HOUSE OF LORDS

# Constitution Committee

## Corrected oral evidence: Annual evidence session with the President and Deputy President of the Supreme Court

Wednesday 1 May 2024

10.15 am

Watch the meeting

Members present: Baroness Drake (The Chair); Lord Anderson of Ipswich; Baroness Andrews; Lord Beith; Lord Burnett of Maldon; Baroness Finn; Lord Foulkes of Cumnock; Baroness Goldie; Lord Keen of Elie; Lord Strathclyde; Lord Thomas of Gresford.

Evidence Session No. 1 Heard in Public Questions 1 - 15

### Witnesses

I: The Rt Hon the Lord Reed of Allermuir, President of The Supreme Court; The Rt Hon Lord Hodge, Deputy President of The Supreme Court.

# Examination of witnesses

Lord Reed of Allermuir and Lord Hodge.

Q1 **The Chair:** Good morning, everyone. This morning, the Select Committee on the Constitution is holding its annual evidence session with Lord Reed of Allermuir, the President of the Supreme Court, and Lord Hodge, the Deputy President of the Supreme Court. I welcome you both; thank you very much for finding the time to come and address our questions.

Normally, Lord Reed, you are invited to make an opening statement and reflections. If you would like to do that, I invite you to do so.

***Lord Reed of Allermuir:*** Thank you very much, and thank you for your kind invitation to us to appear before you this morning. Most of our discussion later on will, I think, be about things that the court does outside the courtroom, so I thought that, by way of introduction, I should say a bit about what we actually do in the court, which is our raison d'être.

As you know, English law governs a great deal of the world's trade and business; that is the reason why the UK is one of the world's leading centres for not only legal services but financial services such as banking, insurance and shipping. Since we are the final arbiters of English law, it means that the court has an important role to play in relation to international business and in supporting the UK's financial and legal sectors. We therefore have to deal with disputes that arise when current events raise new issues in relation to international trade.

Let me give a couple of examples from the past year. One is a case that was brought to us, like many of our cases, by an overseas company—in this case, a Dutch company. The question was: do cargo owners have to contribute to the ransom paid for the release of a ship that has been captured by Somali pirates in the Gulf of Aden? The answer to that question is very important to the insurance industry because these ships are enormously valuable. Our decision then lays down a rule that will be applied to shipping contracts all over the world. This particular contract had nothing to do with the UK, but the case came to us because it was governed by English law, as most of these contracts are.

Another example, which we decided very recently, involved a dispute between German banks and a Russian energy company—a subsidiary of Gazprom. It concerned the effect of sanctions against Russia on the banks' obligation, under performance bonds that they had issued, to guarantee the performance of German construction companies under contracts to build power stations in Russia. Again, the case had no connection with the UK except that the German banks' performance bonds are governed by English law—so the case comes to us. Those cases are a good illustration of how we have a function as, if you like, a world court.

Domestically, we have had a number of important cases over the past year. I would like to mention one particularly important one. The question was: can an injunction be issued to prevent future wrongdoing in a situation where it is impossible to identify the people who might commit the wrongdoing? Normally, you have to be able to identify a defendant so that they can take part in the proceedings and be heard before any court order is made. The problem is that, in a wide range of contexts nowadays, wrongdoing can be anticipated but you do not know who is going to do it. One example is environmental protests. Another is wrongdoing on the internet that is done anonymously.

If you looked it up in the books, you would find that this was apparently something that cannot be done, but we developed the law and said that you could grant such an injunction; we gave some guidance on the circumstances in which that might be appropriate and the safeguards that ought to be attached to any order of that kind. This is an example of how we perform our role of keeping the common law up to date.

The only other matter that I would like to mention by way of introduction is that we appointed a new Justice, Lady Simler, last year. While I have been president, I have chaired appointments commissions for four new justices on the court; out of the four, two have been women. So we are making some progress on that front, albeit not as fast as people might like.

Q2 **The Chair:** Thank you very much. Lord Reed, you have a strong record on enhancing the international reputation of the UK as a global legal centre. It is not always fully appreciated how important that is, so I want to recognise the work that you do there. We have some questions on that, but we will come to them a little later, if we may.

I have a reflective question as an opener. This year marks the 15th anniversary of the establishment of the UK Supreme Court. Can you give us your views on how the court has evolved over the past 15 years? In particular, what do you see as the greatest challenge the court has faced and what lessons have been learned from facing that challenge?

***Lord Reed of Allermuir:*** The greatest challenge is also the key to how we have evolved. Parliament's intention, when it created the Supreme Court to take over the functions previously performed by the Appellate Committee of this House—just down the corridor, in Committee Room 1—was that the workings of the highest court in the land should be much more visible and transparent than they previously were. That is a good thing, of course, but the challenge it brings is that people have become aware of the work that the top court does, to an extent, when they were never aware of it previously. Some people have the impression that the court is activist and has taken on a new constitutional role.

This is a consequence of the visibility of our work. Let us compare it with the Appellate Committee in the 1960s, when the principles of judicial review were revolutionised by the Appellate Committee under the chairmanship of Lord Reid of Drem, or in the early 2000s, when the

leading cases on the effect of the Human Rights Act were decided. The senior Law Lord at the time was Lord Bingham but most of the leading cases were actually presided over by Lord Nicholls. Compared with those judgments of the Appellate Committee, we have on the whole been rather a conservative court, but people were not aware of what was going on in the Appellate Committee because it was not covered in the media; it was not exactly media-friendly. The public scarcely ever entered Committee Room 1, whereas everything we do is, quite deliberately, highly visible. That is particularly so if it is a decision involving the Government, but sometimes it is also so if it is a decision involving private parties. These have a media profile and, consequently, political interest that never happened before 2009.

That has been a challenge for us, and we have to meet it through the work we do in building relationships with Parliament, the Government and other stakeholders, through our outreach and educational work, and what we do to help the media to report our work accurately. That has been the challenge and it explains many of the ways in which the court has evolved.

As to the visibility of the court, over the 15 years, we have had over a million visitors to the court, whereas in a year we would have a handful to Committee Room 1. Last year, about three-quarters of a million people watched appeals or judgments being handed down live on our website. We also have our education and outreach work, which simply was not possible when the court sat as part of the House of Lords, and our sittings outside London; as you know, we have sat in Edinburgh, Belfast, Cardiff and Manchester.

Our judicial working methods have changed, and that is also partly because we are no longer in the House of Lords. There, you have to give speeches and you cannot share a speech—everybody has to have their own speech. In the Supreme Court, we now have single judgments in about 80% of our cases. In about a third of our cases, the judgments are written by a number of justices jointly. I am very much a believer in this, on the basis that two heads are better than one. This has been facilitated by the use of technology; we now work in a very collaborative way that did not apply when the court sat here. We have user groups, which did not previously exist. I invite judges from lower courts to sit with us, which previously was not possible unless the judge happened to be a Peer; in modern times, it is only the Lord or Lady Chief Justice who is a Peer.

In terms of technology, we are largely a paperless court now. In the old days, there would be banks of paper here and rows of books. That has all changed.

Our international relations have become a very important part of our work, and we will be talking about that later, but it did not exist on the same scale when the court was part of this House.

Our diversity and inclusion work is a major aspect of how we have evolved. We are able to undertake these activities partly because we can host events, and run internship schemes and other activities, in a way that would not have been possible previously.

To sum up, the nature of our work has not evolved—it is the same as what we were doing when we sat down the corridor—but the prominence of that work has developed enormously. Our mission to explain ourselves has also had to develop correspondingly. These various ancillary activities of ours, which are also of course important, have evolved in a way that would not have been possible previously.

**The Chair:** On the point that the nature of the work has not changed, when Baroness Hale gave her reflections five years ago, on the 10th anniversary of the Supreme Court, in which she listed the benefits and challenges that she saw, she referenced becoming more of a constitutional court. Would you like to reflect on that point?

