

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

Date: 2nd July 2010

**Review Panel: Lord Carswell, Chairman
Mr G Crill
Dr S Mountford
Mr I Strang**

Witnesses: Mr H Sharp QC, HM Solicitor General

Lord Carswell (Chairman): You are very welcome, Mr. Solicitor. We are delighted to have you with us. We have had your colleague, the A.G. (Attorney General), and the Bailiff and the Deputy Bailiff and former Bailiff, so you, I think, complete our hand of Crown Officers around the place. The only thing I need to say by way of introduction, because I have said it all to everybody else before - and you are very familiar already with what our task is - is that this is a public hearing. Anybody may come in and listen. The proceedings will be recorded. You will get an opportunity to see the transcript in draft and make sure that it represents accurately what you have said. When you have, then it will be put on to the website, as will your written submission, unless you have concerns about it, but it looks as if it is very much appropriate for publication.

The Solicitor General: Thank you.

Lord Carswell: Before I ask the Panel if they have any questions, are there any matters you would like to expand upon or to deal with outside what you have put in your written submission?

The Solicitor General: Perhaps only this: when I deal with the Bailiff, I obviously deal with the role of the Bailiff quite briefly. It did strike me that though of course you are considering whether or not the Bailiff should sit as the President of the States, obviously the related question to that is whether in fact he should continue as First Citizen, because if one removes him from the President of the States, it is quite difficult to see how he continues to be the First Citizen. I would have thought that that may well be a material consideration, not for me, I suppose, but for the Jersey public in deciding what, if any, reform they wish to see.

Lord Carswell: A number of people before us have made this point. As against that, I wonder if one is looking at the thing backwards. The Bailiff's status does not stem from the fact that he is President of the States, the Bailiff's status in the Island. The Bailiff has been historically the civic head, in fact, the Lord High everything for many centuries. That has modified and changed over the years. If he ceased to carry out one of the component parts of what his present functions are, namely the presidency of the States, do you feel from your own knowledge of Jersey that that would make such a fundamental difference to his status in the community?

The Solicitor General: I think it would certainly diminish his status. I think it is really for others to say how far, but I am quite sure that it would diminish his status.

Lord Carswell: I quite take the point which has been made to us that a public officer who is a Chief Judge and nothing else would not normally be regarded as the number one person in the community. That would be unusual. A high place perhaps, but not the top place, but if he had historically the top place and one of the duties is Chief Judge and another one is - or if things change, was - President of the States, I am just inquiring to see what people's views are as to how that might affect his position. You are concerned about it?

The Solicitor General: Yes. I mean, I fear that, as you rightly point out, you would effectively be left with a Chief Judge, and a Chief Judge, as you have already said, is not in most jurisdictions a First Citizen or even close to being a First Citizen. I suppose that is the concern. That is what troubles me, I suppose.

Dr. S. Mountford: What about his other ceremonial duties, which very clearly make him civic head?

The Solicitor General: Well, yes. I mean, I suppose it depends which way round you want to look at it. I suppose one could say he does those ceremonial duties because he is the First Citizen, and that flows from the fact that he is both the Chief Justice and the President of the States and that is what gives him the status to represent the Island, I suppose. So I think he does those ceremonies and he does that particular function because of who he is. I do not think it is the other way round.

Dr. S. Mountford: But what if he continued doing them, but was not the President of that States? Do you still think the perception of his role would be diminished?

The Solicitor General: I think if you take the Bailiff out of the States, you are inevitably going to diminish his status. The only issue is how far. I cannot see how you are not going to diminish his status is my own view. I think that the Jersey public would be able to speak better than me as to how far down his status would go, but it seems quite obvious to me that you would be reducing his position in the Island.

Dr. S. Mountford: Would there be serious implications for that, if his status was diminished?

The Solicitor General: There would be this implication, I suppose, that the Bailiff has been the First Citizen for some 800 years, and I am not seeking to express a personal view, because it is really for the Jersey public, but it strikes me that the Jersey public might want to think about whether that is something they want or they do not want before it happens, rather than it sort of

happening almost as an aside to a narrow review as to whether or not he should be President of the States.

Lord Carswell: I think if we just grasp this nettle of the membership of the States, there are a number of factors and facets to this topic. You, presumably, are by now fairly familiar with the States and the day-to-day working. You will have been in there fairly regularly, I suppose, since you took up office.

The Solicitor General: Yes.

Lord Carswell: People have posed a fairly blunt question: why waste the talents of a highly trained lawyer on a job which could be done by somebody with a great deal fewer qualifications and qualities?

The Solicitor General: If I may say so, whoever acts as President of the States during the States debates, they need to - ideally, I suppose - have a grasp of public law, some understanding of how the States Assembly works, and some ability to sit as a judge or a referee of some description.

Lord Carswell: Or a chairman.

The Solicitor General: Or a chairman, of course. If that is right, if those are the sorts of qualities you are looking for in a Speaker, then I would respectfully suggest that the Bailiff is the rather obvious candidate for the post, because he has all of those.

Lord Carswell: What you are saying is - and I think this goes without saying - that he is the most excellently qualified person, but does that mean that you have to have somebody of that quality? Take a London borough, which has huge numbers of people and a fairly large assembly, they will have a mayor presiding. A council of a smaller place, a smaller electoral district, will have a smaller number, but possibly a population the size of Jersey, and will have a chairman from within. They all seem to manage. Why would Jersey need somebody more heavily qualified?

The Solicitor General: Well, I am just pausing to think whether or not a London borough would perhaps see a debate about terrorism legislation, money laundering legislation and other fairly hard-hitting laws that go to people's fundamental rights. Of course the size is similar, but I would probably suggest that the type of debate that takes place in a London borough council is not the same necessarily as what takes place in the States of Jersey. Put quite simply, I would suggest that the States of Jersey from time to time debate things of more fundamental importance that you would see, for example, in Westminster, and therefore it might be thought appropriate that you have the best people chairing important debates that go to people's fundamental human rights.

Lord Carswell: I do not think there has been a lawyer acting as Speaker for very many years. Selwyn Lloyd comes to mind, but I cannot think of one since. The House of Commons seems to manage without.

The Solicitor General: I am certainly not seeking to suggest to you that the Bailiff is the only candidate you will ever find to sit. All I am saying is that he is the obvious candidate.

Lord Carswell: Yes, I think we are going on parallel tramlines, Mr. Solicitor. We both have a point and they are both right, but they do not quite meet.

