

# White water rafting: The UK's constitutions at a time of stress

Professor David Feldman

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*Dr Kirsty Hughes:* Well welcome back I'm Kirsty Hughes I'm the Acting Director of the Centre for Public Law. It's a great pleasure to finally welcome you all back in Cambridge. It has of course been far too long since we've been able to have a Sir David Williams Lecture. Sadly over that time we've lost many friends who would otherwise have been here with us tonight, and I hope that you will all join us afterwards at the drinks reception to raise a glass in their memory. But I know there could be no better speaker than David Feldman to bring us all back together tonight, and so I won't delay the start of the show for too long.

It would however be remiss of me not to say a few words about the lecture series, and of course to embarrass David slightly before we start. So the lecture series is named in honour of Sir David Williams and we're delighted to have members of his family here with us this evening - his wife Lady Sally Williams his children Rhys and Rhiannon and his grandson Niall. Sir David was a highly distinguished legal scholar producing landmark works on official secrets, public order, civil liberties and public law. He was President of Wolfson College and Vice Chancellor of the university - he was indeed the first Vice Chancellor of the university for 800 years to hold the post full time. I did not myself have the pleasure of meeting Sir David Williams, but I have on countless occasions seen the enthusiasm warmth and energy that fills a room when his name is mentioned. He has an enduring legacy not only for his many endeavours but for the spirit that he brought to them, in fostering communities of academic excellence.

It was in this vein that this Sir David Williams series was started and generously funded by John Nolan and Mike Russ. This is now the 20th lecture in that series. The first lecture was given in 2001 by Justice Sandra Day O'Connor, the first female Associate Justice of US Supreme Court. At the time she observed that she was certain this David Williams lecture series would live long and would prosper, and how right she was. She also observed Sir David's passionate concern for enhancing our understanding of democracy, and so I'm sure he would be greatly interested in the subject of tonight's lecture.

Which of course brings me to our speaker Sir David Feldman. Sorry I've just added you a title! It's much deserved. David Feldman QC. It's only a matter of time, I'm sure. What can I say then about David? David was born in Brighton and studied at Oxford before teaching at Bristol and Birmingham. He commenced his career as a tax lawyer and became a leading

light in civil liberties and human rights. Which was of course cemented by his first book on entry search and seizure, and later his magnum opus civil liberties and human rights. He was legal adviser to the Parliamentary Joint Select Committee on Human Rights, judge and Vice President of the Constitutional Court of Bosnia and Herzegovina, and special advisor to the Joint Select Committee on the Detention of Terrorist Suspects.

He is a fellow of the British Academy, a QC, an honorary bencher of Lincoln's Inn and an academic associate at 39 Essex Chambers. From 2004 we had the great fortune of having David, and perhaps even more so of having his wife Jill, here with us in Cambridge. David was the Rouse Ball Fellow in English Law and a fellow Downing College. During this time he was Chair of the Faculty of Law and he was a Director of the Centre for Public Law. In fact he was so good at chairing and directing that he was roped into chairing the Faculty of Social and Political Sciences.

Now if I was to list all of David's achievements, we certainly would not make it to the drinks reception, but I have been honoured to have the pleasure of working with David for the last fifteen years. His knowledge, wisdom, intellect, and intellectual curiosity epitomised the true academic that seems to subsist only as a utopian ideal. Indeed, what's remarkable about David is not just his formidable intelligence, but his generosity, his capacity to sustain real deep and genuine interest in the work of others, and his ability and indeed his willingness to do that when he was no doubt drowning in bureaucratic demands is itself remarkable. And so, for so many reasons they can be no-one better placed to inform us tonight as to how on earth we might survive whilst white water rafting the UK constitutions. Thank you.

*Professor David Feldman:* Kirsty, Lady Williams, members of the Williams family, friends, and I do feel I'm among friends especially after that introduction, Kirsty. The sad thing is what follows is bound to be a disappointment.

It's wonderful to be here and a great honour to have been invited to deliver this lecture. I have known or I knew Sir David reasonably well, but really got to know him after I came to Cambridge, when he was extremely generous and supportive. A great listener and a great supporter. On rough days in the faculty he would just wander through cheering people up. He'd knock on the door and "say how's it going" and if I asked for help, or indeed anyone else asked for help or advice he would very tactfully listen to what was happening and offer wisdom. And if you didn't need help he'd just tell a few jokes, and this was wonderful. And he always had the great skill of being able to relax people who were nervous - make them feel more comfortable and encourage them. About 20 years ago I was about to deliver a paper to conference which David was attending, and I was sitting nervously at the front of the room. David saw me and obviously realised that I was feeling a bit nervous and he came over and looked at me very seriously he said "I've only one thing to say to you - this better

be good” and then he turned round to his seat. I suspect he’d be saying the same thing now if he were here.

