

Chancellor of the Duchy of Lancaster's speech at Law Society of Scotland: 24 June 2019

Good afternoon, and thank you very much for inviting me here to address the Law Society of Scotland.

I'm always glad of any excuse to come back to Edinburgh. It's a city that has endless interest and fascination, a weight of history.

But also, this is a place that over the centuries has made enormous contributions to philosophy, to literature, to political, and of course, to legal thought.

And I'm very well aware, as somebody brought up in England, representing English constituency in the House of Commons, that Scotland has its own rich legal heritage stretching back almost a millennium.

And Scots law has certainly come a long way from its feudal origins, but it remains today a lively and important stream that interweaves with the legal traditions of other parts of the United Kingdom.

And I do actually think, that when we talk in the UK about our constitutional history, we do need to recognise Scotland's contributions.

We need to be talking about the Declaration of Arbroath as well as about Magna Carta.

When we talk about law, we should be ranking Stair along with Blackstone or Cooke.

And if we look at today's Parliament, you have Scottish jurists like Lord Mackay of Clashfern, like Lord Hope, still playing an active role, heard with respect, contributing something very important to parliamentary deliberations from a Scottish, and particularly from a Scottish legal perspective.

And that brings me to my topic today, on the future of devolution.

Just last month, we marked twenty years of devolved government, which has transformed the constitutional landscape of the United Kingdom.

And as we recognise that anniversary and mark the achievements of the devolved parliaments, I want to talk today about how the UK Government sees the future.

I'm going to talk about how Scotland's two levels of government can work together to deliver for citizens and what we are doing to contribute to that future together.

Now, the UK Government's position is clear.

Our vision for the nations of the United Kingdom is of strong devolved parliaments within a strong United Kingdom.

Not as some half-in-half-out compromise.

Nor something to tolerate reluctantly.

Nor a temporary stepping stone to a different constitutional future.

But as the settled state.

Because devolution is not something that sits in opposition to being a unionist.

It goes hand in hand with it.

So today I want to challenge some of the assertions that are often made about relations between devolved and central government.

That they are supposedly at their 'lowest ebb'.

Stalled.

Broken down.

Because in my experience, that is simply not the reality.

Now, yes, there are very clear differences between us on matters of substance, on issues of great importance.

But divergent political views – however strongly felt – have not prevented us from working together.

Intergovernmental relations are not defined by fixed moments, or set-piece events.

Good relationships don't begin and end with a meeting in Bute House or Downing Street.

Rather, it is a culture of joint working and constant dialogue embedded between the governments that continues in the background, usually away from the headlines.

And the scale and breadth of that joint work is far greater than is often appreciated.

It has seen our officials cooperating to map out the new UK-wide common frameworks we will need once we have left the European Union.

This has been done collaboratively.

Not held tightly from a desk in Whitehall, but co-designed to work for the

whole of the United Kingdom.

Responding to the message from business here in Scotland that what they want is certainty and a clear message from their two levels of government.

And that work has shown that more of those UK-wide frameworks can be light-touch than we first thought, or even can be handled, in many cases exclusively, at the devolved level.

And that we have now whittled down the areas in which we disagree to just four.

Now, official-level work can only take you so far, though.

I have always placed great importance on maintaining proper working relationships with my colleagues in the Scottish and Welsh Governments.

Acknowledging where we disagree but keeping a regular, candid and genuine dialogue.

Whether that's through the Joint Ministerial Committee on EU Negotiations,

... which now aims to meet monthly, with a new Ministerial Forum reporting into us as well.

Or whether it's the First Ministers joining meetings of the UK Cabinet Committee responsible for managing EU exit preparedness...

... recognising there is a mix of devolved and reserved responsibilities in play,

... and that citizens expect their governments to come together on matters of national importance.

And I hope to embark on similar work with ministers from a Northern Ireland executive if there is agreement on having that restored.

Now I know that some have said that these meetings are all well and good, but they don't achieve anything.

That we talk past each other,

... and can't actually agree on anything.

But actually, look at what we have managed to agree.

We agreed a set of principles to underpin our work on common frameworks.

Amongst other things to enable the UK internal market to function...

And just last month we agreed again that as that work continues the UK Government would not bring forward any regulations to freeze the existing EU rules...

... and the devolved governments would not make any changes to that status quo.

And when there were criticisms of the EU (Withdrawal Bill) last year we made changes...

... and we reached an agreement with the Welsh Government that they were able to say respected the devolution settlements.

Now, that required patience and good faith.

And time. Time invested between us as Ministers to see whether we could bridge the gaps in our positions.

I remember sitting in the Cabinet Office with Mark Drakeford – before he became First Minister of Wales- and with Mike Russell, going through the draft agreement.

Line-by-line.

Paragraph-by-paragraph.

Until we all felt that we had something that we could take back to our respective governments for collective consideration.

Now, the Scottish Government, as we know, ultimately chose not to join the Welsh Government in the agreement that we had worked on...

... but the pragmatic approach that we subsequently both took meant that in practice we were able to continue to work together.

So when I hear that relations have broken down or have plumbed new depths, I do think we need to do a better job at setting out exactly what the nitty-gritty work looks like

... and how important it is that people actually see the evidence of their different levels of government working together, from City Growth deals boosting local economies right across Scotland, to new sleeper trains providing better service and connectivity to passengers.