Supposing we acceded to the suggestion that the Bailiff should stay in the States, which many people have suggested, and carry on as he is doing in the Royal Court, what is your own perception of the risk of that involving an Article 6 conflict under the convention?

The Solicitor General: You mean assuming someone takes the point?

Lord Carswell: Yes, and these days, I think we have to be conscious of the fact people are more and more ready to take these points.

The Solicitor General: Yes, of course. My own personal view as a lawyer is that when one looks at the different cases, what you see when the courts are assessing whether or not there has been an infringement of Article 6, they look at the facts of the particular case. I get the impression that those that advocate for the Bailiff to be removed from one or other are advancing a more absolutist or more theoretical view of how you should look at a fair and impartial tribunal and all the separation of powers. So for my part, there would have to be a shift in how the courts look at these types of cases for the Bailiff to get into difficulties. There would have to be a shift from looking at the particular facts of the case to a broader brush, more theoretical high-level approach to how you look at and interpret the law. So of course all litigation, there is always an element of uncertainty, but as the authorities currently stand, I would be rather disappointed to lose the argument.

Lord Carswell: That is a perfectly well-expressed point. We have had it made to us, and there is obviously force in it, because that is the classic approach of the European Court of Human Rights. But there are 2 fairly heavyweight tribunals which, using that principle, have said nevertheless the situation of the Bailiff to other jurisdictions is such the commission in the *McGonnell* case was prepared to say really the situation per se left perceptions of possible bias. Without going into the individual facts which the court did, the Court of Appeal in England in the *Seigneur of Sark* case, the *Barclay* case, said the amalgam of facts in his case made it ... I know absolutely that distinctions can very readily be made, and other people who have been sitting have made them very clearly, but what I wonder is, as a lawyer trying to sniff the air, is there a worry that the trend is moving towards ruling out somebody in the position of the Bailiff, whether or not he has sat on legislation which is under consideration? That is a very long question, but I think you follow me.

The Solicitor General: Yes, I do, and of course I recognise that there is a possibility that someone somewhere will cite the two cases you have just mentioned and launch an argument about it, and that is why I say you can never be certain about a piece of litigation. All I would say is that against those two authorities, there is plenty of other perhaps more weighty authority - I have in mind the House of Lords and the Privy Council - which points quite firmly in the other direction and as you, sir, have already pointed out, there are things that can be said about those two cases. They can be quite easily distinguished from the Bailiff's position in Jersey, and one might go further and suggest that there are particular reasons why those cases do not apply or do not signify any great change in the way the wind is blowing.

Lord Carswell: Would Jersey be wise to run this risk? Would it be putting itself in a false position if it lost a case on those grounds?

The Solicitor General: Well, I do not think Jersey would be putting itself in a false position, as such. Obviously if the case was lost, then the case is lost and something would have to be done, but as I say, at present, looking at the cases as they are, I would be pretty disappointed to lose the argument. That is really where I am. In public life, there are always plenty of challenges to things done by government. Terrorism legislation is constantly being challenged. It does not mean to say that nobody ever introduces it. I think one has to of course take into account these factors, but at the end of the day, one has to get on with life and set up the constitutional arrangements as they are deemed best for the interests of the Jersey public.

Lord Carswell: Yes. Well, fairly put, if I may say so.

Dr. S. Mountford: Can I ask a question?

The Solicitor General: Yes, of course.

Dr. S. Mountford: Going back your belief in tradition continuing, Jersey and Guernsey, which I believe it is a fact they are the only jurisdictions that have this peculiar position of the dual roles, why do you think this should continue? What is so special about it that makes the status quo so important?

The Solicitor General: I did not say that I personally thought it should continue, because it is not my decision. All I will say, is that I think that the Jersey public should be fairly consulted, because it is an important part of their history and it is really a matter for them. I just feel that they may have a view as to whether or not they want it to change. Insofar as you are asking

me: "How has this come about?" I think it has simply come about because of the specific and very individualistic history of these Islands, which I do not think you will find anywhere else in the world. So that is why it is different, but I am sure just because it is different does not mean it is wrong.

Dr. S. Mountford: If there was an Article 6 challenge, is this different in the rest of the world? Does it give us some sort of safety that perhaps we will not be challenged, we will not be found to have this conflict being important?

The Solicitor General: Well, I think the difference or not is irrelevant, if I may say so. I think the issue is whether or not the set-up is compliant with human rights law, and therefore that is why I really come back to my initial position, which was if you look at the cases overall, including the House of Lords authority, you are not looking at the theoretical and abstract, you are looking at: "Well, what is the problem on the facts of the case?" and that is really the key issue, not what the history is or whether or not it is unusual.

Dr. S. Mountford: You see, one of the things that has been said is that for such a small Island, we have to work in that way, because financially, we cannot work in any other way. I had a bit of a problem with that, thinking of where we sit in the international arena. I do not think we are such a small Island that could not afford to have the separation of powers in financial terms.

The Solicitor General: I think my starting position is that, as I said, I do not think we need to get into financial considerations, because of course there is a risk that someone might take the point in a court, but for my part, I do not believe we are going to lose that point. So I do not think financial considerations come into it. What I think you should be aware of - and I am sure

other people have addressed you and were better placed to address than I - is that Jersey is a small place and there is a small pool of talent and one has to take that into account, but of course that does not mean to say you can start breaching the human rights law as a result. I am not seeking to suggest you should do that for financial reasons. That is certainly not my position.

Lord Carswell: May I just pause to say if you would be more comfortable with your coat off, Mr. Solicitor, please feel free.

The Solicitor General: Thank you.

Lord Carswell: Before we leave this topic, either of you have any questions on it before we go on to another topic? Could I go back to the beginning of your submission, the appointment, you have seen it close up very recently. We have had described to us the process of appointment. It involves application, it involves making sure that those who might wish to be considered have the opportunity and then it involves consultation and interview.

The Solicitor General: Yes, interview then consultation.

Lord Carswell: Interview then consultation, but that is all done before the recommendation is made and goes up.

The Solicitor General: That is certainly my understanding, yes.

Lord Carswell: Yes, and we understand from the Attorney General that that is so, and it was done in the case of the Deputy Bailiff. Even though there were no other persons had put their names forward, the process was gone through to make sure that it could be said that he had been chosen properly and not just nodded through. There is a public element in it; the Appointments Commission has a representative there who is familiar with correct procedures and is part of the public ear to the ground, if I can put it in that way.

The Solicitor General: Yes, that is correct.

Lord Carswell: Have you any thoughts about it, or are you satisfied in your own mind that this is the way that you would like to see it done for your successor, say?

