

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 P J de Veulle OBE  
Jurat J L Le Breton  
Jurat L J King MBE

**THE CHAIRMAN:** Are we ready to recommence? I extend a welcome to the Jurats who have come to this session, and we appreciate the time and trouble that you have devoted to this and your coming to talk to us today. I think you are probably well familiar with what our objective and our remit is so I need not repeat that and I have stated publicly what we have been asked by the States to do.

I would only add two things. One is we are concerned with principles not people. We are not concerned to assess how well or not well any holder of any of the offices has performed. That is nothing to do with us. On the assumption that everybody is doing his or her job properly, is it right in principle or ought there to be any amendments? That is our function.

The second thing is this is a public hearing, as at the request of the States, with our complete agreement. It is being recorded. It will be transcribed, and you will have an opportunity to see the transcript to make sure that it represents accurately what you have said before it goes into the public domain. It will then be posted on the website.

At the end of the process, we have already received a lot of submissions, very helpful and a lot of care and trouble has gone into them. We have received oral representations from quite a few people already and there is quite a process to come. I said to the last witness we have no agenda. We have no preconceived ideas. We are starting with our minds open, listening to people, weighing up the pros and cons of what they tell us. At the end of that we will reach our conclusions, set them out in a report, and forward that to the States, which completes our function.

We have read the submission which you made in your letter of 1 March, and may I thank you for the care and thought that has been put into that, and ask if there is anything that you would

like to add by way of opening remarks before I ask the members of the panel if they have any question?

**JURAT DE VEULLE:** I think, Lord Carswell, if I may just make one introductory remark. It is that the letter that we had on 29 January set a deadline of Monday, 1 March, which we tried to meet. I think for some reason or other the deadline then moved by several weeks.

**THE CHAIRMAN:** Yes.

**JURAT DE VEULLE:** I do not think -- that may have made one or two matters of detail slightly different, but I do not believe it would have altered the thrust of our paper and I have had no reason to call it back, as it were, and say that given another four weeks we would have said something different.

**THE CHAIRMAN:** I hope we did not put you under undue time pressure.

**JURAT DE VEULLE:** You did!

**THE CHAIRMAN:** Then I just apologise. We were hoping at that stage we would be able to keep up to that time, but then we were advised when we went into public advertisement, that it was too tight.

**JURAT DE VEULLE:** I quite understand, but I thought I would make that point, that we would not have said, I think, anything significantly different.

**THE CHAIRMAN:** That is very helpful. As Jurats you have had a lot of experience of public

affairs and the workings of the Bailiff, the Deputy Bailiff, Attorney General and Solicitor General. There are a number of aspects that we have been exploring so far; a question of the method of appointment, the question which was raised in the Clothier report whether the Bailiff should continue to sit as President of the States, some of the functions of the Law Officers. We would be grateful for your thoughts on those which impinge most. Some of you have been Parish Constables. Some of the Jurats have been Parish Constables, and you have all had a pretty considerable familiarity of public life, which is exactly why we welcome your views.

May I clear one out of the way at first? There seems to be practically no support for the idea that the Bailiff should cease to be the chief judge; that he should concentrate on his other roles. That was proposed in one report a number of years ago and very quickly rejected. May I take it that is still the view of the Jurats?

**JURAT DE VEULLE:** Speaking for myself and I think for the Jurats as well, I think there is no question but that the Bailiff should be the chief judge.

**JURAT KING:** I would endorse that.

**THE CHAIRMAN:** That seems to be very clear in general views. We can leave that one behind. The other half of the problem is in relation to the requirements of Article 6 of the Convention of Human Rights, whether there is a difficulty about his sitting as President of the States. Not because anybody has ever raised a breath of criticism against any of the Bailiffs for their integrity and their lack of bias, but it is because of the perception that in modern European jurisprudence that perception of bias in that a Bailiff who has been engaged in the political process even only as referee may have acquired preconceptions when he comes to apply the legislation as judge. You will have observed the process in court. Has it ever

seemed to contain any problem or has the Bailiff ever felt he had to recuse himself in any of the cases you have been concerned with?

**JURAT DE VEULLE:** Not as far as I am concerned. The present Bailiff and his two predecessors, because I was a Jurat very shortly after Sir Peter Crill retired and he had a considerable run-on as a Senior Commissioner, they never seemed to have been tinged with any political bias in terms of their advising the Jurats as to matters of law. At least I have never been aware of it. I do not know about my colleagues.