***Lord Reed of Allermuir:*** That is a consequence of the various legislative measures that were enacted, in particular during the Blair Government. The highest court has always, in a sense, been a constitutional court, because we have a constitution whose legal principles are laid down sometimes in legislation and sometimes in common law. As the highest court has the final word on the interpretation of legislation and development of common law, it has always had a constitutional function. The devolution legislation gave us a new role in adjudicating on demarcation disputes and challenges to whether devolved legislation was within the powers of the devolved legislatures. That was a new function.

The Human Rights Act gave us a new function of assessing Acts of Parliament for compliance with the European convention, and the ability to make a declaration that they were not. That was a new function. Freedom of information legislation has also given us a new role. Our constitutional function has been expanded as a result of legislation that Parliament has enacted during the past 30 years.

Q3 **Baroness Finn:** Listening to you list the changes and evolution over the last 15 years, I am interested in an analysis of what might have been lost as a result. I was interested in your views as to whether greater transparency, et cetera, have been to the detriment of some of your work. Can you give us an independent analysis of the pros and cons of the change?

***Lord Reed of Allermuir:*** The only disadvantage that I have been conscious of, which I remember discussing with Lord Strathclyde at this session last year, is the lack of daily contact with parliamentarians that we had previously, which had value. In retrospect, one of the weaknesses of the court during its first 10 years was a failure to build or maintain relationships with Parliament. Judges tend to be nervous about engaging with politicians. They were forced to when they were Members of this House, sitting as a committee within it, but once they moved across the road the default position was not to be involved in the world of politics.

We saw some of the consequences of that in the fallout from the Brexit judgments. When I became president, I was very clear that I wanted to rebuild a relationship with Parliament—we will be talking about that later. I am quite clear in my mind that the advantages of having our own institution, where we can pursue the various activities that I have mentioned, outweigh the disadvantages of being divorced from Parliament.

However, I recognise that there is this consequent disadvantage. I have tried to address it by building up contacts between the court and Parliament in a way that did not happen during the first 10 years.

**The Chair:** Thank you so much. There are two quick questions from Lord Strathclyde and Baroness Goldie, and then we will move on to international engagement.

**Lord Strathclyde:** Actually, my question will come up later when we discuss the interaction with Parliament. Perhaps it is better if I leave it until then. Otherwise, we will be going over the same ground.

**Baroness Goldie:** My question is quite brief. I was struck by your response, Lord Reed, to Baroness Finn's question. I understood that one of the attractions for giving the Supreme Court a different environment was to keep you away from undesirables as if you were tainted by having to consort with them.

Being from a Scottish background—and given that both of you are from the Scottish Bar—the other aspect that interests me is that in the Court of Session judges, advocates and lawyers all mix together—I suppose you get a sense of who is who and how they perform and what they are like.

I am more interested in the environment across the road in terms of remaining engaged with your legal colleagues, because it seems that you are in a bit of a silo over there. Parliamentarians are much diminished by not being able to meet you and have lunch with you and so forth, but I am almost more interested in how the legal fraternity is perhaps either diminished or not enhanced because of this physical separation.

***Lord Reed of Allermuir:*** I remember coming here as counsel to do cases in front of the Appellate Committee, as others around this room will also remember. We provide a more welcoming environment to counsel than the House of Lords did. I do not know whether Lord Keen, Lord Burnett and Lord Anderson would agree but that is certainly my hope.

You are quite right that there is a danger that we are in some sort of ivory tower, divorced from the rest of the legal system. We try to address that by, first, as I have mentioned, welcoming judges from the lower courts to sit with us. In the last year, we had nine judges sit with us, some of them more than once. Half a dozen were from England and Wales, two were from Scotland, from the Court of Session, and one was from Northern Ireland.

I have been doing that every year for the last four years. We have now got through the whole of the Inner House of the Court of Session and about half the Court of Appeal in England. That is partly to encourage people to think about applying to join us, but it is also to remove the sense of distance and mystery about the court.

So far as counsel and solicitors are concerned, we have quite a lot of events at the court which are designed, in one way or another, to encourage practitioners to think about applying to be judges, particularly underrepresented groups—women, ethnic minorities, people from poorer backgrounds and so on—but they are open to everybody.

We are engaging with and meeting practising lawyers in a way which the Law Lords in days gone by would not have done. It is not the same as working in the Advocates Library and walking up and down Parliament Hall or the equivalent in Northern Ireland or going to your inn for lunch, as the English judges do, where they mix with their fellow benchers who are members of the Bar.

I am afraid that cannot be helped but, as I say, we have frequent meetings with the senior judges in the lower courts. We invite our colleagues to sit with us and have events to which lawyers are invited, so we do what we can.

***Lord Hodge:*** If I may add one point, members of the court also try to reach out to the profession by being involved in the activities of the Inns of Court. Last year, Lord Lloyd-Jones was treasurer of Middle Temple and this year Lord Briggs is treasurer of Lincoln's Inn. As Lord Keen will know, I serve on various Middle Temple committees in relation to finance and estates. This is activity reaching out to the profession—not quite being in Parliament House, walking up and down the hall—being involved in the administration of the Inns of Court where you meet other judges, barristers and young people training to go to the Bar.

***Lord Reed of Allermuir:*** I should have mentioned that we are still Scottish judges as well as UK judges. For example, I serve on the Judicial Council for Scotland, which will be meeting in June. We are invited to take part in judicial training work in Scotland. For example, I have done sessions on how to write judgments and Lord Hodge is involved in work to do with AI. We are still actively involved in legal work north of the border.

**Baroness Goldie:** I am sorry, chair, my little question seemed to have hit a vein of gold here.

**Lord Thomas of Gresford:** My son, who is head of chambers in Manchester, spoke very enthusiastically of your engagement with the local Bar and the legal profession generally when you went there. He thought it was very impressive.

***Lord Reed of Allermuir:*** That is good to know, thank you.

**The Chair:** Questions affecting Scotland rarely merit a brief answer.

Q4 **Lord Burnett of Maldon:** Before I ask my question, I declare a couple of interests. I am a member of the supplementary panel of judges of the Supreme Court and I have sat on many of the panels that appoint justices—as mentioned by Lord Reed—including the panels that appointed Lord Reed and Lord Hodge.

To come back to your foreign engagement, I was intrigued and interested to hear the observations you made in your opening about the continuing ubiquity of English law in international contracts and the widespread use of English jurisdiction clauses which pulls a vast amount of work into London, some of which finds its way to the Supreme Court.

No doubt, that underpins some of the motivation for international engagement, but it is much more than that. I wonder whether you might be able to give us an overview of the international engagement that the Supreme Court has been undertaking since this committee last saw you.

I have two subpoints, if I may. The first is to explain the relationship between your international work and that particularly of the Lady Chief Justice through the international department in the Royal Courts of Justice. Secondly, much of the work that you spoke about last year was with civilian jurisdictions, I wondered about the extent to which the Supreme Court was engaging with common-law jurisdictions and not only the mature ones but the more recent ones, particularly in the Commonwealth.

***Lord Reed of Allermuir:*** Perhaps I can ask Lord Hodge to answer that question, as he has lead responsibility for our international affairs.

***Lord Hodge:*** Thank you very much, Lord Burnett. Since last July, we have had four bilateral meetings with other courts. That is probably the work that takes the most organising, as I will explain. We have had 11 engagements overseas and 26 international visits to our court. The bilateral meetings tend to involve either a group of justices and other judges, on occasion, visiting a foreign court or a group of judges coming to our court for a day-long conference in which we discuss topics of mutual interest.

In July last year, we had a second virtual bilateral with the Supreme Court of Japan, where we discussed digitalisation and the use of technology in our court, and how to strengthen judicial relations between the UK and Japan. I will come back to that when I briefly describe Lord Reed's visit to Japan.

