

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 F Walker

**THE CHAIRMAN:** Mr Walker, thank you for coming to speak to us this morning, you are very welcome and we appreciate any assistance which we are receiving from you. I think you are probably aware of the format of this review.

It is an inquiry, not an inquisition. It is an inquiry into the principles surrounding the various Officers, rather than an inquisition into how they have been performing, and we have been tasked by the States to look at the roles of the Law Officers and see if we should recommend any amendment or confirmation of them. We shall do that over a period of time. We are still in the process of hearing people, we have received a lot of written submissions and at the end of the process we shall reach our conclusions and prepare our report and submit it to the States.

The hearings are public, people are entirely free to come and also the product of the hearings and the submissions are public and will be placed on the website. Today's proceedings are being recorded and will be transcribed, and you will have an opportunity to check the transcript to make sure it is an accurate representation of what you have said.

We have received a submission from you, for which we are grateful and have considered what is in it. Is there anything at this stage you would like to add to what you have said or any qualification of anything that is in your submission?

**MR WALKER:** First of all, Lord Carswell, thank you very much for your very clear explanation of how you're conducting the inquiry. As you've said, I was aware of that, but nevertheless it is very helpful to have it so clearly stated and I'm pleased to be able to have this opportunity of presenting views to you.

I don't think I actually have anything to add to what I've put in my notes, but I'd like to emphasise I think firstly how well-served I believe Jersey has been by both the roles of the Crown Officers and the individuals who have fulfilled those roles now over a very long period indeed. And also, I go on to emphasise that if change is to be recommended, then it should be done so, and I am sure it will be done so, only after very considerable thought has been given to all the consequences, both practical and theoretical.

I suppose I've slightly strengthened my view, if anything, since I wrote my notes and having thought about it further. I think that given Jersey's evolving and constantly developing position internationally - which I see as an accelerating process - that some change may be desirable, although again, I would emphasise only after the most careful thought and careful study of all the possible consequences. And the change would be along the lines that I put in in my written submission to you a week or more ago.

**THE CHAIRMAN:** Your two main focuses in your paper were your suggestion first that the Bailiff should retain only a ceremonial role in the States, who should have their own Speaker, and secondly, that there should be a new public prosecutor and the Attorney General should retain his advisory role; in other words, the civil side rather than the criminal side.

Could we look at the question of the Bailiff in the States first? You will have had a great deal of opportunity to see it actually working over the years. Do you see any practical problems about the Bailiff presiding in the States, apart from the questions of principle?

**MR WALKER:** No. I've never been aware of a real problem. There have been suggestions of problems, there have been theoretical problems raised by some but I have never in my 18

years' experience in the States encountered what I would consider to be a problem in reality, no.

**THE CHAIRMAN:** When the Bailiff does not preside in person, he will either ask the Deputy Bailiff, or at times the Greffier and sometimes the Deputy Greffier to sit. How does that work, in your experience?

**MR WALKER:** Generally very well. I think there may have been occasions when the political temperature has been quite high, when certainly the Greffier or the Deputy Greffier have felt under real pressure imposed by some members, although again, I have seen no evidence of any serious breakdown in procedure or order.

**THE CHAIRMAN:** If your suggestion is adopted, you would envisage the Speakership to be open to any Islander, not just members of the States?

**MR WALKER:** I actually don't believe the Speaker should be an appointment from within the membership of the States. I know that's the proposal that some have put forward. I feel that that may well have undesirable consequences in the current structure of government in Jersey.

Jersey has a very successful record, for example, in finding and appointing Jurats to the Royal Court, and there is a process which the Island has now for a considerable period undertaken very successfully to appoint Jurats. Now, whether an identical process would be relevant and would be acceptable for the appointment of a Speaker, I'm not sure, but I think there has to be something there, some process that could be found in Jersey which pays some accord to the way we have appointed Jurats and could find a person, man or woman, more than capable of presiding over the States.

**MRS BACKHURST:** Could I just interject very quickly there? You say “appointing a jurat”. In fact, they are elected.

**MR WALKER:** Yes, I meant appointed. It was a slip of the tongue, if you like. There is a process, and of course they are related, and I think my point is still as I wish to make it, that there is a process there which we can look at quite closely, and to be absolutely clear, I think my preference would be that we should elect a Speaker.

**MRS BACKHURST:** Thank you.

**MR CRILL:** You say in your notes that the Speaker should be elected by the members of the States. Are you suggesting that that is not necessarily quite so definitive, that there could be some other body that elects?

