

Written Submission from Mr D Bernard, 26th February 2010

Dear Sir

Many of the functions performed and responsibilities carried by each of the Crown Officers are very important. It is entirely appropriate, therefore, that they should be reviewed occasionally in an independent and thorough manner.

1. From a personal perspective I have approached my consideration of this subject without any perception that the present allocation of functions and responsibilities are seriously faulty, either in a theoretical or practical sense.
2. Perhaps I should also state that I regard tradition and continuity as valuable threads in a society. Of course it is important for a society to be ready, willing and able to examine itself – or allow itself to be examined – very thoroughly; and to have the collective courage to make big changes if the evidence strongly points in that direction. But change for change's sake, or because of political correctness, or in order to be fashionable, seems unworthy. ***“Don't mend something that is not broken”*** may sometimes be used as an excuse for putting off necessary improvements, but as a generality it has a lot of merit.
3. Of course I am well aware that the role of the Bailiff, as both President (Speaker) of The States and Chief Judge, are often regarded as falling foul of the “rules” of separation of powers. But it seems to me that, in practise, none of the incumbents since WW2 have played, or attempted to play, a material political role. Could they do so? It seems very unlikely indeed to me, in the light of the strong protests from many States Members when Bailiffs have

made extremely mild comments that some have regarded as having a political flavour.

4. I am, however, dubious about the wisdom of the Bailiff having the title of President of The States. This seems likely to give a seriously false impression. I would recommend that the title be changed from President to Moderator. If that is considered unsuitable for some reason, while I would prefer not to use the English term Speaker, it would at least be well-known as NOT representing political power.
5. By far my greatest concerns about the Crown Officers are outside the remit of this review. That is their selection, appointment and accountability. These are all opaque in the extreme; and such lack of transparency always – and properly – gives rise to concerns and worries. The very fact that these important issues have not been included in the remit raises concerns. I very much hope that the Review will feel able to comment on the fact that they were not allowed to consider these issues.
6. Let me make it very clear that I greatly value the complex, imprecise distinction between “The Crown” and “The UK Government”. I absolutely would not wish to weaken that distinction in any way. Or, to put it another way, I would oppose most strongly any step, rule, or procedure that could be interpreted as strengthening the role or powers of the UK government in their relationship with Jersey. On the contrary, I would favour a greater degree of independence.

Yours sincerely

Derek Bernard