Secondly, we had a visit by the Cour de Cassation of France to coincide with the opening of the legal year. We discussed judicial transparency and outreach and, again, the use of technology in the court. Then, in March this year, for the first time, we had a visit from the High Court of the Netherlands—its supreme court—where we again discussed technology in court and its use by the profession, and the effect of Strasbourg jurisprudence on our domestic jurisprudence.

Finally, earlier this month, a large delegation from the United Kingdom visited the Strasbourg court. As well as two justices of our court, the

Lady Chief Justice of England and Wales and the Lady Chief Justice of Northern Ireland attended, along with a judge from the Court of Session and judges from the Court of Appeal. Topics included methods of building public confidence in the judiciary, the working methods of our respective courts, and the interplay between Strasbourg jurisprudence and domestic jurisprudence.

We have had a number of overseas visits, as I mentioned. The principal one was Lord Reed's week-long visit last November to Japan—no doubt he can answer more detailed questions on that—where he had a fairly rigorous programme of lectures and meetings which peaked with an audience with the Emperor. It is fair to say that the Japanese were very welcoming and engaged, wishing to develop a closer relationship with the UK and adopt working methods which are becoming more common in the UK and the West to modernise their court. Lord Reed is also going to Brazil this month to attend a meeting of supreme court presidents in the context of the G20 meeting there.

Inward visits have been widespread. We have had 20 international visits. I will not list them all, but they have included the Chief Justice of Malaysia, the President of the Supreme Federal Court of Brazil, and a justice of the High Court of Delhi. We have had ambassadors, high commissioners and legal professionals visit us too. It takes a bit of time, and I am very grateful to my team for helping me organise these things on top of the judicial job.

Lord Burnett, you asked about the objectives. They include the promotion of the rule of law internationally, building up mutual understanding and co-operation to that end, strengthening the international reputation of the UK, including of our court as a leading common-law court, and promoting the United Kingdom as a centre of legal excellence. That also involves promoting the commercial legal interests of the UK, not least London. This all helps to support the UK's economic recovery.

There was a report by Oxera for LegalUK in 2019 which shows the extent to which English law brings business to London and supports transactions in English law and legal business in the UK. I will not detain you with the statistics—I have them in front of me—but the report is worth reading, because it shows how English law underpins the work of the City of London and the prosperity of this city.

On our relationship with the Royal Courts of Justice, we have regular meetings with the Lady Chief Justice and members of her team who are engaged in international work to co-ordinate what we do and make sure that we are singing from the same song sheet. The work of the Royal Courts of Justice often tends to be more focused on training the judiciary of Commonwealth countries, while our focus on the whole has been on maintaining relationships with European jurisdictions, which tend, as Lord Burnett indicated, to be civil-law jurisdictions. We are very open to working with common-law jurisdictions as well.

The forthcoming engagements in the pipeline are a bilateral with the Republic of Ireland, a common-law jurisdiction, where it is proposed that four justices from our court and the chief justices of the jurisdictions of the UK or their delegates will spend a day in Dublin. We have an invitation to visit the Conseil d'État in France next year. The Chief Justice of Vietnam is keen to have a meeting in our court with Lord Reed, and I am hoping to organise a larger visit by Supreme Court justices, federal judges and members of the legal profession from the United States of America next spring. That is what is on the table at the moment.

***Lord Reed of Allermuir:*** In reality, our international work is focused primarily on Europe and, to a secondary extent, the Far East and North America. Apart from the Privy Council jurisdictions, we do not have a great deal to do with the wider Commonwealth, although, of course, we are delighted if they want to visit us.

That reflects a number of considerations. One is that we have a very modest budget for this. Our annual budget for international work is £40,000—we have a modest budget generally—so we have to be careful how we spend the money. Short-haul flights are cheaper than long-haul flights. For example, I initially had to decline the invitation to Japan because we could not afford to send me. The Supreme Court of Japan then offered to pay for the trip, so I was able to go.

That is part of the explanation, but it also works out well with the work done by the Royal Courts of Justice, because that is focused primarily on the Commonwealth, as I understand it. I am very happy to do work focused mainly on Europe, because we are, of course, still party to the European Convention on Human Rights. Although we are not in the EU, we are affected by what it does and, through taking part in discussions of current issues with, in particular, the Germans, the French, the Italians and the Dutch, we influence what is being thought. For example, on privacy and data protection law, our tradition of freedom of expression rather than the protection of privacy is somewhat different to the European tradition, so I can add my voice to that of the president of the Supreme Court of Ireland in emphasising the common-law perspective.

Also, we learn from them what is happening, for example, with AI, where some of these jurisdictions are further down the line than we are. Lord Hodge may have mentioned, or will mention, that in relation to our change programme, we discovered through our meetings with the Dutch that they had already gone down this road. They offered us co-operation and we had the opportunity to find out how their system was working and what lessons could be learned from the problems that they had encountered.

Our European work is valuable to us. The Far Eastern work is somewhat different. There, it is more of value to the UK. In Japan, for example, they wanted to learn about more modern court procedures. For example, they do not much use electronics in their courts; they are still using paper. Consequently, they were being overwhelmed, particularly in commercial cases, by the sheer volume of paper. They do not have case

management in the way in which we have it, so judges were really at the mercy of lawyers presenting them with unmanageable amounts of work. They wanted to learn from us.

That kind of visit is not directly of benefit to the Supreme Court, but it is of benefit to the UK. That visit was supported by the Foreign Office. When I go to Brazil to take part in the G20 discussions, where again, we will be talking about AI and climate change litigation, that also has been supported by the Foreign Office. It is arranging for me to take part in other activities that will, as it were, promote UK plc as a as a legal centre while I am there. I hope that is helpful.

Q5 **Lord Foulkes of Cumnock:** Your international work is very impressive, particularly on a budget of £40,000. Only a Scotsman could manage that. I have a particular interest in the European Court of Human Rights, as Lord Keen has; we are both members of the Parliamentary Assembly of the Council of Europe. You mentioned the visit that you arranged to Strasbourg, the European court. Could you describe the nature and extent of all your activities with the European Court of Human Rights?

***Lord Hodge:*** Of the two visits that we have been involved in, one was the opening of the legal year in Strasbourg, where I and various other UK judges went and took part in their seminars and witnessed the opening of the legal year. The other visit, as I mentioned, which took place in April, involved a one-day discussion. That is our principal contact with Strasbourg. We obviously know very well the British judge in Strasbourg, Tim Eicke, who visits us in the court sometimes and we have a very good relationship with him, but we have not had any other formal contacts with the Strasbourg court as far as my involvement goes. I do not know if Robert can add more to that.

***Lord Reed of Allermuir:*** I have meetings with Tim Eicke. There is, as you probably know, a panel of ad hoc judges of the Strasbourg court. I have been a member of it for 25 years. It is a panel that is made up by the Lord Chancellor. These are British judges, but they are invited to sit in Strasbourg from time to time—I have sat there a few times by virtue of being on the panel. The Lord Chancellor is about to undertake an exercise in refreshing the panel, so I will have to nominate some people to be members of it. I am also chairing the selection commission to recommend to the Lord Chancellor candidates to replace Tim Eicke, whose term of office will expire next year. Some of the people we recommend will no doubt come before the committee of the Parliamentary Assembly and then for election before the Parliamentary Assembly. One of the ironies is that the complaint sometimes heard is that judges are unelected. The only elected judges that we have are the Strasbourg judges. They are elected by the Parliamentary Assembly.

**Lord Foulkes of Cumnock:** I am glad you made that point. I got the impression when we had evidence from the Lord Chancellor that he is aware of the role and the importance of our relationship with the European Court of Human Rights. Is there any way in which you can help to make more of his colleagues aware of that?

***Lord Reed of Allermuir:*** I have meetings with parliamentarians and this topic sometimes arises. When I am off duty, I can express myself more freely than I can when I am on duty.