**MR WALKER:** Well, the election for Jurats is a combination of States Members and lawyers of the Royal Court, as we know. I don't think it's particularly appropriate that members of the Royal Court should be involved in the election of a Speaker because it has no relevance to the Court. So I think probably the best body to elect a Speaker would be States Members, but not from within their own number.

**THE CHAIRMAN:** In a society the size of Jersey, what supply is there of people who might be both ready and able to carry out this task?

**MR WALKER:** I think there would be a supply. I've looked back, just thought back over the last ten years or more, and I can relatively easily identify a number of individuals who I think

would be very suitable for the task and whom I think who might well be very interested in taking it up.

Now, of course, one can't predict the future, but although it's been better at times inevitably than at others, we've seldom had a real problem in electing very reputable and knowledgeable and intelligent people to the bench as Jurats, and I see little reason why we should have any great difficulty in finding suitable people to act as Speaker.

**MR CRILL:** The big difficulty there of course is there are 12 Jurats, and so the new boy on the block, if you like, can learn from the others and his particular skills are subsumed into the whole. You talk about a person being suitably able to speak. Do you have any sort of idea what appropriate qualifications might be or is it simply that anybody can put themselves forward for election?

**MR WALKER:** I think anyone should be able to put themselves for election, and in some cases there would clearly be a steeper learning curve than in others. But, for example, former State Members would be an ideal group I think from which to find a Speaker. They would have considerable experience in most cases certainly of how the States' processes work, and indeed, the particular role of Speaker. I think there would be generally speaking normally a number of those - a limited number, but then I don't think we need many - who would be prepared to put themselves forward and who would have the ability and the experience to do so.

And I wouldn't restrict it to former States members. I think it should be possible for people of a real understanding of Jersey's political processes and positioning to be given considerable

training - over a period yet to be decided, of course - and then to be in a fit position to take up a job. It's difficult, I acknowledge that, but I don't think it's by any means impossible.

**MRS BACKHURST:** It was suggested to us that legal advice might be necessary and that the Speaker, if they were not a lawyer, would have a legal advisor on hand in the States.

**MR WALKER:** Yes.

**MRS BACKHURST:** Not the AG obviously?

**MR WALKER:** No, I believe the Attorney General should remain in the States, very firmly.

**MRS BACKHURST:** But this would be an additional legal advisor to the Speaker if they were not a lawyer themselves?

**MR WALKER:** I can't see a particular problem, and I must admit, I haven't thought through that particular point. I can't see a particular problem in the Attorney General continuing to be advisor both to the States and to the Speaker.

**MRS BACKHURST:** Thank you.

**MR STRANG:** Would the Speaker undertake any ceremonial roles, or do you think it would just be Chairman of the States?

**MR WALKER:** My thinking is that no, the Speaker will not undertake ceremonial roles. The Bailiff would remain the civic head of Jersey and ideally, in my opinion, would remain with the

title of President of the State, and there are precedents for this elsewhere. The President of an Assembly doesn't necessarily have to act as Speaker, and the Bailiff could continue to be representing the Island in all ceremonial matters, be it royal visits or Liberation Day, Remembrance Sunday, whatever it may be. I think that part of a Bailiff's role is, in my own view, too important to Jersey for us to give up, and so I would be not in favour of the Bailiff merely becoming a judge, as the current Bailiff referred to. I believe the role of Bailiff is too important to Jersey for it to be merely restricted to a judge and he should or she should perform the ceremonial duties which the Bailiff currently undertakes.

**MR STRANG:** Yes.

**THE CHAIRMAN:** Do you think that the Bailiff standing as the chief citizen civic head would be lessened if he were to become a ceremonial President of the States, but not in actuality?

**MR WALKER:** No, I don't, and I mentioned this in my paper. I actually think in some respects the role could be enhanced, and the fact of life for Jersey, and I mentioned this earlier, we are increasingly being drawn into an international environment, we are increasingly representing ourselves rather than has been the case historically that the UK government has represented us. And I think it's only -- I fear it's only a matter of time before the Bailiff's current dual role is brought into question, and I think any questioning of the Bailiff's role will actually in itself diminish or could diminish the respect that that office is due and the respect that any individual that may be in that office at the time should receive.

So I think if the Bailiff is very clearly acknowledged as Jersey's civic head as well as the head of the judiciary, I don't think it demeans his role at all, and at the end of the day, could avoid it being brought into question which might potentially be damaging to it.



