



Constitution Committee

Corrected oral evidence: The rule of law

Wednesday 18 June 2025

10.30 am

Watch the meeting

Members present: Lord Strathclyde (The Chair); Lord Anderson of Ipswich; Baroness Andrews; Lord Beith; Lord Bellamy; Lord Burnett of Maldon; Lord Foulkes of Cumnock; Lord Griffiths of Burry Port; Baroness Hamwee; Baroness Laing of Elderslie; Lord Murphy of Torfaen; Lord Waldegrave of North Hill.

Evidence Session No. 8

Heard in Public

Questions 116 - 126

Witnesses

I: John Larkin KC, former Attorney-General for Northern Ireland; James Wolffe KC, former Lord Advocate of Scotland.

Examination of witnesses

John Larkin and James Wolffe.

Q116 **The Chair:** Good morning and welcome to the House of Lords Constitution Committee. Today, we hear from John Larkin, the former Attorney-General for Northern Ireland, and James Wolffe, the former Lord Advocate of Scotland. Thank you both very much for coming along. We have a series of questions. I think you probably know most of the people around this table.

The first question is: in your opinion, how do the Attorney-General for Northern Ireland and Lord Advocate of Scotland work with the UK Government to uphold and promote the rule of law? That will lead on to your views on differences—or not—within the United Kingdom. I am happy for you both to answer. If you think one has answered sufficiently, that is fine.

James Wolffe: I am happy to kick off. I suppose the starting point is to step back and have a view of what we mean when talking about the “rule of law”. I think about it in two boxes: the constitutional principle of the rule of law, at the heart of which is the proposition that the Government are subject to the law and may be held accountable in the courts for the lawfulness of what they do, and then the much broader set of questions to do with the well-functioning of what one might call the legal infrastructure of the country and the contribution it makes to a just, safe and economically successful society. I am thinking about things like legislation, which keeps the law up to date and in touch with contemporary needs. I am also thinking about the effective investigation, prosecution and punishment of crime, and a civil justice system that delivers justice within a reasonable time and at proportionate cost. I am thinking about access to justice and to good-quality legal representation. In a much broader sense, one can see all that infrastructure as part of the rule of law. One can either invest human and financial capital in that, and keep it in good order, or not invest and then run the risk of degrading it.

To come from that background to your question, the Lord Advocate has a number of functions. All of them today are, in one way or another, directly concerned with aspects of the rule of law. The Lord Advocate is the head of the system of criminal prosecution in Scotland. That function is exercised independently of any other person, along with the responsibility for investigating deaths. The Lord Advocate has a direct responsibility for that piece of the rule of law, which is about the effective and rigorous investigation, prosecution and, ultimately, if a conviction is brought forward, punishment of offenders. The Lord Advocate is also the senior Law Officer in the Scottish Government and, under the Scottish Ministerial Code, has a responsibility in respect of supporting Ministers to fulfil their overarching duty recognised in that Code to comply with the law. Within government, the Lord Advocate has a set of functions, supported by government lawyers, in relation to the role of law in government, the interaction between lawyers and policymakers, and

upholding that overarching duty. There are also functions in relation to legislation. The Lord Advocate is responsible for the Office of the Parliamentary Counsel and therefore has a role in the oversight of the drafting of legislation.

There are, then, a number of functions internal to Scotland, all of which are, in one way or another, related to and in support of the rule of law. My principal answer to your question is that the primary responsibility of the Lord Advocate, which is of benefit to the UK as a whole, is to fulfil those functions rigorously, properly and in a manner that supports the rule of law. I am confident that every Lord Advocate I have known will have done so.

The Chair: Before I call John Larkin to answer, one reason we are doing this inquiry is because there was a sense that this issue was increasingly controversial within legal circles. Is that the same in Scotland or is the power of the office of Lord Advocate enough to decide that the rule of law is in safe hands and not bothered by these discussions?

James Wolfe: I think the same debates that one sees play out currently are equally live in Scotland. In a previous incarnation, I was Dean of the Faculty of Advocates, which is the elected leader of the Scottish Bar. At that time, I used to talk about the rule of law, partly because I thought that if the leaders of the legal profession did not, nobody else would. Now everybody talks about the rule of law. That is a good thing, as it is important. We may come to threats and challenges. I suspect that one of those is a lack of appreciation of the way in which that broad legal infrastructure supports a well-functioning, just, safe and economically successful society. If we do not keep those institutions in good order, there is a risk that the system degrades. The debates are live across the UK.

John Larkin: Unsurprisingly, I agree with what James said on general application. The starting point is whether we have a thin approach to the definition of the rule of law or a fat one. I think the public and the effective function of government are best served if we have a relatively thin approach to the rule of law: that is, that government is subject to laws made by the King in Parliament, just the same as everybody else is. That is an important starting point. Of course, there is a penumbra in terms of whether the law is accessible and the statute book—to use that old-fashioned term—coherent. Should the law be revised regularly? It does not seem to me that we have had anything like the great series of Victorian statute law revision Acts that really cleaned out the statute book in important ways.

Of course, we are always anxious when we speak of the rule of law to ensure that we are open to the possibility that any account we give of it distinguishes between a tyrannical regime that happens to accord with its own internal system of legality. I am not sure that we need “the rule of law” as an expression to do that; we can do so in other ways quite comfortably, but it is a useful portmanteau term for all kinds of political debates on those kinds of issue.

With Northern Ireland, the most fundamental difference is that the Northern Ireland Attorney-General is independent across the entire range of his or her functions. There are probably good reasons for that, given the recent troubled history of the jurisdiction. It increasingly struck me, not least as I engaged with colleagues such as James and the English Attorneys-General from time to time, that in Northern Ireland we missed the beneficial effect of a healthy, political culture that had certain shared historical and cultural understandings of how the office of Attorney-General should work. In many ways, those strike me as much more important than the bare content of the law.

Obviously, there is a huge amount to get through today. It is probably subject to any question that a member of the committee may have for me to go through the discrete functions of the Attorney-General. I am happy to do so. It is worth emphasising that the nature of independence sometimes meant that Ministers were never quite sure if the Attorney-General was on their side. I think that the Attorney-General, like any law officer, works best and is most effective when there is, so far as there can be, a common understanding between him or her and the Administration of the day.

The Chair: Thank you both very much.

