

# Joint Committee on the National Security Strategy

## Oral evidence: Espionage cases and the Official Secrets Acts

Monday 27 October 2025

4.35 pm

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Members present: Matt Western (The Chair); Lord Boateng; Dame Karen Bradley; Baroness Fall; Lord Hutton of Furness; Baroness Kidron; Mike Martin; Edward Morello; Lord Robathan; Lord Sedwill; Andy Slaughter; Emily Thornberry; Lord Tunncliffe; Baroness Tyler of Enfield; Lord Watts; Sir Gavin Williamson.

Evidence Session No. 1

Heard in Public

Questions 1 - 11

### Witnesses

I: Stephen Parkinson, Director of Public Prosecutions, Criminal Prosecution Service; and Tom Little KC, First Senior Treasury Counsel.

### Examination of witnesses

Stephen Parkinson and Tom Little.

Q1 **The Chair:** Order, order! Welcome to today's meeting of the Joint Committee on the National Security Strategy. This is the first evidence session into our inquiry into espionage cases and the Official Secrets Act following the collapse of the case involving the alleged spying activity for China. Our objective from these sessions is to bring clarity to questions that have arisen in recent weeks, to ensure proper accountability and to review the adequacy of processes and decision-making. It is unusual for us to examine the details of such a case, but it is warranted given the scale of public concern. We are going to be hearing from officials today and Ministers on Wednesday morning. I would like to remind witnesses of their obligations to Parliament and the expectation of providing as complete answers as possible. Perhaps I could start by inviting those present just to introduce themselves.

**Stephen Parkinson:** Thank you, Chair. I am the Director of Public Prosecutions.

**Tom Little:** I am First Senior Treasury Counsel and was the instructed advocate in the case that is the primary issue of your concern.

**The Chair:** Thank you. Stephen Parkinson, the situation we find ourselves in is quite extraordinary. Who do you think is responsible for the collapse of this case?

**Stephen Parkinson:** First of all, Chair, may I say how disappointed I am that this case could not proceed to trial? I recognise and absolutely endorse the points that you have made about the nature of this case and in particular the level of public concern. I am very conscious indeed that there were two victims in this case, who were Members of the House of Commons. They were the victims of a gross breach of trust, as was Parliament itself. In terms of your question, if I may say so, I do not think it is a question of blame. The responsibility of prosecutors is to place cases before the court on the basis of sufficient evidence to secure a conviction. Ultimately, the issue in this case is that we were not able to provide the evidence to sustain the case in respect of one essential element, which was the element that China was an enemy, as was required by the statute.

**The Chair:** On that point, did you ever get the feeling that the Government wanted this case to fail?

**Stephen Parkinson:** Nothing reached me. I am sure it is known to many members of the committee, but may I just explain the division of responsibilities in terms of criminal cases? We do not investigate cases. We look at the evidence and we make decisions about whether it meets our tests. But the relevance of this to your question is that, until a very late stage, we were not engaged directly with any witness. That was the responsibility of the police. So I do not know anything about the background to the statements that were produced. Our responsibility was to look at the evidence, to ask investigators to obtain more evidence if that was possible, and then evaluate whether there our tests were met. The key test for prosecutors is the evidential test, which is: is there a realistic prospect of securing a conviction?

**The Chair:** So you felt that you did not have the evidence that was robust to put before a jury?

**Stephen Parkinson:** We did in the first instance—

**The Chair:** What changed?

**Stephen Parkinson:** What changed was the ruling in a case called *Russev*, which imposed an additional requirement. As I have explained, one of the elements of the offence was to establish that China was an enemy, and our route to doing that was to frame a case on the basis that China was a threat to national security—

**The Chair:** A passive or an active threat?

**Stephen Parkinson:** Well, at the time, a threat. There was a ruling in *Russev*, which was another case based on the same prosecution theory, in fact—of threat to national security—which said that you can mount a case on the basis that, in that instance, Russia is a threat to national

security but you have to show that at the material time it was an active or current threat to national security. The statement that we had at the time in our case did not go that far, so we asked for confirmation that at the material time, which was the dates of the offence, China was an active threat to national security. We did not think that this would be a difficulty, but in the end it proved to be a sticking point and we were unable to secure that evidence.

**The Chair:** When you decided to drop the case, what advice did you take before coming to that decision?

**Stephen Parkinson:** There was an enormously experienced team involved in this case comprising internal lawyers very experienced in national security cases. Mr Little, who sits on my right, was involved at the outset and was trial counsel. We had advice from Mr Little and we had internal discussions. Then, the way these things develop with complex and sensitive cases in the Crown Prosecution Service is that senior people have to be consulted. That happened as well, and a decision was taken, which ultimately I endorsed, that we would not be able to meet our test that there was a realistic prospect of a conviction.

**The Chair:** At what point did you decide that there were no alternative charges that could be pressed, given the challenges that we will come on to in a moment? At what point did you decide there were no other charges that you might level at these two, such as plotting to or planning to commit espionage or any other similar legislation?

**Stephen Parkinson:** All this was in the mix, really, at the point at which we concluded that we could not prosecute the case. That was late August of this year. If I may, perhaps I could just bring in Mr Little at this point, who was closely involved in advising us on the issue.

