

## **Lord Neuberger at the Legal Wales Conference 2014**

### **The UK Constitutional Settlement and the Role of the UK Supreme Court**

**10 October 2014**

1. The changes in the constitutional and institutional governance of the United Kingdom over the past fifty years have been extensive, if somewhat piecemeal. On the international front, the two most important events were (i) joining what was then called the Common Market in 1973 and (ii) incorporating the European Human Rights Convention into UK law in 1998. Internally, the two most important steps were (i) the devolution of many previously centrally administered powers from Westminster to Cardiff, Edinburgh and Belfast from 1997, and (ii) the reform of the House of Lords and the passing of the Constitutional Reform Act of 2005.

2. And we are by no means at the end of the road. The Common Market has become the European Union and the change of name has reflected marked increases in its size and influence; and the terms of our membership, and even the continuation of our membership, of the EU is a matter of political debate, as is the nature of our involvement in the Convention. And if one adds all that to the recent increased devolution in Wales, and the even more recent No vote in the Scottish referendum, coupled with the promises made by the three main UK party leaders during the campaign, it is apparent that we are entering a period of what may very well turn out to be yet more significant constitutional and institutional change.

3. Anyone, particularly a judge, must be very careful about what they say about changes which may or should occur. To pontificate publicly about specific changes, whether in relation to devolution or to Europe, particularly at such a sensitive period, is self-evidently dangerous for anyone, and this is particularly true for a judge: just as the judiciary expects politicians to keep off the judges' territory so should we judges respect the boundary and keep to our side of it. However, the boundary is not entirely clear-cut and there is a degree of over-lap, the constitutional equivalent of the Welsh Marches or Debateable Land, where both politicians and judges can claim to have the right not to be excluded, and where they must therefore step with particular care to avoid treading on each other's toes. That area, I suggest, is principally occupied by issues concerning the rule of law. Although there are occasional lapses on each side, the United Kingdom is very fortunate compared with many other democracies in the mutual respect which judges and politicians generally show towards each other. And, of course, in some circumstances, judges, like politicians, do not merely have to consider whether they have a right to speak out: sometimes, there is a duty to do so.

4. Bearing these factors in mind, it is, I think, both legitimate and appropriate for me to say that any negotiations, whether concerning our relationship with the EU or the Council of Europe, or the devolution of power within the UK, and any outcome of such negotiations, must accord full respect to the two basic inalienable principles, which have long governed and underwritten the United Kingdom's constitutional settlement, namely democracy and the rule of law. Whether we take things for granted or discuss them furiously, whether we make changes or keep things as they are, we must not lose sight of those fundamental two tenets of our system of government.

5. I suspect many people would say that calls for maintaining democracy and the rule of law are as banal as calls for motherhood and apple pie, but neither democracy nor the rule of law is quite as simple as many people seem to believe. Pure democracy has never existed in the sense that no country has been run on the basis that every governmental decision is taken by a vote of all citizens. Even ancient Athens was not governed in that way - women and slaves had no vote. And these days, with multifarious complex government decisions having to be taken daily, it would be inconceivable to subject even all important issues to a referendum. So that means we are talking about democratically elected governments, which in turn means electoral systems. And, as we can see from examining the many different systems which exist throughout the democratic world, any electoral system involves a substantial degree of compromise with, or at least a dilution of, some fundamental aspects of elementary democracy.

6. But, quite apart from this, a democratically elected government may prove to be so unacceptable to enough people to result in its downfall. If a substantial body of its people does not accept a country's electoral system or the outcome which it produces, it will not work, however fair and representative it may appear to outsiders to be. In the United Kingdom and many other countries in the world, we take it for granted that if the government loses an election, then, subject to bona fide legal challenges, it will stand down and make way for the opposing party and the result will be accepted

by the people as a whole. Without that general acceptance, democracy cannot work – Egypt and Thailand represent two recent examples of the truth of that point.

7. The failure of democratically elected governments in those countries may also demonstrate the truth of the connected point that democracy won't work if the democratically elected government does not comply with the rule of law and, for instance, proceeds without regard for the interests of minorities. In the case of Egypt and Thailand, it was, I believe, the interests of the minority who supported the party which had been unsuccessful in the election which were overlooked, but it is true of any minority. That is a moral point as well as a practical one: in the modern world at any rate, democracy cannot simply mean the tyranny of the majority, or oppression of any individual's fundamental rights. And, without those vital features, a democratic government, perfectly properly elected, can result in persecution of minorities; we should never forget that Hitler and Mussolini came to power through democratic elections.