David would be distressed I think about the current state of the UK’s constitution and its politics. He recognised turbulence as a natural state of affairs, but he was also a great believer in having a sensible practical morality as a basis for conducting political and constitutional activity. At the moment it feels to me rather as if the whole of our constitution and our constitutional politics are loose on a rough sea, with very little navigational help, and not a lot in the way of stability for the constitutional raft. What I'm going to do is try to identify this evening some of the factors that are contributing to that, and then at the end possibly suggest what might need to be done, although I’m not sure that it can be done to try to get it under some sort of control.

David would have been very keen on putting our current travails into some sort of historical perspective and supplying some balance. It's important to do that I think because it's too easy to confuse what goes on in politics and the constitution. Professor John Griffith memorably said in a fantastic piece of misleading tongue-in-cheek oversimplification, that “the constitution is what happens”. I'm not going to get involved at the moment in discussing whether that's right, but all I would say is that even if it’s right not everything that happens is constitutional, and what I am hoping is that we will be able to come to some sense of what makes a party in No.10 into a constitutional matter, or not, as the case may be.

The constitution includes elements which infuse politics, anyway it should infuse politics if it's working properly, and make it reasonably efficient, and contain the inevitable political frictions enough to allow politicians of all shades to work together in maintaining the constitution as well as against each other in seeking to control the levers of power. It's a very complex balance, a complex combination of elements that you find with constitutions because they have to be cooperative even among people, parties, and institutions which are by nature confrontational with regard to each other. It requires governments, opposition, courts, executive, local authorities, devolved authorities, central government and parliament to understand that the constitution works not as a way of resolving problems - it doesn't give easy answers to problems - but it asks you, asks us, to think about the problems against a set of principles and procedures which we can call constitutional because they are about how the constitution and the state should be organised as well as how it is organised.

Professor Philip Allott described the three constitutions of any state, and they are first of all the constitution as things happen, constitution if you like in practise - the John Griffith constitution - but then there's also the constitution in the law books, and in the statutes and in the decisions of judges which provide a framework, but then there's also the third constitution - aspiration for ourselves and for our nation. What sort of country, what sort of people we think we are at our best in order to make our politics work. And it's the business

of constitutionalists, and I assume that everyone in this room is a constitutionalist because if not why would you be here, not just have come 45 minutes later and gone straight to the drinks? It's the job of constitutionalists to try to hold these three constitutions which are working alongside and through each other, as closely together as possible and that requires great commitment great self-restraint and a good deal of judgement.

We are faced with lots and lots of problems, lots of lots of questions, and the constitution doesn't seem to have easy ways of finding an approach through them. Is the UK a unitary state still? Or are we something different? What has devolution done to the idea that we are a unitary state? The answer to that is contested. That's not peculiar to this country. When as Kirsty said I was sitting as a judge in Bosnia, I was a member of the court which had to deal with a series of questions about relationships between different institutions of the state, and I made the mistake of saying in an unguarded moment - fortunately not in public - that of course this is a federal country. My local colleagues all jumped on me and said "You can't say that. You mustn't say that. Because the only way this place works the thing that allows the balance to be maintained and that such cooperation as there is to operate is by not saying what the country is! We don't say what the country is! We don't say it's a federal constitutional, or some other sort of constitution. We leave that for other people to decide, and we just get on with deciding cases". But it's not quite that simple because of course if you don't know what the ideal for this state is, it's very difficult to know where you're going when it comes to the cases.

Anyway, more prosaically, what is parliamentary sovereignty? I thought I knew what parliamentary sovereignty was. It's 50 years since I learnt what parliamentary sovereignty was. 50 years ago this year. And it was a matter of the unlimited legislative competence of the Queen in parliament, coupled with the denial that anyone else could come along and say the act of parliament passed by the Queen in parliament could be regarded as other than law bearing. That was it. Unfortunately, I think unfortunately, in a couple of cases recently the Supreme Court has said some very odd things about parliamentary sovereignty, which makes me wonder whether 50 years ago I was given the right answer. I'll say more about that in a minute.