**Tom Little:** I will just deal with a couple of matters that you have raised, perhaps to try and join up some of the dots. It was an unusual situation for leading counsel for the Crown to meet a witness in these circumstances, and I did that on 14 August. I have a very clear recollection of that critical meeting, because I needed to understand why the two previous attempts to get statements—statement No. 2 and statement No. 3 from Mr Collins; I thought it would be relatively straightforward to be said that there was an active or current threat to national security—had not been articulated in clear terms. I also want to make it clear that I was not concerned if the witness did not use the word “enemy”—that would be a matter for the jury—but I needed to have the evidence to support the submission to the jury, and the witness was clear to me that he would not say that China posed an active threat to national security at the material time. That was in answer to what I regard as the million-dollar question in the case. Once he had said that, the current prosecution for those charges was effectively unsustainable.

That is my carefully reflected position. I did not jump to that immediately. I advised on 22 August, having reflected over it as far as those charges were concerned. There was other discussion then about

alternative charges, but I do not think anyone should misunderstand the effect of what the witness had said. That would have been disclosable and it brought this case effectively to a crashing halt as far as that was concerned with that witness, who is the deputy national security adviser to the Cabinet. It is very different to the position of giving away a witness who witnesses a criminal incident on the street, for reasons that I hope are obvious. We did give very careful consideration as to whether this was remediable, but I concluded and, more importantly, we concluded—that is the entire prosecution team—that it was not.

**The Chair:** Okay. I want to bring in Dame Emily, but just briefly I will bring in Lord Hutton.

**Q2 Lord Hutton of Furness:** This question is really for the Director of Public Prosecutions. You said in your opening statement to us that you were disappointed that this prosecution could not be brought, and it sounds like you think that there was enough evidence clearly to merit a prosecution and a reasonable chance of conviction. Your argument is purely that the Roussev case changed that?

**Stephen Parkinson:** Essentially, yes. I was disappointed. We felt that we had a good enough case to prosecute, and we had obviously spent an enormous amount of effort getting the case to the point that that we did and we felt that there should be no difficulty, in fact, in answering the question that we posed: was China an active threat to national security at the material time? We thought that would be evidence that could be given relatively easily, but it turned out to be a sticking point. The ruling in Roussev came out on 31 May 2024. We first asked that question on 11 June and slightly amended it the following day. It took 14 months to get the answer to that question, and the answer was no, and it took quite a lot of effort on our part to try and get the answer. But what you cannot do as a prosecutor is tell people what to say. You can only, obviously, ask questions. But we did put a lot of effort into it and, yes, we did feel disappointed and frustrated. This was an important case.

**Lord Hutton of Furness:** Did it ever occur to either of you that, if the case had gone to trial, a jury would have had to have decided what the threat to national security was? Many people, certainly in this place, would think you cannot have national security without economic security. The deputy national security adviser was very clear of the active threat to our economic security that China posed, and neither of you felt that that was sufficient basis to put an argument to the jury that that in itself could have constituted a threat to our wider security interests.

**Stephen Parkinson:** The question that was posed was: at the material time, was China an active threat to national security? The answer we got, with the second statement, was that it was a threat to economic security. So the question was not answered in terms. But I reiterate what Mr Little said: the issue was not so much the statements we were given but what was missing. The key question that would have been posed in cross-examination was the question we posed in June: was China an active

threat to national security at the material time? The answer was that that confirmation could not have been given.

I will explain the impact of that. This is the way that criminal procedure works: the prosecution lays out its evidence before the court and, at the close of the prosecution case, the defence is entitled to make a submission of no case to answer. It can do that if any element of the offence is not satisfied. If the judge concludes that no reasonable jury, properly directed, could reach that conclusion, he will stop the case. The conclusion that was reached by Mr Little and our team was that we were in that place. So this case would not have got to a jury, because our professional assessment was that we were unable to satisfy that limb, in view of that answer. So it is not so much the evidence that was given; it was that that answer went to the heart of the issues, and it was fatal to the case.

**Q3 Emily Thornberry:** There are quite a lot of elements here. Let us start with the evidence that you first had to charge Berry and Cash in April 2024, under Section 1(1)(c) of the Official Secrets Act. What you had to prove was the *actus reus*—the guilty act—which was communicating information that might be “useful to an enemy”, and the guilty mind, or the *mens rea*: “for any purpose prejudicial to the safety or interests of the State”. That was an objective test.

At that stage, you had a statement from the deputy national security adviser, dated 22 November 2023. That is what you had, and the statement essentially said this: it proceeded on the basis that it would be proved by others that Berry had been recruited by the Chinese state as an agent, information was passed from Cash to Berry, et cetera—all of that stuff. So he goes through all that material and says, “This is the material. This is how it was getting to China. This is who the people were who were getting it”. Then, the important thing—the original evidence that he gave, which you did not get from any other source—was the evidence about the guilty mind, which was that he made clear that the information of the type passed would be prejudicial to the safety or interest of the state. He repeated that throughout the statement. So he is proving the guilty mind, and others had proved the guilty acts. What you did not have, in that first statement, was any evidence that China was an enemy, right?

**Stephen Parkinson:** The high-water mark of his evidence was his statement about the capability of China.

**Emily Thornberry:** Are you referring to page 2, paragraph 6?

**Stephen Parkinson:** Yes. May I read it out?

**Emily Thornberry:** Does it begin with this: “The Chinese Intelligence Services are highly capable and conduct large scale espionage operations against the UK and other international partners to advance the Chinese state’s interests and harm the interests and security of the UK”?

