

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

Date: 5th May 2010

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

Witnesses: Mr R Le Brocq

**THE CHAIRMAN:** Please do sit down.

**MR LE BROCCQ:** Thank you. I say good afternoon, Lord Carswell.

**THE CHAIRMAN:** Good afternoon, Mr Le Broccq. It is kind of you to come. Thank you for agreeing to talk to us and give us the benefit of your experience.

**MR LE BROCCQ:** As you can see, my written submission is short but, in fact, I could go on forever on this one.

**THE CHAIRMAN:** Yes.

**MR LE BROCCQ:** Basically, very, very, quickly I will tell you that I was first a Constable's Officer for three years, then a Centenier and then I stood for Constable and was fortunately elected, or unfortunately, one of the two.

Being Constable of St Helier is obviously a very, very demanding job and it's the busiest Parish on the Island and commercially, policing matters and in lots of other things. When I first started in the States I got involved in various States committees and I was asked to go on to the Defence Committee of the day and also the Public Services Committee. I got invited to sit on a number of other committees but, as I say, my workload at times was quite extreme. There was a case, which I will refer to later, if I may, but between the end of May and September I had 333 appointments that were in the diary; that is without people walking in off the street, so quite a demanding job.

I take the view, and having sat in the States for nine years, that I really do wonder what the function of the Bailiff and the Deputy Bailiff are in the States, because, particularly of late, having listened to some of the States debate, which I think in a lot of cases leaves a lot to be desired, I have always found that the Greffe's department, particularly under Mike de la Haye and his predecessors, always did a first-class job in chairing the States meetings. But I have got to say to myself, I'm a practical man, that since I came out of office and certainly in the last 20 years, cases going before the Royal Court have become more and more complicated and I believe that they need 100 per cent attention by the judge who is judging the case. For that to happen, I cannot understand how a judge can stop halfway through a case to go and sit in the States; it is just totally beyond me, when there are other people - and it has been proved - who are quite competent to do that.

I can remember Sir Peter Crill saying to me one day - he had invited me to go around and see him for some matter or other - and he said, "I'm hearing a major case where people have come from all over [and I read the paperwork on that case] where people had come from as far as Hong Kong". This was a major case involving finance matters and he actually stopped the hearing to go off to London to the Lord Mayor's dinner and come back the following day. A lot of these people that had come from all over the world in actual fact for this case. I thought, "Well, that's not serving justice well, because obviously the public's time is very, very important" and having listened to what the Bailiff said yesterday, that this year they had sat 60 times in the States, the demand of the States work is getting greater, but to turn around and say that the Commissioner can take over the case, well, if you have two Crown Officers who are supposed to be very, very talented and they're wasting their time, basically, I think, in the States. We appoint a Commissioner to hear a case at £3,000 a week; I have to scratch my head and say, "Well, in an Island that is supposed to be getting tight for money that does not make very good sense to

me” and I’m pretty sure there’s no businessman that would run an organisation like that at all.

Sir Peter Crill used to say that the Crown Officers are not supposed to be involved in the way the States do things, but I can remember Sir Peter Crill - and I believe the local press have got it on record - made a statement with reference when you wanted to go for ministerial government, when we were looking at it, and he said it would be the rape of the constitution. Well, that is where Crown Officers are getting involved in local politics, as far as I’m concerned.

There is a problem, particularly when one Crown Officer takes over from another, and unfortunately I was at the receiving end of that. One of the duties of the Crown Officers is to swear in officers when they have completed the election - when they have had an election - and I don’t think that the communication between the Crown Officers is always as good as it should be. I believe that the Crown Officers should stick to doing what they are supposed to do best, which is to hear cases in the Royal Court.

I think there are alternative ways in which the Jersey government should be constituted and I did actually put that forward when we were discussing ministerial government. I had a very, very simple proposal, having listened to the proposal or the reference to the Clothier Report, and it was very, very simple. You have 26 committees, you reduce them down to 10, you then go on to have 5 members on each committee; that takes up 50 members of the States. They share their responsibilities, they can only sit on one committee, and that was what was wrong with the old system, but we are evolving, that would take up the 10 committees and be able to form sub-committees from each member, because I believe 5 people coming to a table is a damn sight better than one trying to make all the decisions and we see the mistakes that the Island is now paying out quite a lot of money because of the mistake is that the responsibility is only one

person.

The three surplus members of the States -- what I actually wanted to do was actually what has been discussed this morning; have somebody or one or two people responsible for external affairs and one person as Speaker or two people as Speaker. That is how I would have got over the problem the States have got themselves into. Very, very straightforward, very, very simple, not too far away from what we had before; the five members on each committee to nominate a president or a minister who would then meet with the other ministers once a fortnight and confer with them what each committee reporting back was doing, and that would have been a simple way to change the government. However, that was not to be.