**JURAT LE BRETON:** I confirm that in my view there has been no indication of a political view being made at any time in terms of our work with the Bailiff.

**JURAT KING:** I would agree. I have never ever experienced or heard any such reference. In fact with the broad spread of work that is done in the courts, the opportunities, if you like, probably are remote that he or she had been involved, must be fairly minimal anyway. But I certainly have no such experience.

**JURAT DE VEULLE:** I could probably add that I think, in the event that a decision on a matter of law was politically tinged, counsel would enjoy taking the matter to appeal.

**THE CHAIRMAN:** In the experience of any of you, has the Bailiff had to recuse himself or felt that he should because he had been concerned with the making of a law in the States?

**JURAT DE VEULLE:** Not on those grounds.

**JURAT KING:** Not on those grounds.

**MRS BACKHURST:** Can I ask Jurat de Veulle some information, please?

**THE CHAIRMAN:** Certainly.

**MRS BACKHURST:** It sounds odd but I think we have an understanding of what Jurats do. We have been asked to look at the role of the Bailiff and the Crown Officers, just for the benefit of the review.

**JURAT DE VEULLE:** Yes, of course.

**MRS BACKHURST:** Can you explain to me what the Lieutenant Bailiff does, please?

**JURAT DE VEULLE:** Well, the Lieutenant Bailiff did a lot more than he presently does. Certainly in the days before I was appointed Lieutenant Bailiff, before I even became a Jurat which was in early 1995, a Jurat regularly sat as presiding over the Magistrates' Court.

Jurat Hamilton, he had relevant experience as a magistrate in India. He married a Jersey girl. When he retired he was made Jurat and I think in those days there was a Magistrate but he needed cover, and Jurat Hamilton, as I understand it, fairly regularly sat as a magistrate and was a Lieutenant Bailiff.

Jurat Coutanche was not qualified as a lawyer but he too, I believe, sat in the Magistrate's Court as a Lieutenant Bailiff, but that has not happened in the last 15 years to my certain knowledge. So that aspect of the Lieutenant Bailiff's work has disappeared.

Now the Lieutenant Bailiff sits in place of the Bailiff in certain circumstances but even those in the last 15 years have become restricted. Very early on in my appointment as Lieutenant Bailiff, I was pencilled in for the court on Friday morning at which criminal matters are adjudged, and I thereafter refused to do it. I felt it was wrong for a non-legal judge to sit and preside over a court of law and the sentencing process. That has again, to my certain knowledge, not happened since that event.

The Lieutenant Bailiff routinely presided over the divorces, the uncontested divorces until, I cannot recollect the year but I would think about 2002 or 2003, they were passed down to Advocate Obbard in the Family Courts, and that matter now is no longer a duty of the Royal Court.

The only remaining function is that very occasionally we are asked to preside over the Licensing Assembly, which is not really a court of law but we still have to make decisions and give reasons for those decisions. Until three years ago the only people signing search warrants were the Bailiff, the Deputy Bailiff and the Lieutenant Bailiffs. That again was changed three years ago, four years ago, and now all the Jurats are empowered to sign search warrants.

Basically we are out of a job, as Lieutenant Bailiff. We are appointed, as an emergency longstop, but many of the functions have disappeared, moved down the process.

**MRS BACKHURST:** I just noticed Jurat Tibbo has just been appointed a second Lieutenant Bailiff.

**JURAT DE VEULLE:** Yes. I think the -- I suspect the Bailiff and the Deputy Bailiff find it useful

to have a closer contact with the Jurats just as the Jurats find it I think useful to have someone with whom to meet. In fact, the Bailiff, the Deputy Bailiff and the two Lieutenant Bailiffs met yesterday week, which was the first time for two years, and we discussed security in the building, who should go on the Prison Board or who should go on the Probation Board; those sorts of things, the content of the Jurats' training programme et cetera. So, matters of administration in which the Jurats are the recipients, if you like, but the Bailiff and the Deputy Bailiff are the executives.

**MR STRANG:** Friday afternoon court, is that sitting as a Lieutenant Bailiff?

**JURAT DE VEULLE:** Yes. Friday afternoon is quite common, but not much. I sat last Friday, but looking at my book it was nearly two years since I sat prior to that. But as you may know, Friday afternoon is pretty much an administrative matter; the passing of contracts, the hearing of ex parte applications, judgment debts, and a recent development which we have had to keep an eye on is that now family matters come up at 3.15pm on a Friday afternoon. We are quite clear that if there is in any way a contested family matter then it will be adjourned and not sat on by a Lieutenant Bailiff.

