

Event: Public Hearing
Review of the Roles of the Crown Officers

Date: 30th March 2010

Review Panel: Lord Carswell, Chairman
Mrs M-L Backhurst
Mr G Crill
Dr S Mountford
Mr I Strang

Witnesses: Jurat S Le Cornu

THE CHAIRMAN: Good morning, Mr Le Cornu, and thank you very much for coming and giving us your time. I think you are probably very well informed about our function and what we have to do, so that I need not repeat what I have said to other people as an opening statement. Simply to say on the practicalities that the proceedings will be recorded and transcribed and you will have an opportunity to see the transcript to make sure that it is accurate about what you said before it is published and then it will be put into the public domain on the review website.

We have had the benefit of your written submission in your letter of 9 February, for which we are grateful, and we have looked at that carefully and before I ask members of the Panel if they have any questions, is there anything else you would like to add or any further statement you would like to make before we proceed in those lines?

JURAT LE CORNU: No, I don't think so. What I'd like to say is I think one needs to bear in mind the fact that when there has been a submission by the other Jurat colleagues of mine, which, dare I say, phrase everything in a rather better way than I would have phrased it myself, because they're more ... certainly Jurat de Veulle has been very eloquent in the way he's put it and all I can say is, everything that he has put in there, I'm totally in agreement with. Particularly, it ties in very much, because I don't believe there should be changes, certainly fundamental changes. There are issues that need to be looked at, but I'm very much against changing these roles. I'm sure that will come out in a few moments, but if we could sort of take me as somebody who very much supports my colleagues who are coming in later in everything they say. So I really feel that my input would be most useful in the relationship between the Attorney General and the Honorary Police as an ex-Constable. That's the area which I feel I may be, what I have to say may be of more use to the Panel than actually merely repeating what my colleagues are going to say later on in the day.

THE CHAIRMAN: I would be interested in that because it is a topic of which I am personally not very well informed. Can you tell me how it has worked in practice? The Attorney General is responsible as titular head, the phrase that is used, he can give directions and over-rule decisions and he is ultimately responsible for discipline if that is required. How much has that been going on in practice, from your experience, how much of it the Attorney General had to take action or consider or be consulted about the Honorary Police?

JURAT LE CORNU: In the time I was Constable, I never had to call on him to take disciplinary action. But I worked very closely with him, and particularly the Solicitor General, his deputy, in this field where there were issues potentially cropping up. They were always on the other end of, if not the phone, certainly within a matter of a short time one could get good advice from him which could very often stop a lot of problems in the future.

For instance, bearing in mind I'm talking about the Honorary Police, and I mean "honorary" means that people don't get paid, they are people who've got other jobs to do. I think people forget that when they're talking about the relationship between the Honorary Police and the States Police. We forget that in fact they are people who, by and large, come out of their parishes to actually do what is best for the parish and for the people of the parish and are prepared to give of their time to see the system continue. They are working closer and closer every day with the States Police, obviously, because that is where the professionals are -- and they are advising them. I don't know if that answers the question, or if that's the question you were actually asking.

THE CHAIRMAN: One of the issues we have to look at is, is there any problem about the Attorney General being head, and if he was not head, who would take that post? Do you see

any problems, yourself, in principle or in practice?

JURAT LE CORNU: None whatsoever. No, I see problems if you did it the other way around, if you took him away, because one would have to ask who would, in fact, lead the Honorary Police. The answer would not be the States Chief Police Officer, because they [the States of Jersey Police] are a different animal altogether. They are professionals and the Honorary Police are not, as I've said. I can't think who would -- I attended some meetings a sort of decade or so ago where this question was being asked and there was potentially going to be a committee of Chefs de Police and they would then elect one of them to become the chief of the Honorary Police, effectively. I don't know how far that's gone. The Police Authority hasn't really succeeded, nothing really has moved. I think, by and large, because people are happy the way it works. It does work, it's the envy of lots of places in the United Kingdom. Whenever people come over from the UK and look at the way we operate, one of the things that they really do say works very well is that we have an Honorary Police. As you probably know, it's been copied in the UK in various guises, but it's still a variation on the theme that we have over here.

THE CHAIRMAN: Is there anybody who comes to mind to you who would be the obvious successor with the authority that the Attorney General has at the moment over the Honorary Police?

JURAT LE CORNU: I can't think of one, no, I can't think of one. I think the system we have, bearing in mind that he's not actually involved with us on daily basis, I mean I can't think of more than a dozen or so times in my time where I actually had to consult him in the way which I've described to you. It's a low-key role, for want of a better word, although it's a very important position.

THE CHAIRMAN: Do you think that the Honorary Police, although not one force but as one force, would accept a rotational Centenier as Chef des Chefs in charge of disciplinary matters?