**THE CHAIRMAN:** You talk about bringing into question. Who do you envisage maybe doing the questioning?

**MR WALKER:** Lord Carswell, that could be any number of people. It could be within Jersey. Indeed, it has already been questioned on a number of occasions from within Jersey, or it may well be as we develop our international profile further. It may well come from who knows where within the United Kingdom, or indeed further afield, not perhaps particularly from within the European Union.

**THE CHAIRMAN:** From your own experience as the first Chief Minister, how did you find that the position of the Chief Minister and the position of the Bailiff in public affairs work together? Did you find it was harmonious or difficult or simply potentially difficult, but achieved by good relations?

**MR WALKER:** We were breaking new ground. There was a new relationship, a new structure which no individual in Jersey had experienced before and for which there were no clear guidelines. And I was fortunate that Philip Bailhache was Bailiff when I was Chief Minister, and we struck up, I think, a close working relationship and a deeper understanding. That's not to say we didn't have some times when we disagreed, and I think that's absolutely inevitable, and indeed healthy, providing one can overcome those disagreements in a professional and proper manner, and indeed we did.

I think the principal area -- correction, I don't think the principal area in which there were occasionally diversions of a view was on the international agenda. The Bailiff's oath of course makes him responsible for the constitutional position of Jersey, and the Chief Minister however

is the leading politician in terms of negotiations with other governments, creating treaties or whatever it may be. And it took a little bit of time for I think both Sir Philip and I to be absolutely clear how our respective roles fitted together. But we never had a serious problem.

I do think however that the international representation of Jersey - and I acknowledge the practical difficulty here of the current oath for the Bailiff, I absolutely accept that the Bailiff has a sworn duty here - but nevertheless, I think that the way things are going internationally, it should be the political head of Jersey, i.e. the Chief Minister who leads the Island in international negotiations. And that was very much what did happen in my relationship with Sir Philip.

He was always aware of what we were doing, he was always, I hope, kept well informed of what we were doing. He was always ready to give advice, which was very well received, but it should be I think clearer in the future that the international representation role is a political role and not that of the Bailiff.

**THE CHAIRMAN:** The Bailiff yesterday said that one of the marked changes since ministerial government had been introduced was the reduction of official correspondence which neither was departmental or was dealt with, as you say, through the Chief Minister's office. As you say, you are breaking new ground. There is clarity of the position, particularly as far as international relations are going and more and more, as you say, is being dealt with through the individual ministries or through the Council. Do you not see that ultimately evolving in the Bailiff's political function, if I can call it that, being purely as Speaker of the Assembly and having no involvement and that, if you like, to take a stage with that, there being no need for a civic head?

**MR WALKER:** Oh, I think there's a need for a civic head. I think the need for a civic head goes well beyond Jersey's international position in the negotiations. I think we're dealing here with the heritage of Jersey, the culture of Jersey. I think the position of Bailiff - even as amended as I'm suggesting - is very important to the Islands. It's one of those key positions, key areas that distinguishes Jersey from many other Islands, be they part of the United Kingdom or part of France or whatever it may be. So I wouldn't wish to see that go, and I hope I've made that clear.

But I suppose if the Bailiff is to be President of the States, a civic head as I've suggested, then the role that he would play in international affairs would fall away quite considerably anyway. But I do come back to the question of his oath and that's something that will need to be given very serious consideration if any change is to be envisaged, I think.

**THE CHAIRMAN:** In the application or his involvement with international relations, as far as you are concerned, was his involvement with you saying, "Watch out, because there is a constitutional point here" or was it more outward facing?

**MR WALKER:** It was more the former. Sir Philip did occasionally make public statements about constitutional positions and so on, and all public statements in Jersey are noted in Whitehall and other places, so there was an element of looking behind some of his statements. But generally speaking it was advising, and on occasions making very strong points about how he felt we should deal with the UK government on whatever matter happened to be in discussion at the time.

You raised an interesting point earlier about official correspondence. When I came into office, the communications channel was from Whitehall, whatever department it happened to be, and

of course they've changed over the years, from Whitehall to the Lieutenant Governor, from the Lieutenant Governor to the Bailiff and then eventually to the head of the political body. Now of course previously that was the President of the Policy and Resources Committee; latterly it was me as Chief Minister and that is a very tortuous, at times dangerously long-winded process. And I did find in the early days that there were times that I was blissfully unaware of a very important letter or piece of correspondence from the UK until several days after it had been sent, or indeed several days after it had been received and I thought that was unacceptable.