**MR STRANG:** Thank you. That is very helpful.

**MRS BACKHURST:** Jurat de Veulle, you said that you did not sit because you were not a lawyer. Could a Lieutenant Bailiff who might be a lawyer maybe decide that they would put themselves forward to be able to sit in circumstances?

**JURAT DE VEULLE:** I would think it unlikely. I do not think it would be their decision to put themselves forward. The movements of the Jurats are pretty much determined by the Bailiff's



Judicial Secretary. She is the one who does the rota. We are but pawns in her programming and I think she would very much hesitate, and she would probably be stopped by the Bailiff or the Deputy Bailiff in putting a Lieutenant Bailiff, even if he or she were a lawyer, in front of the Samedi morning court.

**MRS BACKHURST:** Thank you very much.

**MR CRILL:** Are there any functions of the Bailiff which are habitually delegated to Jurats? You mentioned for example the presidency or the chair of the Licensing Assembly as an occasional arrangement *faute de mieux*. Are there any functions that the Jurats habitually perform which are effectively a delegation from the Bailiff rather than a court process?

**JURAT DE VEULLE:** No, I think the nearest has been the change in the signing of warrants where this has now been extended to cover the Bailiff, the Deputy Bailiff and the Jurats. And there is a convention, an understanding that if a warrant needs to be signed during working hours it will be done by the Bailiff or the Deputy Bailiff, and the Jurats are on for out-of-hours only. That is a partition of the total responsibility.

**THE CHAIRMAN:** If we came to the conclusion that it was necessary to recommend that the Bailiff no longer should preside in the States, and I say our minds are still entirely open, but that is one of the conclusions we have had pressed upon us. If we came to that conclusion, can you say who would be the appropriate person or persons to fill that role of president of the States? How satisfactory would it be?

**JURAT DE VEULLE:** I think I have spoken enough. I am going to invite perhaps one of my colleagues to express a view. We have expressed a view in our paper.

**JURAT LE BRETON:** I think there are alternatives here. The obvious one I suppose would be to carry out what probably happens in other assemblies, and that is that a member of the Assembly would be elected to the position of speaker by the Assembly itself. The concern there might well be that our Assembly is relatively small, and that by electing one of their own members you would effectively have a disenfranchised constituency. That would be a concern for that particular constituency I am sure.

Also the nature of our Assembly is not party based, and so that person's political views, for which they had been elected, would be lost to the Assembly. They would not be represented by other members of a group or party within the Assembly. They are very much independent members. In that way this would be unlike an assembly which has party politics, where the view of the Speaker would be represented by his or her party. This is another difficulty with our Assembly I suppose.

We also feel that such issues as consistency, expertise, experience and continuity, would have to be considered. If elected from within the Assembly the speaker may well change every time following a new election. The present system has a speaker who is clearly very experienced in not only a legal way but constitutionally as well, and the Bailiff has a full and deep understanding of the nature of the position, and can give something to the Assembly because of that.

So the election of a member of the States to being the speaker is perfectly possible, but it has to be compared with what currently happens, the benefit to the Assembly and to the constituents that might be involved.

I do not know if you would like to add anything to that particular option if I have missed anything out. There are the other alternatives and I suppose the one that springs to mind is that if the Greffier himself, who is the States Greffier, who again has enormous experience of the operation of the States and may well be considered to be well qualified to act as the chairman or President of the States as Speaker.

He would have the advantage of being apolitical. He would not have been involved in the political process of elections and so on, and there would be the consistency from one Assembly to another because he would always be seen as applying that role. So that is another alternative to be considered.

**THE CHAIRMAN:** Just if I may interject for one moment. The Greffier does sit from time to time at present, and any reports we have had seem to indicate that he does so very satisfactorily. Is that the general feeling?

**JURAT LE BRETON:** Yes. I do not think there is any dispute about that. He is very capable, very experienced, very knowledgeable, and can deal with the operation and the chairmanship of the States. He would have to operate through the Standing Orders in the same way as the present Bailiff as President of the States.

**THE CHAIRMAN:** It is slightly constitutionalist, slightly unusual to have somebody who is in effect a clerk of the parliament presiding over the parliament but Jersey has plenty of its own institutions.