JURAT LE CORNU: I couldn't answer that. Possibly, but I think you'd find that if you put a questionnaire and asked them you'd get a very good -- they would reflect my views, I'm sure.

MR STRANG: I think that has been very helpful on the Honorary Police. I mean I suppose some prestige is obtained, probably, by having the AG as the head, the titular head, in terms of the Honorary Police members actually like that, they feel that they relate to somebody who is an authority figure and who is the chief prosecutor and things like that, so that they feel part of the sort of legal system. Do you think that is correct?

JURAT LE CORNU: Yes, but from my experience they relate very much to their Constable, and the Constable is still the head of the Honorary Police, although the same arguments are being asked as are being asked around the table here this morning. Although they don't actually go out booking people, they actually are the head of the police and I think it's the Constables who actually have to move forward and they are the ones who, certainly on my part, they are the ones who value this direct link to the Attorney General for advice.

MR STRANG: It gives them comfort.

JURAT LE CORNU: It gives them great -- I mean, sir, I can think of a couple of situations when I had somebody in my parish who was causing problems. He'd been placed in a home and there was going to be problems and we had to move him. I wanted to know just how far I could go, because he obviously wasn't going to go and the States Police were reluctant to do

what I said, so I rang the Attorney General, spoke to the Solicitor General, who advised me as to where we were and I took my action on her advice because it needed to be done within a matter of hours. Now, put that situation without the Attorney General, quite where we would go? I don't know, because the States Police officers did not want to do what I wanted to do, which was what was necessary, it was agreed by my boss and we did it and it worked out fine. That's just one example.

Occasionally, of course, we have people who would like to become Honorary Police, members of the Honorary Police, who we may hear things about in the parish. They may not be suitable. Rather than go through the rigmarole of interviewing somebody we know is likely to be unsuitable, by linking in with the Attorney General, or the Solicitor General, we can usually find the way --

MR STRANG: You can make inquiries?

JURAT LE CORNU: Yes, we can save a lot of time and effort for everybody. Now that can only be done in the sort of what I call the Jersey way where you pick up the phone and speak to somebody you know.

MR STRANG: Yes, that is very helpful.

THE CHAIRMAN: Could I move to the topic of the Bailiff as President of the States where, again, you have got personal experience of this as Deputy? You mentioned that the sittings of the States seem to be taking longer now than they used to. It used to meet once a month, I think you said, and now meet once a fortnight and for several days during that. Is this throwing more of a demand, more of a strain upon the Bailiff, or people who sit for him?

JURAT LE CORNU: I can't speak for him, but it must obviously, in my opinion, be the case, yes. I became a States member as the Deputy of St Clement in December 1996 and I stand to be corrected, but I believe that was the first session where we did not meet once a month. Mainly because we had people then who were business people, professionals who needed to get on and get things done and knew how to get things done and they got on and did it.

When I came in we had just started to have people asking questions. There was one particular Member who now asked questions endlessly. Prior to that there was a Senator who used to start asking questions, but they were sensible questions within the rules where you could — what used to happen was if you couldn't get your answer to your question properly, then you could ask from the States Chamber, but in effect one did not ask questions, one didn't need to ask questions, but now questions take so long, because it's on the radio and you have, I think they like to be heard and you have sort of odd-balls turning up on the radio occasionally who need to be heard as well and it's now become a sort of a game of its own really and it's a complete waste of everybody's time. It uses up the Bailiff's time -- that's one of the reasons we're here, is because of this situation and as you know now they don't just sit fortnightly, very often the session goes on for three, sometimes four days because there are people endlessly going on, repeating themselves and repeating what some of the others have said. When the States were not on the radio and people had other things to do, they got on and did it.

THE CHAIRMAN: That is not unknown.

JURAT LE CORNU: That's been a problem in my book and it's not going to go away. I think that is the area, I mean, if there is an area whereby the Bailiff were to be removed — I was interested to hear what was being said before of going the other way round. That wasn't

something I had ever considered but were that to be the case where the Bailiff was taken out of the State's sittings with this kind of review, it -- I feel that the Bailiff -- Can I go back to where I was because I've lost my way a little bit?

We were discussing removing the Bailiff from the States, and whether there was a lot of extra time being used up. I've explained already up to there. The Bailiff has other things to do and the way out of it I believe, as I put in my submissions, is in fact to have the Greffier act as the -- take the chair, for want of a better word, to leave everybody in their right positions. The thought of having somebody, a States Member, being elected from among the other States Members to be the actual chairman of the States fills me with dread to be honest with you.