We resolved that and the communication has become in the main very much more informal. Now one corresponds with the Ministry of Justice these days through email and telephone calls, there is a role for official correspondence which we should never lose, but it has to be restricted to those matters which amount to, I guess, a statement of policy from the UK government which has to be officially noted or acted upon. But for general day-to-day communications the official correspondence route is absolutely not fit for purpose in 2010.

**THE CHAIRMAN:** On the constitutional issues as Chief Minister, who would you turn to for advice in the first instance?

**MR WALKER:** In the first instance, if I want to, it would depend on what advice I needed. If it was political advice or business advice - if I may call it as such - then I would turn to the Chief Executive and his international team. If it was legal advice, then it would always be the Attorney General.

**MRS BACKHURST:** If such correspondence is now received simultaneously, obviously the Lieutenant Governor does not have input, he simply is the channel or was the channel.

Everybody is getting it. Who decides to reply first? You are saying that if it is legal advice you would go then to the Bailiff, who would already have received it; if it is not legal advice, you would go to your Chief Executive. How do you make that distinction?

**MR WALKER:** I don't think that's a real problem. Generally speaking, if there is official correspondence, then it is as I said just now, now restricted much more to specifics which require official noting, then it's really a question of discussion between the Chief Minister and the Bailiff, the Attorney General, the Chief Executive and so on. And generally speaking, we haven't encountered a problem in reaching agreement or on how to respond. But the big change has been from the total reliance Jersey used to have on official correspondence to a much more general use of communications.

**MRS BACKHURST:** Thank you.

**MR WALKER:** To our benefit, I have to say, because it enables us to react much more speedily than was otherwise the case, and sometimes speed is absolutely of the essence.

**THE CHAIRMAN:** Could I move to your material concerning the Attorney General, and I would like you just to expand for my benefit why you think that the Attorney should not carry out both these criminal and civil rules, because Attorneys General Europe-wide and worldwide carry out both rules.

**MR WALKER:** Yes, I don't feel as strongly about this as I do about the role of the Bailiff, but the same principle applies. The dual role has been challenged within Jersey and questioned - I think is probably the best way of putting it - from some sources outside Jersey. And again, it's a concern that as Jersey develops its international personality and its international

relationships that the role may well come into question in a way which can be damaging to Jersey.

If - and I think I emphasised this in my paper - change is to be considered, then I would propose my own view in that it should be along the lines that I'm suggesting I don't think change is essential. I repeat here as I did for the position of Bailiff, that the Island has been very, very well served both by the position and the individuals who fulfilled it over the years. But we have to be aware of where Jersey is going and we have to be aware of the potential damage, the consequences perhaps of the dual role being drawn into question on an international stage to the detriment of Jersey. So I think it is something that needs very careful consideration.

**THE CHAIRMAN:** Well, this is what is puzzling me. What is wrong, do you say, with the dual role, because it is perfectly acceptable and normal that an Attorney General does have a civil and criminal role. He is in charge of prosecutions, whether he handles them directly, as in Jersey or whether he handles them through a DPP for whom he is basically responsible, and they all are government advisors. That is an inherent part of their function. Where does the problem lie in Jersey?

**MR WALKER:** I think it's no more than a problem of perception. I personally have not experienced any -- well, I've never been prosecuted by the Attorney General, thankfully, but I've never been aware of any significant, real problem in that respect. But you will have heard from others, and will no doubt hear from others yet that there are those who believe that it's incompatible to have the two roles.

I absolutely understand your point that this is by no means unique to Jersey and we're not in the same position as we are with the Bailiff in that respect at all. It's one of perception and I would hope merely that you, Lord Carswell, and your Panel will take - I am sure you will - very careful note of the potential for the role to be questioned or perhaps challenged, both from within and outside Jersey, and to weigh in the balance whether or not a change, whether there is a real problem or not, whether or not a change is a desirable thing for the future of the Island.

**THE CHAIRMAN:** What is the nature of the challenge or the questioning that an Attorney General should be both of civil advisor to his government and the prosecutor on behalf of the Crown of offences?

**MR WALKER:** I think it's basically born of the fact that it's the Attorney General ultimately who approves legislation going before the States and who supports that legislation from a legal perspective through the States and who then prosecutes to that legislation. And in the mind of some, it's incompatible for the -- I can't say the creator, but for the principal proposer in certain respects of legislation also to be the same individual who prosecute individuals or organisations.

**THE CHAIRMAN:** But why not? He is not judging it, he is not deciding it.

**MR WALKER:** No, I accept that.

**THE CHAIRMAN:** If he were in the position of a judge promoting legislation and then deciding it, that would be untenable, quite clearly. But if he is in the position of promoting legislation

and then prosecuting on the basis of that legislation, someone else decides on the correctness of it. Does that not keep everything right?