**Stephen Parkinson:** That is it.

**Emily Thornberry:** So you had that, but you had no more to prove, at that stage, that China was an enemy, right?

**Stephen Parkinson:** That was the basis on which we felt that we could maintain a case.

**Emily Thornberry:** The law at the time was that there was no definition within the Official Secrets Act of who is an enemy. These cases do not come up very often. There was a case called Parrott, before the First World War; that tends to show just how often these cases come up—not often. In Parrott, what was said was that the law at the time was that, again, “enemy” is not defined but an enemy can be a country that, one day, we might be at war with. That makes sense, given that it was the year before the First World War. So, again, it is very vague, but it essentially says, “We’re not going to say what ‘enemy’ means”. So that is your law at the time.

You have that one statement saying that the “Chinese Intelligence Services are highly capable and conduct large scale espionage operations”, et cetera. That is all you have and, when you charge them, you are thinking, “Right, we have these different elements. We’re going to leave it to the good sense of a British jury to decide whether or not China is an enemy”. At that stage, when you were charging, that was what your thinking was, was it not?

**Stephen Parkinson:** At the stage we were charging, we had already begun—and ultimately we were successful—a case based on threat to national security. That is the case of Roussev. I have referred to the legal ruling, but of course it was a criminal case, so—

**Emily Thornberry:** I am sorry, but when you are charging, you charge on the basis of the law, and the law is what I have just taken some time to bring everybody through. It is the statute and a case called Parrott. That is the law at the time. You may be sorting out another case that may or may not go to the Court of Appeal and may or may not make some law; you do not know at that stage. When you were charging, on the date that you did—April 2024—you did it on the basis of the law then, not the law that you hoped might come at some stage in the future.

**Stephen Parkinson:** Yes. We took the view, in both cases, that the “enemy” requirement could be satisfied by demonstrating that the state—in one instance, Russia, and, in the other instance, China—was a threat to national security. That is the basis upon which we proceeded in this case.

**Emily Thornberry:** You might have taken the view that you had evidence that China was conducting large-scale espionage operations against the UK and had recruited a couple of people who were connected with the British Parliament, and that that by itself might be enough to persuade many a juror that China was an enemy, because it is hardly the behaviour of a friendly country.

**Stephen Parkinson:** The basis on which we took the decision to prosecute was that, but what happened was that, in the earlier case, Roussev, that approach by the prosecutor—

**Emily Thornberry:** I will give you a chance to move on, but I just want to get the basis of this clear. What I do not understand is this: if you had enough evidence to charge, why did you not have enough evidence to carry on with the case? What changed? You say that the law was fundamentally changed by the case of Roussev, which made the evidence that you had when you charged not sufficient.

**Stephen Parkinson:** I am not saying that. If I may, I will finish my explanation. The case of Roussev confirmed that you could base a case on the threat to national security posed by another state. But it also said that, if you are basing a case on threat to national security, you have to demonstrate that, at the material time, it was a current threat. The difference that Roussev made was that we needed to demonstrate in terms that the totality of the threats posed by China during the period of the offences made China a threat to national security. We were not quite there on our existing evidence, so we asked for more. We asked for a positive statement from an expert in this area. The DNSA was not giving evidence as an individual; he was drawing on all the resources available within government to produce his evidence. So we asked him for that bit more. But it turned out to be not only a sticking point but a critical difference.

**Emily Thornberry:** Before we move on to the evidence you got—or did not get when you tried to get more—I want to know the basis upon which you decided that you needed to get more evidence. As I say, there might be many people—ordinary members of the public—who would bring common sense to this event, through a jury, and who might think, “Large-scale spying on the UK by China looks like the actions of an enemy to me”. What changed it, you say, was Roussev.

But do you not agree that the Court of Appeal said, in the case of Roussev, that it was not going to establish a new meaning of “enemy” and that “enemy” should be approached in a common-sense way? Lawyers know that “common-sense way” means—and this is why we have juries—that juries have so much more common sense than lawyers, frankly, and we need to get the jury to have a look and decide whether someone is an enemy. So Roussev is specifically saying that we need to approach the idea of what an enemy is in a common-sense way—namely, we need to ask a jury.

It also said that neither the approach in Parrott or the one in Roussev was laying down a comprehensive test—as if you had not got the message from, “You need to ask a jury”, it is now specifically saying, “We’re not saying what an enemy is”. Another country would be an enemy if the jury concluded that it was a country that Britain might one day be at war with—obviously, nobody was ever claiming that in relation to China necessarily. Maybe you were, but presumably you were not. It also said that there was no reason why “enemy” should not also

include a country that represents a current threat to UK national security. That is "also include"; it is not, "The only way in which a country can be an enemy is if, in future, we might be at war or it represents a current threat to UK national security". It was specifically saying, "We are not saying what the definition of 'enemy' is", so you should have just gone ahead and prosecuted.

**Stephen Parkinson:** I am sorry but, absolutely, it was saying there was not a comprehensive definition. It confirmed that you can bring a case on the basis that a country poses a threat to national security, but it defined the ambit: if you are going to bring a case on that basis, it defined—as you have just read out—that there is no reason why you cannot bring a case on the basis that, at the material time, it was a current threat to national security. So obviously it felt, to us, that we had to be four-square within the ambit of what it said, which is—

**Emily Thornberry:** But it said that there was not a clear definition. It just gave you an example, just like Parrott and Roussev had given you an example of what an enemy might be. But you could also have just asked a British jury, "Is China an enemy, particularly given the way it has been behaving?"