As I'm saying, there was a proposal by Deputy Mike Vibert and that came to the States and I think the voting that took place was 22 in favour of his proposition and 26 against. No less than four States members came to me afterwards and said, "I wish I'd voted the other way, because we wouldn't then have had ministerial government". But we have ministerial government, we are trying to make the best of it and after four and a half years I do not see it is going anywhere. All the power or all the authority, for want of a better word, seems to be in those people.

Now, I believe that the Crown Officers do make mistakes from time to time, and I was at the receiving end of a mistake which involved me being strip-searched and put in a cell for nine hours and they went for my Chefs de Police as well. In actual fact when the person involved, who was the Attorney General of the day, if he had admitted at the time that he, by swearing in a person, a Constable's Officer, and if he'd have checked his paperwork correctly - he said he reported back to the committee and that's in the committee report, and Mrs Backhurst here was on that committee - if he had taken the bother to get his decision right from the start, I would not

have finished up in a cell. It was only a question he had to admit it and the only way he actually admitted it was in actual fact through an inquiry. That is the position at the moment.

**THE CHAIRMAN:** That last episode you talked about, if it was a wrong decision - I am not going to comment at all - that is more the carrying out of the office rather than the function of the office and the content. Have you any submissions about the work of the Attorney General and his various functions?

**MR LE BROCCQ:** I believe that the Crown Officers, in a lot of cases, are extremely overworked.

**THE CHAIRMAN:** Yes.

**MR LE BROCCQ:** By taking the States work away from them would give them a much better opportunity to concentrate on what they're good at, what they're talented at. To have, as I've said, Crown Officers, when you review some of the discussions going before the States just recently, and we have to say, "Well, what a total waste of talent, that somebody's sitting in a chair only to listen for perhaps two days on a very mediocre proposition".

**MR CRILL:** So you are referring just to the Bailiff and Deputy Bailiff there?

**MR LE BROCCQ:** In the main, yes, in the main.

**MR CRILL:** When you said Crown Officers?

**MR LE BROCCQ:** I believe that the Attorney General and the Solicitor General should give

advice to the States on the legality of something they are attempting to -- or a proposition that's coming forward, but that's about as far as I would go on that. I do have to agree with what former Senator Walker said this morning. I believe that this Island in this day and age now does not need three heads of government, i.e. the Governor, the Bailiff and the Chief Minister. If we are going to have a Chief Ministerial-type government, I think a proper set-up ought to be organised and proper support ought to be given to that office.

If anybody's going to represent this Island outside the Island in particular, it should be the Chief Minister. He is elected and the Crown Officers are not, and I have always wondered why Crown Officers that are appointed by Her Majesty -- I have to sometimes ask myself, "Well, who do they represent?" There must be a conflict of interest or they have been put into a position where there would be a conflict of interest.

**MR CRILL:** Basically, what you are saying is that there is no need for a civic head. The Chief Minister, as the elected representative, should be able to perform all those functions that a civic head, if you like, performs at the moment?

**MR LE BROCCQ:** I would go so far as to say that you need perhaps a civic head, i.e. a Chief Minister and a Deputy Chief Minister, so they share the workload. That is where I would come from. There should be perhaps a shared distribution, because I don't see the necessity for the Crown Officers to -- they act in the Royal Court, I mean, it's not simply just hearing cases; they have to deal with all the licensing ventures, the applications for the licensing. There's lots of functions that the Royal Court carries out, but you basically need the structure to go with it and I don't think the structure is there.

Obviously there was a mistake made in my case, where I finished up in detention for nine hours and Ted Gallichon, my Chef de Police, that needn't have happened at all. That's because the Crown Officers did not exchange information and I have paperwork here to the fact that when the present Deputy Bailiff took over as Attorney General and there was a query as regards this case, he wanted to know how it had happened. In actual fact, if he had gone and asked his brother, Sir Philip Bailhache, how it came to be, Sir Philip Bailhache might have been good enough to say that the decision was his and that when he swore this person in, he expunged his record. That actually came out in the inquiry held by Mrs Backhurst and others. It is all down in black and white, so that was the official inquiry.

**THE CHAIRMAN:** It would follow if the Bailiff does not preside in the States, someone else must do it on a regular basis. Is it your suggestion that the Greffier should do that?

**MR LE BROCCQ:** I've been in the States when the Greffier's done it and he's done it extremely well, so Mr de la Haye - and there are other people who have sat in the chair - have actually chaired a meeting extremely well. I can't see the need for, as I say, the talents of a High Court judge to sit and listen to the propositions that come before the States. It totally amazes me; it seems to me totally inefficient.