Q6 **Baroness Goldie:** The question I was going to ask has been superseded. To go back to your introductory remarks, Lord Reed, you described two cases—the Dutch case and the cargo and the German case with the Russian power company—and you said that you were involved because the contract conferred jurisdiction by reference to English law. With all the work you are doing—I repeat what Lord Foulkes was saying; I commend you for the extraordinary calibre of the Supreme Court and the tremendous impact it has on the global awareness scenario—do you see a potential because of the value of what you and your colleagues are doing and the recognition internationally of the worth of having disputes determined by English law? Is that a growing area? Are other countries still happy to have contracts where the jurisdiction is conferred because of reference to English law?

***Lord Reed of Allermuir:*** The Russian case raised this issue because the Russian parliament had responded to the sanctions by passing legislation saying that Russian courts had exclusive jurisdiction over these disputes that were affected by sanctions. One of the issues that we had to consider was whether we should exercise jurisdiction in that situation. At the end of the day, we did. In fact, the Russian court was very co-operative and awaited our decision before taking any steps in its own proceedings.

More generally, the short answer is no. Other countries would love a slice of the action. There is quite a competitive market, as the lawyers around the table will know. Singapore, for example, is another major centre for legal services and arbitration, and has promoted itself successfully. Hong Kong is another important centre, as is New York. Other centres have been set up in other jurisdictions as a way of diversifying their economies. For example, a lot of the Gulf states have now set up international commercial courts that operate in English and use English common law. Even the French and the Germans have set up English-speaking courts in France and Germany to try to attract international commercial work.

Not just the Supreme Court but the English Commercial Court, particularly, and the Court of Appeal, are operating in a competitive commercial market, which is one reason why, for example, updating our technology is so important, so that we are offering a service that is up with the best in the world. In fairness, our Treasury recognised that in giving us £5 million to pay for the change programme that we are undertaking to introduce more modern technology.

**Baroness Goldie:** Does that include doing virtual hearings, if you wanted to be more accessible to faraway destinations?

***Lord Reed of Allermuir:*** Yes. We use virtual hearings commonly for our Privy Council cases, which come to us from the Caribbean or the Indian

Ocean. We can use it also in the Supreme Court. We did so during the pandemic but have not used it since, unless there was some emergency. Occasionally, we have had counsel who have had Covid and have had to self-isolate but are well enough to do the case, so we have allowed them to appear virtually—but that is very unusual. In principle, we would rather people came to London and appeared. We have a courtroom. We want to use the courtroom.

**The Chair:** Before we move on to the next question, I think the committee would want me to put on record that we recognise the work that the Supreme Court is doing in enhancing the international reputation of the UK as a global legal centre—and, indeed, the importance of that work. I want to register that point on behalf of the committee. We will now move on to diversity and inclusion.

Q7 **Baroness Andrews:** Good morning. It is very interesting to approach diversity and inclusion as an issue against everything that you have already said this morning in terms of how much you have invested in the outward-facing work of the Supreme Court, its global reputation and its inclusive nature, as well as all the work that you are doing to make it accessible, credible, understandable and so on.

I detected a bit of reluctance, perhaps, when you, Lord Reed, said that you had made one female appointment; it sounded as if you would like to have made more. I thank you too for your written evidence.

I want to ask you about the pipeline as a whole, because, clearly, it is a serious undertaking for you and you have done a lot already. Some of the groups that you are involving are not the usual suspects, which is always good to see. My concern is with the notion of progression and the impact, acceleration and scaling up of the strategy. You have a number of very good initiatives, but it is hard to determine the degree of impact and the timescales to which you are operating because of nature of the structural problems, particularly in the educational and professional structures that we have. My first question, therefore, is this: to what extent do you think you can be successful over time in trying to penetrate more deeply so that you get young people to take up the career?

My second question is about evaluation and benchmarking. Although the progression is clearly there in the nature of the activities, how do you go beyond the metrics to see whether you are really making an impact? It is lovely to see your trainees behind you this morning, incidentally. Beyond the metrics, how do you evaluate sustainability? How will you really embed these initiatives so that they become part of the formative structures, rather than structures that are reactive to a well-diagnosed problem?

***Lord Reed of Allermuir:*** Those are very good questions, if I may say so. On the first issue, as you say, we have undertaken quite a number of initiatives—both the ones last year that I described and others during this past year—many of which are designed to encourage young people from underrepresented groups to become lawyers and think in the longer term about a judicial career. We have activities that are aimed at mid-career

people; we also take steps for those who are already judges. Some of the activities that we undertake with other organisations have now been running for some years. Some of them have also been taken up by other courts. The High Court and the Court of Appeal have adopted some of our ideas, for example. So the numbers of people being assisted are, cumulatively, becoming significant.

Embedding them is really a matter of culture. It is now part of the culture of our court, and we are supplementing that with training for the judges on the court. For example, we do a lot of outreach work where we go to universities and meet law students. We do a lot of activities with schools where we talk directly to sixth-formers. You are liable to be asked by a young black woman, "What chance have I got if I want to become a lawyer?". We have therefore had training sessions where we have discussed these scenarios, with the assistance of people who are able to give us advice, so that we do not have to react off the cuff when these issues are raised and these questions are put to us and so that we can give a considered response. I mention in particular an organisation called the Black Talent Charter—Lord Anderson knows about it, I think—which has been helpful in giving us advice in that connection. It has become part of the culture of our court and is becoming, I hope, part of the culture of other courts too.

Monitoring and benchmarking success is very difficult at the moment because these are long-term developments that we are trying to further. We measure attendance at our events, which is high. We always issue feedback forms to everybody who attends, and the feedback is positive. We see whether our partner organisations want to repeat the events. They do, so they think that they are working.

We have some results for the internship programme that we offer. We have looked at the success of the interns in gaining pupillage. These are young people from disadvantaged backgrounds who would like to become barristers. In the year for which I have results, three-quarters of them succeeded in getting pupillage; that is a good result, and they were in good chambers as well. The feedback that we get from them is very positive. Beyond that, I am afraid, we have to be patient and just wait for these results.

Something that I have done during the year—in March, in fact—is issue a practice note aimed at barristers appearing before us, encouraging the parties to give junior counsel a speaking role in front of the court. We were finding that only the KCs were addressing us. The level of diversity is much greater among junior counsel than it is among senior counsel. Partly for that reason, and partly because it is part of career development for junior counsel to appear in the highest court and address us, I decided to issue this practice note requiring the parties to confirm that they have at least considered giving a speaking part to juniors.

That has had a very positive reaction. It has been welcomed by both the Bar and the Commercial Bar Association, which is where the greatest problem probably is. We now regularly have junior counsel address us,

with a corresponding increase in diversity in the courtroom. So we do what we can.

Inevitably, I am afraid, it will take time to see the results. The underlying problems are societal and about the nature of legal work and the way it is done, particularly in commercial work—as people around lawyers will know—which has developed a culture of 24/7 working. Unless you have a society in which people who live as couples or in families have arrangements for childcare, the care of the elderly, the division of responsibility for cooking, housework and so forth which enable women, for example, to do that work just as well as men, then women will be disadvantaged. That is not something which legislation or court practice statements can alter.

**Baroness Andrews:** Of course, you are right about that. We have a similar problem in Parliament in the sense that very few people know what we do, especially in the House of Lords, as you can imagine. We have a new programme of engagement where we bring people in and engage them in the practice of being parliamentarians. I do not want to misjudge this, but it slightly feels to me as if you are doing things to people, whereas in fact it would be rather good if there were a way of involving more people, getting their views and voices about how to accelerate this. Of all the initiatives, are there ones which work better than others and could be scaled up?

In your next reflection, could you identify some of the wider issues so that we can contextualise as a committee what you are doing about the problems you face, and we will know exactly what the journey feels like from the inside? We appreciate the problems; this is a very big and rusty tanker to turn around.