The Solicitor General: Just taking a step back, I certainly think whatever the details of the procedure, it is important to the office that the appointment is conducted in a non-political, non-electoral way so as to preserve the integrity and the independence of the office-holder. I think that is of fundamental importance. Speaking from my own experience, I would suggest that the procedure is as fair and as transparent as it can be. It is difficult to think of what else might go on in such a selection procedure.

Lord Carswell: Yes. Well, I have experience of a number of types of selection procedure and there are a lot that do not seem to be as fair and reasonable as this one. Do you feel that it gives you credibility to know that you have been chosen because of a fully open procedure, rather than because somebody was helping to push you on?

The Solicitor General: Yes.

Lord Carswell: It might have been said wrongly, but it could have been said that people's friends or relations got a favourable wind behind them. That is no longer, that is out now, and that cannot be said. Do you feel that gives you assistance in carrying out your role with credibility?

The Solicitor General: Well, insofar as anyone has ever had any concerns in the past, it may be that those concerns have been dealt with by this procedure.

Lord Carswell: Yes, all right. The role of the Law Officers in the States, to what extent are you and the Attorney General - one of you - present during the debates do you find from your experience so far?

The Solicitor General: We are normally present. One of us is normally present throughout all the debates unless there is something that so obviously is not going to require our attention that the President of the States may indicate that we can be on call, that is to say we will still probably listen to the debate on the radio and be ready to come back if something unexpectedly arises, but with that exception, there is ordinarily one of us there all the time.

Lord Carswell: Do you use your own discretion about that or do you clear it with whoever is presiding at the time?

The Solicitor General: My personal experience has been the President will indicate to me. I certainly will not wander off on my own.

Mr. G. Crill: Do questions from Members ever arise when you are not present? Does your presence prompt questions or have you basically got it right as far as the choice of attendance is concerned?

The Solicitor General: Yes, I have only ever been out twice and I did not have to come back for those particular items, but I am sure it must have happened in the past, that the A.G. or the S.G. (Solicitor General) has been called back because something has arisen. I am sure it does happen, but not very often, I think.

Lord Carswell: This is really an issue for the States and the Law Officers to accommodate between themselves, but is it necessary really for the Law Officer to be there as much? Is the weight of the questioning that it requires somebody of the standing and skills of a Law Officer?

The Solicitor General: Well, what is clear from my experience is that questions come up, so those questions plainly need to be answered, and if one takes a step back and looks at what is going on in the States Assembly, ordinarily Members are debating whether or not to pass a law, and they should do that on the correct legal footing with the correct legal advice before they pass it. There is nothing worse than passing a piece of law, it then coming to the Law Officers, we then notice the problem.

Lord Carswell: "What about this?"

The Solicitor General: "What about this?" It has been passed. We would have to notify the Queen and the Privy Council that there was a legal problem and Royal Assent would not be forthcoming. It would be a pantomime, would it not? So the short answer to your question is,

for my part, it is very important that the Members of the States are able to debate things on a proper legal footing, so you do not have a merry-go-round of legislation being returned for amendments and revisiting.

Lord Carswell: I think we would all accept that that point goes without saying, but an impression I have - and I hope it is not an unfair one - is that the Members could take more trouble to define in advance and think up where the questions may lie and get the answers or notify the Greffier that they would like an answer to these questions, rather than suddenly popping up in the middle and saying: "Oh, there is a point here I want an answer to." Is that fair or unfair?

The Solicitor General: Well, there may very well be occasions when it may be possible for certain Members to predict what their question might be. On the other hand, I am equally certain that there are occasions when, as we all do, the thought suddenly pops into our head: "Oh, what about this?" and in that occasion, it is nobody's fault really, and they still need an answer to the question.

Lord Carswell: It is a great luxury for the States to have a Law Officer on tap like that. I just wonder how other legislatures which do not have that luxury can manage to get their legislation through without having any legal problems.

The Solicitor General: Well, I think that is probably outside my experience, unfortunately, but all I would say is that from my own experience, in terms of what Jersey needs and what the present needs of the States Members are, it is quite clear to me that, during the course of a debate, it will become obvious that there are a number of potential legal issues that might arise

and that a Member might ask a question about. So for my part, I tend to find that I am already looking up particular pieces of law just in case that question is asked. Now, sometimes it is not asked, but you will know that there will be a legal question coming. So as far as the Jersey set-up is concerned, there is this need.

Lord Carswell: I am able to tell you that is exactly what a judge does before a trial. We were told by the Attorney General and other people the self-imposed limits which the Law Officers place upon themselves on their right to speak, they restrict themselves to answering questions to legal matters, but from time to time, they see a problem arising that nobody has thought of and they have to warn the States and pop up and do that. Have you seen this happening yourself? Have you done that or seen it happen?

The Solicitor General: Yes, I have done that once when there was a debate about the extent to which a Minister could direct or otherwise invite an independent body to do something, and the Minister was in effect being told to interfere with or direct that organisation. I had to stand up and say: "I should remind you that the law says this, this and this, and these are the limits of the Minister's powers" so that everyone understood the Minister's legal relationship with that organisation, and then the debate carried on from there.

Lord Carswell: Yes. Well, that is entirely understandable.

Mr. G. Crill: Do you think that your presence in the Assembly as adviser to the Assembly necessitates the Attorney General and Solicitor being Members of the States?

The Solicitor General: Well, I do, because if you are a Member of the States, you have a right to speak, so if something is going wrong, I can stand up and say: "Something is going wrong. I should tell you this and this." If I am not a Member of the States, I do not have a right to speak, therefore I only get asked a question if perhaps a non-lawyer spots the problem. So you could end up in a position whereby nobody ever asks me anything, even though there is a really obvious problem that I could have pointed out. The law is then passed, because the debate goes off on the wrong footing. I then get the law, it is wrong. I write to the Queen and tell the Queen it is wrong, it does not get Royal Assent. So the point is that being a Member of the States means that the A.G. or the S.G. can point out obvious problems and offer advice when it is necessary to do so, and when it is necessary to do so, should not be limited to when a Member of the States spots a problem.

Mr. G. Crill: Do you consider that that membership then also imposes any obligation or accountability to the States upon you?

The Solicitor General: What do you mean by accountability?

Mr. G. Crill: Well, as a Member of the States, are you answerable to the States as an Assembly as well as being responsible to the Crown directly.