8. The political give and take of democratic government involves messy compromises, last minute deals, short term fixes, sops to interest groups, half-baked concessions, crowd-pleasing sound-bites, and grandstanding provisions. That is the price of democracy, and, when we moan about it, we would do well to remember a perceptive observation, attributed to Winston Churchill, "democracy is the worst form of government except all those other forms that have been tried"<sup>1</sup>. But such imperfections do mean that democratic government cannot always safely stand on its own. We need the checks and balances, as one of the three most prominent founding

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<sup>1</sup> Winston Churchill, House of Commons 11 November 1947

fathers of the United States constitution, James Madison, famously explained nearly 240 years ago<sup>2</sup> in one of the immortal Federalist Papers.

9. Those checks and balances, which have been perhaps most faithfully worked out in the United States constitution, involve in organisational terms what the French political philosopher, Montesquieu famously characterised as the separation of powers<sup>3</sup> - a legislature (the Houses of Parliament), an executive (the Civil Service, local authorities etc) and the judiciary, all of which are separate from and independent of each other. Although Montesquieu based his idea on the British system of government and we now purport to embrace it, it is in truth both a relatively new and a not completely implemented idea in the United Kingdom. We Judges are still Her Majesty's judges, and historically the Monarch was head of the executive. Even now, the Prime Minister is the chief executive and Cabinet Ministers are senior members of the executive and yet they sit in the legislature and have a degree of control over it. However, whatever overlap there may be at the top between the executive and the legislature, judicial separation and independence remains an essential ingredient of modern democratic government – and of the UK Government in particular.

10. As long ago as 1783, when the US constitution was in its infancy, a very great English Lord Chief Justice said “The Judges are totally independent of the ministers that may happen to be, and of the King himself”<sup>4</sup>, and such judicial independence is of course essential if we are to maintain the rule of law. A person may have views,

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<sup>2</sup> James Madison, *51 Federalist Papers* (6 February 1788)

<sup>3</sup> Baron de Montesquieu, *The Spirit of the Laws* (1748)

<sup>4</sup> Lord Mansfield, *Proceedings against the Dean of St. Asaph* (1783) 21 How St Tr 1040.

even strong and well known views, but once selected to become a Judge, he or she must decide every case impartially and according to the law, and, of course free of any influence or concerns from the other branches of the government, the legislature and the executive. A modern democratic society thus needs judges who are honest, fair, independent, committed and competent.

11. Reverting to Madison's checks and balances, they went further than the separation of powers and an independent judiciary, because they were expressed to be based on his concern over "the insecurity of rights under the popular form of government" both inside the legislature and outside it, and identified the need to protect what he called "the rights of individuals, or of the minority"<sup>5</sup>. Accordingly, I suggest that pure democracy will not do on its own; it has to be combined with general acceptability, the separation of powers and judicial independence, and Madison's "rights of individuals, or of the minority".

12. Nowadays we refer to Madison's rights as human rights or fundamental freedoms, which are a vital aspect of the rule of law. But the rule of law is not so simple either. To most right-thinking people, the rule of law comprises much more than properly made laws properly administered: the contents of the laws must respect freedom of expression, freedom from torture and other fundamental freedoms and rights, such as access to justice and equality before the law. Such rights can too easily be taken for granted, but it is worth remembering that, along with the defence of the realm, the

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<sup>5</sup> See footnote 7

rule of law is one of the two basic and entrenched roles of government. If a government does not provide those two most basic features, it is not worthy of the name, and, indeed, without defence of the realm and the rule of law, the value of all the newer services provided by the state, such as welfare, health, and education, will also be undermined.

13. But we should not kid ourselves that what we currently regard as fundamental rights and freedoms are timeless. Nobody today would condone slavery; yet, less than two hundred years ago, it had passionate and what in those days passed for respectable supporters. And 2000 years ago, at the dawn of Christianity, slavery was commonplace throughout both the civilisations in which Jesus Christ grew up, the Roman and the Jewish worlds – as was the death penalty. Even today, to European eyes, the death penalty is generally thought to be unacceptable; for instance, no state can join the EU unless it dispense with the death penalty; yet in the United States and many other democratic countries the death penalty is still legal, and, to many, morally justified.