**Stephen Parkinson:** As I explained—I will invite Mr Little to add to this—the view that we took was that our case would not survive a submission of "no case to answer", so it would not get to a jury. We are taking rather an expansive approach to the definition of "enemy", if I may say so, in Roussev and now in this case, by saying that the legal test could be met by demonstrating that China was a threat to national security. The Court of Appeal said, "We agree", but it clarified what would be required, which was to demonstrate that, at the material time, China, in this instance, was a threat to national security.

**Emily Thornberry:** You are slipping back into claiming that that was the definition that the Court of Appeal was giving. But do you not agree that it is not a definition the Court of Appeal was giving because it specifically said it was not giving you a definition? It said that this was an example and that it was up to the good sense of a jury to decide.

**Stephen Parkinson:** It said that we can bring a case based on a threat to national security and it defined the ambit of what it meant by that: namely, a current threat to national security at the material time. It did talk about a jury, but on the basis that there was some evidence to substantiate that. Our problem, if I may come back to this, was that our only witness on this issue was unable to confirm that, at the material time, China was an active threat to national security. So we did not have the evidence.

**Emily Thornberry:** You have it in your first statement. It says: "The Chinese Intelligence Services are highly capable and conduct large scale espionage operations against the UK and other international partners to advance the Chinese state's interests and harm the interests and security of the UK". That sounds like a threat to me.

**Tom Little:** That was the basis on which the charging decision was made: that it was a national security threat. I also accept that, depending on the evidence, significant threats to the economy could amount to a threat to national security. But we cannot get past, and it is unhelpful to try to ignore, the clear words of the witness who was going to be called. He did not say to me, "I'm not going to say that they pose a risk to national security, but they pose a really significant economic threat that I do regard as a significant threat to national security". He would not say that.

This is critical, bearing in mind how we put our case—I accept that the definition is not exhaustive. The question is: what other definition could we, or should we, have used? We had always proceeded on a national security basis, and common sense, I am afraid, is not enough if I do not have the evidence to establish, properly and in an admissible form, that they did pose a threat to our national security, or some other route to allow me—not just with rhetoric—to say, "You can be satisfied so you are sure that they are an enemy". That is the fundamental problem with the meeting on 14 August 2025, because the effect of that was a total roadblock to this prosecution. That is my firmly held view.

**Emily Thornberry:** This will be my last question and then we can move on. You had 12 pages of evidence in the first statement of the various information that these guys had passed on to the Chinese. It is extensive, with example after example. They had been recruited by the Chinese in order to give evidence to them in order to advance the national interest of China, again and again being told that it was undermining the national interest and security of the UK. That is not rhetoric; you had evidence.

**Tom Little:** But that evidence, as you can see from the terms of the statement, focused on another element of the offence: purpose prejudicial.

**The Chair:** Briefly, why did you not put this to a judge? Was there any downside to doing so, just to gauge their thinking on this?

**Tom Little:** There would be no basis to do so. Once the prosecution forms the view that there is not a realistic prospect of conviction, we do not go and have that second guessed by a judge. That is the duty placed upon the director and all his prosecutors—I provide advice in that respect. But that, in my submission, would not be a proper way to prosecute the case; it would be to pass the buck to somebody else and let them stop the case. That is the importance of making these difficult prosecutorial decisions, which the DPP is entrusted to do.

Q4 **Lord Boateng:** I recognise the difficulty and complexity of this case and your role in it, but the threat goes beyond those excerpts that Dame Emily helpfully read out to you, because the first witness statement also says: "China's espionage operations threaten the UK's economic prosperity and resilience, and the integrity of our democratic institutions". So this is not a question just of the economy and resilience; it goes to the heart of our national life—our democratic institutions. Neither of you have

mentioned that in response to Dame Emily. So how do you deal with that? That would seem, on the face of it, to be the surest possible indication that we were dealing with an enemy—someone whose espionage operations threaten the “integrity of our democratic institutions”.

**Stephen Parkinson:** As I mentioned earlier, we were satisfied, on the basis of that first witness statement, that there was a case to bring to court. I am sorry to keep repeating this, but it is such an important point that I feel I need to: at the end of the day, on 14 August, the witness could not give us the critical evidence that was required by the Roussev ruling.

**Lord Boateng:** No, because the Roussev ruling does not deal with the issue of the threat to our democratic institutions in any way that alters the situation that you faced when you made the decision to charge. The statement is very, very clear: a threat to “the integrity of our democratic institutions”. Mr Parkinson, in response to the Chairman, you made the point that senior people had to be consulted. Who were those senior people, and was it anything said by them that led you to reconsider your assessment of the witness statement that very clearly states the threat to “the integrity of our democratic institutions”?

**Stephen Parkinson:** I apologise if I was unclear earlier; when I refer to senior people, I am talking about the internal governance within the Crown Prosecution Service. The decision-making process involved only counsel and colleagues of mine in the Crown Prosecution Service. I did inform the Attorney-General of our decision, but the purpose of the meeting was to inform him, not to consult him.