The Solicitor General: In terms of, for example, prosecutions, it has certainly been the case in the past that States Members have asked questions about particular prosecutions or particular classes of prosecutions, and it may very well be that one cannot comment on the facts of a particular case for obvious reasons but certainly the Attorney General in the past has

answered all sorts of questions about criminal investigations and indeed published statements, not dissimilar to what happens in England in fact in terms of difficult and complex cases.

Lord Carswell: It is, certainly, and equally we would agree entirely it is valuable that the States should be kept right about legal problems before they arise and make legislation difficult but in other places this can be done without a Law Officer being present. Somebody is there who can send a quick note to the Minister or the Member saying: "Watch out, there is a problem here because you cannot do that section, such and such prevents it." It does not require membership of the States to be able to do that if you are sitting outside the Member seats. It may be a very small point but it is possible to do it without actually being a Member.

The Solicitor General: Well in fact, assuming that person is not the Attorney General that person would have to spot the problem, run and find the Attorney General, presuming the Attorney General will then comment to the Assembly and speak, perhaps not, I do not know, I am not quite sure how this procedure will work but I think the point is you then have 2 people doing the same job, in effect, and moreover it is the Attorney General who has got to advise the Queen as to whether or not a piece of law is ...

Lord Carswell: There are two points here really, one is; in Westminster the Attorney General is not in the House of Commons at all or was not until this latest election. If there is a legal problem one of the staff - it may or may not be a lawyer but is clued up on the substance - sees it, sends a note in quickly to the Minister to say: "Do not promise to do that because you have no power to." End of story, Minister does not. It is this small point. If you were, as Mr. Crill suggests, present, but not a Member, you of course could do exactly that and send a quick note across to the proposer of the proposition and say what the problem is.

The Solicitor General: If I may say so it sounds like a slightly more cumbersome mechanism than me simply standing up and saying: “Here is the problem”.

Lord Carswell: Yes, may I put the positive side, does it carry more weight if you are there to get on your feet and make the point yourself?

The Solicitor General: I am so sorry?

Lord Carswell: Does it carry more weight with the States if you are there, entitled to get on your feet and say to the States: “I think you should think again about this because and because.”

The Solicitor General: Well exactly because one is the Attorney General, himself, stands up and the second option is that a piece of paper is read out by the Minister. The second does not carry as much weight.

Lord Carswell: I think we have got that one all right, yes.

Mr. G. Crill: Has there been an occasion, in your knowledge, where the Crown Officer asked to give advice but has not been able to give definitive advice *sur le champ* but has had to go to research and report back to the States?

The Solicitor General: That has not happened in my personal experience. I am sure it has happened. Sometimes it depends how the questions come up. Obviously, when you look at

the list, you try and work out what the real issues might be. Sometimes States Members tell you in advance what they are going to ask you, which is helpful, and sometimes it literally comes out of the blue and depending on what the question is, either (a) you can answer because it is relatively straightforward or (b) if it is very complicated, you have to go away and have a think about it but that has not happened in my experience yet. I am sure it might do in the future.

Mr. G. Crill: If it was necessary for the Law Officer to revert back with the advice, presumably it would then be up to the Assembly to decide whether to adjourn the debate, pending receipt of that advice, or to continue.

The Solicitor General: Yes, it is not the Attorney General's decision. It is entirely a matter for the Assembly. I suppose one of the advantages, if it is particularly complicated, if the A.G. is entitled to stand up and say what it is he wanted to say in terms of legal advice, often you might find that that might satisfy the Minister but someone sitting across from the Minister may say: "Well, hang on, what about this point? Can you clarify that for me?" So another advantage of the Attorney General or the Solicitor General being able to speak directly in the States is that often one legal question, an answer might provoke a second question or a third question, either of clarification or something that is very closely related. Coming back to your point about notes, it is a much more efficient system than the sort of note-swapping exercise we have discussed that might carry on for some time.

Mr. G. Crill: But by the same token I suppose that if a Member raised a question on legal advice and the adviser was not available, it would be a matter for the House to decide the

extent to which that need for further advice warranted a delay in the debate or whether it was not sufficiently important from their point of view.

The Solicitor General: Yes, absolutely. It is entirely a matter for the House whether they want to pursue or ... they do not have to accept our advice. There is no obligation for them to do so and it is a matter for them whether they want to continue with or without it.

Lord Carswell: Could I change to the topic of prosecution? A number of respondents have raised the issue that they see a problem about the Attorney General being in charge of prosecution and that there should be a separate Director of Public Prosecutions. There seem to be 2 issues in response to that, one is that you now have in your Department a Director of Criminal who is dealing with prosecutions in a separate department or a separate sub-department. Have we been correctly informed about that?

The Solicitor General: Yes, that is correct, yes.

Lord Carswell: He will have obviously acquired more and more experience and knowledge and ability to make judgments.

The Solicitor General: He is a very experienced former head of a criminal Crown Prosecution Service division in England and he has a wealth of experience, yes.

Lord Carswell: We will be seeing the Attorney General again this afternoon but you could possibly give us your experience. Does the Director of Criminal confer frequently with the

Attorney or yourself about a prosecution, as to whether it is in the public interest or whether it should be one level or another?

The Solicitor General: Yes, I think the answer is that there are 2 categories of cases. The first category, if I may call it ordinary, he may very well not consult with me or the A.G. at all in the sense that it is a run-of-the-mill case and there is no need for us to be terribly troubled about it. If there is a second sort of case, which is perhaps more complicated or controversial, I am sure he will liaise with a Law Officer as and when he thinks appropriate.

Lord Carswell: Yes, I can see several possibilities coming up. One is that simply deciding on what is the right level of, say, an assault, whether it is low level, medium level or up to G.B.H. (Grievous Bodily Harm) with intent, is that the sort of thing the director would normally be able to decide for himself or would he sometimes feel it advisable to consult the Attorney General?

The Solicitor General: I would have thought that if it is a normal case where it is not factually very difficult, and that is a decision that is well within the scope of his judgment, he will take that decision. I would be very surprised if he ... because you can have a very complicated borderline case you might sound out someone's second opinion just to see if your own matches theirs but I would be very surprised if I was asked about that in a normal case.

Lord Carswell: Then you get the smaller society factor, when that is somebody very well known or related to somebody very well known and the local sensitivities, is that the sort of case the director would confer with one of the Law Officers to keep himself right, if nothing else?

The Solicitor General: I am sure he would. Yes, well I think the Attorney General and the Solicitor General should know about these cases.

Lord Carswell: Yes and the third is where you may get public interest and that is infinitely variable, very, very old cases - which you do get in sexual cases - strength of evidence, informants; whether their evidence can be used without ruining a valuable source, all these public interest factors that you must be coming across constantly in the Attorney General's department. That is the sort of thing there would be discussion about?