***Lord Reed of Allermuir:*** Those are again very good points. As to whether some initiatives are better than others, I have been especially pleased by the success of our internship scheme. We are scaling up the numbers that we will take. We are a small organisation, with 12 judges and 12 judicial assistants, but we are planning to take more interns this autumn. On the final afternoon that they are with us, they tell us about their experience and the problems they face. That is a very educational experience for us. For example, I was especially struck by a young woman from an Asian background in the north of England; she had to sever all connections with her family because they planned for her to remain at home until she could enter into an arranged marriage with a nice young man from a village in Bangladesh. She wanted to be a city lawyer. We learn the scale of the challenges that people face, and we learn from these discussions how better we can support them.

We will bear in mind for our next appearance your suggestion that we identify the wider issues that we are trying to counter.

**Baroness Finn:** I will be very quick, because Baroness Andrews has touched on a lot. I will pick up on what you said about the interns and listening to their problems. A lot of my experience from dealing with

diversity projects is that it is often the small problems that cause the most concern; for example, buying a train ticket so that somebody can go to a university open day—sometimes people cannot afford those basic things. By telling us about listening to interns talk about small practical problems, you have more or less answered my question.

In terms of judging results, you have mentioned that there is great diversity between junior and senior counsel. Obviously, you are looking forward to bringing people through that pipeline. It is really a case of how it is monitored to make sure you have greater diversity in the junior ranks and that they are progressing, because a lot of the time progression does not happen as it should. That is the main thrust of my question.

***Lord Reed of Allermuir:*** It is quite difficult. We gave consideration to whether we should expect the parties in cases before us to complete some sort of monitoring form, of the kind that you see in job applications nowadays. I took the view that it would be too great an intrusion on the parties. Essentially, it is not our function to supervise their behaviour, and I thought it might be misinterpreted.

However, we can see with our own eyes who appears before us in what type of case. The sad truth is that women appear predominantly in publicly funded cases and not very often in high-value commercial work. I hope that I might see that change over the course of my lifetime. It takes time for junior counsel to progress, and even the juniors in that field are not notably diverse, although somewhat more so than the seniors. As I say, I suspect it is the 24/7 working culture in that field that may be a problem.

**The Chair:** Let us turn to the issue of allowing judges from overseas jurisdictions be appointed to the Privy Council.

Q8 **Lord Beith:** Turning to your alternative identity as the Judicial Committee of the Privy Council, it seems to me as if an almost unintended consequence of the changes that were made when the Supreme Court was created were changes in a very long-established court that had its own court room and was used to there being judges from other jurisdictions sitting on cases. When you came before the committee two years ago, you described 12 British people ruling on cases that came from different countries and societies. You also described how procedures were going ahead to bring forward Orders in Council to enable Privy Council appointments to be made. This does not seem to have happened yet and we are talking about two years ago.

***Lord Reed of Allermuir:*** I first made the proposal to government three years ago. I am pleased to be able to tell you that the Lord Chancellor has now approved the proposal and we are working on the detailed arrangements. What is needed is Orders in Council to cover jurisdictions that are not currently covered, and the appointment of suitable judges as privy counsellors. That is not a matter simply for me or the Lord

Chancellor; ultimately it is a matter for the King. However, that work is now in train, following the approval I received for my proposal.

**Lord Beith:** He needs to get on with it. There are certain time constraints coming up.

***Lord Reed of Allermuir:*** Yes, I am aware of those.

**Lord Beith:** Are you giving us confidence that you think it is going to happen?

***Lord Reed of Allermuir:*** Yes.

**Lord Beith:** I joked about your alternative identity. Do you think the identity of the Judicial Committee is sufficiently understood? You have done a lot of successful work so that people know that we have a Supreme Court and what it is and what it is not; that is, not the American Supreme Court. However, not much is known about the Judicial Committee, although there are two alternative coats of arms on the entrance to the Supreme Court and Lady Hale told us that a different carpet was laid down when you were the Judicial Committee. Is a little effort necessary to make people understand what the Judicial Committee is?

***Lord Reed of Allermuir:*** It is true that it is not well known domestically, and it comes as a shock to judges who are appointed to our court to discover that they are sitting for about half their time on Privy Council cases. It is much better known in the jurisdictions that we serve. I have been engaging in those jurisdictions—not just me. We have upped our game in relation to those jurisdictions over the past couple of years. We have set up the user group for the Caribbean jurisdictions that I mentioned. We now have online meetings with the judges in those jurisdictions. In fact, Lord Hodge chaired a meeting with them earlier this week. I have been engaging to some extent in public debate in Jamaica over the future of the Privy Council there by, first, responding in the newspapers there to inaccurate criticisms that had been made of the Privy Council. Last week, in fact, I gave a lecture remotely to a Jamaican audience about the work of the Privy Council.

We are making an effort, but I entirely take your point. It is not well known in the UK. It is a very important part of our work, because many of our most important cases come to us in the Privy Council—important not just for them but for our own law. If you have any suggestions as to how I can make it better known, I would welcome them.

Q9 **Lord Burnett of Maldon:** To follow up on the question asked by Lord Beith, we all understand that the Supreme Court is constructed so that there are former Scots judges, a Northern Ireland judge and English judges. The reason is simply to ensure that, as I understand it anyway, that there are judges who understand different cultures, different societies, different laws and different political structures. That is not possible currently in the Privy Council, but I am reassured to hear that

you think some progress may be made on that front. I was intrigued by your reference to the Jamaican debate, if I can put it that way. The Privy Council deals with the British Overseas Territories, Jersey and Guernsey, Gibraltar and places of that sort. Are you noticing an increasing debate in the truly independent countries that inherited the Privy Council from many decades ago on asserting their growing independence by developing different structures?

***Lord Reed of Allermuir:*** Yes, some of the jurisdictions in the Caribbean belong to an economic union called CARICOM. It established a court called the Caribbean Court of Justice, which has a jurisdiction to decide disputes over the trade treaty. That court also has an appellate jurisdiction and currently five jurisdictions in the Caribbean have decided to use it as their final court of appeal. They were formerly Privy Council jurisdictions—Belize, for example. This past year, Saint Lucia decided to leave the Privy Council and take its final appeals to the Caribbean Court of Justice instead. That is entirely a matter for them. I entirely understand a feeling that it is desirable to create a Caribbean appellate court that can develop a Caribbean jurisprudence.

My only concern is that any debate should be based on accurate, not inaccurate, information. I have therefore intervened, in effect, in public discussion in Jamaica in order to correct misapprehensions that we were not interested or that it was enormously expensive to bring cases because you had to fly to London, or that it was an inaccessible court. I did it also to explain how we deal with issues. I wanted to let them know that we are planning to have Caribbean judges sitting with us as soon as the arrangements can be made and to explain to them how, in the meantime, we deal with an issue. If we have a case, for example, about same-sex marriage in Bermuda, how do we deal with a case like that to avoid imposing British values on a different society? How do we inform ourselves about what the local values and culture are?

As I say, an active debate is going on in some Caribbean jurisdictions—not in all of them because there are jurisdictions that, apart from anything else, really need a court with expertise that is respected around the world in order to sustain their activities as offshore financial centres. I am thinking of places like the Bahamas, British Virgin Islands and Cayman Islands. Obviously, we entirely respect the autonomy of those jurisdictions. We offer a service, so long as they want it. If they decided that they would rather not use it any longer, that would be a matter for them.

**Lord Thomas of Gresford:** I have some experience of the Privy Council. Indeed, I did the last case from Singapore and the result was favourable to my client, Mr Jeyaratnam, the Leader of the Opposition, and appeals from Singapore ceased. The Privy Council in the past saw its role as spreading the values of the mother country to what was the empire. That followed on, for example, with its attitude to capital punishment in the Caribbean and so on. You talked about respecting the individual norms and values now of countries that come to the Privy Council today. Would you like to comment on that?