14. However, the fact that the nature and extent of fundamental rights may change to some extent with the passage of time, or even with location, does not begin to invalidate or undermine the establishing and enforcing of fundamental rights as they are perceived to be in our time. Basic principles remain unchanged as most of the Ten Commandments, now some 3500 years old, demonstrate. And the fact that some principles may change or become refined in the future cannot mean that they are

invalid today. Similarly, the fact that any electoral system involves compromises does not begin to justify our turning away from democracy; the fact that perfection is unattainable has never been a reason for not trying to do the best we can.

15. So how do we ensure that democracy is combined with the rule of law? Well, an inherent feature of almost all democracies is a written constitution, by which I mean a document which contains a coherent set of fundamental rights and principles, and which cannot be altered by a simple majority of the legislature. A constitution is a check on the powers of a democratically elected legislature, a counterweight against a simple legislative majority, a principled check or balance to the democratic will of the moment. A formal constitution of this nature effectively enshrines fundamental rights into the system, and operates as a bulwark of constancy and security against the short term vagaries of public opinion, which can sometimes engulf rational discussion or overwhelm principled debate.

16. Some people say that the United Kingdom has a constitution – in documents such as Magna Carta and the Bill of Rights, and in constitutional conventions as developed in practice. But these are merely a collection of provisions which developed somewhat haphazardly to deal with specific historical events or crises. Anyway, they can all be revoked or altered by a simple majority in parliament – indeed, all but three of the sixty or so provisions of the original 1215 Magna Carta, despite being promulgated on several occasions by successive Kings (especially when they got into difficulties) in the 13<sup>th</sup> and 14<sup>th</sup> centuries, have been repealed by simple parliamentary

statute over the past three hundred years. As a former *ex officio*<sup>6</sup> chair of the Magna Carta Trust, I would be the last person to call its importance into question, but it is not and never was a constitution.

17. In a country with a constitution, the Supreme Court (as in the US) or the Constitutional Court (as in Germany) can, indeed must, strike down legislation which has been enacted by the democratically elected parliament if the court concludes that the legislation does not comply with the Constitution. Unless and until the Constitution is changed (which in the US requires a Convention called by at least two-thirds of the fifty state legislatures or a two-thirds majority vote in the Senate and in House of Representatives<sup>7</sup>), the Constitution, as interpreted and enforced by the Courts, prevails over the will of the democratically elected legislature. In a country like the UK (which is almost unique in this respect), a democracy without a constitution, we have parliamentary sovereignty: what parliament decides is the law, once it is embodied in an Act of Parliament, a Statute, which is brought into law by the Queen signing and approving it.

18. The academics debate whether it is conceivable that Parliament would enact a law which was so contrary to principle that the courts would ignore it – eg a law which prevents citizens from challenging any decision of a government department in the courts. That is a point which has even been touched on in judgments in one case in

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<sup>6</sup> The Master of the Rolls is the *ex officio* chair of the Magna Carta Trust and I was Master of the Rolls between October 2009 and September 2012

<sup>7</sup> Article 5 of the US Constitution

the House of Lords in 2005<sup>8</sup>. I profoundly hope that it is an issue which never has to be tested, not least because, if it does, something will already have gone very wrong with our system of government. Subject to that sort of remote (I hope) possibility, the UK is a country where Parliament has ultimate power with no restraining influence, no check or balance, other than the inherent sense of propriety and moderation, and respect for individual freedoms and minority rights, which have generally permeated our public life for the past centuries.

19. James Madison's notion of checks and balances and Montesquieu's idea of the separation of powers both envisage that power is not exclusively concentrated in any one person or group of people, even in the democratically elected legislature – reflecting Lord Acton's adage that power tends to corrupt and absolute power corrupts absolutely<sup>9</sup>. Furthermore, the reach and powers of the executive branch of government has increased enormously over the past fifty years, not least because of the need to give the executive regulatory, supervisory and management functions in an increasingly complex society; accordingly, the need for citizens to be protected against abusive excessive and arbitrary actions of the executive is as great as it ever has been. Furthermore, the very fact that judges are unelected and have security of tenure means that they can make the unpopular but correct decisions which politicians with an eye on promotion, re-election and party interest, perfectly properly find it sometimes difficult to make. However, ultimately, Parliamentary sovereignty

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<sup>8</sup> *Jackson v. HM Attorney General* [2005] UKHL 56, [2006] 1 AC 262, paras 102, 107 and 159

<sup>9</sup> Lord Acton, in a letter to Bishop Mandell Creighton, 5 April 1887, *Historical Essays and Studies*, edited by JN Figgis and RV Laurence (Macmillan, 1907)

means that if the legislature feels strongly enough about the issue, it can reverse or modify the judges' decision. Further, the fact that we are not elected means that judges must be circumspect about exercising their powers. In that connection, the media obviously have an important part to play – ensuring that we do not get too big for our boots, and, it is at least to be hoped, exercising their powers in a responsible way too.