**JURAT LE BRETON:** Yes, of course it is. I think it is being put forward, as a suggestion, as a possibility, because of the difficulty that might be experienced in having an elected member of

the States being elected Speaker. As a possible alternative someone who is not in the States could be elected to that role from the community in a separate election. That person would have to meet the criteria set by the States. That person would come forward, from amongst many I dare say, and would be considered and elected by the States, or maybe by the community. I really have no idea about how that would happen.

**THE CHAIRMAN:** In principle that would be perfectly good constitutionally. How attractive would that be to anybody given the amount of time the States sit? It is sort of sporadic. I know it can take several days and then nothing for a while. Is that something that is in practice likely to be attractive to the sort of person you would want to get for that?

**JURAT LE BRETON:** It would have to be either someone who could afford to spend the time in that position or be retired. That might be limiting. One would, I would hope, widen the net as far as possible. But that would probably mean additional cost because the speaker might have to be remunerated for his duties, unless it went along the traditional lines of an honorary position, which Jersey favours from time to time.

**THE CHAIRMAN:** Jersey has had a very, very fine record but the pool is limited.

**JURAT LE BRETON:** You invited options and I think we have put those forward as possibilities. But again, each one of them would have to be very carefully compared with the status quo to see which would be possibly more beneficial.

**THE CHAIRMAN:** I can quite see the force of the view presented to us by quite a lot of people that any substitution of the Bailiff would be unlikely to give as good a presiding officer because of his experience and qualities. But then one has to consider if it is necessary to do it, who as

a substitute one might consider. It is not an easy one.

**JURAT KING:** I do not have a great deal to add on this particular subject because I think most of the points have already been covered. You said at the beginning this is all about principles, not the people who actually hold the role.

I am not from Jersey. I came from the UK. One of the things I have always admired about Jersey, and I think Jersey is very fortunate, that there are unique systems in place. There are unusual situations. As an outsider when I first arrived I felt this is something that really should be preserved as far as possible within the modern world.

I realise that things have to be adapted. I think it would be a great pity just to say we have to find an alternative to the Bailiff and grab at something that is perhaps a duplication or a copy of another system because it is known to work. I do not know the answer, unfortunately. This is perhaps your challenge. But I do feel it has to be something that is tailored to the needs of Jersey and a small community, where you only have finite resources and a limited pool of people on which to draw.

This is not adding intellectually to the argument. It is really adding a little bit of emotion to it. But I actually feel Jersey is very, very fortunate to be in a position to get it right.

**THE CHAIRMAN:** I understand that entirely and I took that feeling very clearly from what we have received both in writing and orally, so I have certainly taken it on board thank you.

**JURAT DE VEULLE:** Just to add my two penny worth to this particular element, I do feel that a speaker drawn from the membership of the House will have a great credibility problem. To

get into the House he will have stood on a platform, he will have taken political stances on issues, and not that we are involved in what goes on in the States but from what little we hear of the activities there I think the poor man or woman would not last very long without some accusations of bias.

As far as the States Greffier suggestion is concerned, that would need to be a structural change. Recruitment would need to have the role built into its recruitment process and into its qualification process. It would need I am sure some strengthening within the department because there would need to be a backup, and in the past people who have backed up the States Greffier or sat in place of the Bailiff or the Deputy Bailiff have not always been a great success. It has been a personality issue. So it would need to be a very more focussed structural change within the States Greffier.

As far as separate elections are concerned, one might be lucky to find someone out there. They would need probably a legal background. A lot of the presidency concerns procedural matters. They will need to know the Rule Book inside out. It is quite difficult to think that an ordinary layman, again, would not find it an extremely difficult role to fulfil. He might have the help of the Attorney General of course but nevertheless it is difficult to see a glaringly obvious improvement on the Bailiff.

**THE CHAIRMAN:** If we were to recommend that the Bailiff cease to be President of the States, how would that leave him with his standing as the First Citizen of Jersey? It seems to be a real concern among people that it would leave him without the leading role he has had before and leave something of a possibility even of a power vacuum. I am sure you have thought of that yourselves.

**JURAT DE VEULLE:** Well, yes, I think if an office has been there for 800 years and then you remove it then yes, there is going to be a vacuum. I would not know how you would fill it. I think it would be unsatisfactory if a four-year politician or a six-year politician automatically became that.

As I think we have said in the paper, the present arrangement where there seems to be a division of labour between the Lieutenant Governor, the Bailiff and the senior politician seems to work well. There may be a lot of bickering in the background; I do not know as to who goes to which party or which building. But nevertheless it seems to be working pretty seamlessly to members of the public.