Q117 Lord Murphy of Torfaen: A very good morning to you both. As you might expect, I would particularly like to come to Northern Ireland. I recall vividly that 27 years ago, when I and others were negotiating the Good Friday agreement, a good percentage of those with whom we negotiated did not have any regard at all for what they saw as an alien rule of law. Even today, Sinn Féin will not allow its Members of Parliament to take up their seats. The rule of law meant nothing, effectively, until the agreement was signed and then, gradually I suppose, there was acceptance that the rule of law applied to everybody. But there is no question in my mind that the different sides of the story, if you like, in Northern Ireland had very different ideas as to what that rule of law was and whether it should apply to them in policing, in the criminal justice system or whatever it might be.

When I was Secretary of State, there were no institutions. They were all gone and down. Since then, they have gone down on two further occasions, once because of Sinn Féin and once because of the DUP. That must have had a huge impact on people's perception of the rule of law in Northern Ireland and on the trust in the institutions that are supposed to uphold it. Could you comment on the huge difference there is in Northern Ireland because of what people believe in and trust—effectively, almost half the people think they live in the wrong state and the other half think they are besieged—and how that affects people's perception of the rule of law? Bearing in mind that criminal justice has now been devolved, that has changed. When I was there, your job was being done by the Attorney-General for England and Wales. Now it is done by you and your successors. It is, to put it in the famous phrase, a "place apart".

John Larkin: I think there will be universal acceptance of that last proposition. There is an enormous amount to cover there but it is important to say that while the application of the law in particular cases has often been contested by one side or another in Northern Ireland, or the legal profession and judiciary—both branches—have had failings from time to time, as human beings do, they have done their very best throughout the history of Northern Ireland to uphold the rule of law. Particular political parties may, from time to time, have thought that they did not but that does not mean that that was necessarily so. Of course, it is a huge advance that there is now broad acceptance of the institutions of justice and a specific commitment in the Northern Ireland Ministerial Code, which as the committee knows has statutory underpinning, unlike Ministerial Codes elsewhere in the United Kingdom, which requires there to be an upholding of the rule of law. That is a specific ministerial commitment with a statutory underpinning.

On the times when we are all too painfully aware that devolution in Northern Ireland has not functioned as it was designed to, there is a distinction to be made. So far as I can judge, there is unhappiness with the unavailability of devolved government, particularly among those who welcome and appreciate devolved government; not everyone does. The existing institutions—the courts, legal professions, criminal justice institutions, police, prosecution service and prisons—continue to function. Their adherence to the rule of law remains unaffected, even when the devolved Administration, lamentably, at times does not function.

Lord Murphy of Torfaen: Would that apply to the Minister of Justice? If the institutions collapse, as they have done, then the whole Executive go, including the Minister for Justice. What happens then?

John Larkin: In a sense, it is both terrifying and revealing the extent to which the normal administration is carried on by the Civil Service. Often, that is true even when devolution is in place. The police, Prison Service and courts continue to function. As the committee knows, Budget Acts were passed by Parliament, not by the Assembly, so that publicly accountable money was made available for public services. Those public services continued to function. Perhaps straying into a purely political observation, could His Majesty's Government or Parliament have done more? They probably could, but I suspect that they did not want to because they did not want to move into the devolved space any more than they had to.

Lord Murphy of Torfaen: So the Permanent Secretary at the Department of Justice takes on the role of the Minister of Justice, which is very different from being a Minister in all the other departments.

John Larkin: Yes.

Lord Murphy of Torfaen: How did that impact people in Northern Ireland having trust in the courts and legal system?

John Larkin: Again, the court system was probably uniquely unaffected by that because judges carried on discharging their duties. Obviously, even though a series of Acts gave specific powers to Permanent Secretaries to discharge departmental functions, there was a natural reticence among Permanent Secretaries to do so. They largely confined themselves to “steady as she goes”, not engaging in any significant policy departures, so the system was administered and managed. The higher arts of government, in terms of bringing about change and adjusting policy, tended not to happen but there were some obvious gaps. One gap that I became aware of was that, notwithstanding the arrangements made by Parliament for the carrying on of government in the absence of devolution, the power of Ministers under the Inquiries Act could be exercised only by Ministers. Something that had to happen in relation to a public inquiry from time to time could not happen in the absence of a Minister. That is one of the very few examples I can give where something could not happen.

Lord Murphy of Torfaen: That is very interesting. Thank you.

Baroness Hamwee: How are you finding the quite new intergovernmental arrangements? Are they helpful? You might like to mention whether you communicate with Wales and discuss these issues with those there, even though they are not here. Is there anything you would like to add about the current structural arrangements?

John Larkin: I am afraid that I am not able to say very much about that.

Baroness Hamwee: That is fine.

John Larkin: I suspect that James may be in a similar position because we are out of office. One thing I can say is that a network was established of law officers of the devolved regions and Crown dependencies. We met from time to time, very constructively and pleasantly, to discuss issues of common concern. There was Scotland, the Counsel General for Wales and then the various law officers of the Isle of Man and the Channel Islands.

James Wolfe: Like John, I have been out of office now for over four years and cannot speak to the current situation. John is absolutely right and he may have been the prime mover behind that network. It was an extremely valuable opportunity for those of us in the unique role of Law Officer to meet and exchange views on issues of common interest. One of the interesting things about the Law Officer role is how differently configured the various functions are in different parts of the UK and indeed going to the Channel Islands and Crown dependencies. Nevertheless, there is a lot in common and it was very valuable to be able to have those exchanges. I also had ad hoc interactions with UK law officers as required. I made a point early on of meeting the then Attorney-General and Solicitor-General. Indeed, they came up to Scotland.

Q118 **Lord Burnett of Maldon:** We have begun to explore the area that I am

keen to ask you both about: what the main threats are to the rule of law as you see them in both Scotland and Northern Ireland. Do you think they differ from the threats which are more generally thought to exist for the United Kingdom? I appreciate, Mr Larkin, that you started that discussion. Is there anything you want to add regarding Northern Ireland and its make-up that Lord Murphy adverted to in his earlier question?

John Larkin: There are common problems throughout the United Kingdom. For example, where there is a culture of a lack of respect for law and a failure of law enforcement, that suggests an obvious threat to the rule of law. I would also suggest that at the other end there can be an over-expansive approach to the meaning of the rule of law, for example, suggesting that if you do not sign up to this or that package of rights in an international treaty one is, in some way, disrespecting the rule of law. That is ultimately a pernicious approach to a proper understanding of the rule of law.

