

COLEG CYMRAEG CENEDLAETHOL

Thank you for the kind invitation by the Coleg Cymraeg Cenedlaethol and Cardiff University to join you at your annual conference. It is a great pleasure to be able to be with you today. I am only sorry that the pandemic has made it necessary to hold a virtual conference on-line. Let's hope that it will not be long before things start to return to normal.

I am glad to say that all of the law schools in Wales now offer to their students the opportunity to study the law in the medium of Welsh. This development is greatly welcome. I am very grateful to the organisers of the conference for giving me this opportunity to congratulate you, as students of law through the medium of Welsh, and your teachers for the efforts you are making in this direction. The challenges are great. In particular the preparation of text books and legal materials in Welsh has required – and will continue to require – a great deal of work by legal academics. Equally, there are challenges for you as students. The law can be very difficult to master in whatever language it is studied. But the study of law in the Welsh language is an important and hugely valuable development for a number of reasons.

First, it is important because it promotes the Welsh language. Welsh is a beautiful and highly sophisticated language. It is certainly suitable for use as a legal language. That has been demonstrated amongst other things by the standard of bilingual legislation produced by the Senedd and by the use of Welsh in courts and tribunals in Wales and by the work of the Law Commission. So far as the use of Welsh in court is concerned, this has included cases involving the most complex legal argument. A particularly notable use of the Welsh language to present detailed legal argument occurred in 2014 when the Welsh Language Commissioner challenged in the Administrative Court the decision of National Savings and Investments to withdraw its Welsh language scheme.¹ (I should say that the Commissioner won.) A great deal of work has been done to develop standardised legal terminology in Welsh and it is important that that should continue. The teaching of law in the medium of Welsh provides a huge impetus to this process and it will encourage the acceptance of Welsh as a natural legal language.

Secondly, it provides a great service to our legal system. It seems to me that it is a fundamental requirement of fairness that members of the public in Wales should be able to use in court the Welsh language in which they conduct their everyday lives. This right is now firmly established in our law. But, beyond that, the use of Welsh in court can improve the working of the justice

¹ *R (Welsh Language Commissioner) v National Savings and Investments* [2014] EWHC 488 (Admin)

system. When I was Presiding Judge of Wales, I presided in a number of criminal trials in the Crown Court where evidence was given in Welsh. Often witnesses were giving evidence as to conversations which had taken place in the Welsh language. In some the police interviews had taken place in Welsh.

As you know, Welsh is widely used in courts and tribunals in Wales, with simultaneous translation into English. In the year to March 2019 there were 766 cases conducted wholly or partly in Welsh. Most of these cases were in courts in North West Wales. There were 37 in the Crown Courts, 400 in County Courts, 311 in Magistrates' Courts and 18 in Tribunals. In 2006 a murder trial was conducted entirely in Welsh at Caernarfon Crown Court.

In addition, there has developed a Welsh-speaking judiciary. Including the part time judiciary, 30% of Welsh judges speak Welsh, with the figure rising to 39% among the Circuit Judges.² Over 200 magistrates are able to conduct cases in Welsh. Many other judges, although unable to conduct cases in Welsh, have sufficient Welsh to be able to follow and understand evidence given in Welsh.

The teaching and study of law in the medium of Welsh is a vital part of these developments which are improving the quality of the justice system.

Thirdly, the study of law in the medium of Welsh is of great value to you as lawyers, in your career development. You are all accomplished Welsh speakers - otherwise you would not be undertaking the study of the law in the medium of Welsh. Your studies will assist you in employing your language skills in the practice of the law in Wales.

Here, I might mention the drafting and interpretation of bilingual legislation. This is something quite remarkable. This is the first time that we have ever had a system of bilingual legislation in the United Kingdom and it presents particular challenges. The work of drafting legislation is a specialised task for a highly expert team of lawyers. But all lawyers are called upon to interpret the legislation. The two language texts are equally authoritative and strictly the meaning of the legislation can be discovered only by considering both. This is, therefore, a task for which you, with your background in the study of the law in the medium of Welsh, will be particularly well equipped.