**THE CHAIRMAN:** Some of the people who have spoken to us have said, "Well, you really should not have one person trying to perform two roles, clerk of parliament and Speaker; one or the other". Would you agree or disagree with that?

**MR LE BROCCQ:** I would disagree with that because, as I say, Mr de la Haye has done the job quite well and that's exactly what you've got now with the Bailiffs sitting in two chambers; they sit



in the Royal Court and in the States Chamber. Now, I don't think there are any differences, but Mr de la Haye runs the Court, he sets the procedures; basically he does pretty well everything and he's done the job very, very well, so why do we need to have people who are on much superior wages to Mr de la Haye actually doing the job?

**MR CRILL:** The submissions that we have had, I would say, demonstrate a warmth towards the Bailiff as civic head. Now, I can quite understand what you are saying about the elected Chief Minister could effectively perform those functions as civic head. Do you think people would feel more empowered? Do you think that they would feel that their society was better?

**MR LE BROCCQ:** I think though that if the person in the position would be elected, rather than just appointed, would carry a lot more weight, and providing the person who is carrying out the function does it in a dignified way, he would have the support of the general public of the Island, because nobody really knows how the Crown Officers get appointed.

**MRS BACKHURST:** The way that the Chief Minister is elected at the moment, as far as I understand, is that one, two, three, maybe even four people might put their names forward and then there is election within the States by the States Members. I am not sure what happens if you have a draw, as it were, how that would actually be sorted out. I do not know how their names go forward either. I know you have not been involved latterly but --

**MR LE BROCCQ:** Well, if you've got an odd number of States members and they're all part of the election procedure, I don't think you can get a draw.

**MRS BACKHURST:** All right, because it is an odd number. All right.

**MR LE BROCCQ:** Yes. I have the highest respect for all the positions of the Solicitor General and the Attorney General but a question I would ask; recently anybody who appears before the Royal Court, it's normally done through the Solicitor General or Attorney General. All the swearing in of officers, all the licensing, it is the Attorney General or Solicitor General that bring all that forward and yet we have a situation where, if I might say it, we have an AG that is often asked, "What is the procedure for somebody who has broken the law to be re-elected?" and he won't give an answer. He won't give an opinion. Are we going to wait until after the election of that person to find out, "Oh well, he wasn't entitled to stand in the first place, so why did we go through the whole process?" I had on numerous occasions when I was Constable to go and see the Attorney General or the Solicitor General and ask their advice and I got their advice. Sometimes I disagreed with it but I still got their advice.

I was very interested, if I might say, that you've asked a number of questions of Centenier Danny Scaife this morning on the background to the Island police.

**THE CHAIRMAN:** I was just going to ask you about that because you have that background too. Would you like to give us your views?

**MR LE BROCCQ:** It was different when I first started and when I took over as Constable of St Helier -- perhaps I'll go back a little bit further than that. As I see St Helier, St Helier's the Parish with the most problems and you have a lot more to deal with than a lot of other Parishes. I have, with the assistance of another Centenier, and you were asking about Parish Hall Inquiries carried out; 133 inquiries in one week. At one stage we had a number of Centeniers that were off for various reasons - they were medical reasons - and four of us soldiered on. In other

words, you were on duty for 168 hours, a complete week, and then you were off for three weeks and then you presented your cases in the court in the meantime. The position is quite demanding; you have to be a bit of a workaholic, but I enjoyed what I did because it wasn't a question of taking people to court just for how many notches you could get up; it was about how many people you could actually keep out of court.

So given the responsibilities that a Centenier faces - and it's a very, very responsible job - you were deciding whether you were going to detain somebody in custody or you allow them out on bail, but I like to think that I was always fair with everybody that I dealt with and I think that in nine years as a Centenier, I only had about four cases that were just rejected by the Magistrate.

**THE CHAIRMAN:** You, in St Helier, would have acquired a lot of experience. You would have had a fairly good idea about charging, yourself, on that experience and that is entirely sensible. What about a Centenier in one of the rural Parishes who, if it were, there is very little disturbance of law and order; what experience or knowledge would that sort of person have built up to be carrying out the operation of charging?

**MR LE BROCCQ:** Obviously you get more confident as you go in and out of the court and dealing with a Magistrate and the advocates and the proper backup. At one stage, the Parish of St Helier did not provide a part in the charges office what I classed as of sufficient back-up and I had to go to the Constable and said that I would stand down because of the amount of time I was losing from my business. Eventually he came around to my way of thinking; unless you have the support of office staff, because I was getting contacted at home by advocates to say, "I want a charge sheet and witness statements".