There are some specific issues in Northern Ireland. We have, in the Northern Ireland Act, imposed on the Executive Committee a duty to create certain strategies in relation to, for example, anti-poverty or the Irish language. With respect to both of those strategies, the Executive Committee have been successfully judicially reviewed on a total of four occasions, twice for each strategy, because agreement in the somewhat difficult circumstances of the Northern Ireland Executive simply had not been possible to obtain. Obviously, that is in a sense a failure of the rule of law. There is a clear statutory duty on the Executive and they have been rightly castigated by the courts on a total of four occasions for not fulfilling it. Again, I would ask why the statute book is increasingly replete with adjectival duties of that nature, to devise a strategy. No child is given a pair of shoes by the creation of an anti-poverty strategy. The Irish language vocabulary of the Northern Ireland citizenry is not expanded by the creation of an Irish language strategy. They are seen as politically important objectives by particular lobbies but in one sense this is simply a Government creating a rod for their own back. That tends not to be a problem in Westminster, nor I suggest in Edinburgh, but, given the nature of Northern Ireland's Government, it is a problem. Again, there is a pretty fundamental question to be asked about the purpose of statutes. Is there any value in creating a statutory duty which, in a sense, goes nowhere?

James Wolfe: I suspect that the threats and challenges are not materially different in the different parts of the mainland UK. The principal threat I perceive goes back to my introductory remarks: if there is a lack of understanding and effective communication about why a well-functioning legal system matters, and if there is a failure to invest human and other forms of capital in that system such that it becomes degraded, there are two challenges. One is, because there is a loss of appreciation, there comes to be a level of complacency. I do not think we understand just how precious and rare is the confidence we can have in our judiciary and legal system in this country. We perhaps take it for granted and there is a risk there. Secondly, if the legal system is not functioning well,

when citizens come into contact with it they encounter delay and cost—a system that does not, in their actual experience of it, function. That may lead to a loss of confidence in institutions generally, including legal ones.

Lord Burnett of Maldon: There was a quite well-known disagreement between the legal establishment on the one hand and the Scottish Government on the other in connection with proposed legislation for the regulation of the legal profession. In the end, I think the legislation or parts of it were withdrawn. Does anything in that experience raise rule of law issues?

James Wolfe: I must confess that I have not been following that closely. I would need to go away and look at it, I am afraid.

Lord Burnett of Maldon: Forgive me, I simply assumed that any Scottish lawyer would have followed that with a great deal of interest.

James Wolfe: Perhaps I should have done in anticipation. There was a set of issues around what was proposed. I would need to check the extent to which those have been resolved. My impression was that there had been some significant discussions between the professions and the Government. That is something on which I could follow up, if that would be helpful.

Lord Burnett of Maldon: Thank you.

Q119 **Lord Beith:** We have looked at Northern Ireland: in your answer you spoke of community division and perhaps a lack of acceptance of the authority of either local institutions or Westminster by different communities. In Scotland, you do not have those problems but there are two sources of statute law: Westminster and Holyrood. They overlap to some extent. Last night, we looked at amendments affecting the law on childcare in Scotland. That enables people to say, “Well, I don’t like this law and it came from Westminster. It’s not proper Scottish law”, or, vice versa, “This is just something the nationalist Government are doing”. Do you think that public perception of the importance of the rule of law in general, and that one should obey the law, is in any way affected by the climate of devolution?

James Wolfe: I would not say that it was. You are absolutely right that we now have two legislatures for Scotland, each of them making primary legislation: the Scottish Parliament with limits on its competence and the UK Parliament with unlimited legal competence but subject to the Sewel convention. That is no more difficult or complex than many federal and quasi-federal systems around the world. It has some strengths in the sense of the opportunity to pass legislation through Holyrood—I will come back to that in a moment—and, where it is appropriate to do so, for legislation to be made in the UK Parliament across the board. Speaking from within the legal profession with a view as a lawyer, I do not see this creating any particular challenges or difficulties. Of course, one great benefit is that we have a great deal more legislative time available to enact legislation specific to Scotland.

Going back to my first point about legal infrastructure and the need to keep the law up to date and in tune with the needs of society, over the life of the Parliament we have seen, I think, over 270 Acts, some of them major pieces of law reform, some technical law reform measures and some more controversial ones. There is a huge body of useful, technical legislation as well as the ones that catch the public eye. One great advantage of having the two legislatures is the greater opportunity to pass laws that keep the law functioning well and up to date.

Lord Beith: I agree with that view but it leads me to wonder whether public attitudes to the obligation to obey the law have been in any way affected by moving to a different system—or have not been affected at all. Public attitudes to, “Must I obey the law?”, is what the rule of law comes down to for most people most of the time, not whether the Government have been taken to court on a judicial review. It is: “Do I have to obey the law or can I just do what I want?”

James Wolfe: I am afraid that I do not have access to public attitude surveys, but I have no sense that the existence of devolution and the availability of two legislatures has undermined that attitude.

Lord Bellamy: Coming back to Mr Larkin’s example of laws that require a strategy, I will share my train of thoughts as he was explaining that. First, a legal requirement to have a strategy strikes one as a little questionable in terms of the rule of law because it is a very vague kind of obligation. Then I thought, “Well, there have been four judicial reviews so in that sense the rule of law is alive and kicking”. Then I thought, “Are these legal cases effectively another way of fighting political issues through the courts? Does that not, indirectly at least, tend to weaken the rule of law if the courts are used for political purposes?” I may have got that completely wrong.

John Larkin: No. Again, this is a question that opens up an enormous terrain. To answer it, I will start by referring to the classic work of Irish judicial prosopography, FE Ball’s *The Judges in Ireland*. He finished in 1922. For judicial appointments after Catholics began being appointed to the Irish Bench during the 19th century, Ball squarely identified their religion and politics: “In religion a Roman Catholic and in politics a Liberal”. Where he was silent, it could be assumed that the judge was Anglican and Conservative. Essentially, the Irish Bench of the 19th century was highly politicised. Did that mean that the rule of law was thereby adversely affected? Perhaps it was, on occasion, but if one looks at 19th-century Irish reports, the quality of judicial decision-making was observably very high.