***Lord Reed of Allermuir:*** We definitely do not seek to impose the values of the mother country on the jurisdictions of our former empire. We very much respect the autonomy of those jurisdictions. If it comes to issues about values, all of them, I think, have their own constitutions with bills of rights. Many of them are party to international human rights conventions—for example, the inter-American convention on human rights. Some of them are party to the European Convention on Human Rights—for example, the Cayman Islands. We look at the relevant constitutional provisions for that jurisdiction. We interpret it very often in the light of the international conventions which that jurisdiction has ratified. It by no means follows that the same result will be arrived at in, say, the Bahamas, as would be arrived at if the same problem arose in Scotland.

**Lord Thomas of Gresford:** Do you think that it is anomalous that a court should sit in this country deciding the values or norms of a society without any representation from that society? Do you think the Government understand that now?

***Lord Reed of Allermuir:*** Yes, I do regard it as anomalous. That is why I proposed three years ago that judges from these jurisdictions should be able to sit with us. Obviously, I cannot answer for why it has taken so long for approval to be given to the proposal, but we now have it and I am thankful that we do.

I should say that the sort of case we are talking about, where values are important, is unusual. They do not come up very often. Most of our work is much more routine, where we are deciding commercial disputes, criminal appeals, disputes over inheritance, which are very common, and planning disputes—there is a lot of tourism development in these jurisdictions, which raises questions around planning and environmental law. Some 95% of it is what you might regard as routine legal work, but we sometimes get these constitutional cases—such as the same-sex marriage issue, which has arisen in a number of these jurisdictions—where we have to be sensitive to the local culture.

**Lord Thomas of Gresford:** I certainly recall that capital punishment was a big matter in the Caribbean.

***Lord Reed of Allermuir:*** It still is. When we visited the Cayman Islands a couple of years ago, some concern was expressed over the effect that Privy Council judgments had had in making it much more difficult to execute people.

Q10 **Lord Anderson of Ipswich:** I declare an interest as a member of the Bar of England and Wales and as a member of two courts, in Guernsey and Jersey, from which appeals are occasionally heard in the Privy Council. Your last annual report showed that in the year 2022-23 you heard more appeals in the Privy Council than in the Supreme Court—I think 62 in the Privy Council and 50 in the Supreme Court—and you gave more judgments in the Privy Council than in the Supreme Court, by 60 to 38. I think that is the first time in the past five years when Privy Council

work, at least by those measures, has predominated.

Your report, which is most informative, also tells us that 40 or 50 of the Privy Council appeals filed each year arise "as of right", which I understand to mean that there are constitutional or statutory arrangements in the originating jurisdictions to allow appeals to be sent to the Privy Council without the permission of the Privy Council being required—without docket control, as the Americans like to say.

I have two questions arising from that. First, are there any moves afoot of which you are aware in the originating jurisdictions to remove or reduce appeals of right, as was done fairly recently in Guernsey? Secondly, you told us last year, Lord Hodge, that you were putting procedures in place to filter out what I think were described as "small-value appeals with little legal importance". Could you update us on what progress has been made on those procedures and whether you anticipate that they will have a significant impact on your workload?

***Lord Hodge:*** I think the figures that you cited which showed a majority of Privy Council judgments were a blip, which may be explained in part by the drop-off of civil work in the Court of Appeal of England and Wales during the pandemic. We saw a marked fall-off of applications to appeal from the Court of Appeal of England and Wales in that time, while the Privy Council workload remained. In the year to 2024, the ratio was 51 Supreme Court judgments to 40 Privy Council judgments, so we are returning to the normal balance.

We have introduced this procedure that you mentioned. By way of explanation, as I am sure the committee knows, we have a filter for Supreme Court cases: that they have to raise a point of law that is arguable and of general public importance. In many jurisdictions, that is not the case, andthat included Guernsey. I remember writing a couple of judgments where I hinted that Guernsey might update its procedures in line with its sister island of Jersey, which has been done. I am not aware of other initiatives to alter the appeal as of right. In many jurisdictions that would involve constitutional change, which would have a hurdle to get over to get the constitution amended.

Our procedure is designed to weed out cases to protect respondents from unnecessary expense and ensure that court time is used efficiently. When an unfiltered appeal as of right comes before us, it is referred to one justice who will carry out an initial review of the proceedings and the ground of appeal. That justice can do various things. He or she can instruct that the appeal be listed for a panel of three justices, if it is a case of minor importance, or it can go to a larger panel of five justices.

The real filter is the third option: if the justice considers that the case is devoid of merit, a letter will be sent to the appellants inviting them to file submissions within 21 days to indicate why we should not summarily dismiss that appeal. The usual ground for such a letter is simply that it is raising a challenge to concurrent findings of fact in the courts below. It has been the consistent jurisprudence of the Board that it will hear cases challenging concurrent findings of fact only in very exceptional

circumstances. The party will be invited to make these submissions and the respondent will be copied in. Then, when the submissions come in, the panel of justices will consider them and decide whether the case is to be summarily dismissed or go ahead to a full appeal hearing. That decision is not subject to reconsideration or appeal. Since we introduced the procedure in early 2023, we have struck out six appeals using this process and four others have been withdrawn, while 34 have proceeded to a full hearing.

Q11 **Lord Keen of Elie:** I believe that when you appeared before this committee in 2022, you told the committee about the need to challenge the idea that the rule of law involves a struggle for power between the courts and the Government or between the courts and Parliament. How is that challenge going, if I can put it that way? Will you address the question whether, when some politicians refer to the sovereignty or supremacy of Parliament, it should be understood in the context of the constitutional norms that have grown up over the last 300 years?

***Lord Reed of Allermuir:*** On how the challenge is going, I have regular meetings with Ministers and law officers, and there are meetings at official level. Those are an opportunity to build up a relationship and instil confidence that constitutional boundaries are understood and respected.

Something new that we did last year was to hold a morning event where we invited all the Permanent Secretaries and the heads of some other organisations such as GCHQ and the CPS to a meeting with all the justices where we discussed issues such as where rule of law problems arise—are there systemic issues that result in legal challenges to government action and so on? That was a very useful meeting. We each, as it were, saw the whites of the others' eyes, and discovered that we spoke the same language and often were having to deal with similar problems, albeit coming at them from different directions.

It helped us to understand how some of the cases that we hear come about; for example, learning about the sort of advice that law officers and government legal advisers give to Ministers nowadays, the appetite for litigation and the political advantages there can be in litigation. It was all quite revealing.

I and others at the court have been doing a lot of work with parliamentarians—the House of Commons Justice Committee, the Speaker, and, specifically, Conservative parliamentarians of both Houses who have invited me to speak to them—and officials and clerks of both Houses, again, to try to build up an understanding of the constitutional relationships and confidence that demarcation lines are understood.

As to the effect this is having, my relationship with Ministers is positive and constructive. For that matter, when I was invited by a Conservative Member of Parliament to speak to a group of about 20 Conservative parliamentarians, I rather wondered if I might be going into the lion's den, but I welcomed it because, at the very worst, it was a chance to

address misconceptions. In fact, it was a very welcoming environment, and we had a productive discussion.

I feel that progress has been made and there is a higher level of understanding. Of course, not everybody is as positively inclined towards us, but I feel we have made a lot of progress.

**The Chair:** Leading on to the issue of engaging with parliamentarians, Lord Strathclyde, did you want to come in?

Q12 **Lord Strathclyde:** Yes. This very much links with the previous question and some of what I said last year. Thank you very much for your opening statement about developing the idea of a world court. I think that is an incredibly important role for the Supreme Court to play and nothing I think or say will take away from that.

However, I was one of those who opposed the tearing out of the Law Lords from the House of Lords and, more importantly perhaps, the abolition of the traditional role of the Lord Chancellor. If I had the opportunity to make one small amendment to that Act, it would be to leave the Lord Chancellor in the House of Lords with the traditional kind of judicial experience that he or she always had.