**MR WALKER:** Indeed, I understand your point fully. I merely say that I think we have a problem here of perception which might, depending on how things evolve, become a problem for Jersey at some point in the future. I don't believe it is a problem today, I believe though it might yet become a problem in the future, and I think that's something that does justify serious consideration.

**THE CHAIRMAN:** Your suggestion is that the two roles be divorced completely and that the Attorney General should not take part in prosecuting, but it should be done by a prosecutor?

**MR WALKER:** The DPP, if you like, yes.

**THE CHAIRMAN:** What accountability would the DPP have on the Jersey system?

**MR WALKER:** I think the DPP in that instance -- I guess they would still be responsible unto the Attorney General, which may undermine the validity of the change. That is something I think again would require -- it's not a particular point I've given great thought to. It's something that would require much greater thought if a change was going to be envisaged.

Can I be clear, I'm not actually saying this is something we should do in this context, I'm saying this is something that bearing in mind Jersey's evolving position internationally should be given careful consideration. You may find that having done so, it simply isn't necessary or isn't appropriate for Jersey and that would, in my view, of course be absolutely fair enough.



**THE CHAIRMAN:** The public official cannot act in a vacuum just at his or her own discretion without somebody being able to say, “We do not like what you are doing, come and explain yourself”. The Attorney General at present can be questioned in the States, the Attorney General in London can be questioned about the DPP and the conduct of prosecutions and can be very closely questioned about that. There always seems to be a necessary mechanism somewhere for being able to pull up the holder of the office to see if things are not going right. If you have a Select Committee system, you might be able to do that and they could call the DPP before them, but that does not fit with the Jersey set-up. Is there a committee within the States that could perform such a function?

**MR WALKER:** No. Well, I suppose theoretically the Privileges and Procedures Committee would be the only committee of the States that can come close to fulfilling that function. But there is not necessarily a problem in forming a committee to fulfil that function. Again, we are talking here about some fairly significant change, but it is not necessarily a major problem. You may decide that if the role was to be changed along the way I have proposed, something like a Select Committee would be the appropriate way forward. I don’t think there’s any particular bar or difficulty in establishing such a committee and it could be the Privileges and Procedures Committee with a somewhat enhanced role.

**THE CHAIRMAN:** Is there any mechanism within the States at present whereby the States can call a public official before a meeting of the States and question them?

**MR WALKER:** Well, the Attorney General and the Solicitor General are frequently questioned by States members and that’s a capability that all States Members have at any time.

**THE CHAIRMAN:** But they are members?

**MR WALKER:** Yes.

**THE CHAIRMAN:** Is there any procedure at the moment whereby a senior civil servant can be brought in and questioned about the performance of his Department, which happened in London, a pretty serious question too?

**MR WALKER:** Yes, there is. Part of the ministerial structure is a number of scrutiny committees and these have varying duties of course, and varying topics upon which they focus. And they can and do call senior civil servants to account on a regular basis.

As an aside, I think the scrutiny process of the States of Jersey needs strengthening, but that's not strictly speaking, I don't think, in your terms of reference.

**MR CRILL:** Just as far as the position of the Attorney General as purely an advisor to the States, there has been some discussion as to how that evolves as between the advice to the Executive to Scrutiny and to individual members. Do you think that the position of advisor that you have in mind is tenable if there is, shall we say, a more formalised opposition?

**MR WALKER:** A more formalised opposition is a different topic. I don't regard -- some do, but I don't regard Scrutiny as opposition, and Scrutiny was set up to be a critical friend of Ministers and to make constructive proposals. And in that context, I see no problem whatsoever in the -- in fact, I see problems if there's a change in that context. I see no problem whatsoever with the Attorney General continuing to advise the Executive, Scrutiny and the States Assembly as a whole.

If Jersey moves into party politics, a more formal opposition scenario, well, then I think one would have to re-think that position perhaps. But we're not there yet and I don't see any likelihood of us moving along those lines in the foreseeable future.

**MR CRILL:** But if the Attorney General became the advisor to the Executive, do you think that he could remain as a Member of the States?

**MR WALKER:** I don't think the Attorney General should become merely the advisor to the Executive. I think the role of the Attorney General in advising the States Assembly generally has been proven over the years to be very valuable indeed, and I don't think we should give that up. I think it would be a step much too far and to restrict the Attorney General's advisory role to the Executive.