One thing I thought about when Lord Murphy asked his question is the fact that from the statutory foundation of Northern Ireland, the courts have been resorted to as a means of advancing political argument. Of course, Tocqueville makes that observation about the Americans, saying that ultimately all political disputes end up in the courts. Certainly, one can see that as a fairly plausible proposition on that side of the Atlantic. I think it gives rise to risks to the rule of law if it becomes perceived that

judicial determinations are directed predominantly by policy preference as opposed to the text of the law. But, as I suspect is implicit in your question, the fact that the courts are resorted to is, in one view, a sign of the rude good health of the rule of law.

Lord Bellamy: Thank you. Are you really saying that if the political process is not working as fully as it might, then the courts are the next point of resort?

John Larkin: Yes.

Lord Murphy of Torfaen: When you talked about how judges were appointed in Ireland in the 19th century, I do not think any of us can forget that many judges were murdered. Many Catholic judges were murdered in Northern Ireland when a good percentage of the population did not accept the rule of law as something to which they had to adhere. When people looked at the police service, it was nothing glamorous but people understood it being reformed. They rarely understood that the criminal justice system was reformed as well, for the better.

John Larkin: Yes.

Lord Murphy of Torfaen: To that extent, it has worked but I think the constant suspension of the institutions can be corrosive of the rule of law. Again, it is an aspect of the suspension we rarely think about. We think, "They can't deal with the health service, they can't deal with the schools," and so on. They cannot deal with the rule of law either if the Assembly and the Executive are constantly suspended.

John Larkin: The point made about attacks on the judiciary is lamentably correct. That encourages me to recall—I am confident that Lord Murphy will agree with this—that there would have been a deliberate strategy on the part of armed republicanism to target Catholic police officers and judges because of the fairness and perceived fairness primarily in the administration of criminal justice, the police force and the judiciary. It is a much better slogan if you can say, "They're all of the other side". That is why you remove the people who very visibly give the lie to that argument.

Q120 **Lord Anderson of Ipswich:** Thank you for coming to see us. I have another question for John Larkin. I am interested in trying to calibrate how different Northern Ireland might be from the rest of the United Kingdom and in how far the public in Northern Ireland trust that their institutions will effectively uphold the law.

I will put that in three sub-questions. First, is there a sense in some circumstances that government is corrupt and, if so, does that go beyond the sort of chatter and allegation that one hears more generally in the United Kingdom? Secondly, you spoke about judges. I would like to widen that to look at the Director of Public Prosecutions, or DPP, for Northern Ireland. Are they less respected than is the case in other parts of the United Kingdom? Finally, there is the Police Service of Northern Ireland. I am a huge admirer of the way that the PSNI has been created and

maintained. I used to have regularly the privilege of giving evidence to the Northern Ireland Policing Board, an extraordinary organisation. But I have a very blunt question: are there still areas in which, if somebody is dealing drugs or someone is raped, the first call is made not to the police but to the paramilitaries?

John Larkin: Dealing with that very blunt question first, the answer is pretty straightforward: no. To the extent that that “no” must be qualified, it is qualified in increasingly diminishing terms.

On public confidence, I will have to take refuge in much the same approach that James took. I have not got access to any scientific approach on this. My sense, however, is that there is pretty broad acceptance of the institutions of criminal justice, notably the police and courts. The Director of Public Prosecutions—I should declare an interest as I appointed him—rather lies below the parapet in terms of visibility. Therefore, that is not seen as a necessarily contentious figure or one spoken about in the way that local police action will be, as a matter of ready discussion.

Having said all of that, I think there is a tendency here. Lord Toulson famously said that the business of government is at least to experiment and if you experiment you get things wrong. There is a lamentable tendency in aspects of the public sector generally in Northern Ireland to almost refrain from taking decisions, which in many ways they want to take and feel they should, for fear of being criticised. Therefore, there is a tendency with respect to the conduct of prosecutions from time to time so that, rather than being vigorously looked at through the currency of the prosecution, a sense of inertia is allowed to build up. It is, “Let the courts decide”. It would be unfortunate if my perception there were to be well founded.

Lord Anderson of Ipswich: What about corruption?

John Larkin: Again, I have anecdotal suggestions. I have just largely finished a criminal trial where a person was accused of conspiracy to commit misconduct in public office by reason of giving evidence, as he saw it, about corruption in an aspect of government and the public sector in Northern Ireland. That is the only instance I can think of where that occurred. There would be no reason to suppose that Northern Ireland was immune from those kinds of considerations but I am not directly aware of a significant problem. That may be simply testimony to my lack of information but I cannot really go beyond that.

Lord Anderson of Ipswich: I have one more question. Taking you rather off-topic, I know that you are something of a scholar of German law. Indeed, your evidence to this committee, which I found very helpful, quotes a book about the Rechtsstaat, which I understand to be some sort of German equivalent of the rule of law. How similar are some of these continental translations or concepts? The French have the État de droit, the Germans have the Rechtsstaat. Do they mean what we mean when we talk about the rule of law or is that a specifically English-speaking sort

of concept?

John Larkin: It is, of course. If one attempts to parse the expression “the rule of law”, the first question that arises for grammarians is, “Is ‘rule’ a verb or a noun?” That is not quite clear. There are arguments for both. Personally, I think Rechtsstaat is a very useful, concise term. It represents the German understanding, which equates to ours. I am a big believer in the value of legal history and comparative law to lawyers. We have much to be immensely proud of in these islands but we are not that different from our European cousins, brothers and sisters. They think the same way. They like justice, too. They do not want to be ruled by tyrants any more than we do. Rechtsstaat is actually a very old idea in German constitutional law. Inevitably, with Germany we look through the awful prism of the mid-20th century, but if we make the effort to go beyond that to the 19th century and further, the Germans have a long history of living with constitutional complexity and subtlety.

I remember that Lord Bryce, a distinguished former Member of this House and an Irish lawyer, suggested in the first edition of his volume on the Holy Roman Empire that it in some ways still survived and had not been abolished. Obviously, that would not have survived 1870; none the less, there are some really interesting ideas there. One thinks of Frederick the Great, who very much wanted that mill that was spoiling his view but there was no public interest or interest of the state in legitimately acquiring it, so when the miller refused to sell to Frederick the Great, the miller kept the mill. That is an example of the Rechtsstaat, if you will. He would not have used the term “rule of law”, but it is the same idea.

Lord Anderson of Ipswich: Thank you. I apologise, Chair, for the diversion but it was a fascinating one.

The Chair: It was a nice diversion.