In the time that I was there, in only a few cases did we have the senior States member taking the chair for an afternoon because the others were just not available and maybe they had gone on an extra day or something like that. The whole atmosphere changed because you didn't have the expertise. Whilst they were good people, I am not suggesting that they were not; there was not that feeling whereby you had the professional involved who was respected for his position and also his knowledge.

I heard Mr Jeune talking about this. You can go through the last handful of, or certainly since the war, with Coutanche, Robert Le Masurier, Ereaut, Peter Crill, and you can go through them. Those are all people who were in good standing on the Island, who were respected by the Island, they were respected for what they did, and they were respected by the other States members. Unfortunately that would be lost with this coming in from below rather than from the people, if that makes sense.

If you were to do a straw poll now around this Island, the vast majority of people would be very

happy to continue exactly as they are. Quite honestly we cannot because of the reasons we have just been talking about. Time and the way that the States have developed is putting pressure on. But it is not a pressure that needs to change the system. They have to change the way they operate.

THE CHAIRMAN: From the perspective of a former Member, do you find that the procedure worked satisfactorily if people other than the Bailiff are sitting, say the Deputy Bailiff or the Greffier?

JURAT LE CORNU: Yes, exactly the same. Whether it is the Bailiff or the Deputy Bailiff or one of the times with the Greffier, who is increasingly having to sit in the chair because of the fact that it is going on for days when other things need to be done. But beyond there, I do not think that is the way forward. It cannot be a way forward, and certainly to take an elected States Member forward, that would be I think disastrous.

THE CHAIRMAN: Is there what I might call a market whereby if the States wished to get a speaker from outside the elected Members, there would be people of sufficient ability and standing available to do it?

JURAT LE CORNU: I am sure there are people in the Island, but I don't think it is something which I would ever -- I do not believe it is at all necessary. I really do not believe it is necessary. Before one would answer that question, one would have to give it a bit more thought I think. But there are enough between the three. We have always had a good Greffier who has been more than capable of holding fort.

Because it does link in also with the question of whether the Attorney General or his deputy

stays in the chair. That is another issue which is part of the same -- well, it's the same issue really. I cannot imagine what the States sitting would be like if you had somebody who was an elected States Member holding the chair and no Attorney General or Solicitor General sitting next door. The answers which they know from their legal professions to be able to give advice on the hop, on the hoof, however you call it, in my opinion the States would never finish, to be honest with you.

THE CHAIRMAN: We have certainly heard that there have been very constant questions to the Law Officers about legal matters. How significant are those questions? How important and how many of them could be dealt with by written notice rather than having to have the Attorney General taking his time sitting there waiting for possible questions? Is there any other procedure that occurs to you that might release him without removing his responsibility?

JURAT LE CORNU: I do not think so. There may well be one but there is none that springs to mind. Between the two of them they seem to be able to get on with their work and also be available, one or the other, through the sitting. I do not think ...

THE CHAIRMAN: How often per sitting do you find that a question arises that they need advice from the Attorney General?

JURAT LE CORNU: Very -- It has been a while since ... I do not know about right now but in my time every two or three sittings there was something that would crop up.

THE CHAIRMAN: Is this something that one could see coming and give the Attorney General notice that tomorrow this point will arise and we would be grateful for your assistance on it, so he can turn up tomorrow morning at whatever time the sitting starts and give his advice?

JURAT LE CORNU: I think that is actually almost what happens. The Attorney General is aware of the agenda and is also aware of what is going on around the Island at the time, and I am sure that they brief themselves on the points that they may feel they need to give answers to. I think that does happen. I believe that is what they do.

THE CHAIRMAN: Because I am thinking of the Westminster position where the Attorney General is not a member of the Lower House. The Solicitor General is. The Attorney General, from my experience, is not in the Lords very frequently. I do not know how frequently the Solicitor General is in the Commons, but watching television one rarely sees a law officer there and yet they seem to be able to manage without having to have legal questions answered. Do you think it is a luxury that the States enjoy that they could manage without?

JURAT LE CORNU: The answer is probably within themselves I believe. They are the ones who have to give the answers and they are the ones who have to know.

THE CHAIRMAN: From your own experience did you find it really of great importance to have the Attorney General available?

JURAT LE CORNU: It is very reassuring. It is very reassuring to have them there, yes, very much so.

MRS BACKHURST: It is very helpful, Jurat Le Cornu, because you have seen it both as a politician and now on the judicial side. So you have seen the Bailiff in his two roles. You have seen the AG in different roles as well. I was just wondering about the civic head notion of the Bailiff. If now because of this Chief Minister -- I have asked this to Mr Jeune as well. The

Chief Minister role developed to a greater extent, would therefore the Bailiff's role diminish as civic head? Because after all the Chief Minister now has not just the physical office but has far more staff than I think Senator Jeune would have had when he was President of P&R [the Policy and Resources Committee], and therefore the whole standing of the Chief Minister is growing. Do you think the Bailiff's role will diminish and that therefore the Chief Minister will become de facto civic head in place of the Bailiff?