Take another one. What's the role of the Prime Minister? Do we have cabinet government? What's the relationship between the cabinet and parliament? Important questions, but actually our constitution at least on some views is not very good at providing us with answers. I'll say something about that as well. What's going to happen to the states. Will there still be United Kingdom in 10 years time? It's an existential crisis, but then if you step back and think about it, we've been dealing with existential crises in our constitution and in state for a very very long time. Let me take just two points in time to illustrate it.

A hundred years ago - 1922 - even before the first David Williams lecture, the country was recovering from a world war. Huge loss of life, both from the war and then from the

subsequent influenza epidemic. The electorate was being transformed, hugely expanded by the extension of the franchise to women. Ireland was in a state of civil war. Ireland was being partitioned. The Government of Ireland Act 1920 had led to a rebellion, and that led to the Anglo-Irish agreement in December 1921 providing for the establishment of the Irish free state and the unionist six counties in the north were getting ready to do or die as a result of that. Things weren't peaceful. And by a combination of fudge and muddling along, and making provisional provisions for particular problems and not worrying too much about what's going to happen in the longer term we still have a United Kingdom 100 years later, and for the moment at least, Northern Ireland is still more or less part of it.

Let's jump forward 50 years. 1972 - my first constitutional law study. Northern Ireland was still at the heart of constitutional politics. There was terrorism getting underway in Northern Ireland. The constitution was being transformed with regards to Northern Ireland by exceptional anti-terrorism powers. The drafting in of the army to support the civil power in Northern Ireland - the effect of that was really quite remarkable. It had some beneficial effects. I mean I don't know if people here enjoy watching Derry Girls - I do. But nevertheless there's no doubt this was a major problem and the Sunningdale Agreement in 1973 upsets Unionists, the point of which they refuse to back the Prime Minister Ted Heath, and led ultimately to Heath's government falling in 1974.

And a little thing - the UK was about to join the European Economic Community on the 1st of January 1973. I don't think many people quite realised just how revolutionary that would be in constitutional terms, but it was no small deal. There was a growth in Scottish and Welsh nationalism, which led, by 1979, to devolution legislation featuring those countries, which only failed because of a referendum which didn't meet the required special majority requirement in Scotland, and was defeated in Wales. But don't underestimate Welsh nationalism, especially in this company. Sir David Williams was a devoted Welshman. Passionate in his support of Wales and the Welsh rugby team. And he would remember very well how in the 1970s there was a campaign of burning the houses of people from England and elsewhere, in Wales, which led to a very funny if rather dark spoof in the BBC television satirical programme 'Not The 9:00 O'clock News' of a National Coal Board advertisement "come home to a real fire". In this case it was "come home to a real fire, buy a cottage in Wales".

The courts had become political punch balls, because of Mr Heath's Industrial Relations Act 1971, and the work of the National Industrial Relations Court, presided over by Sir John Donaldson. 181 Labour MPs signed a commons motion to have Sir John dismissed. The general election fought in 1974 (February 1974) was on the question essentially - who rules Britain, the government or the unions? And the election didn't provide a very clear answer to that question. It became clearer ten years later or so when Mrs Thatcher took on the miners. So there has never been a time when we haven't been facing major existential

constitutional crises, and we get by. We get by because somewhere in our fabric there's a sense of the right thing to do. How far to push things. It's not because institutions are necessarily well designed, because even the best designed institution only works as well as the people who are in charge at a given time. It's about the people and their attitude. The big problem at the moment seems to have been a loss in politics of a sense of the constitutional standards, constitution expectations, of people in power. Even leading on to losing track I think of some fundamental things about our constitution, challenging systems of accountability, whether parliamentary, judicial, or regulatory. We have seen the government introducing legislation which is designed either, according to your point of view, to expand the powers of the courts, or to limit the powers of the courts, in the Judicial Review and Courts Act which received royal assent a few days ago. And the review currently underway of the Human Rights Act.

A system where people - influential people - don't actually believe that systems of accountability should be applied to them, especially if they are in positions of influence and authority, is very dangerous because the constitution works only if people believe that they have to give effect to the standards which it imparted. Let me give you a couple of examples - particular examples. There seems to have been a lack of understanding or possibly respect for the rule of law, quite apart from the government's threat to introduce legislation in the Queen's speech to allow it unilaterally to violate the Northern Ireland Protocol of the EU Withdrawal Agreement. The effectiveness of which seems to me to be more matter of hope than expectation. We have had in the last five months or so, the Supreme Court in two judgments having to remind ministers of some very basic truths about the rule of law as it has affect under our constitution. In a case called *Majera*<sup>1</sup> the Home Secretary tried to add some extra conditions to a grant of bail after judges had allowed unconditional bail. The bail order wasn't challenged, it wasn't appealed. There was no application for review of it, but the Home Secretary thought she could just add extra conditions regardless, and the Supreme Court had to remind the government that – surprise, surprise - court orders must be obeyed unless and until successfully appealed or reviewed. That's basic English legal system 101.