The Solicitor General: Yes.

Lord Carswell: The Attorney General is answerable as to the way he does his work in the States but not as to the content of each and every decision, is that the correct position?

The Solicitor General: I think it is slightly more flexible than that in the sense that ordinarily it is very difficult for the prosecution to comment on the facts of a particular case and normally would not do so. It may be that there are compelling reasons of public interest why it is necessary to do so. There was a case I know where 2 politicians were prosecuted in respect of voting offences and the Attorney General made a statement in the States Assembly explaining exactly why he had decided to prosecute and that was quite a detailed explanation setting up a history of the matter.

Lord Carswell: There is not a hard and fast rule.

The Solicitor General: Yes. I think the Attorney General is really guided by a starting point of “cannot discuss a particular case” but there may be compelling public interest reasons why it might be necessary to do so.

Lord Carswell: I know Mr. William Bailhache went to the States and made a statement about the child abuse cases to be open about it and let the States see why he was making this decision but ordinarily the statements to the States would not deal with the content of the actual decision but that the States would be entitled to know that it had been looked at the right way.

The Solicitor General: Yes, I agree that the States are entitled to know that cases are looked at the right way and be told the overarching principles that might be applied to a particular type of case. The statements Mr. William Bailhache made I think are also consistent with the duties of the Attorney General. There is case authority that where there is a persistent attempt to undermine the integrity of the criminal justice system, the Attorney General is entitled to make a detailed statement, as he sees fit, to deal with those allegations. I suppose it comes back to my original point about it being in the public interest to do so.

Lord Carswell: One of the problems which has been discussed quite considerably in England and Wales recently and changes have been made as a result of, because the Attorney General is appointed by the head of a political party, the Prime Minister of the day, but obviously is aligned to that party. There have been criticisms in the cases I am referring to; *Iraq*, *B.A.E. (British Aerospace Engineering)*, *Matrix* and *Churchill*, is it? Anyway those cases where opponents have accused the Attorney General of being influenced by the support for his or her party at the time, that factor does not enter in here.

The Solicitor General: No. When you asked me about the appointment process, that is why I said: "It is very important that the process is non-political and not done by election or political selection" because I think most of the recent troubles in England - if I can call them that - that is the origins of it. I am not saying there is any truth in this but the allegation was that the Prime Minister of the day was appointing people who were close to him, appointing the Lord Chief Justice and the Attorney General who were people known to him and therefore the immediate starting point was that the Attorney General was under pressure because there was a perception, as you point out, that he was going to be bowing to his political allies. Of course in the *B.A.E.* case that decision, on the face of it, was taken by an independent prosecutor. It was supposedly taken by the Director of the Serious Fraud Office but it just did not matter, as far as public perception was concerned, because the public perception was that decision was not taken by him.

Lord Carswell: The director of the Serious Fraud Office does not live in a bubble.

The Solicitor General: No. So coming back to your point about a D.P.P. (Director of Public Prosecutions) for my part, I do not know, I can see how it might be attractive to some but I am not sure it deals with these difficult cases because you tend to find that the allegation is that there is some sort of wide-sweeping conspiracy that will involve the supposedly independent prosecutor. The Jersey experience of the statements William Bailhache made, for my part, tends to show that the way to deal with these difficult cases, which arise infrequently, is to publish information or as much as one can reasonably publish, to deal with any allegations that might arise. I think that is more effective than having ... if we had a D.P.P. in Jersey at the time

of the child abuse inquiries I am quite sure they would have been swept up in the general conspiracy theory.

Lord Carswell: That should cover a multitude of possibilities but some people who have spoken to us have rather shaded this. They have said: "All right, you are not in the pocket of a political party. You are not favouring the X party against the Y party because that is your party" but they say: "Well, we are men of the world. You are constantly working in with the Council of Ministers, not the government as such but something close to it. Are you likely to be favouring the quasi-governmental view of things rather than exercising your own independent judgment that you are answering?" I do not mention this because we necessarily accepted this as correct. I mention it because it is made so that you can give us your view if you think there is anything in it.

The Solicitor General: Yes, I will come to the politicians, it may apply to work with police officers. I have worked with a lot of police officers for a long time. I have still prosecuted them, in Jersey I mean, and I do not really see any difference between that relationship and the one you are talking about in politicians. All I am doing is providing the politician with professional advice. I do not see how that impinges on my ability to take a proper decision in respect of a prosecution if, heaven forbid, a politician commits a criminal offence. Insofar as there is a perception of a conflict, as I say I think that really comes back to being able to publish information or provide information in the public domain that shows that the decision has been taken properly and on proper principles. I know in the cash-for-honours inquiry the Attorney General said he would publish his Queen's Counsel's advice as and when he got it in order to allay any fears or perceptions that might have surrounded that particular criminal investigation.

As I say, I do not think there is a problem there and I think again it comes back to what information is out there to rebut any perceptions that might exist.

Lord Carswell: Fair enough. Before I move to another topic are there any issues I have missed?

Mr. G. Crill: In practical terms, do you not actually have a D.P.P. accountable to the A.G.? On a day-to-day basis does not the Director of Criminal operate, shall we say, independently of but accountable to the Crown Officers?

The Solicitor General: That is certainly right. I would probably go further than that and say if you look at how the criminal justice system works, prior to the introduction of this director, you would find that the Attorney General would have a very minimal and rather supervisory role in respect of most prosecutions because that is just how it is worked. It is a supervisory role most of the time in fact. But you are right, there is a director now and I suppose the director, because of his actual experiences, is dealing with more the top-end cases, if I may call them that.

Mr. G. Crill: Yes. I am just thinking that whereas perhaps previously the buzz words were transparency and accountability and now the main word is perhaps perception and the perception of a separation of responsibilities, as between prosecutor and adviser, is perhaps important to many people.

The Solicitor General: But then you get into ... you come back to your other word "accountability", if you have a prosecutor I assume you would like some degree of

accountability in all of that. You cannot have total independence and a bit of accountability. I am afraid there is a trade-off between those two concepts and even the head of the Criminal Division is going to meet police officers, is going to meet perhaps a politician or two, there is still that potential for perception of conflict. What I think is important is how you handle it when it arises, that is really the key because it is going to happen. You cannot put a prosecutor in a bubble. They do not sit in an office with no windows and things are pushed through their letterbox. The Attorney General has still got to have control over these cases because he is the one who is going to be making the statement in the States.