20. Irrespective of whether or not a country has a constitution, the role of the courts is therefore crucial in a democracy which is run in accordance with the rule of law. And that is particularly true in relation to rights granted to citizens against the state, whether under a constitution or in another document. It is no good granting people rights if they cannot get legal advice as to those rights, if they cannot get access to impartial fair and competent judges to decide on their rights, if they cannot get professional legal representation before those judges to claim those rights, and if they cannot get effective enforcement procedures in respect of any judgment based on those rights – ie if they cannot get access to justice.

21. It is arguably worse to have a constitution or other statutes which purport to bestow rights and freedoms on citizens if those rights and freedoms are unenforceable than it is not to grant the rights and freedoms at all. At least refusing to grant the rights is honest, and people know where they stand; if a government grants people rights which they cannot enforce, they do not know where they stand, and the government and the rule of law are brought into disrepute. So, given that a civilised

modern society grants people rights and freedoms, they must be able to enforce them, and the only sensible way in which a right or freedom can be vindicated and enforced is through the courts.

22. However, that in turn means that, as some sections of the British press would put it, “unelected judges flout the democratic will of parliament”. And that is indeed what happens in the United States and other countries with a constitution. The democratically elected Senate and the democratically elected House can pass a bill, which is then approved by the democratically elected President, but which is then quashed by the unelected Supreme Court on the ground that it is inconsistent with the Constitution. It is a relatively commonplace event in almost all countries – because almost all countries have a constitution. But in terms of United Kingdom domestic law, it has never been thought to be open to a court to question, let alone to overturn, an Act of Parliament, because we have no constitution.

23. So I suppose that there is a powerful argument for saying that the UK is actually more genuinely democratic than the US. For instance, it would be unthinkable for a UK court to overrule parliament’s general ban on any member of the public having a handgun. The new powers which we do have are to declare that a statute passed by parliament is inconsistent with the European Convention or to override a statute which does not comply with EU law. But we judges only have those powers because parliament gave it to us in a statute, and what parliament has given, parliament can take away. Nonetheless, when judges decide that what parliament has decided

conflicts with the European Convention, the British newspapers don't hold back criticising us for thwarting the democratic will – at least when they don't like our decisions. But perhaps particularly in a country without a constitution, a real and independent role for the Judges is vital to preserve the rule of law, to ensure that there is no tyranny of the majority, to avoid a monopoly or undue concentration of power, and to help provide the necessary checks and balances.

24. While the United Kingdom has no constitution, in a typically understated and almost half-hearted we are now developing a sort of quasi-constitution for a number of reasons. First, through signing up to the European Convention on Human Rights in 1951 and then incorporating it in our domestic law in the Human Rights Act 1998. That means that Judges in the UK can now give effect to many of the fundamental rights which are enshrined in most constitutions. So if a decision of the executive infringes someone's human rights, the courts can quash it, and the common law, that is the law developed by the judges, has to be adjusted to accommodate such rights. So new life has been breathed into the law, with proper recognition for the first time to fundamental rights such as respect for privacy<sup>10</sup> and freedom of expression<sup>11</sup>.

25. So far as Acts of Parliament are concerned, the 1998 Act enables the judges to give effect to human rights in two alternative ways. The first is by doing our best to interpret all legislation so that it complies with the Convention, and this extends to

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<sup>10</sup> Article 8 of the Convention

<sup>11</sup> Article 10 of the Convention

fairly creative interpretation<sup>12</sup>. The second way only arises if the first cannot be achieved: we declare the legislation to be incompatible with the Convention<sup>13</sup>. But the Human Rights Act 1998 does not create a constitution: parliament is still sovereign, and the 1998 Act could be repealed by a normal vote in the Houses of Parliament. Further, unlike in most countries with a Constitution, UK judges cannot override or quash a statute: a declaration of incompatibility means that the statute remains in force unless and until Parliament amends it – which it is only fair to record, has happened every time such a declaration was made - except once.