JURAT LE CORNU: I do not think it ever could. There are lots of -- I would have to give it some thought to have a precise answer but quite simply the Bailiff has come along the line, as it were, with the Deputy Bailiff. That is the way it has worked and that is what happens in Jersey. That is why we are where we are. There is a continuity there, which comes through, and I think to actually create -- now that we have ministerial government, which I very much regret. I do not think it is working and I wish we had never started, quite frankly but that is probably for another time. Can you repeat the question?

MRS BACKHURST: It is really a power -- not a power vacuum but there is going to be a bit of a power struggle I think.

JURAT LE CORNU: That is right. The point that you --

MRS BACKHURST: The Chief Minister will go up, and the Bailiff's.

JURAT LE CORNU: The Chief Minister --

MRS BACKHURST: Influence will go down.

JURAT LE CORNU: No, I don't think that is what should happen. I am in favour of keeping the status quo whereby the Chief Minister remains the Chief Minister as the Minister of the States. The overall responsibility for the Island, the civic head of the Island, should continue with the Bailiff. Sorry; I lost my track again.

MR CRILL: Just one question in respect of your position as Constable and the provision of legal advice by the Crown Officers. The Crown Officers provide legal advice to the States but one of the submissions suggest that they provide legal advice to the Comité des Connétables and I think sometimes to Constables individually. Would that be frequent, as far as you are concerned, as Constable?

JURAT LE CORNU: No. As I said before --

MR CRILL: In other words, what circumstances would you go to the AG outside the policing function for legal advice as opposed to the parish lawyer, for example?

JURAT LE CORNU: The parish lawyer I did not have very much to do with at all, to be quite frank. I do not know about the other parishes. But, no, I am talking about me, myself, a Constable, having to make decisions, which very often had knock-on effects.

MR CRILL: But this is on the policing side.

JURAT LE CORNU: The Jersey way is to actually do it with people you know, who you can speak to.

MR CRILL: But there would not be other matters relating to the administration of the parish

non-policing matters, which you would go to the Attorney General for.

JURAT LE CORNU: No, I would not, not remotely. I cannot think of anything in that way where one would ask for that kind ... we pay for advice with our own lawyers. They are not the sorts of things that are disciplinary, potential disciplinary matters and all those sorts of things.

MR CRILL: Thank you.

DR MOUNTFORD: I am okay with questions now.

THE CHAIRMAN: That has been most helpful, Jurat Le Cornu, and thank you very much for giving us your time and the benefit of your experience. We are getting contributions from all quarters and getting a variety of points of view, which is very helpful, but the experience of people like yourself is exactly the sort of thing that we wish to receive and we are very grateful to you.

JURAT LE CORNU: Thank you very much. Could I make a final point myself?

THE CHAIRMAN: Of course.

JURAT LE CORNU: I do not want to be presumptuous but I have spent my whole life in Jersey and two or three of the Panel know me quite well. I do get around amongst the Island in all sorts of walks of life, and it just seems to me that the fact we are here, whilst I think we have to look at ourselves as an island, periodically, there are people in the Island who actually have different agendas. I am not suggesting that -- they are not necessarily -- the vast majority, the large majority of this Island, do not want change. I will tell you that now, you can

have a straw poll, there will not be change, but we cannot try and fit anything, any small changes, into what happened into the UK or into England or to Scotland or Ireland or wherever. We are Jersey. We are different. We have our own Constitution which has developed to where we are. And I think it is -- I do think that -- I have already mentioned the press once, but I am afraid we have a very active local press, particularly the radio, and those are regular phone-ins who actually drive things along. If you actually -- outside the handful of a dozen or so people the vast majority of this Island like the way we are. I cannot leave without saying please do not recommend any changes because there is no need to change, other than on little issues around the issues we have already discussed today. There are things that will need to change but nothing that fundamentally alters the way we operate. The Constitution, the Bailiff, the way the Bailiff operates, the judicial with the responsibility overlapping, any of that I am afraid would be right against anything which comes with the wishes of the people. The people would not want that. I am quite confident to say that to you.

THE CHAIRMAN: Thank you. We understand that very clearly and I assure the Panel has no agenda. That is to say we have come with an open mind. We are very far from conclusions at this stage. When we have heard and seen all that will be of assistance to us, we will then consider what we want to recommend. We will put that into a report by way of recommendations to the States and hand the matter over to them.

JURAT LE CORNU: Thank you very much indeed.

THE CHAIRMAN: Thank you very much for joining us today.

JURAT LE CORNU: Thank you.