Mr. G. Crill: In terms of internal or departmental organisation, would the Director of Criminal, for example, have access to the advisory files? So, for example, where the Crown Officers have been involved in advising a States Department or Minister on a particular matter, either specifically or generally, and that then became a prosecution issue, either a live one or potential one, would those files be available to the Director of Criminal?

The Solicitor General: I am sure any file that we had that was relevant to a criminal prosecution I am sure he would see it; yes, as I cannot imagine why he would not see it.

Mr. G. Crill: Well not relevant to the prosecution but relevant to the advice which may be germane to a subsequent prosecution.

The Solicitor General: Oh, I see. Yes, I would have thought he would see it.

Mr. I. Strang: Is that not a problem? I mean say you might be giving advice to a States Department but then that information is available to a prosecutor, surely the 2 things, there might be a conflict.

The Solicitor General: Oh, I see. Yes, now I see.

Mr. G. Crill: In other words, the confidentiality that you might have had as an independent legal adviser may be compromised where the same Department is performing a separate function.

The Solicitor General: Yes, I am sorry, that is quite right. Of course the prosecutor, insofar as any legal advice is relevant to a prosecution - and I am just trying to think how that might be in respect of a Minister - but all right, the actual advice itself would be privileged. It could not possibly be used against the Minister in any subsequent prosecution unless I suppose, of course, the advice itself was criminal but in terms of any information on the file that was not covered by such privileges then that information would be potentially disclosable. But I agree and the starting point of course is that the advice itself would be privileged.

Lord Carswell: Could I turn then to the topic of advice and first of all advising the Crown, the Law Officers' duty is to the Crown, as the Crown's appointees and what was the King's lawyer and also you have advice to give the States, you have advice to give to the Council of Ministers and from time to time you also give advice to Scrutiny Panels. Dealing with the Crown and the States, have you come across or heard of any situations where there might be a conflict, where the Attorney has to advise the Crown differently from the way that the States

want to accept advice or see matter ... I am sorry, I am putting this very badly but do you follow my point?

The Solicitor General: Yes, I do, of course I do and I suppose the obvious example is that the Attorney General stands up in the States and says: "I see you are going to pass a piece of legislation. I can tell you now that Article 4 is not human rights-compatible." The States carry on anyway and pass it. I am sure this would not happen but in theory the States could carry on and pass the law. The Attorney General would then write to the Privy Council saying: "Here is a piece of law that has been passed by the States. I feel obliged to draw your attention to the Article which is not human rights-compatible" and I suppose ...

Lord Carswell: That is exactly what I would expect a Law Officer to do on reporting to the Privy Council but does a Minister have to certify that piece of legislation as human rights compliant? Is that the procedure?

The Solicitor General: Yes, classically you would get a proposition with the law and there would be a paragraph which says: "I have taken legal advice and this law is human rights compliant."

Lord Carswell: A Minister might have a small problem signing that if the Attorney has already said publicly: "Look, it is not compliant."

The Solicitor General: Well you tend to find that the process is that a Minister will send it to the Law Officers' Department and it will be human rights audited and we will advise the

Minister accordingly whether or not it is. I agree, it would be rather surprising if he went contrary to the advice. I suppose it is possible.

Lord Carswell: I have read though there was an old practice - and I do not know whether it is really archaic now - that where there was a dispute between the Crown and the States the Attorney General would appear for the Crown and the Solicitor General for the States. Is that even alive today?

The Solicitor General: Well I think the answer is ... that is quite an old custom. I suspect now there might be a more ... but it is all very untested but there may now be a more ... today's approach I think would have been slightly different. It may well be that the Attorney General and the Solicitor General would say: "We are appointed by the Crown. We are here to represent the Crown in Jersey and therefore that is who we are going to represent". I suspect the position might have changed ...

Lord Carswell: Somebody else can advise the States.

The Solicitor General: Yes.

Lord Carswell: I would have thought - this was quoted in Sir Peter Crill's book - that the principle that might be looked at these days is that the Attorney and Solicitor must remain in tandem together. They could not possibly split their forces.

The Solicitor General: No, I think it was only in the 19th century cases I think the Attorney General did go off and speak on behalf of the Queen at the Privy Council on the sort of various

cases which caused constitutional friction between the two jurisdictions but I think very much now I would suspect that the A.G. and S.G. would be at one and would be at one representing the Jersey jurisdiction rather than representing the Crown in the U.K. (United Kingdom).

Lord Carswell: It is not a huge point but I will mention it to the Attorney General this afternoon and if you happen to see him in the meantime you might flag it up with him so as he can have his thoughts in order.

The Solicitor General: Yes, thank you.

Lord Carswell: We had quite a bit of discussion over the past few weeks about advising the States and advising the Council of Ministers and the Scrutiny Panels and to what extent the legal advice from the Law Officers should be made available between them. Can you add anything on that yourself from your experience?

The Solicitor General: Sometimes you may have to give a Minister full and frank advice which I am quite sure that you only give if you knew that the Minister or I would not have to then show to the whole world because I would suggest that that goes to the fundamental core of a lawyer/client relationship in the sense you have got to be able to be up front with your client and tell them things that might be embarrassing or not comfortable.

Lord Carswell: If you are not he will ... You have got to encourage him to be completely candid as possible with you.

The Solicitor General: Absolutely, it needs to be a two-way process and I suppose in a very extreme case you need to be able to say to the Minister: “Look, this is going wrong for these reasons. This is what you must do to pull it back until it is right and these are the consequences if you do not.” That is an extreme example.

Lord Carswell: That sort of advice does not cause a problem because quite clearly that cannot be bandied about. It is the type of advice which is a pure question of law. The law on waste disposal is such and such. This is what the public authority’s duty is. Then you get the intermediate position where you are applying the law, which itself is clear enough but it is maybe arguable as to its application to the particular case and you then advise your client, which may be the Council of Ministers, what to do. We have had questions raised as to whether that sort of advice ought to be available to the Scrutiny Panels and vice versa, whether advice they obtain ought to be passed back to the Council of Ministers. Do you have any views on that, Mr. Solicitor?

The Solicitor General: My instinctive reaction is just to keep the advices separate because I think they are going to two slightly different forums; the Minister’s job and the Scrutiny’s job does not feel quite the same thing. If the Scrutiny Panel has a question, the sort of question that you have been describing to me: “What is the law on this? How shall I interpret this piece of law?” then they are perfectly entitled to ask those questions and get a direct answer. It is not clear to me why they need disclosure of the whole advice that I might have previously given the Minister, to answer what might be relatively straightforward and discrete points.