Modern intergovernmental relations within the United Kingdom are nuanced.

It is not always the devolved administrations lined up on one side and the UK Government on the other. And the issues are not always binary.

Sometimes one Minister raises an issue that the other does not feel so strongly about.

Or asks for an amendment to legislation that the other can live without.

But we all agree that we need to ensure we have the right structures to allow those discussions to be worked through.

And that's why we are now conducting a review – kicked off by the Prime Minister and the First Ministers – to seek to agree where those structures

can be improved.

We've already made significant progress on a number of issues, such as setting out that devolved administrations will have an enhanced role in the next phase of EU negotiations and establishing common frameworks.

And while conversation and consultation will always remain at the core of our work together, we are working, too, to strengthen our dispute resolution mechanism.

Because as the UK leaves the EU, we want to ensure our system is equipped to handle the range of potential differences and unique circumstances.

But I don't just look at the role of the UK Government through the prism of intergovernmental relations.

Strengthening devolution also requires the UK Government to listen and to act.

To support devolved governments as they develop and to champion effective devolution as the best model for the nations of the UK.

That is what we have done throughout our time in government.

We supported the Smith Commission...

... and took through the Scotland Act to implement its reforms.

We set up the Silk Commission in Wales...

... that led to a refreshed Wales Act.

And that work to ensure strong devolution within the United Kingdom continues to deliver requires a commitment to see powers sit at the level that best delivers for the constituents that all of us, in our respective parliaments, are there to represent.

That doesn't just mean seeing things through the lens of central and devolved government.

It means making sure that the right powers are closer to communities.

The Smith Commission recognised this, when it called for further powers to be devolved from the Scottish Parliament to Scottish local authorities,

... recognising that devolution doesn't begin and end at Holyrood.

In England, we have championed this approach, devolving power to new Mayors in Manchester, the West Midlands, Liverpool City Region, the West of England, Cambridge & Peterborough, Sheffield, North of Tyne, and Tees Valley.

And just as we need to review and update our intergovernmental structures within the devolved administrations, so too we need to find routes for the voices of the cities and regions of England to be heard.

So we are committed to devolution for the long run.

It's true that the current Scottish Government has a long-standing aspiration to replace that system of strong devolved governments within a United Kingdom that acts together in the world...

... but the UK Government will continue to champion devolution as the best way to deliver for our citizens.

... and we will work to demonstrate how both Scotland's two levels of government can and should work effectively together.

And that point about there being two governments, each with its own respective competencies, both legitimate, is something that we need to articulate with greater clarity and more confidence.

Because sometimes the genuine political differences governments in Westminster and at Holyrood – whether on EU exit or anything else – can be taken as shorthand for a certain 'otherness' about the whole institution of the UK Parliament.

As if it is separate, distant, or disconnected.

The reality is, though, that Scottish Members of Parliament sit, and are entitled to take part, in every debate and every question time session in the House of Commons.

Scottish Members of Parliament convene debates,

... they secure Urgent Questions,

... they go clause by clause through legislation and move amendments,

... they sit on Select Committees and hold Ministers to account,

... and serve as Parliamentary Private Secretaries, as Whips, and as Ministers and Shadow Ministers.

The UK Parliament is not separate from Scotland...

... it is Scotland's Parliament, as it is the Parliament of every other part of the United Kingdom. And Scotland, represented through Scottish members, is a part of UK Parliament every day.

Not in opposition to Holyrood, but working alongside it.

So there is no contradiction in strong devolution sitting alongside commitment from the UK Government to deliver for all parts of the United Kingdom.

For example, investing more than £1.3bn in city and region deals in Edinburgh, Glasgow, Dundee, Clackmannanshire.

... and taking action at a UK-level to support Scottish industries by freezing

spirit duty, supporting North Sea Oil and Gas, and driving a modern industrial strategy that delivers for the whole of the UK.

And taking pride, too, in what we represent together – as four nations – on the world stage through our armed forces, our unparalleled diplomatic network, and our international aid programme.

If I have one main reflection, having been in this role for eighteen months now, it is that we need to communicate to citizens about how this system of devolved and UK-wide governments can and does deliver for communities.

We need to be more confident in presenting ourselves as a government that upholds and champions the devolution settlements...

... but is also seen to act and to deliver in those areas where we, rather than the devolved governments, are in law responsible.

And get away from the wrongheaded idea that because Scotland has two governments – working in different policy areas – the relationship can only be combative and adversarial.

Because when I speak to business or to civil society here in Scotland, that is frankly not the conversation they want their representatives to be having.

Rather, they want us to make sure our structures of intergovernmental relations are fit for the future...

... and they want to see us together demonstrate how those structures deliver outcomes that matter to them, that will help to attract investment, create wealth and jobs, and build a better society.

They don't want us endlessly obsessing about process and procedure.

Those things are vital means to an end. But they can only ever be the means.

They are the means that – for our part – can prove to citizens that devolution is healthy and will thrive in the long term.

That it is strong and sustainable.

And that devolution will continue to flourish within a strong United Kingdom of four nations, the contribution of each adding to the strength of the others.