**THE CHAIRMAN:** If the Bailiff maintained his title but were not presiding over the States, but was basically a chief judge, would he be able to carry it off that he performs the other functions he now does, which are very significant functions in Jersey of meeting distinguished visitors, all the things the Bailiff presently does? I would be interested in your views on that.

**JURAT DE VEULLE:** I am not a constitutional lawyer but it would be difficult, I would have thought, to have a Bailiwick without a Bailiff and it is the nature of the Bailiwick that makes him the senior citizen. I would have thought there might, if he had to cease to be President of the States, I suspect rather like a footprint in the sand, sooner or later the problem would go away. He would still be the Bailiff in charge of the Bailiwick. But that is a surmise, I have to say. I have not given it a lot of thought.

**MRS BACKHURST:** Could I ask you just briefly? It has been suggested to us that there is a ladder of succession from SG going up to Bailiff.

**JURAT DE VEULLE:** Yes.

**MRS BACKHURST:** But in actual fact that has not always happened, as we know over the last few years. Are the Jurats involved in any way or consulted in any way, or sounded out, to do with the Deputy Bailiff being appointed, or the Bailiff; possibly not the SG or the AG, but any of those roles?

**JURAT DE VEULLE:** Yes. I sat on the Appointments Panel both for all three offices in the recent round of appointments. They were all advertised posts. At least the Bailiff was not. My understanding is that there is an unwritten rule that the Deputy Bailiff becomes Bailiff. But there was an interview process for the appointment of Deputy Bailiff and of Solicitor General and of Attorney General.

**MRS BACKHURST:** So there was not one for the Bailiff?

**JURAT DE VEULLE:** There was not one for Bailiff. At least I did not sit on it if there was.

**MRS BACKHURST:** In past times there has been a Deputy Bailiff who did not move up to being Bailiff and there was a process then initiated.

**JURAT DE VEULLE:** Yes, I think they were, I hesitate to use stopgap as a word, but I think they were in there for limited periods of time in order to enable the succession to be more ordered.

**MRS BACKHURST:** I was referring to Mr Tomes. Sorry, I did not want to bring specified ...



**JURAT DE VEULLE:** Yes, Mr Tomes left.

**MRS BACKHURST:** Were the Jurats involved in that? You may not have been a Jurat at the time.

**JURAT DE VEULLE:** I have no idea. It happened before my time. I think they were. My understanding is that the Jurats were as uncomfortable with the issues that I understand were there, and my understanding is that yes they were involved because I think I recollect Jurat Coutanche having to sit much more than he would otherwise have had to do in order to help out the situation when the Deputy Bailiff went. But that all happened, I have to say, before my time.

**MRS BACKHURST:** Of course. But the potential is there for the Jurats to be involved if not only in the appointment but the potential dismissal.

**JURAT DE VEULLE:** Yes, I think as the senior Jurat I was involved in that selection process.

**JURAT KING:** May I just add that the Jurats were consulted at some stage during the process, the Jurats did know who was being considered. I think we should mention that.

**JURAT DE VEULLE:** Yes. It might be useful to explain how those interview processes took place. There was a panel of three comprised the Bailiff in the chair, Mr Michael Liston who was chairman of the Appointments Commission and widely experienced in public appointments, and me. The three of us, we saw a series of people. There was a sort of common core; seven or eight senior lawyers from the Law Society, the Chief Minister, the Bailiff's Advisory Committee, which is a committee of politicians, and the Jurats as a body. In

connection with the Solicitor General we saw the Attorney General and the Deputy Bailiff. In connection with the Attorney General we saw the Deputy Bailiff so we saw the one above, for whom of course the person had worked, the applicants had worked. In all cases, not in the case of the Deputy Bailiff where there was only one applicant, but in the case of both the Attorney General and the Solicitor General there were three or four applicants.

**MR CRILL:** Just to understand this, the applicants apply.

**JURAT DE VEULLE:** Public advert.

**MR CRILL:** Yes. And then the selection panel of three then consults with these others.

**JURAT DE VEULLE:** Yes.

**MR CRILL:** Then there is an interview process and then there is a selection.

**JURAT DE VEULLE:** Then there is an interview process with the individual.

**MRS BACKHURST:** When you are appointing someone, you may not wish to tell me this; I do not know, you are thinking this SG might become Bailiff, or not.