Q121 **Lord Foulkes of Cumnock:** Can I bring us back nearer to home? Mr Wolffe, what can we learn from Scotland as far as the UK is concerned? Can we not learn a lot from the 10 failed legal cases that you and your colleagues brought in Scotland? There was the deposit return scheme, the gender reform Bill when you challenged the Information Commissioner because the Government were keeping information secret, and—perhaps most worrying—the action against Alex Salmond, in which he won half a million pounds of damages? One case that you will be particularly sensitive about was the failed action against Rangers Football Club for the takeover, where it won £600,000 in damages. Does that not seem to indicate that all these decisions were political ones, made by the politicians, rather than legal decisions made by you and your colleagues?

James Wolffe: Can I answer that in a number of chapters? First, I do not regard the determination by a court of a serious legal question as anything other than the vindication of the rule of law. The starting point, in so far as you are focused on a series of court cases which resolved serious issues, is that that was the law ultimately being vindicated in the

courts. It is important to separate out issues in relation to the prosecution of crime, where decisions will be made by prosecutors and ultimately by the Lord Advocate or an Advocate Depute - you will appreciate that one of the strengths of the system in Scotland is that the Lord Advocate can effectively clone themselves and clothe others with his or her responsibilities. Any prosecutorial decision will be made independently and in accordance with the ethics that apply to prosecutors.

My own experience was that the Crown Office and Procurator Fiscal Service is an institution with an immense culture of independent action. In so far as any of these relate to prosecutorial decisions, I would not accept in the least that they were taken on any basis other than independent prosecutorial judgment. I am confident that anyone I have known who has held the office of Lord Advocate has understood that their first responsibility is to protect the independence of the prosecution system and to exercise those functions independently of any other person.

If one is looking at high-profile cases, you touched on some of them which arise from legislation or decisions by a Government, or failures by a Government in relation to the way they have done one thing or another. If one is thinking about a case that goes to the Supreme Court, for example, it is likely that there will be serious points to be made on both sides of the case. If one takes the recent case in relation to gender recognition, I think I am right that the Outer House and the Inner House in the Court of Session decided in a different way from the Supreme Court. That just illustrates the point. It does not, in my view, reflect any failure of the legal analysis being applied within government that serious legal questions ultimately end up in court and have to be determined by the court.

Lord Foulkes of Cumnock: There is a whole series; if it was one or two I might accept your arguments, but the Scottish Government refused to answer a freedom of information request, and the Information Commissioner said you should do that but you did not. Then on gender reform, it was quite clear that the Human Rights Act was superior to it. On the deposit return scheme, the Minister—this mad Green woman—was warned that she did not have the power and you went ahead with it. These were terrible failings—

James Wolfe: Can I interject? First, you keep saying “you”. I have not been in office for the last four and a half years, so at least some of these post-date my time. Some were in my time.

Lord Foulkes of Cumnock: Of course.

James Wolfe: What I can do is explain the way that policy-making and legal analysis interact in my experience in government. Ultimately, policy questions are a matter for political Ministers, informed by their policy advisers. Policy advisers and Ministers are required under the Scottish Ministerial Code to ensure—and in my experience they generally did so—

that their policy thinking is properly informed by legal analysis. The Scottish Government have a cadre of in-house lawyers who work with their policy colleagues to provide that legal analysis. It is of the nature of devolution, I suspect, that in relation to cases, sometimes high profile and sometimes not high profile, there is serious scope for legal disagreement about precisely how the boundaries of devolution operate. Within government, there will be careful legal analysis of that and it will feed into the policy-making decision. Ultimately, in a particularly difficult case, Law Officers may be called on to give advice—I rather like the way it is put in the Welsh Ministerial Code, which makes the point that the Counsel General is the authoritative arbiter of legal questions for the Government.

There is an internal system of legal analysis for which the Law Officers in Scotland are ultimately responsible and, depending on the case, they may or may not be called on to give advice personally. Then when a Bill goes into the Scottish Parliament, there is a process of analysis by the Law Officers in Scotland and, at the end of a Bill being passed, a process of analysis by those Law Officers and by the UK Law Officers. They all have the opportunity to refer the matter to the Supreme Court. It is not surprising but routine that, in any federal or quasi-federal system, from time to time there will be disagreements about the boundaries and whether those boundaries have been respected. One of the most challenging and interesting pieces of work for a Law Officer in the context of a legislature with limits on its legal competence is making sure that one calibrates one's view so that ultimately, yes, one may have to say, "No, Minister, you cannot do that", but at the same time not taking such an austere view that you inhibit legitimate and potentially beneficial policy-making. One of the most interesting roles for a lawyer is calibrating that boundary.

If you look to federal systems in Europe or other parts of the Commonwealth, it is entirely routine for there to be cases brought by the respective Law Officers of, say, a province in Canada against the federal Government; in Australia or the United States, one also sees such cases reported. That is a normal aspect of the functioning of any system where you have two tiers of legislature, one or both of which are limited in their legal competence. In those cases when there is a serious legal question, it is right that, ultimately, it gets to be resolved in the one place where it can be authoritatively resolved—and that is in court. I do not accept the premise that the mere fact that cases are brought and sometimes lost—they may sometimes be high profile—represents a failure of either the rule of law generally or, indeed, suggests that there is something failing in the Scottish Government's ways, at least in my experience. I was there for a period of time.

Lord Foulkes of Cumnock: You were a member of the Scottish Cabinet when the First Minister was Nicola Sturgeon, a very strong-willed person. It must have been difficult not to go along with her when she said, "No, we want to do this and do that. We need to challenge the UK Government". When she said, "We need to sort Rangers out", or, "We

need to prosecute Alex Salmond”, it must have been very difficult.

James Wolfe: I will take that in a number of stages. The first point is that, as you may know, I have no party-political affiliation. I was appointed on that basis.

Lord Foulkes of Cumnock: Yes, I know.

James Wolfe: Secondly, the Law Officers are not members of the Cabinet. They are ex officio members of the Government and may attend Cabinet, just as the Attorney-General attends Cabinet in the UK Government, and that may be seen as a safeguard for the lawfulness of what the Government does. Actually, perhaps one of the advantages of having a First Minister who herself was a lawyer was that, in my experience, she was very respectful of the office that I held.

Lord Foulkes of Cumnock: She did not practise very long as a lawyer.

James Wolfe: As you will well know, there is a strong convention that a Law Officer’s involvement in a particular issue is not disclosed, and I am bound by a variety of professional obligations. But I go back to what I said earlier on the overall principle: if we are dealing with prosecutorial matters, those are entirely a matter for the Lord Advocate, and political Ministers, in my experience, understood that. It was my job to be very clear if there was any hint of anything that might undermine that.