Lord Carswell: Scrutiny Panels are faced, sometimes under a bit of time pressure, with a decision or a proposal and they have to comment on it and we have had this raised with us

that they need to know what the law is and they need to know why or in what way the Minister approached the decision. Speaking for myself, I see no problem about the Chief Minister or the Council of Ministers being able to pass on, let us say, the paragraphs in which the law is set out, full stop; it is like a bit of a textbook, no great problem. How about if the Scrutiny Panels want to know what facts did you base this decision on? Would that cause any more problems, do you think?

The Solicitor General: It might do. It depends on the case, I suppose, unfortunately. I think the trouble is the starting point is that you need to have a principle whether or not you are going to disclose Minister's advice. It is very difficult to start disclosing some advices and not others because on what basis do you do it? What are the criteria for it and all the rest of it? So, once you have established, or if you accept, that the starting point is that no advice to the Minister should be disclosed, then I suppose you are left with a position where Scrutiny are entitled to ask for their own legal advice on particular points. If they want to know how the Minister approached the facts of a particular case, I suppose the answer to that is that they can ask the Minister if he is prepared to disclose those facts and then it is a matter for the Minister whether or not he wanted to tell the Scrutiny Panel. Obviously, if he does not tell them and the Scrutiny Panel report back that they just could not work out what was going on with this proposition, then that might cause the Minister problems, ultimately, in getting his proposition through the States Assembly; I can see that. But it is going to be difficult to pick and choose when you disclose things, because you will then end up with arguments about: "Well, you disclosed this bit of advice. Why did you not disclose this?" There has to be a mechanism that works and is not subject to more dispute.

Lord Carswell: The Code of Practice seems to envisage a certain amount of to-ing and fro-ing and flexibility to avoid the unnecessary waste of time and money with Scrutiny Panels taking advice on every case that comes before them, so that where the Ministers receive clear advice on what the law is, that should not be a problem about passing straight on, either in direct form or succinct, just: "Here is the law. That is why. That is what we were working with" and Scrutiny can then get on and decide, looking at the law does this decision make sense or ought we to question it? Then there is the other side, where it is more questionable and the Minister says, or Council of Ministers say: "Well, we have been advised about our course of action. We do not think it is appropriate to release that. We can tell you what the law is, but that is about all we feel we are able to release." If Scrutiny say: "Well, we had better get our own advice on that", they take advice and the advice may lead them to say there ought to have been a different decision. I think this is where the rock meets the hard place, where it is difficult to swap opinions. Speaking for myself, I would see great problems in swapping opinions; it just does not work. It is not fair to clients; it can be very awkward for lawyers. But is there a case for saying that both sides should be encouraged to communicate in a way that the lawyers can see if either side has obviously got it right or got it wrong? Is there a mechanism you could see - and this may be really for the States, Council of Ministers and the Law Officers to work out between themselves, working on the Code of Practice - but is there any tweaking there that you think can accommodate that? We will ask the Attorney about this too but are just interested to know if you can help us.

The Solicitor General: I suppose in the extreme case, if Scrutiny came back and said: "You have obviously got this wrong for the following reason", and I could see how that might be very helpful to know that, I quite accept that, but if you go much beyond that, you are effectively having a debate between lawyers. I think once you go down that road it is very difficult to

come back from it, unless there has been a very obvious error. As I say, if it is a really obvious point then, I am sure, that is very helpful to know, but otherwise ...

Lord Carswell: They are not always. That is pretty rare.

The Solicitor General: They normally are not, unfortunately. Supposing we did have two lawyers, they did not agree, they still did not agree after discussion, what happens next? Do they both come to the States and debate it in front of the States? It does not sound very workable, is my instinctive reaction and, of course, the Attorney General and/or I have still got to tell the Queen that this law is not human rights compatible and otherwise legally sound. So, I think the answer is that, yes, in limited circumstances, if we just got it completely wrong and it is obvious we got it completely wrong, it is very helpful to know that. But, otherwise, I think there are very many difficulties that would then ensue, in terms of ongoing lawyer debate, would outweigh any benefit that might accrue in what would be a very rare case, I would hope.

Lord Carswell: Certainly, the practical answer, I think, that you are putting before us is the Minister has obtained advice, it is not released because it is not appropriate, Scrutiny has obtained its advice and has said: "We think that the Minister was wrong in the conclusion he reached and we would ..." I am not quite sure how the end result comes out from the Scrutiny Panel but they say that they disagree with the way that the Minister has taken the decision and they have to leave it there, do they?

The Solicitor General: In terms of seeing the Minister's advice, they do, but obviously, in real terms, there would then be a debate about whether or not the proposition should be passed,

given the Scrutiny's concerns and, of course, at that debate anyone can ask the Attorney General or Solicitor General for their view on the law.

Lord Carswell: Mr. Bailhache has a fairly strong view that it should be cards on the table, but not his, **[Laughter]** that Scrutiny should reveal their advice, but he was not going to reveal his. I am not sure that is much of a runner. But one has always had, in practice, situations where you get 2 responsible practitioners before a case, they are trying to see if there is an answer or resolution and one says: "Have you taken into account such and such?" "Oh, yes, I have" or: "Oh, say that again", that sudden feeling and that can sometimes lead to a resolution.

The Solicitor General: Yes, as I say, I think if there is a really obvious point, then it is helpful to know it but I rather assume that if there is not a really obvious point, that Scrutiny would say so in their report and it would come to the Minister's and Attorney General's attention anyway. But other than that, once you get into arguments about interpretations, it all becomes rather unworkable, I fear.

Lord Carswell: Yes. What you do not want to have are 2 lawyers debating it out in the States, because the States are not the people decide it; that is a judicial function.

The Solicitor General: No, how could they decide it?

Lord Carswell: We will follow this further with the Attorney this afternoon, but it is just helpful to discuss it now. Anything on that topic, gentlemen, please?

Mr. G. Crill: Can I just ask how the advice to the Council, to the Minister, or to Scrutiny is managed internally within the Crown Officers' Department? Is, for example, the same topic dealt with throughout, whether it be to the Minister or to Scrutiny or to whoever, or is it just whoever is there picks it up from whoever it comes from?

The Solicitor General: If we have a case, maybe, I do not know, perhaps the Attorney General will advise the Minister in the first instance. If then gets as far as Scrutiny it may be that I would then advise Scrutiny.

Mr. G. Crill: What would be the basis of that, a Chinese wall or because it happened to be you wanted to keep it distinctly separate from an advisory point of view?