**JURAT DE VEULLE:** Well, not as much as I think it used to be. I think it used to be a set ladder, but the moment you start, and this must affect the view of the candidates themselves, the possibility that someone will be appointed Attorney General over their head when they apply for Solicitor General must concentrate their minds. Because bearing in mind what we understand to be the relative pay scales, a young lawyer going into the position of Solicitor

General will have to weigh that particular matter up extremely carefully.

**MR CRILL:** And the position of Crown Office is not protected from though more modern ability of employment I suppose.

**JURAT DE VEULLE:** Absolutely. And of course there is a much higher profile. You are putting your head above the parapet.

**MR CRILL:** As far as the selection is concerned, invariably, I think, the Crown Officers have been experienced court advocates and consequently the Bailiffs have traditionally come through that court advocacy route. Do you think that the development of the function of the Bailiff - particularly through, I suppose, the lessening of his judging in recent years with the appointment of Commissioners and so on - justifies a continued policy that it is predominantly court advocates who move into the Crown officer roles, or are there other skills, do you think, that the Crown Officers or the Bailiff lack that have to be supplemented from elsewhere by virtue of that?

**JURAT DE VEULLE:** Certainly in the interview process, the fact that some candidates had not acted as Crown Advocates was a factor taken into account in the interviews. Indeed, in the interview with the appointment of the Deputy Bailiff - I am sure I am not letting any secrets out - the question of the transition from prosecutor to judge was a matter of some fairly intensive questioning and examination. Even though there was only one candidate, nevertheless, one ought to be very sure that that transition was properly understood.

**THE CHAIRMAN:** Quite right too. Yes.

There is the factor that when, because of the conventional ladder, if I may put it that way, when you are appointing one of the Law Officers you have in mind that you may be appointing a future judge.

Experience in court is, I can tell you, very valuable to a judge, just the way they say some of the best referees have played in the scrum.

**JURAT DE VEULLE:** Absolutely.

**THE CHAIRMAN:** So there are no easy answers. Certainly, I think - I take Mr Crill's point entirely - one should not be too restrictive in where one looks but all other things being equal, court experience has got a lot to help a future judge. I will put it no further than that.

**JURAT DE VEULLE:** Yes, and I think in the course of the application processes there were applicants who had not appeared much in court or who had had a very specialist area of activity and this did not count in their favour.

**THE CHAIRMAN:** But a good person will pick up experience quickly.

**JURAT DE VEULLE:** Yes, indeed.

**THE CHAIRMAN:** That always seems to happen.

**MR STRANG:** A Crown Advocate is appointed by the Attorney General, is what I am saying.

**JURAT DE VEULLE:** I believe so, yes.

**MR STRANG:** There is a bit of self-serving there, really, because if the Attorney General did not appoint someone as a Crown Advocate, then they might be disadvantaged in the process of moving forward to be Solicitor General or Attorney General.

**JURAT DE VEULLE:** That may be attributing too much politicking to the workload - which is extreme - in the office of the Attorney General. I think if he can find anybody who is competent in court, he will grab them.

**JURAT KING:** Very, very busy department. Yes.

**MRS BACKHURST:** Could I ask? The Jurats have a quasi-political role - and I may have got this wrong; I am calling it that - in that you, at election times you are the returning officer? No.

**JURAT DE VEULLE:** We are the Autorisé. We are in sole control of the administration of the polling station.

**MRS BACKHURST:** As the Autorisé?

**JURAT DE VEULLE:** As the Autorisé, yes.

**MRS BACKHURST:** Thank you.

**JURAT DE VEULLE:** It is an administrative control. It has no political or judicial -- well, it has a bit of a judicial function because we might have to make a judgment there and then as to whether a paper was valid or someone was entitled to vote or whatever.

**THE CHAIRMAN:** Fine. In your submission you have touched upon the question of the Attorney General giving legal advice both to the Council of Ministers and to Scrutiny. I do not know how much the Jurats come into contact with that and how much they would like to say about it. Perhaps you can tell me if the Jurats have got views on this.

**JURAT DE VEULLE:** I do not think so, generally. I think it was one Jurat in particular who raised this issue. But we generally, no, do not have any contact in that area.

**JURAT KING:** I may just say, I have actually appeared at a Scrutiny Panel. We were discussing lègitimé and it so happens we were representing the Jurats. It was very apparent that the Attorney General, of course, was advising the States members who were on this Scrutiny Panel. And I think it was that experience that triggered off this remark because he had obviously been advising the States in total. He was then advising the Scrutiny Panel, who may have had a different agenda. I do not know.

I was there with the Bailiff, in fact, and another Jurat, giving our views because we had been asked for our views on this particular matter.