Lord Foulkes of Cumnock: You eventually left. Was that because of a disagreement with the First Minister?

James Wolfe: It came to the end of a Parliament and my mother had been diagnosed with dementia, so it was time for me to go.

The Chair: I think you have answered that very fully and we have aired that subject well. Does Lady Laing have a short question?

Baroness Laing of Elderslie: It is very short. This has been an interesting exchange. Is it not the case that Lord Foulkes’s illustration of the 10 cases that he mentioned, where a very powerful Government attempt to do something, are challenged in the courts and the courts overturn what that Government are trying to do—most notably, the Supreme Court very recently in the gender recognition case—is exactly proof that the rule of law works?

James Wolfe: Absolutely; I could not agree more. It is intrinsic to the structures of devolution that there are legal limits. Sitting in this Parliament, of course, one thinks about these things very differently; sitting within a devolved institution, one understands that the legislature is subject to legal limits and that there are structures and mechanisms in place to seek, so far as one can, to ensure that laws are passed within those limits. Ultimately, the question gets tested in the court, which is where it should be. Sometimes the courts uphold legislation and sometimes they do not. That is the system working as intended and it is a vindication of the rule of law.

Q122 **Lord Bellamy:** Mr Wolffe, if I may, in your opening remarks you emphasised the importance of a well-functioning legal system. All legal systems were very hard hit by the pandemic and in Scotland, as elsewhere, court backlogs built up. My understanding is that, since then, the backlog in the courts in Scotland has been substantially reduced, whereas in England and Wales we have had the opposite experience: the backlogs have constantly increased. Can you, briefly, tell us at all what has been the key to the success in Scotland in reducing court backlogs?

James Wolffe: I am afraid, my Lord, that I am probably not best placed to answer that. As Lord Burnett's question disclosed, I am not really as in touch with matters these days as I would have been. I believe rather strongly that one should not be looking over one's successor's shoulders, but I can speak to what happened in the immediate recovery process from the pandemic. A number of things happened: one was that the Scottish courts, to get jury trials back up and running, adopted the rather innovative approach of having juries sit—

Lord Bellamy: Were there not juries in the cinemas?

James Wolffe: They sat remotely in cinemas, so we got jury trials back up and running. When I left office, there was a really significant backlog problem but resources were being put into the system to expand the number of courts sitting, and to seek over time to address that backlog. I am afraid that I have not been in touch with how that unfolded.

Q123 **Lord Griffiths of Burry Port:** I will take the steam out of some of this. A syllogism says, "All men are stupid. I am a man. Therefore I'm stupid". I learned that a long time ago. Some self-serving arguments say that, because the outcome is such, an evidential route towards a conclusion that we know about makes that as obvious as a syllogism. I speak not as a lawyer or as a constitutional expert, but as a Member of the House of Lords.

To take an example from here, laws or Bills relating to the field of immigration have come in a proliferating way before us and I, as a lay Member of the House of Lords, hear arguments put from the Dispatch Box that are, I am led to believe, impeccably legally binding and in compliance with all that they need to be in compliance with. Because the House of Lords is constituted in the way it is, some pretty powerful lawyers sit on the Cross Benches—some of them are sitting here—and we hear very respectable lawyers stand up and say, "But we are acting outwith the compliance requirements". I have tried to think through all of this. The mere fact that we have a judgment in court does not prove that the rule of law has been followed or observed in a world where lawyers themselves—in places which I have no access to—argue the toss on the case. I get more and more frustrated by all of this. Why cannot a Government's legal advice be brought into the open? Is that a convention that has just happened or what? How can I sit in judgment between judges?

The answer to those questions might be rather more important than we have been led to believe. We have come to where we have come to down

routes that are well worn, but there are questions we are raising right now in Europe. I go to Strasbourg next week and will be sitting on the Migration Committee. We will be hearing from lawyers all over Europe about how they are looking at the convention for refugees and asylum seekers, and all of that, and coming to different conclusions. I just want to have the material to hand that allows thinking people—I hope you do not mind me claiming to be one—to find a way through what seems to be like a jungle.

James Wolfe: One of the points that you make is a truth for any of us who have practised law in the way that John and I have. There may be serious legal arguments that can be advanced on both sides of a question, and sometimes more than one. What is important in the context of policy-making is that the legal considerations are properly analysed and brought to bear in that process. But if there are serious legal arguments that can be presented on both sides, then one might not want the policy-making process to be inhibited by deciding to go for one view rather than the other, though sometimes you may have to say, “No, you can’t do that”. Ultimately cases end up in court because there are serious arguments—

Lord Griffiths of Burry Port: Ultimately too, more than one Minister standing at that Dispatch Box has said, “I can’t go with my own Government’s legal opinion and I wish to resign”.

James Wolfe: Again, one might say that that is a vindication of the institutions of Parliament and the rule of law. You make a particular point about legal advice to government. Internationally, it is fair to say that there are different approaches to the publication or non-publication of legal advice. In this country, we have always taken the view—I think there is a real strength to it—that it is ultimately the responsibility of the policy Minister to own the policy, including the legal considerations. What you do not want is a situation where policy Ministers can say, “I’m only doing it because the lawyers told me”. You want that policy-making process to be joined up and for the political Minister to ultimately own it. That is a strength of a system where the Government are able to take legal advice confidentially. There may be different views expressed, but, ultimately, the Government will reach a view as to what they consider their legal position is. They will have to stand or fall by that and it may be tested in the courts. That is a virtuous circle.

Lord Griffiths of Burry Port: I am sorry to the Chair for going off course.

Baroness Laing of Elderslie: Can we change tack slightly to look at access to justice issues, which during this inquiry we have come across several times? Are there matters in either Scotland or Northern Ireland where access to justice might be seen differently from the way that it is in England and Wales? I appreciate that there are different statistics, for example on the backlog in court, et cetera, but I am thinking along the lines of the 110-day rule that there used to be in Scotland. That is pretty well gone but it was never there under the English and Welsh system. Is

there anything that we could learn?

