts in Wales.

A significant milestone along this road was the inaugural sitting in Wales of the Supreme Court of the United Kingdom in July 2019. The Supreme Court is, as we have heard, the final court of appeal for all three jurisdictions within the United Kingdom: Scotland, Northern Ireland and England and Wales. It also plays an important constitutional role in ruling on the competence of the devolved legislatures.

The Supreme Court normally sits in its home in Parliament Square in London. It had previously sat once in Edinburgh and once in Belfast. On this occasion we sat in the Senedd in Cardiff Bay. The Court comprised our then President, Lady Hale, the Deputy President, Lord Reed, Lord Sales, Lord Thomas of Cwmgiedd and myself. We were given a wonderful welcome by the staff of the Senedd, some of whom I am delighted to see here this evening. The intention was that we should function in Cardiff just as we would if we were sitting in Parliament Square in London. The proceedings were live-streamed as are all our proceedings. We heard four appeals during the week, handed down a number of judgments and made a reference to the Court of Justice of the European Union – the United Kingdom was still a member of the European Union at the time. Extensive use was made

of the Welsh language in court, including the only reference ever made to the Court of Justice of the European Union in Luxembourg in both English and Welsh. (When the response came from Luxembourg it was, I regret to say, only in English.) (*X v Kuoni Travel Ltd* [2019] UKSC 37; [2021] UKSC 34)

As it happened, none of the appeals heard that week concerned a Welsh devolution issue or legislation made by the Senedd. One of the cases had a Welsh connection in that it concerned miners' compensation and the claimant was a Welshman resident in Wales. The applicable law in that case was that of England and Wales. Another case was a close miss. It concerned planning permission for a wind farm in the Forest of Dean, just across the border. (I explained to our then President, Lady Hale, that the reason there were comparatively few appeals from Wales was that the Welsh judges were so good that they got it right the first time. She was, I am sorry to say, sceptical of this explanation.)

Nevertheless, the decision that the Court should sit in Wales was an appropriate recognition of the changing legal status of Wales. Since the Covid pandemic, the Supreme Court has sat outside London on only one occasion – in Manchester to hear an appeal concerning the Manchester Ship Canal. However, I very much hope that there will emerge a settled pattern of the Supreme Court sitting in the capital cities of the nations of the United Kingdom and that it will soon be able to sit in Cardiff once again.

On a personal note, I can tell you that the sitting of the Supreme Court in Wales was, for me, one of the high points of my career in the law. As a Welshman, born and brought up in Pontypridd, the whole week was a highly emotional experience. I was bursting with pride to be able to play a part in the Court's sitting for the first time in Wales.

During one of the many social events which accompanied the sitting in Cardiff – they were many and they were glorious - a beautiful document was presented to

the Supreme Court by the Legal Wales Foundation. On it is inscribed the following statement, taken from the Laws of Hywel Dda, as to the role of a judge.

“Brawdwr a dyly gwrandaw yn llwyr, cadw yn gofawdyr, dyscu yn graff, datganu yn war, barnu yn trugarawc.”

“A judge is to listen fully, keep in memory, learn acutely, pronounce courteously and judge mercifully.”¹

The document now hangs in pride of place outside Court 2 in the Supreme Court in Parliament Square.

To my mind, these are words of great wisdom and humanity, coming down to us over a thousand years and an inspiring statement of what judges in any age should be trying to achieve. It is a statement to which Lord Hodge and I, and all of our colleagues in the Supreme Court, will continue to aspire.

Diolch un waith eto am eich croeso mor garedig, heno.

¹ Laws of Hywel Dda, Demetian Code, Book II. During the week the members of the Supreme Court also attended a lecture by Dr Sara Elin Roberts on the laws of Hywel Dda.