**Lord Boateng:** You informed the Attorney-General of your decision when?

**Stephen Parkinson:** On 3 September.

**Lord Boateng:** And when you informed him of that decision, was there any question about the threat to “the integrity of our democratic institutions”?

**Stephen Parkinson:** He read counsel’s advice. We had a discussion. I do not recall that particular issue, but the discussion was around the fact that we were unable to satisfy the “enemy” requirement for the reasons that I have given.

**Lord Boateng:** Even though the witness said that at that time there was a threat to “the integrity of our democratic institutions”?

**Stephen Parkinson:** The witness was unable to provide the confirmation that we sought thought that China was a threat to the national security of the UK. That was the basis of our case.

**Lord Boateng:** So something that threatens “the integrity of our democratic institutions” is not a threat to the national security of the

United Kingdom.

**Stephen Parkinson:** I know that you are hearing from him later today and, with respect, maybe that is a question to put to him. The question that we put to him was: can you give us the confirmation that we need in order to continue with this case? He was not able to do so.

**The Chair:** Apologies for the bells, but we will continue working through them. Lord Sedwill?

Q5 **Lord Sedwill:** Director, as you said, we will be putting these questions to the deputy national security adviser later. My question is a simple one. You have referred to "the witness". But why did you choose only to have one witness—the deputy national security adviser on behalf of the Government—as your only source of evidence on this question of whether China poses a national security threat to the United Kingdom?

**Stephen Parkinson:** The choice was not made by us—the choice was made by those investigating the case—but he appeared to be the most appropriate person to provide that evidence. As I said earlier, this was not personal evidence; he was giving evidence on behalf of the state. The expectation was that he would draw upon all appropriate sources within government in order to frame his evidence. He was, in effect, an expert. He was not what we might call an observational witness; an observational witness is someone who witnesses an assault or a threat. He was not that type of witness. He was an expert. His job involved providing advice to Cabinet on these issues. He seemed to be the best-placed person, so we were told and we were happy to accept that.

There is another thing. Questions have been raised about whether we might have drawn on other sources. In my letter, I tried to set out not only why he was considered to be the most appropriate person, but why it would have been very undermining of our case if we had produced another witness who was contradicting him. We do not think that the judge would actually have allowed it. But the simple answer to your question, really, is that this was the witness produced to us by the investigators, and he seemed to be the most appropriate person to give that evidence.

**Lord Sedwill:** I understand that, Director. By the way, I should just state for the record that I used to be the National Security Adviser, and indeed Mr Collins used to work for me, although not as deputy; he was in a more junior position.

I will just pursue this point. You have said in correspondence et cetera, rightly, that you are independent of Government. Mr Collins is, as we have seen in his various witness statements, representing the government position as the most appropriate person. He is there essentially as an institutional representative, not in a personal capacity, as you have set out. But what you are seeking to do is demonstrate objectively to a jury that China is a national security threat to the UK independently of Government, because he is reflecting the Government's

position. You have other evidence—for example, Intelligence and Security Committee reports, government responses, statements by various directors-general of MI5, statements by former National Security Advisers like me, et cetera—all of which you could have assembled to demonstrate that China is a national security threat to the UK, notwithstanding a potential concern that the Government have chosen, clearly somewhat to your surprise, not to use that language themselves, presumably as a matter of government policy. So since you are independent of Government, why did you not double down on that independence and secure other witness testimony that would have enabled you to demonstrate that that test had been passed to a jury for the reasons that Dame Emily set out?

**Stephen Parkinson:** As I have said, producing other witnesses that contradicted our witness—who we were bound to call, by the way, because we needed him to establish the prejudice element of the offence—may not have been allowed but would have undermined our case. He did refer to the integrated reviews of both July 2021 and 2023, which set out the overall government position in relation to China. The integrated review of 2021 did not refer to China as a threat. It referred to the “systemic challenge that China poses to our security, prosperity and values”. The deputy national security adviser also referred to the fact that the UK wished to pursue a positive trading relationship with China, as indeed did the integrated review. So he did reference both those reviews, which seemed highly pertinent.

But I come back to the point that the Crown is indivisible. He represented the state view. He could draw on all sources; I assume he did. Most of what he says in his witness statements is actually drawn from statements of government policy of one kind or another. Those refer to China not as a threat—as they did in relation to Russia, by the way—but as a challenge, and that was insufficient.

**Lord Sedwill:** I do understand that point, Director, but those are statements of government policy, not statements of fact. That is the point. Integrated reviews are public statements of government policy. Like all public statements of government policy, they are encompassing a range of different objectives. The simple truth with China is that it is both a national security threat and an economic opportunity, and various Governments have been seeking to reconcile that tension for decades. The fact that a government policy statement uses different language is not the same as a legal test of whether—at least in part of that—China is a national security threat. As I said, there are ample other sources of evidence associated with the Crown that state that China is a national security threat. I entirely understand your point about the risk of contradicting the DNSA, but what would have happened, presumably, is that he would have been cross-examined—including on the evidence that Dame Emily read out and that you were discussing with her earlier, alongside other evidence from former directors-general of MI5 or that you could simply put on the record, because these statements are on the record—and the jury could then have made a judgment as to whether the

Government were ducking the question of China as a national security threat for wider policy reasons. That is not the legal test; it is a government policy test. That is what we are trying to get to.