There was nothing sinister in this, really, but it triggered off my thoughts that I could see where there was a potential for conflict in that particular area. If that is of help.

**THE CHAIRMAN:** We have had some evidence about this and I just wanted to see if the Jurats had a view that they wished us to have.

**JURAT KING:** Yes.

**JURAT DE VEULLE:** It does not impinge on us.

**JURAT KING:** Not really. No.

**THE CHAIRMAN:** No.

**MR CRILL:** The position of the Bailiff is a very special one, a very extraordinary one, you could say. But as President of the Court, do you think that it puts the Court in a position which is different than perhaps it should be?

Should the Court perhaps -- does it raise its profile as a court and therefore under closer public and community scrutiny than a court might otherwise be, which is perhaps a little bit less profile? Or is it something that would not bother you at all?

**JURAT DE VEULLE:** No, I do not think so. There is a confusion I think sometimes in the press reports, that does not quite understand that it is the Jurats who are doing the sentencing and not the Bailiff. But otherwise, it seems to work quite well.

I think there are matters for debate - not in this forum - about some of the relationships between the Bailiff and the Jurats, but I do not think that affects his role in terms of the brief that we have here.

**THE CHAIRMAN:** It is a very interesting situation but it does not fall within our remit and we --

**JURAT DE VEULLE:** No, indeed.

**THE CHAIRMAN:** -- shall not be expressing views on it.

**JURAT DE VEULLE:** If you read one of your submissions you will find some views expressed.

**DR MOUNTFORD:** Can I just ask, briefly, because I am interested in your experience of being -- I am talking about accountability in the selection of the Crown Officers.

**JURAT DE VEULLE:** Yes.

**DR MOUNTFORD:** I would like to briefly go back to your experience of the selection process.

From what I can understand, the applicants apply; there is a job description of which we have a copy. There is consultation to other groups. Now, is this assessing the suitability of the individuals - all individuals - that have applied?

**JURAT DE VEULLE:** Yes.

**DR MOUNTFORD:** Then when you go through the actual interview selection process, is it formal or is it like many things in Jersey, informal discussions? Is there a set criteria which everyone is subject to and this is recorded?

**JURAT DE VEULLE:** Yes. Yes, it is correctly recorded and there is a quite extensive matrix set up for the interviews: the qualities required, the intellectual levels, the integrity, et cetera, et cetera. The views then are assessed of these groups of people and that matrix, if you like, is used as the basis for the interview itself.



**MR CRILL:** Is it actually scored?

**JURAT DE VEULLE:** No. I do not think it is scored. I do not think it is scored. Of course, where there was only one applicant in the case of the Deputy Bailiff, that matrix was achieved but the interview took a slightly different form.

**THE CHAIRMAN:** Yes, your object then would be to ensure that the single candidate came up to scratch.

**JURAT DE VEULLE:** Came up to scratch. Absolutely. Yes.

**THE CHAIRMAN:** Very good.

**MRS BACKHURST:** You will take up references, I assume, would you?

**JURAT DE VEULLE:** No. I don't think any references were taken up, as far as I am aware.

**MRS BACKHURST:** If you had had a problem with the matrix --

**JURAT DE VEULLE:** I think the candidates produce their letters of reference but in the event there was no need to seek external letters. There might have been if, as it were, someone had walked in off the street.

**MR CRILL:** Can I just ask? Clearly you do think it is appropriate that the Bailiff as the judge should consider the appointment of the chief prosecutor? Was there any consideration that it

should not be? I assume it always has been?

**JURAT DE VEULLE:** Well, I assume so too. I think this process of selection is relatively new. I think before it was rather that the hand of God passes over people and I believe this is really the first time that a rigorous interview process has happened.

As to the inappropriateness of the Bailiff being involved, I suppose there is an argument.

**THE CHAIRMAN:** On the other hand, the Bailiff would have seen --

**JURAT DE VEULLE:** He would have done it --

**THE CHAIRMAN:** -- candidates in operation in the process.

**JURAT DE VEULLE:** And done it himself, in fact. He knows better than anybody what parameters are required.

**THE CHAIRMAN:** I was never consulted as Chief Justice about the appointment of a prosecutor but I would not have found it too difficult to give a view if I had been.

**JURAT DE VEULLE:** No.

**MRS BACKHURST:** If the matrix that you had set up -- and there had only been one applicant, if they did not come up to that, you would re-advertise?