I see part of the problem that you have been pointing at between Parliament and the court arising from that Act—discussions about the Bill of Rights, Article 9, the Miller case, the Rwanda case, ECHR and so on. You very rightly point to the visibility of the Supreme Court and, perhaps in its very name, the comparison with the US. It really is not the same, but I think that leads to a great deal of misunderstanding and politicalisation.

In light of that, and given that we have lost the social interaction between the Law Lords and parliamentarians and the ability for the Law Lords to see the difficulties and the compromises made in the legislative process and for parliamentarians to see Law Lords carrying out their work first hand, what can we all do to try to aid understanding between Parliament and the Supreme Court, particularly in the House of Commons? As we approach a general election where there are likely to be a large number of new MPs with little or no experience or understanding about the relationship between Parliament, the Executive in government, the Supreme Court and, dare I say, the Palace and the Privy Council and so on, what can we do collectively to improve understanding and make sure that errors do not occur?

***Lord Reed of Allermuir:*** On that point specifically, I have regular meetings with the Speaker of the House of Commons and we have discussed this topic. We have made a short film that features the Speaker, me and our chief executive, Vicky Fox, which will be circulated to all Members of Parliament after the next election. The film focuses on the role of the Supreme Court, the rule of law in our constitution and judicial independence.

At the Speaker's suggestion, we will also offer all new MPs a visit to the court as part of their induction. Again, with the Speaker's support, we are

producing a handout for new MPs, a short guide to the UK legal system, which will form part of their induction packs. I cannot force them to watch the film, read the material or take up our offer of a visit, but I hope they will.

**Lord Strathclyde:** Could that film be made available to Members of this House as well? It is a much broader issue than just MPs, particularly as each year goes by.

***Lord Reed of Allermuir:*** I do not see any reason why not; it sounds like an excellent idea.

Besides that, we had another round-table event with the House of Commons Justice Committee in July last year. It went very well. It was a pretty frank discussion.

A suggestion that came up at this session last year in my discussion with you, Lord Strathclyde, was the possibility of the Lord Speaker inviting justices of the court to the Lord Speaker's lecture series. He has acted on that and is inviting members of the court. That is an opportunity to meet Members of this House socially.

We are inviting members of this committee and other Peers to breakfast at the Supreme Court in July, which we are looking forward to.

We are in discussion with Parliament about providing tours and visits for the fast-stream clerks in both Houses.

We are working with the House of Commons Library on updating the House of Commons research paper on the work and role of the Supreme Court.

For the third year running, we took part in Parliament Week last year, which involved providing tours to interested organisations.

As I say, I took up the invitation from Conservative parliamentarians to talk to them and answer their questions and would welcome any other invitations to do the same thing.

**Lord Strathclyde:** Thank you very much. You have covered the ground very thoroughly—apart from the role of the Lord Chancellor, which I dare say was not really a question.

**The Chair:** That is government policy; we are aware of the convention that you do not comment on it.

**Baroness Finn:** Lord Strathclyde asked about the induction of MPs. I would simply like to reinforce that. His point was that Members of this House would massively benefit. The trade-offs in legislation are quite important, and understanding the roles would be incredibly helpful. However, rather than it being just an induction, could there not be a further programme with more opportunity to pick up on the social engagement that you are lacking—one of you mentioned that at the start

as one of the disadvantages—so that we have something that is more ongoing and something where you could become more integrated in future?

***Lord Reed of Allermuir:*** I appreciate that it is for you to ask the questions, rather than me, but do you have any particular suggestion in mind?

**Baroness Finn:** For example, the breakfast idea is really nice, but there is seen to be a lot of separation. The way the House of Lords operates is that you see people to discuss what amendments are going to be taken forward. There is a lot of discussion that irons out problems behind the scenes. Of course, that cannot happen. I cannot think of anything specifically, but I think that, rather than it being just an induction and a video at the start—

***Lord Reed of Allermuir:*** You mean things continuing?

**Baroness Finn:** Yes. For example, following your invitation to breakfast, there could be more meetings, with more interaction—even things like drinks parties or whatever. That would probably be quite useful.

***Lord Reed of Allermuir:*** I agree. We will look into that. It strikes me that an awful lot of it is just to do with being able to put a face to people and having some idea of what sort of people they are—do they seem like reasonable people or are they, in essence, out-of-touch eggheads?

**Baroness Goldie:** I think that, for a drinks party, you would have to up that budget of £40,000—but we will park that one.

I am delighted to hear about this engagement, Lord Reed. I still remember being a young law student reading—with pleasure, believe it or not—Dicey on constitutional law and understanding what happens if you do not have a separation of powers between the Executive, the judiciary and Parliament. I think that the ignorance of many parliamentarians is borne out of not understanding how awful things can be when they go wrong. I wonder whether there is an opportunity for you, in your explanatory educational work, to give some examples of how dangerous society becomes if that separation is not honoured.

***Lord Reed of Allermuir:*** Absolutely. It sometimes strikes me when there is criticism of the court for upholding a challenge to government policy, for example. How many people would want to live in a society where the court always rubber-stamped government policy?

**Lord Keen of Elie:** On that last point, I think that Montesquieu was describing the US model—rather than the UK model in which the Executive control Parliament, in effect—but I take your point about the independence of the judiciary, which is so fundamental.

Coming back to a more practical issue, you talked about engagement. Might it be possible to contemplate engagement with certain groupings within the House of Lords, such as the Association of Cross-Bench Peers

and the Association of Conservative Peers, which each have regular meetings to which it might be possible for justices to be invited in order to engage with those groups? I know that they may be perceived as somewhat political but there are groups across the House that, for example, engage regularly with Ministers. It might benefit them if they were able to engage with justices of the Supreme Court as well.

***Lord Reed of Allermuir:*** As far as I am concerned, there is no embargo on meeting politicians provided that what you are doing is explaining the work of the court. It is not our job to discuss politics, obviously, and there is no reason why politicians should be interested in our views about politics, but we have a responsibility to explain our role. If our role is not well understood, it is important that we fulfil that responsibility.

**Lord Foulkes of Cumnock:** Can I add the Labour Peers to that? We have had all sorts of non-political people—including the Commissioner of the Metropolitan Police—come and explain the work that they do, and it has been very useful.

***Lord Reed of Allermuir:*** I find that, when I meet Ministers from outside the Ministry of Justice, the single thing that comes as a complete shock to them is the international role of the court. They do not realise that most of our cases involve people from outside the UK and that it is world trade that we are dealing with. They think that we generally deal with criminal convictions, family disputes and so forth.

**The Chair:** I have one final point, then we will move on. Although we have been talking about explaining the role of the Supreme Court, at the last meeting we had with you, we talked in particular about new MPs' failure to understand both the distinction between government and Parliament and, ultimately, the allegiance of the Supreme Court to Parliament. Given that we could see a lot of new MPs coming in—if they are associated with significant majorities, it becomes a more critical issue—is that embedded in your programme of explaining to people? You identified it as an issue that was put to you once: that the Supreme Court, in overturning the Government, is overturning Parliament.

***Lord Reed of Allermuir:*** Yes, it is covered. We make the points that the supremacy of Parliament is not the supremacy of the Government, and that the Government owe their legitimacy to their command of a majority in Parliament. One would think that the penny might have dropped after the succession of Governments we have had which have not been brought about by a general election, but we are making the point in the material.

**Lord Thomas of Gresford:** Does that include the rule of law and the boundaries of parliamentary sovereignty?

***Lord Reed of Allermuir:*** No. We talk about the rule of law as something for which Parliament, the courts and, indeed, the Government all bear responsibility, but we do not talk about limits of parliamentary sovereignty.

Q13 **The Chair:** Let us move on to the change programme, which is now, I think, in year two of three. What key things have you learned from the user research that you have conducted? Are you on track to complete within the three-year timeframe?