**Stephen Parkinson:** I will ask Mr Little to come in in a second on what would have happened at trial, but I completely agree with you. We were looking to the DNSA to provide evidence of the actual threat—I have said this in my letter—and not what government policy was. But it appears he was unable to go beyond the government policy position. In the conference on 9 September, he said to counsel that, in relation to the 2021 to 2023 situation, he would not say that China was an active threat. He went on to say that successive Governments had declined to categorise it as such. So we were looking to him to provide evidence of what the threat was in actuality but, in what he was prepared to say, he was not prepared to go beyond that.

**Lord Sedwill:** That is my point: he was stating government policy, and you were asking for an evidential test. He was unwilling to go beyond government policy and thus provide you with your evidential test, and we will interrogate him on that in the later session. My question is: knowing that, why did you not choose to draw on alternative sources of evidence, including from state servants, that did meet that evidential test? It appears to be the case that, in effect, a government policy became your test, rather than an evidential test.

**Stephen Parkinson:** I understand the point entirely, and I agree that that looks like the position we had reached. But we were bound to call the DNSA; he had to be called, so he would have faced that question—“Can you confirm?” et cetera—and he would not have been able to give that confirmation.

**Lord Sedwill:** He might have found, under cross-examination, that he had to go further than he was comfortable doing, because you would have had a range of other evidence, including from directors-general of MI5; the Intelligence and Security Committee; the Government themselves, in response to the Intelligence and Security Committee; and his own initial witness statement. You could easily have said, “Well, Mr Collins, you may now say you’re not willing to say that, but all this evidence demonstrates that the Government have accepted that China is national security threat. Isn’t that the case?”

**Stephen Parkinson:** Can I bring in Mr Little, because he is the expert on what happens in trials?

**Tom Little:** If a criminal trial were an inquisitorial process, then yes, but he was my witness so I could not cross-examine him about statements from other emanations of the state that were inconsistent with his own. That is just not permissible in a criminal trial—and nor, in fact, can I call witnesses to impugn the credibility of my own witness when he is the deputy national security adviser. This is straightforward criminal procedure. This is not the position of two eyewitnesses to something that has taken place, where I can say to the jury, “You can accept this witness

on A and B but not C, because they are mistaken about that for the following reasons". We are simply not in that territory.

I am afraid that the principle of indivisibility is a real problem for the prosecution in this case. Were it not so, I could have put him into the witness box and cross-examined him myself. But that is simply not how a criminal trial works. I would have had to have asked him, in examination in chief, what the position was in relation to the threat, because it would have looked awful if he had been cross-examined on that. He would, I am sure, have been consistent with what he told me repeatedly in conference. He did not tell me, in conference, "Look, I could say so much more in private", or, "I could say so much more about the threat, but I can't because I have to just set out what the policy is".

Having made the decision to rely on this witness, we could not give him away. He is a witness of truth; I have no reason to doubt him. I am forced to call him, and it is open season for the defence. My view was that the judge would not, in those circumstances, have allowed us to call inconsistent evidence from no doubt very eminent and experienced witnesses who would have been able to comment on it. That is a really important issue, and everyone has to understand the realities of a criminal adversarial trial process. I would have had to have called this witness first, and that would have been fatal.

**The Chair:** I am very conscious that we will run out of time. I will bring in Dame Emily.

Q6 **Emily Thornberry:** I have one question. You have said that you decided to rely on this witness, and he had made it clear from the outset, before anyone was even charged, that he was not going to call the Chinese an enemy because of government policy—government policy being Conservative Party policy at the time, but it continued throughout the time of his having had statements taken from him. That is correct, is it not?

**Stephen Parkinson:** It is correct, and we were conscious of that when we made the decision to prosecute. But we concluded that we would be able to prosecute on the basis of threat to national security, and he did not need to use the word "enemy". By basing a case on threat to national security, we would meet the legal requirement, so it is not a question of using a word. It is: can we satisfy the legal requirement? We felt that our case did at that point.

**Sir Gavin Williamson:** Is it not clear that the Government just wanted to collapse the case?

**The Chair:** I am sorry, but we have to move on.

Q7 **Edward Morello:** Quickly, I want to be clear on the timeline. You mentioned that you had met Mr Little, the prosecution team and key advisers in the CPS before you made the decision not to proceed with the case. Do you make that decision, or do you make the decision based on the advice of others?

**Stephen Parkinson:** The decision was made by the head of the special crime team and then reviewed by others, including me. The decision-making took place at a lower point in the organisation, but it was endorsed by me. In practice, we prosecute 450,000 cases a year, and I see only a tiny number of those. I am sighted on the most complex and sensitive cases, and I can intervene.

**Edward Morello:** But in practice you are reliant on the advice of others.

**Stephen Parkinson:** Yes, but—

**Edward Morello:** At the risk of the chair's wrath, I must ask the question and then allow others in.

**Stephen Parkinson:** May I complete my answer? Obviously, given the volume of cases, I rely heavily on my colleagues but, with the complex and sensitive cases that come to me, I look very carefully at them. From time to time, I push back and ask more questions—I test and I challenge. I considered this case very carefully indeed, and I concluded that the right decision had been made. I think it is important to say that.

**Edward Morello:** In your view, does the National Security Act 2023 make it easier to prosecute espionage cases like this?