**JURAT DE VEULLE:** Yes. That would have happened and indeed it was discussed. Would

we make no appointment? Would we re-advertise? Would we parachute in a senior member of the profession, as has been done on perhaps at least two occasions before? What happens if we do not reach a conclusion? Luckily that didn't happen. But it was discussed.

**THE CHAIRMAN:** That is pretty standard decision to have to make when you have that situation in any --

**JURAT DE VEULLE:** Well, we thought we would be pre-armed and we discussed that before we conducted the interviews, set that as sort of ... We were very fortunate in having Mr Liston, who is a very experienced person in this area, as part of that panel.

**THE CHAIRMAN:** Yes. Quite. That is helpful.

**JURAT DE VEULLE:** He kept us on the straight and narrow.

**MRS BACKHURST:** I suppose the Crown could always reject your choice?

**JURAT DE VEULLE:** Yes. The recommendation is sent off to Whitehall and they could indeed have said "no".

**THE CHAIRMAN:** That is the same for pretty well everything.

**JURAT DE VEULLE:** I'm afraid so.

**JURAT LE BRETON:** Sir, may I just make one comment? And that is, in 1948 there was a separation of powers inasmuch as the Jurats had sat in the States and in the Courts up until

that point. So it was clearly not desirable that that should continue, and that the Royal Commissioner should make the change. It was decided the Jurats would be completely separate from the political arena and be entirely focused on the judiciary.

Now, that was 1948. And I think it would be fair to say that since that time there has been a rapid evolution of the separation, and that would include the Bailiff, I would respectfully suggest. Because we've got a long history, and I am sure you have a historian on your Panel who is perfectly aware of that fact, the role of the Bailiff and Jersey, are two things which run very closely together. They are our identity, if you like. It is our heritage. It is as much a part of Jersey as Elizabeth Castle or Gorey Castle.

The role of Bailiff is what we are and is part of us. And I think, when it comes to who our civic head is, we've perhaps become very accustomed to it being the Bailiff. And I think there would be dismay if it were to be changed from that. You mentioned earlier that removing the Bailiff from his role as the President of the States might affect that position, and I think Clothier was not altogether clear on how removal of the Bailiff from the States would affect that in a constitutional sense

And it was argued quite strongly at the time, I seem to remember, about nine years ago, that it would then make it impossible - I think that word was used - for the Bailiff to be the head, our civic head, if he didn't have the authority of his position in connection with the States.

So, constitutionally, I think that needs to be explored. I don't know what the answers are. But I put it before you. I am sure other people will have done so and might well do so again and I don't wish to be repetitive about it. But it is a constitutional issue and I think people will want to know if the Bailiff's role is to be just - and I don't mean that in any negative vein - the head of

the judiciary. Can he then remain as our civic head?

In Guernsey, presumably, they will continue to have a Bailiff who is their civic head. We in Jersey would then presumably have someone else as our civic head. And that, historically, has never been the case and it would be, for many people, an enormous change. It might be welcomed. I have no idea now. But it still would be very significant and I suspect it is a significant constitutional point. The Bailiff is a Crown appointment. The role with the UK, the representational role, all of these are issues that might well have to be addressed if the Bailiff were not to be the President of the States.

**THE CHAIRMAN:** They are very linked issues and we are very conscious of that. The more that we hear, the more clear it appears that the various strands are so linked that if you change one you have got to look very carefully at the effect on others.

Indeed, Mr Jeune this morning made the point that if something this fundamental were to be entertained, he would prefer to see a referendum of the citizens of Jersey. That would not be for us but I can see the force of it.

Certainly I have appreciated much more clearly as time has gone on and I have received evidence and submissions, I see the way that the constitution and the position of Bailiff have evolved over the years. I have been to Jersey many, many times but I have never taken that under notice. I was more interested in the state of the tide.

**JURAT DE VEULLE:** Very laudable. Very laudable.

**THE CHAIRMAN:** We are very grateful to you, Madam and gentlemen, for your assistance

and for taking the time to come and give us the benefit of your experience.

We have quite a long way to go yet, a good deal of evidence to obtain before we even start to reach conclusions and then when we have considered them we will record them in a report and present it to the States with our recommendations.

Thank you for that. Thank you very much, all of you.

**JURAT DE VEULLE:** Well, please feel, if there is anything that you think we can further help with, do feel free to call us back.

**THE CHAIRMAN:** Thank you. I am very grateful. Thank you very much.

**JURAT DE VEULLE:** It may not be the same team but we will do our best.

Thank you very much.