26. Up to now, at least in the national media and in the Westminster Parliament, Human Rights, and to a lesser extent EU law, have been the headline-catching reason for UK courts, particularly the Supreme Court, becoming more like a constitutional court. But, as you and I know, there are other reasons, which are at least as significant and which are far less likely to be reversed, indeed are in the process of being extended. I refer of course to the devolution of legislative power from the UK parliament in Westminster, elected by a UK-wide franchise, to assemblies in the capitals of Wales, Scotland and Northern Ireland, elected by the residents of those parts of the UK. One of the institutional changes wrought by this fundamental change in our constitutional arrangements is that the Supreme Court now has the power to decide whether legislation passed, or to be passed, by the devolved assemblies is, or would be, within their powers. Thus, although we still have no power to declare legislation passed by the Westminster Parliament to be unlawful or

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<sup>12</sup> Section 3 of the 1998 Act – see *Ghaidan v. Godin-Mendoza* [2004] UKHL 30, [2004] 2 AC 557

<sup>13</sup> Section 4 of the 1998 Act

unconstitutional, we do have that power in relation to devolved legislation, and if, as seems quite probable, the pace of devolution increases, this power looks likely to become more relevant.

27. As most of you will know, in relation to Wales, we have decided two references, both made by the Attorney General for England and Wales, and we have reserved judgment on a third. The third reference was made by the Counsel General for Wales, who addressed us on all three references. In the two decided cases, we ruled on the validity of proposed legislation relating to powers given to Welsh local authorities<sup>14</sup> and legislation seeking to fix agricultural wages<sup>15</sup>, and both were held to be within the powers of the Welsh Ministers. And we have yet to rule on a bill whose purpose is to enable the NHS to recover the cost of treating asbestosis victims from employers' insurers.

28. It is right to mention one issue which arises from devolution, namely the absence of a specifically Welsh Judge in the Supreme Court. The First Minister has quite reasonably and understandably proposed that we should now have a Welsh Judge in the same way as we always have a Scottish Judge and a Northern Irish Judge. It is important to emphasise, however, that the Constitutional Reform Act 2005 specifies that the constitution of the Supreme Court must be such as to “ensure that between

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<sup>14</sup> *Local Government Byelaws (Wales) Bill 2012 - Reference by the Attorney General for England and Wales* [2012] UKSC 53

<sup>15</sup> *Agricultural Sector (Wales) Bill – Reference by the (Attorney General for England and Wales* [2014] UKSC 43

them the judges will have knowledge of, and experience of practice in, the law of each part of the United Kingdom”. So it is concerned with expertise not nationality, but that does not, I accept, answer the concern. When I last spoke publicly on this issue, I made two points. First, I said that so long as we had no Welsh Justice, I would do my best to ensure that we co-opted one on any Welsh reference. I have stuck to that, and, with John Thomas as Lord Chief Justice the exercise has been relatively easy – I say “relatively”, as it is one thing to identify him as the Judge, but another thing to find a couple of free days in his diary. Secondly, I said that I thought that there was an insufficient body of specifically Welsh law to justify the appointment of a Welsh Judge. However, I acknowledge that there is much to be said for the view that the position is changing, and that it may be changing fast. I should also mention that, when the decision comes to be made, it is not mine alone, but that of the selection panel.

29. I have discussed the increasingly quasi-constitutional role that the courts have been playing in the light of the growth of judicial review, the Human Rights Act and EU law, and how this is particularly true of the Supreme Court, with its additional and real constitutional powers in relation to devolved governments. I have also said that it would be inappropriate for a judge to discuss publicly the consequences of the recent Scottish referendum, or indeed any proposals with regard to the EU or the Convention, save insofar as they relate to the rule of law. However, there is no disputing that the implications of the Scottish referendum are likely to be significant in various ways, and in particular as to the basis upon which we are governed.

Similarly, the effect of the Convention over the past fourteen years has been similar to

that of a set of constitutional rights, and implementation of the Conservative party's recent proposals, as I understand them, would not change that feature. In these circumstances, I think it is not inappropriate to raise the question, and I emphasise that it is genuinely no more than raising the question, of whether the time has come for the United Kingdom to have a constitution.

30. The most basic and simple argument against a constitution, and it is no less formidable for being simple, is that we have managed very well for many centuries without a constitution, so why mend it if it ain't broken? It is beguiling to invoke the existence of successful constitutions of other countries, but it is plain that what works very well in one country may not take root successfully in another. The British constitutional system has developed on a piecemeal basis, and to impose a written constitution on such a system is, some may think, a questionable exercise: it could be said to risk forcing an inherently flexible system into an artificial straightjacket.