**Stephen Parkinson:** Yes.

Q8 **Sir Gavin Williamson:** This is very interesting, and I was absolutely fascinated to hear what you were saying, because you thought it would be quite easy to establish an active threat to national security. Is that correct?

**Stephen Parkinson:** We felt that it followed from everything that had been said already.

**Sir Gavin Williamson:** When you were speaking to the Government, did you explain to them the implications of the statement as it stood as to how that would impact the ability to prosecute?

**Stephen Parkinson:** I will go into a little bit of detail—I do not want to give a long-winded answer.

**The Chair:** Be as brief as you can.

**Stephen Parkinson:** I will—I promise you. We made the request, and it took some months before we had a substantive response but, on 10 December 2024, counsel met the lawyer who had been designated to act for the DNSA to discuss what evidence might be given. I have seen the notes of that meeting, and it was made clear that the evidence we sought was critical. The language used was, "We do not want to get into a situation in which the case is dismissed at half time"—that is the phrase lawyers use to describe a submission of no case.

**Sir Gavin Williamson:** So Mr Collins would have understood that—by not delivering the evidence that actually most people within the security

establishment would say that they believed that China was an active threat to national security, by denying that to you—he effectively had the ability to collapse the case.

**Stephen Parkinson:** I assume that his lawyer explained the significance of his evidence. The DNSA would have understood this, because by the meeting on 9 September, it had already been made plain that the case could not proceed because he was unable to give the positive answer that had been sought. So, in the context of that second meeting with counsel, it would have been absolutely clear to him the importance of his evidence, but I am sure that he would have—he really ought to have—understood that before then.

**Sir Gavin Williamson:** So he would have been absolutely clear that the case would have collapsed in that sort of position, and he would have also understood that—even though there are plenty of people within the security establishment that would have agreed with the fact that there was an active threat to national security—you could not effectively bypass him. So, in essence, there was almost an active government policy to collapse the case.

**Stephen Parkinson:** I am afraid I cannot speak to what he thought. I know you are going to be speaking to him. All I can say is that he was unable to give us the evidence that we needed.

**Sir Gavin Williamson:** A little bit as Mr Little was touching upon, it was quite clear that, with him sticking with that position, no matter who you brought forward to the jury and the judge, effectively the whole case was going to be thrown out.

**Stephen Parkinson:** That is the case. I did say this in my letter, but I think it is worth just making this point: all routes by which we might establish that China was an enemy were closed. We could not go down the route of threat to national security for the reasons we have discussed. We were aware that he was not prepared to say that China was an enemy or potential enemy. He was not prepared to say that China was opposed to or hostile to the interests of the UK. There were no other options open to us. The case had to end.

**Sir Gavin Williamson:** He closed every avenue that you could possibly go down.

**Stephen Parkinson:** The consequence of the evidence he was unable to give was that the case was at an end.

Q9

**Dame Karen Bradley:** There was a point that the Chair made at the beginning of the session that has not been answered, and it leans on from the questions you have just received. You say there were no other avenues you could take, but could you not have gone through a different charge—espionage, perhaps?

**Stephen Parkinson:** We considered all potential charges, and this is where we ended up. Maybe I could ask Mr Little, because I know he was advising on this.

**Tom Little:** We gave careful thought as to the evidence that we had and whether we could change horses as far as the offence was concerned. I want to make it perfectly clear that if I thought there was any way in which I could properly have prosecuted this on the evidential stage, using another provision under the Official Secrets Act or one of the other Official Secrets Acts, then we would have gone down that route. The last thing that I wanted to do was turn up in front of the judge in charge of the terrorism list and offer no evidence in the case, for all of the reasons that are obvious and that the director has already raised.

**Dame Karen Bradley:** When we met previously, and in response to questions that we have put, you have been very clear that what you needed was some form of a statement around the policy of the Government at the time the offences were committed. Is that correct?

**Stephen Parkinson:** What we needed was evidence that there was an actual threat. We were not asking for statements of policy. As Lord Sedwill pointed out earlier, what we needed from the witness was evidence of fact that, in actuality, China was an active threat at the material time.

**Dame Karen Bradley:** In the final statement, the description of China is taken from the Labour Party manifesto. Did that undermine the case? Was that the fundamental problem?

**Stephen Parkinson:** I obviously have read in the press of the similarity between the statement and the Labour Party manifesto, but we were unaware of that.

**Dame Karen Bradley:** That wording was the wording that meant you could not say that China was a threat?

**Stephen Parkinson:** No. To be clear, the problem has always been that those three witness statements were insufficient to enable us to prove the case. We needed that extra element which could not be satisfied. I am not criticising the content of the witness statements. The point that I made from the outset is that we needed more and what was missing was a critical element.

**Dame Karen Bradley:** We will ask those questions to the DNSA shortly. But was any government official, special adviser, Minister or anybody informed prior to 1 September that the case was potentially going to fall—potentially going to collapse?

**Stephen Parkinson:** Not to my knowledge. The timing is that the Attorney-General was informed on 3 September. Prior to that he was aware that there were issues, as he mentioned in his own letter.

**Dame Karen Bradley:** So he was aware prior, but he did not know that

you were not going to proceed with charges.

**Stephen Parkinson:** That is right.

**Dame Karen Bradley:** Okay. But he knew prior to 1 September that there were issues with the case.

**Stephen Parkinson:** We gave him regular updates and we explained that we were looking for a further statement from the DNSA.