² Commission on Justice in Wales, Appendix A 70.

You will appreciate that my Welsh is limited. I was brought up in a Welsh-speaking home but in those days there was very little Welsh spoken in Pontypridd where we lived. There were certainly no Welsh medium schools at that time. I went to university in England and made my career there for the most part. As a result, I lost most of my Welsh. When I became Presiding Judge of Wales, I made an effort to improve my Welsh and I was able to use it in court. However, the main difficulty I encountered was learning legal vocabulary. This is a problem that you will not face. Your studies in the medium of Welsh will mean that you will be fluent in Welsh legal terminology and this will assist you greatly in presenting legal argument in Welsh.

Many court users have also encountered this difficulty. There is a huge difference between the Welsh of everyday conversation and the more formal Welsh which has to be used in court. In particular, technical legal terms in Welsh are not part of the everyday vocabulary of most Welsh speakers. Recent academic research has revealed a number of cases where the defendants, having chosen Welsh as the language of the case, were unable to follow the proceedings. One is quoted as saying:

“I didn’t understand what was happening it was so posh.”³

There is a story about a bail application before the Caernarfon Magistrates which was conducted entirely in Welsh at the defendant’s request. At the end of the hearing the Chairman announced in Welsh that they had decided to grant bail - “Yr ydym ni wedi penderfynnu caniatâu mechniaeth”. Whereupon the defendant shouted out,

“I don’t want bloody *mechniaeth*, I want bloody bail.”

These limitations in the Welsh language skills of many court users are matters you will encounter in practice and for which you will have to make allowance.

Let me conclude by saying something about the sitting of the Supreme Court in Wales. The Supreme Court normally sits in its building in Parliament Square in London – although during the pandemic all our cases have been heard on-line. The court has, however, sat once in Edinburgh and once in Belfast. I was absolutely delighted when, in July 2019, the Supreme Court sat in Wales for the first time. We sat for a week in the Senedd in Cardiff Bay. For me, it was a homecoming and a very happy and a very emotional experience. You will know that

³ Iolo Madoc-Jones and Odette Parry, “It’s always English in the Cop Shop”: Accounts of Minority Language Use in the Criminal Justice System in Wales, *The Howard Journal of Criminal Justice*, Vol. 52, No. 1, 91, 101.

the Welsh Language Act 1993⁴ provides that in any legal proceedings in Wales the Welsh language may be spoken by any party, witness or other person who desires to use it.⁵ Although the appeals we heard were conducted in English, we were determined that Welsh should be used during the proceedings. It was spoken during the opening and closing ceremonies. In addition, the court delivered the judgment in a case which it had heard in London – *X v Kuoni*⁶ – and I handed down the judgment in both English and in Welsh. In that case we had decided to make a reference to the Court of Justice of the European Union and, as a result, it is the only case in which a reference has been made to the Court of Justice in Luxembourg in Welsh. The Court of Justice has not yet delivered its judgment. We are not expecting it to deliver it in Welsh.

I hope that you will enjoy this conference and that you will find it of assistance in your studies. I realise that you, and indeed all students, are going through a very difficult time at the moment as a result of the pandemic. I realise that studying remotely is a challenge and certainly not as much fun as being in the company of other students. But I can reassure you that the courses you are following are of real value and that you will, in due course, be well equipped to enter the legal professions and to practise the law. I am sure that you can all look forward to successful, rewarding and fulfilling careers in the law.

Believe me, I wish you all the luck in the world.

⁴ Re-enacting what was previously in the Welsh Language Act 1967

⁵ “s.22(1) In any legal proceedings in Wales the Welsh language may be spoken by any party, witness or other person who desires to use it, subject in the case of proceedings in a court other than a magistrates' court to such prior notice as may be required by rules of court; and any necessary provision for interpretation shall be made accordingly.

(2) Any power to make rules of court includes power to make provision as to the use, in proceedings in or having a connection with Wales, of documents in the Welsh language.”

⁶ *X v Kuoni Travel Ltd* UKSC 2018/0102 [2019] UKSC 37 [Date of reference: 24/07/2019]