Secondly, when a court decides that the existing state of the law leaves an official, in this case an official of the Scottish government, in a position of acting unlawfully in relation to an extradition application, because the Home Secretary hasn't extended to Scotland the applicability of legislation which would have required and allowed the court to consider a Human Rights Act claim as a defence to the extradition claim. That declarator, the declarator that it is unlawful not to extend this to Scotland has to be taken seriously. Again, is this a surprise? No. And when the minister said "I didn't think I had to do anything about it because it was only a declarator. It wasn't ordering me to do anything. You can't expect me

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<sup>1</sup> R (on the application of Majera (formerly SM (Rwanda))) (Appellant) v Secretary of State for the Home Department (Respondent) [2021] UKSC 46

to use my initiative...". The courts had to say that a declaration, or declarator by a court as to the legal position is authoritative and has to be complied with, just as much as an executory order, and that relations between courts and government depend on the trust which can be placed by courts in government to give effect to legal decisions. That was in *Craig*<sup>2</sup>.

Now why do you think that's been forgotten? Is it just absent-mindedness? Is it ignorance? Perhaps wilful ignorance? Or is it part of a strategy on the part of government to push back as far and as fast as possible against all forms of accountability for their actions?

Let's leave that - that's rather sad, I think. Let's think about the nature of the Prime Minister's role and cabinet government. The strange thing about our constitution is just how uncertain the role of the Prime Minister and of the cabinet is. In 1867 Walter Bagehot identified as the efficient secret of the constitution the most complete fusion of the executive and legislative powers through the institution of the cabinet that was accountable to parliament. But the precise function of the cabinet has never been entirely clear, and it ebbs and flows. That's not new. Back in the 1960s and 1970s Richard Crossman, formerly a cabinet minister himself, then published his diaries after big legal fight, what was accusing the labour government of the 1960s under Harold Wilson of having undermined cabinet government and replaced it with a sort of prime ministerial - almost presidential government - weakening the institution of the government and the roles of the secretaries of state. And then under Mrs Thatcher things changed again, but the important thing is to note that if you have a strong Prime Minister, strong politically, support in the party, support in the parliament, support in the country, then the Prime Minister can be very assertive in cabinet even if as Mrs Thatcher did she appointed a very formidable collection of secretaries of state to sit in the cabinet. The role of the cabinet under Mrs Thatcher was a substantial and important one in coordinating government activity. The role of the Prime Minister, even though she provided formidable leadership herself, was not to meddle in the work of government departments, but to set the direction of travel and then coordinate very largely. Anthony Selden has recently pointed out that successful prime ministers are willing to appoint very strong secretaries of state, but those who tend to centralise power within No.10 fail, and they fail because No.10 simply doesn't have the methods and the resources to do it all themselves. That's a problem, and Selden asked the partly rhetorical question "what's become of the formerly great office of state Foreign Secretary"? It's interesting if you think about who now travels to India to negotiate a trade agreement. It's not the Foreign Secretary. It's not Secretary of State for Trade. It's Mr Johnson as Prime Minister. Why? Is that a sense of the weakness of the government? Or is it an expression of the strength of the Prime Minister? But the be point is that this ebbs and flows, and there is

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<sup>2</sup> *Craig (AP) (Appellant) v Her Majesty's Advocate (for the Government of the United States of America) and another (Respondents) (Scotland) [2022] UKSC 6*

never going to be a point where you can say we now know permanently what the role of the Prime Minister and the cabinet is, and what role the Secretary of State relatively is.