**Dame Karen Bradley:** A final question: in the correspondence we have received, after the request for the third witness statement was made, there were further emails from the CPS to clarify the ask. What clarification was required?

**Stephen Parkinson:** I think the further emails were prior to the third witness statement. CPS sent an email on 10 July, and the third witness statement was 4 August.

**Dame Karen Bradley:** Mr Little, you met on 14 August?

**Tom Little:** Yes.

**Dame Karen Bradley:** So 4 August was the witness statement, 14 August was your meeting, and then 22 August was the advice that you could not proceed—just so that we have got all the dates absolutely clear.

**Stephen Parkinson:** Yes.

Q10 **Lord Hutton of Furness:** Can I just come back to this point about who knew what when? When was the deputy national security adviser told that if he did not provide this extra bit of evidence about China being an active national security threat—if he did not provide that statement—the case would collapse? Was he told that?

**Stephen Parkinson:** That was not the nature of the conversation. On 3 September—

**Lord Hutton of Furness:** Sorry, but why would he not have been told that? It seems the obvious question to put to him.

**Stephen Parkinson:** I simply want to reframe what happened, if I may. On 3 September, as I have mentioned, I informed the Attorney-General of our decision. Then later that day I informed the Cabinet Secretary of that decision and explained the reasons for it. Then the DNSA came in at the conclusion of that meeting and I informed him of our decision. It was clear from the conversation that then developed that he felt he could offer more. He said that the meeting with counsel had been brief. So I reached the conclusion that no further steps should be taken in this case until the DNSA had had a further opportunity to meet with counsel. That is the way the conversation developed. I said, "No communication, please, to anyone, because an issue has been raised that there may be more to be said". The second conference with counsel took place on 9 September. But the DNSA was obviously aware of the context of that

meeting, which was that we had been on the point of offering no evidence, so he would have understood the reason for the conference and the reason for the question.

**Tom Little:** Can I just add something? I can understand why you articulate it and put it in that way, but I would never have expected a witness to effectively almost have a gun put to their head and be told, "You need to say this, otherwise we are going to drop the case", because you can understand the inevitable effect and how that would be used. If he had then said, "Oh, well, they do", we would have to have disclosed the terminology used. But your real point is: was he on notice more generally about the impact without there being a threat? I took the view, certainly on 14 August, that he understood what he was telling me. It was relatively brief, but actually the issues are pretty narrow that he had to deal with. It is a one-question answer, and he was absolutely clear in the second meeting on 9 September because it had already been raised. Although some of the language used was not identical to the previous meeting, the substance and effect of it was identical as far as my conclusion was concerned.

**Lord Hutton of Furness:** So he certainly knew this case was going to collapse.

**Tom Little:** You will have to ask him, but I would be surprised if he did not.

Q11 **Lord Hutton of Furness:** Briefly on this thing about other charges, could you just explain to the committee why you did not consider a charge under the Criminal Attempts Act?

**Tom Little:** In respect of which underlying—

**Lord Hutton of Furness:** The espionage activity of these two people. Clearly, from the evidence that we have seen, they knew they were spying. They talk about, "We are in it now. We're spies now". Why did you not think that they were attempting to breach the Official Secrets Act, because it looks to me like they were?

**Tom Little:** Depending on what route you are taking through the Official Secrets Act, we would still have to establish with an attempt that there was an enemy underlying it for a Section 1 offence under that legislation. I do not want to give legal advice on the hoof.

**Lord Hutton of Furness:** I am sorry; I do not want to cross swords with a KC, but my understanding of the Criminal Attempts Act is that if the two people who were charged thought they were actually contravening the Official Secrets Act, that would be enough to bring a criminal attempt prosecution.

**Tom Little:** I do not think it is as easy as a yes or no answer to that. It would depend on how that was put, but I cannot see how we could have maintained an attempt here to perform what would be impossible if I did not have any element of them being an enemy. There are sometimes

lateral ways in which one can deal with certain inchoate offences in relation to conspiracies and so on and so forth. But—

**Lord Boateng:** There certainly was a conspiracy.

**Lord Hutton of Furness:** They were conspiring together, were they not?

**The Chair:** Okay.

**Lord Boateng:** I do think this is rather important. Why did you not charge them with conspiracy? Why did you not add that to the indictment?

**Tom Little:** But in this basis there would still have had to have been an enemy as far as that was concerned.

**Lord Boateng:** But, by the first statement, there were espionage operations which threatened “the integrity of our democratic institutions”. What more do you need? These men were conspiring to do that. That was the evidence contained in the first witness statement.

**Tom Little:** The problem that we had, and I will go back to it again, is the unequivocal position that the witness took in the meeting on 14 August, and it is important that people do not shy away from that. I was at close quarters to him. I looked at the witness in the eyes, which it is something that I have scarcely ever done. Absent an expert such as a pathologist, it just does not happen. It happened because of how important this case was. But the effect of that discussion was, in my view, terminal as far as the charge was concerned. We did reflect upon alternative offences, but concluded that there would not be a realistic prospect of conviction in relation to them.

**The Chair:** An espionage case could not have been brought because of what the witness said.

**Tom Little:** That is the view that we took, yes.

**The Chair:** Okay. Can I thank both the witnesses for your time today? Sorry for the interruptions with the vote bells and so on. We will now suspend our sitting for the second panel. Order, order.