Now, we did go through a phase at police headquarters unfortunately that when you were checking up on people that were going to court, that because of data protection they would not give you the information and we used to get it, in actual fact, through the Attorney General's clerk. Obviously any case going before the Royal Court, she always had the paperwork. We used to go and get it from her because police headquarters wouldn't give it to us and yet, the majority on behalf of the government of the Island.

**THE CHAIRMAN:** Let me just ask you bluntly, does it make sense in modern conditions to have 56 amateur Centeniers doing charging; 56 people of very varying experience and possibly varying ability doing the responsible work of charging?

**MR LE BROCCQ:** I think if you take it seriously, you know what you're doing. I can't say that, having seen some of the decisions of the Crown Prosecution Service in the UK, and I have a relation of mine that worked at the Crown Prosecution Service in the UK and he said that most of the time it was absolute rubbish, and he actually worked for them. Having seen some of the advocates who appeared in the police court, again, they, like everybody else, had to learn their trade and so a Centenier has to as well.

But the Centeniers from outside St Helier, the offer was always made by the Centeniers of St Helier, "Can we assist you?" so they were never sort of -- even when I first started as a Centenier, I went for two solid weeks - although there wasn't a training programme set up - under the wing of a senior Centenier and it wasn't a question of just letting loose in the police court. The last thing we want is a disaster and I got on extremely well with the Magistrates.

**THE CHAIRMAN:** The other aspect we were discussing over the last little while about the

Honorary Police was whether the Attorney General should continue to be the titular head. What is your own take on that, Mr Le Brocq?

**MR LE BROCCQ:** Well, somebody's got to be head, whether you have a police authority and somebody in charge, as they've more or less got now. I think it's a step in the right direction. This morning you did ask about who else could they go to in the event of an inquiry into a complaint against an honorary officer. Well, in actual fact, the Solicitor General did appoint three Connétables to carry out an investigation into a person that there were allegations against. In other words, he had not kept up to the high standards as expected of an honorary policeman and there were complaints against him and the Solicitor General instructed three Constables to carry out an investigation. That didn't actually happen because other things came to light - offences came to light - and it was taken over then by the Crown Officers.

**MR CRILL:** Do you think that the Honorary Police or, indeed, the Constables would be happy if that disciplinary responsibility was passed to the Comité des Connétables?

**MR LE BROCCQ:** Well, I'm not aware that that has been done away with at the moment, but it does say under the 1997 Regulations a complaint against a member of the Honorary Police has to be investigated by the Constable of the Parish in which a member served, and the Constable was required to inform the Attorney General of the complaint as soon as possible. Having said that, I was investigating a complaint that was made to me and the person who made the complaint, he made it without being actually there, it was third party, popular rumour, and when the Attorney General asked me about that I said, "Well, I don't believe popular rumour carries any weight in any police court. I've always worked on facts; that's what I was taught to do".

I was asked on one occasion to -- I had a complaint, I asked the Chef de Police. It stems from when I was first elected that Fred Clark, my predecessor, said that, "If you have any complaints against any of the officers, get the Chef de Police to deal with it" which is exactly what I did and that system worked fine for four years, no problem at all. Then we had a complaint and I got the Chef de Police to look into it, and the person was a Vingtenier - I'm sorry, I made a mistake there; it was about eight years into my office - the Chef de Police did an investigation and said, "No, the person was employed to drive a car [he was a taxi driver], he was not on duty as a Vingtenier at the time". I took the matter no further.

Then when the police from England carried out an investigation into my background they dug that one out and that was one of the allegations that was made against me in the Royal Court. The one question I do have to ask is if the person who made the mistake originally and he admits a decision he made, how can that person also sit in judgment over me in the Royal Court? Were the Jurats of the Royal Court told? That's why I believe that the Royal Court should be separated from the position of the States and the Connétables.

**THE CHAIRMAN:** Yes. Thank you. Anything further?

**MR CRILL:** No.

**MRS BACKHURST:** No, thank you very much, no.

**THE CHAIRMAN:** I think you have covered a lot of ground for us, Mr Le Brocq, I am very grateful to you. We will certainly take on board all you have said. It has been recorded and will be transcribed and you will have an opportunity to see the transcript to make sure that it is

accurate and that will go on the website then. When we have finished taking our evidence, we will then endeavour to reach conclusions and prepare a report for the States and that will be our function discharged.

**MR LE BROCCQ:** I'm very grateful for you listening to my rantings.

**THE CHAIRMAN:** Thank you for your assistance.

**MR LE BROCCQ:** Thank you very much.