Let's think for a minute about devolution. I mentioned devolution a couple of times. In two recent cases about the legislative competence of the Scottish Parliament, the Supreme Court has said that the Scotland Act must be interpreted in the same way as any other act. And I think to myself why? It isn't any other act. And even if it were just another act, are we not used to the truth that interpretation of legislation depends on the legislation, read as a whole. You can't say we are going to do it like any other act because that's a nonsense. They say the courts have regard to it - the Act's - aim to achieve a constitutional settlement. Well, when the labour government in 1997 introduced the Scotland Bill it said "this is going to be a settlement", but almost everybody else, including the very perceptive Ron Davis, said "this is not a settlement, this is the start of a process". And that is indeed how it's proved. There have been successive Scotland Acts in order to head off support for independence. Before the 2014 Scottish independence referendum the then Prime Minister Mr Cameron went to Scotland and promised all sorts of extensions to the competences of the devolved authorities in Scotland. It later caused some problems in relation to his own English backbenchers back in Westminster, but then there were subsequent legislative changes.

Wales is an even better example. There have been successive changes in the nature of Welsh devolution. Changing the role of the Welsh Assembly from an executive body to a legislative body. This is not something where you can say "this is a settlement" if by that you mean it has to be taken to be settled. Going back to the Supreme Court they say it's a settlement, and the court therefore recognised the importance of giving the Scotland Act a consistent and predictable interpretation so that the Scottish Parliament has a coherent stable and workable system within which to exercise its legislative power. Well. Stable? When is any constitutional arrangement really stable? If I was right at the start to characterise it - the constitution - as a sort of moving collection of relationships trying to maintain some sort of principled equilibrium between competing forces, rather than everyone being on the same side and getting along happily with an agreed set of principles, then if I was right then you won't get a coherent system. Nor will you get necessarily a stable one. You hope it will be workable, but workability does not entail stability or consistency because we've been very good over at least a hundred years as I suggested earlier in fudging things so we can muddle along for the time being. And this isn't peculiar to us. This is true of just about any working constitution. You don't ask "where are the coherent principles?" because every constitution has competing principles, and what you should be asking is how do we manage the competition between those principles. So I think the Supreme Court is approaching the Scotland Act under entirely fallacious set of assumptions about the nature of devolution, and that also affects what they say later in their judgment about the role of the Scottish Parliament vis-à-vis the Westminster Parliament. And then finally they say (this is, if anyone is interested in following it up in



*Reference by the Attorney General and the Advocate General for Scotland – United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*<sup>3</sup> last year at paragraph 7) they say this search for consistency, predictability, stability, coherence, is achieved by interpreting the rules as to competence in the Scotland Act according to the ordinary meaning of the words used. Well apart from the fact that they go then go on for quite a few pages explaining why they're not going to accept the ordinary meaning of the words used in quite a number of contexts. I think one should always be very suspicious if the court says “do this according to the ordinary meaning of the words used”. It is the second least honest thing I think that judges regularly say, the other one being “we are giving effect to the intention of parliament”. But even if that had been true, what they should be asking is what is a sensible way of making the legislative competence of the Scottish Parliament workable. What they've done, and I won't go into this now, what they've done by accident or design is significantly to limit the competence of Scottish Parliament, and also to make life extremely difficult for the presiding officer of the Scottish Parliament who has to say in his view or her view whether a bill on introduction is within the Scottish Parliament's legislative competence. If you have to get involved in a serious legal analysis of the words used and all the rest of it, beyond a certain point it's going to make things extremely troublesome.

So, I worry that what the court is doing in these cases is misunderstanding the constitution, and particularly misunderstanding or failing to grasp the fact that that the devolution settlement so-called is actually a series of negotiated accommodations between competing positions and competing visions of what devolution is. Very often fudging things or leaving things silent, so as not to have to make a definitive answer which might lose support for the bill or indeed for the government. And that is something which happens all the time. That is what legislation is. Legislation is ultimately political. And constitutional legislation is even more political than most. And if you go on taking a line which reduces the effective powers of devolved authorities, it builds up tension, it builds up resentment, and when the central government - the executive - does the same and tries to marginalise the devolved authorities from really important constitutional decisions such as that over the process for leaving the EU, the terms on which we're going to leave the EU, then you have real problems up ahead. Because what it does actually is not hold the union together, but it allows forces to build up driving the elements of the union apart.