The Solicitor General: It is not a Chinese wall, as such. I just think it is easier if one deals with the Minister and someone else deals with the Scrutiny Panel. I think that is the way it has always been done and, certainly ...

Mr. G. Crill: Fine, so whoever advises the first, the other will advise the second?

The Solicitor General: Yes.

Mr. G. Crill: Will the second have access to the advice given by the first?

The Solicitor General: The second will certainly know what the other's view was on a particular piece of law, so if the issue is what does Article 1 mean, the second will certainly know what the advice was given in the first instance.

Mr. G. Crill: Yes, I know it would be fairly crazy to go through the whole process from scratch all over again.

The Solicitor General: Absolutely.

Mr. I. Strang: So the instructions would be interchangeable as well as the advice?

The Solicitor General: There is no requirement that the Attorney General must advise the Minister and I must advise the Scrutiny Panel. It may be that I advise the Minister because ... For example, it may be that the Minister for Planning and Environment wants some advice and that tends to fall naturally more within my remit than the Attorney General's. If it is the Minister for Home Affairs who wants some advice about criminal legislation, that might be more suitable for the Attorney General.

Mr. I. Strang: But you see the terms of the request for advice, that is, say if you are getting a request for advice from the Minister and you are advising Scrutiny, for instance, you would see the terms of that request for advice that had been given to your colleague?

The Solicitor General: What, the Minister's request?

Mr. I. Strang: Yes, that is right.

The Solicitor General: Yes, I would understand... I would have an understanding as to what had been requested and what our advice had been given on the legal issues, yes.

Mr. G. Crill: So there is not a designated adviser to a specific Scrutiny Panel, for example?

The Solicitor General: No.

Lord Carswell: Could I ask you a totally unrelated small point which relates to the other functions of the Bailiff? The Bailiff presides over the Licensing Assembly, is that right?

The Solicitor General: Yes.

Lord Carswell: Is that on appeal from anybody or is that first instance?

The Solicitor General: No, that is first instance. If you want a licence you have to go to the Licensing Assembly.

Lord Carswell: All right. Is there any appeal from their decision?

The Solicitor General: No. I supposed you could do judicial review.

Lord Carswell: Apart from judicial review, because there was a mention in Sir Peter Crill's book that there was not an appeal and then one was being brought in, but I had understood that there was not one now.

The Solicitor General: It is certainly my understanding.

Lord Carswell: That seems to be the unanimity. Do you think, yourself, that there would be a case for having a right of appeal on more than judicial review, which has fairly narrow limits?

The Solicitor General: In respect of licensing matters?

Lord Carswell: Yes.

The Solicitor General: If it is a court of first instance, I suppose, yes, ideally it might be helpful if there is an appeal tribunal, yes.

Lord Carswell: There are various possible models of such things. There is a complete re-hearing, where you can start from scratch and call different witnesses if you want, or different material, or there is an appeal on points of law on the findings of the Licensing Assembly, something as you would have for an Employment Tribunal, say, or there is judicial review, which is narrower still because it is only if they have taken into account wrong considerations or just gone off the clock altogether with Wednesbury stuff.

The Solicitor General: Yes.

Lord Carswell: The third exists already. Have you any thoughts or am I really bouncing you with something that you have not had an opportunity to think over?

The Solicitor General: I must say I have not given it a great deal of thought. My instinctive reaction is that the licensing applications I have seen to date are relatively small in number and relatively straight forward in terms of the facts and the issues that arise from those

applications. I would imagine that there is certainly no need for an appeal to have to be a complete re-hearing of what took place at first instance, given that the Licensing Assembly gives a full judgment in any event. That may very well be why the judicial review has been considered an appropriate appeal mechanism to date. So, insofar as there is a need for any further appeal mechanism, I would have thought something similar to the Employment Appeal Tribunal would be more than adequate.

Lord Carswell: It seems to work in other jurisdictions, in other fields, though I did practice in one where you can get a complete re-hearing appeal from Licensing and they were viciously fought in the days when licenses were really valuable.

The Solicitor General: Yes.

Lord Carswell: I think I have covered all I wanted to ask. Do any Members have any thoughts you would like to ...?

Dr. S. Mountford: The only thing you have not mentioned is this role that I have a problem with and that is the Titular Head of the Honorary Police, because I have a problem with the word "titular", because it says it is not really important and the person who holds it, it seems to have more importance than it really is. I wondered how you viewed that role.

The Solicitor General: Given in terms of whether there is a problem with it, or whether it should be re-phrased?

Dr. S. Mountford: No. You do not mention it as an aspect in your submission and I wondered if you had any views on it.

The Solicitor General: I did not mention it. I understand there is some concern that there may be some sort of conflict between holding the titular title and being Chief Prosecutor. For my part I did not quite understand how that conflict arose because, as I understand it, the Attorney General's function primarily is to discipline Honorary Police, as the head of that disciplinary process. It does not strike me that that terribly conflicts, if at all, with his other duty, which is to prosecute criminals if they have done something wrong. I do not quite see how those 2 things conflict at all. I could, of course, understand it if the Attorney General himself was conducting police investigations with the Honorary Police and knocking down people's doors and seizing evidence and then deciding whether or not they should be prosecuted on the evidence he, himself, had obtained with his colleagues. But, of course, that is not the reality of it. The reality of it is that he does not do those investigations. He is simply involved in discipline and I am not quite sure I see the conflict at all. That is really my only view about it, or that was my instinctive view about it.

Dr. S. Mountford: Okay.

The Solicitor General: I do not know if that answered your question or not, but ...

Dr. S. Mountford: Yes, fine. It is just you did not mention it and I just wanted to know if you had anything to comment on it.

The Solicitor General: I am sorry for not mentioning it.

Lord Carswell: Is not the reason for its curious designation the fact that there is no preceding French title for the post? **[Laughter]**

Dr. S. Mountford: I do not know.

The Solicitor General: Maybe.

Lord Carswell: Gentlemen?

Mr. G. Crill: No, that is all, thank you.

Lord Carswell: Mr. Solicitor, we are very grateful to you and for your assistance which you have given us and your answers which have been very useful and helpful. May I just, incidentally, apologise for the slight delay at the beginning. It was my fault, a minor domestic problem which I had to deal with, but we shall send you a copy of the transcript for you to check over before it is published, and make any amendments, and then we are coming towards the end of our hearings now, so we will then proceed to our deliberations and, I hope, conclusions and a report to the States will follow. But we are very grateful to you and thank you so much for your attendance.

The Solicitor General: Thank you very much for seeing me, thank you.