***Lord Hodge:*** If I may take up that question, the aim is to create a modern and user-friendly service for the Supreme Court and the Privy Council. The principal feature of the exercise is to have a two-way online site which will have a case tracker and a means of filing documents into the website electronically. It will involve the electronic service of documents between the parties and the website being used for correspondence with the court. There will be two channels: a public channel where the document is available to all; and a private channel for matters where it is not appropriate for the other party to be involved. The use of this portal will be compulsory for those who have legal representation but voluntary for those who are litigants in person. If litigants in person choose to use the portal, they will be offered the assistance of the court staff in its use.

In creating something of this nature, we engaged—correctly, I hope—in a wide consultation. User research has engaged 234 court users, including barristers, solicitors, journalists, teachers, students and litigants in person; it has engaged visitors to the court, because the portal will contain information to which the public will have access. Much of the discussion has looked for ways to simplify processes and provide an efficient, supportive service, so the research has focused very much on the users of the facility and the public. As the portal and the website are designed, they are going through iterations in response to what we are learning from the consultation.

We have also engaged in discussions with domestic and international courts. As Lord Reed mentioned, as a result of our discussion in our recent bilateral with the High Court of the Netherlands, which is ahead of us in creating a website and a portal, we have been learning about the pitfalls and advantages that its system has created.

We have also engaged with the jurisdictions of the Privy Council. Last week and this week, Lord Briggs and I have been holding online meetings with practitioners and judges from the various jurisdictions. I had one with Caribbean judges and registrars earlier this week. Tomorrow, I have a meeting with JCPC jurisdictions which are located in and about our current time zone.

The feedback has been very important for each iteration of the portal. We have engaged a further 55 court users to assist us in what will be six rounds of user testing of the case management system. We are trying to make sure that the system will be operative and successful when we start it, either later this year or at the beginning of next year, because we have been very dependent on feedback from our research in our design and development of the system. We remain on track to deliver the programme within the three-year timeframe and within the budget that

we were given, which Lord Reed mentioned. The programme will last until March next year, but we hope to implement the system before then.

**The Chair:** With regard to the comment that the Dutch are ahead in areas such as digital engagement and AI, at the end of that three-year timeframe, will there still be significant additional work that you need to do in order to carry the efficiency of the court further?

***Lord Hodge:*** The key will be bringing in this website and portal. We will study how it works and adapt it if we have to. We do not have an immediate programme for further work, but the court staff are always looking at means to improve the way in which we do work. Several justices take an interest in the use of AI by the legal profession and internationally. On initiatives in the court, we have no immediate proposals to introduce AI into the way we work, but we are keeping a close eye on what is happening. I am aware of the work of Sir Geoffrey Vos, as Master of the Rolls, and the initiatives that he has taken.

**The Chair:** Thank you. Let us move on to matters of budget.

Q14 **Lord Anderson of Ipswich:** Lord Hodge, last year, you described your budget as "modest", since when there have been changes to Supreme Court fees, which were predicted by the Ministry of Justice to increase by something like £200,000 a year. Is that simply a question of catching up with inflation—or not even that—or might that increase make some material difference to the activities that you are able to perform?

***Lord Hodge:*** As far as I recall, when I described my budget as "modest", I was describing what I had to play with in the international work that the court does. The budget remains modest, as Lord Reed has indicated. For example, for the planned visit of a delegation of perhaps 12 people from the United States, we are very dependent on the generosity of the Association of Marshall Scholars and the American College of Trial Lawyers. The increase in fees will simply restore the value of fees to what they were in 2009 when the court was created. Sadly, I do not think that it will give me any extra elbow room, in part because, with the increase in the fees, the Treasury is clawing back part of what it gives us—not the whole extent of the increase in the fees, but part of it. It may be a case of giving and taking away, so I am not expecting an increased budget.

**The Chair:** Let us turn to travelling around the country. You have been to Manchester.

Q15 **Baroness Finn:** Last year, the Supreme Court sat in Manchester for the first time. We heard from Lord Thomas that his son especially enjoyed it. It sounds as though it was a success. What progress have you made in carrying that on? What are the cost limitations and practical limitations of sitting outside London?

***Lord Reed of Allermuir:*** The only limitation on it is cost, really. It is quite an expensive exercise. We budget to do it every second year, so Manchester was not the first time; we had previously done Edinburgh, Belfast and Cardiff. Manchester was our first English visit. We are

currently looking at sitting outside London in 2025; we are still at the stage of identifying a location. However, for our 15th anniversary this year, we are going to hold events in Glasgow, Belfast and Cardiff. I will be doing the events with members of our staff in Glasgow and Belfast; Lord Hodge is doing the one in Cardiff, I think. So we will be flying the Supreme Court flag outside London, albeit not for a whole week.

**Lord Keen of Elie:** The Privy Council has sat abroad. Has that been a success? If so, is it something you would wish to repeat, given the connection between the Privy Council and these specific jurisdictions?

***Lord Reed of Allermuir:*** Absolutely. In my time on the court—this will sound like a holiday brochure—we have visited Mauritius, the Bahamas and the Cayman Islands. They have all been successful visits. They are enormously important for making links with the people on the islands—obviously, the legal community and community leaders—but also for seeing these places ourselves. We are taken all round them and we meet people; we go to schools, meet university students and so forth. They are very important visits. They depend on our being invited to go by the local institutions and on their meeting the cost. I am hopeful that, in my remaining years on the court, there might be another visit—but who knows?

***Lord Hodge:*** I would just add that, when I spoke to the Caribbean justices yesterday, a first instance judge from Cayman emphasised very clearly how much Cayman appreciated both the visit and the work of the Privy Council underpinning its status as an offshore financial centre. I think that these visits are very worth while but, as Lord Reed said, they depend on an invitation and on our hosts budgeting for them.

**Baroness Goldie:** Lord Reed, when you were responding to Lord Keen's question about the Privy Council, your answer was clearly framed—understandably—within the Judicial Committee of the Privy Council. I just wonder whether we are getting loose with language. When we are talking about the Judicial Committee of the Privy Council—it is a court, after all—do we need to be clearer that that is what we are actually talking about? I would not ask you to comment on this, but I almost feel that we should change its name to the Privy Council Court. It has its coat of arms and its carpet, but it lacks identity, I think.

***Lord Reed of Allermuir:*** When I preside in the judicial committee, our usher puts a piece of paper in front of me. He has two pieces of paper. If the case comes from somewhere like Trinidad, the paper will say—this is what I have to say at the end of the hearing—"The board will consider its judgment". We issue a judgment because Trinidad is a republic and, under the legislation, we give a judgment.

If it is a case from the Cayman Islands, for example, the piece of paper says, "The board will consider what advice it will humbly tender to His Majesty", because we are formally giving advice to the King. The King then has to approve our advice at a meeting of the Privy Council. An Order in Council, which decides the appeal, is then issued. It is a rather

medieval-sounding system. Reforming it would require primary legislation, for a start, but I agree with you that it is a curious constitutional anomaly. It is rather like the Appellate Committee of the House of Lords in the old days. We are a committee of the Privy Council giving advice to the monarch.

**The Chair:** I have one final observation to make; it reflects comments that you, Lord Reed, have made in speeches and comments to this committee before.

Part of the international interest in the UK Supreme Court and the English legal system is around our adherence to the rule of law and the level of public trust in our courts. Sometimes, that is a national quality that perhaps we do not ourselves recognise and do not do enough to protect. We recognise that the work you do is really important for that and that international confidence in the UK judiciary remains very high; again, that is something we must protect. There is a real common interest in those two things, and the contribution of the work that you do in the Supreme Court is really important. Those things are certainly close to my heart, so I thank you for that.

Thank you, as ever, for a great session. It had lots of detail and lots for us to reflect on. There were lots of positives, as well as identification of the challenges. Thank you very much indeed. We appreciate you coming.