Can anything be done about this? In the last 5 minutes, I don't have very much in the way of an idea of what may be done about this. Better people than me have tried and failed and so on. So, this is a very simple and very simplistic suggestion. First of all, it would be nice if we could get some consistency from our Supreme Court about the constitution. Not just the devolution issues I've been talking about, but for example the Supreme Court in the same case, the Convention on the Rights of the Child case, said that the provision in section 4 of

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<sup>3</sup> [2021] UKSC 42

the Human Rights Act 1998 allowing courts to make declarations that pieces of primary legislation are incompatible with rights under the European Convention on Human Rights - that provision, section 4 of the 1998 Human Rights Act is inconsistent with parliamentary sovereignty, but it's alright because parliament has done it and parliament can change parliamentary sovereignty. Going back to 1972 - things were simpler then - even then I didn't get a very good mark in the exam but things were simpler. One of the things we learned from my very distinguished predecessor in the Rouse Ball Chair apart from Sir David Williams, Professor Sir William Wade, taught us that parliament can't actually change the content of parliamentary sovereignty. So that is at the very least a potentially heterodox statement. But then if you think back, think about it further, even if that were right and not in my view internally inconsistent, even if it were right, how does it affect the legislative competence of the Westminster parliament for a court to say in a declaration of incompatibility "we think that you're breaching such and such a right, you don't have to do anything about it, entirely up to you, but this is our considered view". It's got nothing whatever to do with legislative competence. The court has committed a sort of category error. They've got confused with not wanting to upset MPs, and their legislative power. I mean nothing really upsets MPs. I have worked with them for some years and on the whole they are pretty tough to upset. They are hard-headed and they also have this sense, which you recognise at once, that by winning an election for a parliamentary constituency, not only do they get a seat in parliament, but they also miraculously acquire intelligence, wisdom, foresight - all those great qualities which somehow one misses when you watch them on Prime Minister's Questions. So, they're very self-confident people. They are not going to be put off if they really want to legislate in a particular way. They're not going to be put off by the fact that the court has said we think this would violate the Convention on the Rights of the Child.

So, my first request is that the Supreme Court should get back to basics, and I'm happy to go and give them a short series of lectures for an appropriate fee, on parliamentary sovereignty - what it really is, and also on why they're wrong about what devolution really is.

Secondly as far as the executive is concerned, we do need some sort of education programme. Do we need more codes? I don't think so because if we don't do something about codes they're not going to be taken terribly seriously either, especially if the Prime Minister whose codes they are isn't prepared to enforce them. Do we want more laws? I don't think so. I think that would just cause more friction between courts and 'liberal lefty lawyers' and the executive. But we do need something, and I've referred before to two functions of constitutional law. One is the corsetry function - the idea that's things need to be held in, things need to be contained within certain limits. But at the same time there's to be a degree of adaptability which will allow a degree of elasticity. The 'knicker elastic' function. So we have what I think of as the 'foundation garment' theory of the constitution. We've got at the moment too much elastic - the elastic has been stretched to the point

where it's lost its elasticity, and what we don't have enough of is the containing part, and that's because too many senior politicians don't realise that it's there, or that it ought to be there.

Anthony Selden again has shown how inexperienced the last few prime ministers have been, they've had very little experience between them of being secretaries of state. Compared with secretaries of state and prime ministers 50 years ago or 100 years ago, where typically the prime minister would have gone through several of the great offices of state. The last one we had who had done that really was John Major, who was of course a remarkably effective prime minister. But the experience isn't there, the understanding isn't there, because they just haven't been educated through experience in how they're supposed to behave. So, my suggestion would be that we should require a person in order to be eligible for prime minister to have occupied at least three offices of state before doing it. But also, I would want to all parliamentarians but certainly all ministers to undergo a training course - a basic constitutional principles, what your responsibilities are - training course. Because the effect of the self-confidence, the delightful self-confidence that I mentioned earlier, is that people aren't aware on the whole of the responsibilities in the same way as they are of the power. Now again I'm prepared to provide training courses on that. It wouldn't be easy to get people to come along and participate in them, because again parliamentarians don't like being told how they're supposed to behave. But being a member of parliament, being a member of a government, being part of an opposition, these are important functions. Look at other people with important functions in the country. We don't allow them to wander in off the street as a result of someone's vote and take over important functions without a period of induction and training. Judges undergo it. The heir to the throne undergoes it - there is the now infamous heir's education convention which allows - I think it may require - the heir to take an interest in how government works, and what the responsibilities of the monarch are within it. Why do we let these people, or make these people undergo training, when we don't do it for people who it seems to me have at least as important responsibilities?

So that is my modest suggestion. Think of it - governing - as a serious profession not a paid privileged hobby and behave accordingly.

Now I hope that if David were here, he'd do what he did at the end of the paper I gave 20 years ago, when he came up to me and he said "that was awful. I couldn't think of anything to complain about".

Thank you very much.