31. It is also fair to say that a constitution is no absolute guarantor of the rule of law. A country can have the most admirable constitution, but, as I have mentioned, if it is merely a piece of paper whose terms cannot be enforced by citizens through the courts, it is a sham - and perhaps leads to a situation which is even worse than one with no constitution and no rights. But, more to the point, a constitution, even if it is fully enforceable, will not guarantee the rule of law, in that it cannot stop a revolution or a *coup d'état*. It is interesting to note that, at least so far, no modern European constitution has survived for 200 years: the longest survivor is, I believe, the Danish

*Kongelov*, which came into force in 1665 and lasted till 1849, and it is noteworthy that it was a somewhat autocratic document, placing enormous power in the hands of the King<sup>16</sup>. As is the case with democracy, the rule of law, with or without a constitution, is not possible unless the legal system is generally acceptable and credible so far as the broad mass of citizens are concerned. Accordingly, those against a UK constitution can perfectly fairly point out that our system has lasted since 1689 without a revolution or a constitution, whereas no other European country can point to such stability even though most of them have enjoyed more than one constitution over that period.

32. But there are powerful arguments the other way. First, we are in a new world whose increasing complexity appears to require virtually every activity and organisation to have formal rules as to how it is to be run and to work, and there is no obvious reason why that should not apply to the most important organisation of the lot. Secondly, we are now in what to some people might seem to be in an unsatisfactory position with an international treaty, as interpreted by an international court, namely the European Convention on Human Rights, acting as a semi-constitution. Further, if we had a constitution, this would presumably have primacy over decisions of the Human Rights Court in Strasbourg and even those of the EU Court in Luxembourg. Accordingly where those decisions appeared to be inconsistent with any fundamental constitutional principles, those principles would prevail. At the moment, without an overriding constitution, it is very difficult for a UK court to

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<sup>16</sup> See Geoffrey Parker, *Global Crisis War, Climate Change and Catastrophe in the Seventeenth Century* (2013), Chapter 8

adopt such an approach<sup>17</sup>, but it is an approach which, for instance, the German Constitutional Court has shown itself quite ready to take when appropriate.

33. It is easily understandable why the anti-constitution argument based on the status quo – better the devil you know – has so far held sway. We have a proud and successful history with a pragmatic, rather than principled, approach to law and legal systems, and we have managed pretty well without a constitution. But times change, and the fact that we managed well without a constitution in a very different world from that which we now inhabit may be a point of limited force when applied to the present. So long as things remained much the same, the argument based on the status quo was hard to resist. However, if, and it is a big “if” which is ultimately a political decision, our system of government is going to be significantly reconsidered and restructured, there is obviously a more powerful case for a written constitution. Writing a constitution may help focus minds on the details of the restructuring, and, once the restructuring has occurred, a new formal constitution should provide the new order with a clarity and certainty which may otherwise be lacking. On the other hand, it remains the case that grafting a written constitution onto our pragmatic system would almost inevitably involve something of a leap in the dark, and many people may fear that it would turn out to be a classic example of a well-intentioned innovation which had all sorts of unintended and undesired consequences.

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<sup>17</sup> See *See eg R (HS2 Action Alliance Ltd) v Secretary of State for Transport* [2014] UKSC 3, [2014] 1 WLR 324, paras 196-211

34. In this connection, it is worth mentioning that the sort of questions I have raised have been considered over the past few years by the House of Commons Political and Constitutional Reform Select Committee, chaired by Graham Allen MP, during their review of various aspects of our constitutional settlement. Three months ago, the committee launched a public consultation, on various possible models for a codified constitution for the UK, and the consultation closes in January 2015<sup>18</sup>. The Committee plans to report on the public responses in time for them to be taken into account ahead of the general election: I for one await with interest what they say.

35. Ladies and gentlemen, we live in interesting times, whether we are politicians, civil servants, lawyers or judges, whether we are Welsh, Northern Irish, Scottish or English – or even European. Over the next few years we are going to have to consider and make difficult and important decisions about the constitutional foundations of the UK, decisions which will vitally affect us and future generations. I hope and believe that we will approach those decisions with a mixture of bravery, prudence and principle.

36. Thank you very much.

David Neuberger

Bangor, 10 October 2014

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<sup>18</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/news/report-a-new-magna-carta/>