James Wolfe: I suppose the first point is that Scotland has a different legal aid system. It continues to be demand-led, uncapped and have wide scope; the LASPO restrictions that were placed on legal aid in England and Wales do not apply in Scotland. I think everybody in Scotland agrees that the legal aid system needs reform. The Scottish Government published a consultation paper earlier this year and the Equalities, Human Rights and Civil Justice Committee of the Scottish Parliament is currently looking at civil legal aid. Specifically, it has its own inquiry looking at that, so reform of the legal aid system is very much on the agenda in Scotland, as I view it. But the starting point is that it is a different system, which is, as I say, uncapped, demand-led and with pretty wide scope. I do not have any particular insight, other than what I have read, but I have no sense that there is an appetite to radically restrict legal aid in the way that happened in England and Wales. The legal aid picture is different and under current review; that is perhaps the best thing I can communicate to you.

In terms of broader access to justice issues, there are of course challenges. We now have an infrastructure of non-governmental organisations which play an important part. I am thinking of the Scottish Women's Rights Centre, Clan Childlaw and other organisations which play a significant role in facilitating access to justice for certain groups and communities. But access to justice is a perennial issue and the debate in Scotland is in a slightly different place, if I read it correctly.

The Chair: Lady Hamwee, do you have a question?

Baroness Hamwee: Yes.

Lord Anderson of Ipswich: What about in Northern Ireland?

The Chair: Sorry—of course, let us hear about Northern Ireland. That is very important.

John Larkin: There are three things. Like Scotland, but unlike England and Wales, our legal aid system is means-tested, uncapped and demand-led, so we do not have the specific English and Welsh issues on access. There is of course an issue about costs, because the means testing is very restrictive and persons on very modest incomes will not be eligible for legal aid. Essentially, persons on passported benefits will acquire legal aid, but no one else. The position is different in relation to criminal legal aid, where the means testing is much more loosely applied.

If I were sitting down with a blank sheet of paper and looking at access to justice, I would be interested in significant reform of our costs regime, which is a significant disincentive to access to justice. People will probably work out how to pay their own lawyers but have a terror of being faced with an enormous bill in the event that they lose. I am far from an unqualified admirer of what the Strasbourg court does, but it has offered some very useful discussions of levels of costs and access to justice. That

is of policy value throughout the UK. In relation to delay, the impression—this is entirely anecdotal—is that if one reads of some atrocity taking place on this island in the paper, I am usually astonished at how quickly that person is brought to justice and the trial is listed, or so it appears to me. That is not the experience of Northern Ireland, where there is considerable delay in trials on indictment.

The Chair: Thank you very much. Lady Hamwee, my apologies.

Q124 **Baroness Hamwee:** We have taken some evidence from people who are involved in education in the widest sense, ranging from talking to primary schoolchildren about the rule of law and comparing it with rules in school, to talking to interest groups—people who have particular problem areas, such as coming out of prison and needing help with housing and so on. Are you aware of any similar initiatives in either of your two countries?

John Larkin: I was very interested in this as Attorney-General and we ended up with three programmes. We had what was called a Living Law programme for the non-grammar school sector in Northern Ireland, with a series of events, talks, court visits and debates to try to encourage the belief that the law was the common birthright of all citizens. It also perhaps served to encourage those who came from schools where there would not be a tradition of people entering legal study to think about that. It was aimed across the board, essentially as an applied civics course, albeit compressed, to increase some knowledge of the law. We had a variation of that for community groups called It's Your Law. We arranged events and took a particular interest in the somewhat reductively labelled hard-to-reach communities. There were talks about the law, again with a common theme that it is our common birthright and something we should be proud of, know about and have a sense of ownership of. Finally, and this is the aspect I enjoyed most personally, we instituted a constitutional law summer school, with "constitutional" being broadly interpreted. I am happy to say that James came along to speak on more than one occasion. From what I can gather, these were very successful events. Now, I know that some alumni of the Living Law programme have been in touch with my successor, who obviously had to deal with the fallout from Covid in a way that I did not, to encourage her to think about restarting some of those programmes.

Baroness Hamwee: That has answered my follow-up question, but when you were there, was that funded by government or did you have to involve the third sector?

John Larkin: No, we did it entirely from our own resources. The first two events, Living Law and It's Your Law, were without charge to participants. There was a charge for the constitutional law summer school, literally just to defray expenses—for example, the travel expenses of speakers from abroad—but we managed that entirely within office resources, so there was no additional funding stream for that.

James Wolfe: I do not think that in Scotland we have quite the same programmes that John described. The only ones I am aware of—there

may well be others—is what the legal professions do with schools. The Law Society of Scotland has a Street Law programme, taking law into schools. The Faculty of Advocates at the Scottish Bar has a mini trials programme, again working with schoolchildren. It also does a mock trial event. I am sure that the professions do other work, particularly focused on schools. I am not aware of any broader initiatives such as John described, but that may be my ignorance.

Baroness Hamwee: Perhaps we can follow up afterwards, if our clerk does not mind, to see if there are any easily available materials that we could get hold of. I have a specific question; you may not have an answer. On a different committee, two or three years ago, we looked at the Life in the UK Test for citizenship. The assumption was made that it was the same law throughout the UK and there was quite some resentment about that among the clients, if you like. Is that something that crossed your desks?

James Wolfe: I must declare an interest because my wife was an adult immigrant to the UK. When she ultimately took her Life in the UK Test, she commented that at the bottom of a number of its chapters, having described the position in England and Wales in some contexts, there would be a little strapline at that time saying, “It may be different in Scotland and Northern Ireland”. But to be fair, when she sat the test in Scotland there was a Scotland-specific question—maybe more than one—along the lines of, “Which of the following subjects are within the legislative competence of the Scottish Parliament?”. She thought that was a rather exacting thing to expect anyone who was not a qualified lawyer to answer.

Baroness Hamwee: Yes, I came across a question which asked about very early Scottish poetry, which I thought was quite obscure.

James Wolfe: It may be different now. That is a personal anecdote.

The Chair: If there is nothing to add, let us turn to Lady Laing to finish off.

Q125 **Baroness Laing of Elderslie:** It has been suggested by various academics that the devolution settlements have complicated the issue of the rule of law. Indeed, this committee itself said in a 2016 report that, “the asymmetry of the devolution settlements obscures public understanding of where powers lie across the UK”. But should we blame devolution for complicating matters? Has it not always been the case that the legal systems of Northern Ireland, Scotland, and England and Wales developed from completely different sources, and therefore sometimes in different directions?

