

Written Submission from Connétable P F M Hanning, 12th February 2010

Review of the Roles of the Crown Officers

Part 1

The principle in (1) are ideals which I believe are not incompatible with those of our present rôle of **Bailiff (& Deputy Bailiff)**.

Modern – If a system works whether it is ancient or modern is irrelevant. The result is what is important.

Democratic – I believe the Bailiff has tremendous support from the people of the Island, especially the 'silent majority'.

Accountable Governance – We as States Members cannot dodge this one. If the Bailiff's actions, or position, are below standard and unsustainable we have a duty (and power) to change the system. That is accountability.

Human Rights – I believe the Island, and we as Members of the States, have a right to expect the Chamber to be presided over in a fair, competent, impartial, legally correct and in a humane manner. The raising of hypothetical Human Rights problems are not borne out in practice.

In the Crown's choice of Bailiff & Deputy Bailiff, it is vital that the high standard we have come to expect is maintained.

Part 2

In a small jurisdiction, unless saddled with impossibly high staffing and costs, we must see some over lapping of duties and we rely on the legal expertise and integrity of the Bailiff and Deputy Bailiff to step back if any conflict occurs.

Electing a presiding officer from the States would, I believe, wrongly reduce the representation of electors.

It is possible perhaps with 650 members of Parliament in the UK but disproportionately greater in Jersey. Also there is the problem of having someone with a potential agenda to worry about. One only has to look at the appalling record in terms of impartiality of the previous speaker of the House of Commons to emphasize the point.

The additional cost of employing an independent (possibly ex legal) presiding officer for the chamber could not be justified by any theoretical improvement in impartiality.

Having watched over Island politics for many years I believe we have been well served by our Bailiffs and Deputy Bailiffs in their roles as presiding officers. In my 2 years experience in the States (perhaps more turbulent years than most) I have been impressed by the high standard of impartiality of the presiding officers, sometimes under great provocation. My own view is that at times a stricter line should be taken to maintain standards among some members. This view has been expressed very frankly to me by Parishioners on a number of occasions. I have never had a Parishioner say to me that the Bailiff or Deputy Bailiff was not fair or too strict in enforcing standing orders.

I believe it is essential to have the Attorney General and Solicitor General as legal advisors to the States as existing.

They cannot vote and members have the choice of whether they take their advice or not.

Where advice has been given to Ministers, there could be a conflict with giving advice to Scrutiny Panels, States Members or the Council of Ministers.

In these cases alternative legal advice should be available from perhaps a pool of senior independent lawyers. However, there would be cost implications.

Similarly, if there is a conflict with the role of chief prosecutor the Attorney General or Solicitor General can and do step aside and appoint independent lawyers to make prosecution decisions. A procedure I am sure the Bailiff and Deputy Bailiff can oversee.

Likewise the roles of head of Honorary Police and acting in Crown interests, do not present a problem if the office holder is wary of any areas of conflict.

None of these roles provide challenges beyond the bounds of our law officers. It is all part of the job. In the future we must however ensure the crown maintains the high standard of integrity and competency we take as normal,

In summary I believe the present rôles of the Bailiff and Deputy Bailiff together with the Attorney General and Solicitor General are not incompatible with modern democracy or human rights. It may not be the way of other jurisdictions but that does not make it wrong or unworkable for Jersey. It has been successful in the past and should continue to be so if operated with care by people of the highest integrity. It is right to check and examine the system on a regular basis but not with every new house, perhaps every 5 or 10 years would be sufficient.