John Larkin: I can only agree; that is absolutely right. There has been a longer, albeit interrupted, history of devolution in Northern Ireland, which is obviously since the Government of Ireland Act 1920. Yes of course, there were cases which went to the House of Lords or to the Supreme

Court about the nature of legislative competence, but that is what courts do.

One issue which possibly has arisen since 2016 is worthy of note, as one aspect of the Windsor Framework is Article 2, which brings in a corpus of rights in the section of the Belfast agreement on rights, safeguards and equality of opportunity. I am sure that members of the committee have, from time to time, looked at the Belfast agreement, which was of course not drafted as a statute or by lawyers. That section does not contain rights such as could be drawn down and readily applied, but Article 2 of the Windsor Framework is part of the limitation on the legislative competence of the Assembly, and is expressly referred to as such in Section 6(2)(ca) of the Northern Ireland Act. There is already litigation about what the content of the rights in that part of the Belfast agreement may be—no doubt there will be a lot of litigation about that—but it is opaque as a text that the well-informed citizen, or the well-informed Member of the Assembly, could look at and then say, “I know what the limitations are”. To my mind, that is textually an impossible exercise.

James Wolfe: If I may say so it is a really important point, which this committee will have already, that the existence of separate legal jurisdictions is baked into the union. The key institutions in Scotland—the Court of Session, the High Court of Justiciary and indeed the office of Lord Advocate—all long predate the Union. The Union of 1707 specifically protected the jurisdictional separateness of Scotland, on the one hand, from England and Wales. I suspect that the Irish position would be—

John Larkin: Not to the same extent.

James Wolfe: Yes, but in any event we have three separate legal jurisdictions and that has always been the case. We now have overlaid on that a structure of devolution which allows for policy-making and legislation to be undertaken within Scotland and other parts of the UK. This Parliament had to deal with the fact that there were separate jurisdictions between 1707 and 1999.

Going back to something I said before, I suppose one advantage from a rule of law perspective is that, in Scotland's case, there has been a really significant body of legislation which keeps the law up to date, refreshed and reformed—often in quite technical ways. We recently had an Act on judicial factors and one on trusts and succession; we had a major programme of reform on property law in the early years of devolution. It has been a feature throughout that there is an availability of legislative resource to keep the legal system refreshed and up to date through the Scottish Parliament. You are absolutely right that some of these complexities are just inherent in a multijurisdictional union; they are certainly inherent in a union where there are now, in three parts of the UK, in effect two legislatures which can pass primary legislation. In comparative terms, there is nothing particularly odd or unusual about it and I do not think that presents any intrinsic challenges for the rule of law.

Lord Murphy of Torfaen: I have just one thing to ask. Mr Larkin, it was interesting that you talked about the equality and human rights aspect of the Good Friday agreement. I had to put that into what became the 1998 Act when we debated it on the Floor of the House of Commons. I have always been told that the extremely boring speeches that I made on it were boring because they might well be used in the courts to explain what we had agreed a few months before in the Belfast agreement.

The question I put to both of you is: is it not the case that the pandemic graphically illustrated how there are different legal systems resulting from devolution? For example, you could not cross the Welsh border, and no one knew that there were different rules affecting how we were made to stay in, or whatever, than there were in England or Scotland, or for that matter in Northern Ireland. Before that, no one knew what the differences were. I am quite surprised, Mr Wolffe, that your wife had to talk about the competences. I suspect that most of the people who used to elect me to the House of Commons would not know what the competences were, but they certainly did when Covid came in. To me, that changed completely the attitude of people to there indeed being different legal systems and laws in different parts of the United Kingdom.

James Wolffe: Yes and, of course, in relation to the subject matter of this inquiry that cuts through to justice issues. There are certain reservations in the Scotland Act which reserve certain matters to the UK Parliament, including the place of the Court of Session, the High Court of Justiciary and the role of the Lord Advocate. But justice by and large is devolved, as is legal aid policy, and there is nothing particularly surprising about that in the context of a multijurisdictional system.

The Chair: I call upon Lady Andrews, who is joining us remotely and has been very patient for a long time.

Q126 **Baroness Andrews:** I have listened with great interest, Lord Chair. I wanted to put to our two witnesses a slightly different aspect of the question that we have just been discussing. It is about the challenge of devolved legislation in legal situations. When it came to legislation such as the Act on European retained law, we found—somewhat to our dismay, shall we say—that many of the effects on the devolved Administrations had not been charted or logged in the course of trying to work out which of those many regulations would have to be triaged and what would be the upshot of that. It was quite late in the day when officials in Whitehall admitted that they had no flow chart which would have allowed us to tell what the impacts were. Was that in fact a sort of outlier example, or would you say that it reflects a lack of engagement with or understanding of the nature of the devolved Administrations, and their legal structures and requirements?

John Larkin: The enormity of the task brings to mind perhaps the only thing on which I agree with the French revolutionary Saint-Just: where there are too many laws, the people are enslaved. One has to spare some sympathy for officials trying to map out the requirements of EU law across a wide variety of areas. There may be thematic debates and

pieces of legislation may fall down the cracks. As you know, the position of Northern Ireland is different. A large corpus of EU law applies directly through the Windsor Framework, which might and does give rise to other rule of law issues. But it is at least pretty clear, so far as that corpus is concerned, what law we are dealing with.

Baroness Hamwee: I have a different question, which is procedural, on whether there is much forum shopping between the jurisdictions.

James Wolfe: One certainly sees in the English courts, from time to time, cases that arose in Scotland. It is typically in commercial cases. Certainly, in my own professional experience it is not unusual in various contexts for contracts to be written under English law, with a choice of forum for London, even though the circumstances take place entirely in Scotland. I am aware of that but not otherwise aware of a particular issue.

Baroness Hamwee: So it is not an issue that is on people's agenda.

James Wolfe: It is an issue that may reflect the strength of London as a dispute resolution centre and the shift of corporate headquarters out of Scotland. Large classes of commercial business that historically might have been tried in the Scottish courts are tried in London instead.

Baroness Hamwee: Thank you. Do you want to add anything, Mr Larkin?

John Larkin: No, I agree with that and of course there is the constitutional theory that the Crown is indivisible. Quite often, applications for judicial review, with respect to the Secretary of State for example, will be taken in Belfast, but they could easily be taken in London, and sometimes they are.

The Chair: Excellent. We have really reached the end of the questions. We have ranged far and wide, beyond perhaps what we expected, and it has been extremely useful. Thank you for your patience. We will now close the public session and revert to our private meeting.