**MRS BACKHURST:** Could I just ask about the AG again? If there was a DPP or something equivalent, you suggest though that the AG should remain with the Honorary Police, whatever that might mean. Obviously, he takes no part in the operational, but at the moment, he does give advice as to prosecutions. If he was no longer prosecutor, he could no longer do that. In fact, therefore his only role as far as the Honorary Police, might be in a disciplinary role. But that might be difficult?

**MR WALKER:** I think that I emphasised in the paper that no change would be undertaken without considering very carefully all the outcomes or the consequences, and I would agree that that's one of those that would have to be given very close scrutiny and very careful thought.

**MRS BACKHURST:** Thank you.

**MR CRILL:** You say in one of your points in regard to the Attorney General, you stress the Attorney General should play no part in the Island's international negotiations other than advising Ministers. Do you think that he has been?

**MR WALKER:** Yes. Historically that has been the case. It's much less now than it used to be and it's in exactly the same context as the answer I gave in relation to the Bailiff.

I think the international representation role is one for politicians, for Ministers, and the roles of both the Bailiff - and in this context, the Attorney General - should be generally speaking advisory, particularly in the case of the Attorney General.

**MR CRILL:** Or acting on clear instructions from the appropriate Minister?

**MR WALKER:** Absolutely, yes. What Jersey has to avoid at all costs is the perception possibly that there is more than one -- if agenda is the right word, more than one outlook on the future, more than one position. If we're to maintain our integrity and our strength internationally, we have to have very clear-cut policies, agreed policies by all concerned and put them forward very clearly and in a very straightforward way. There is no room for any divergence of view, and that spells, in my judgment, weakness and where we have enemies they will no doubt seek to exploit that weakness.

**MR CRILL:** Do you have any problem with the Attorney General being directly involved in discussions on constitutional matters with a counterpart on the instructions of the Minister?

**MR WALKER:** No, providing it is on the instructions of the Minister, and everyone concerned is aware of those discussions and is aware of the views that have been expressed. I think actually that's important.

**MR CRILL:** You do not see a danger then of the Attorney General's involvement in those negotiations as being seen as part of the political process rather than the advisory process?

**MR WALKER:** I think it could and should be clearly structured and everyone involved clearly informed of what the position is. And if that is the case, I don't see a problem. If that isn't the case, then potentially there is a problem, yes.

**MRS BACKHURST:** Could I ask a couple of questions about the Chief Minister?

**THE CHAIRMAN:** Yes, please.

**MR WALKER:** About what, sorry?

**MRS BACKHURST:** About the Chief Minister. I just wanted to have it straight in my mind how the Chief Minister is elected and dismissed and then what is the structure and what is perhaps the future structure of the Chief Minister's office?

**MR WALKER:** Firstly, the Chief Minister is elected by his colleagues within the States. He is dismissed, could be dismissed by his colleagues in the States.

**MRS BACKHURST:** That would be a vote of no confidence, would it, or some other method?

**MR WALKER:** Absolutely, yes. Vote of no confidence would be the classic way of doing it and probably the only way of doing it, unless the Minister is clearly guilty of gross misconduct.

The structure of the Chief Minister's Department I still see as work in progress, basically. I don't think it is yet as clearly or as firmly established as it needs to be. I think it's a different topic, but I think that Ministers and senior officers - and Scrutiny too - need to give some careful thought to the actual structure of the Chief Minister's Department. I wasn't happy with it when I was Chief Minister. I still don't believe it's right, it's not for me to comment on how the current Chief Minister views it, but I believe it needs to evolve further.

And this whole process of ministerial government is an evolutionary process anyway. You can't possibly establish a system which everyone regards or the majority regard as perfect from day one, and nor should you. And these things need to evolve and it is evolving, but I would like to see that particular part of the structure evolving somewhat more rapidly than I think it is at the moment.

**MRS BACKHURST:** It seemed to me that there may be, particularly in international affairs, if responsibility is going to shift, then clearly there has got to be a structure that is in place to actually deal with that correctly.

**MR WALKER:** Absolutely.

**MRS BACKHURST:** But also I was looking at the list of everything that the Chief Minister's office does, and some things look as though, "Well, where are we going to put that? Oh, I know, well, we will just put it in the Chief Minister's office" and they seem entirely inappropriate to be there. So, I sort of feel that, yes, as you say, the whole thing is not right yet.

**MR WALKER:** No, I entirely agree with you. It was Sir Philip Bailhache, I think, who first said it publicly but I would absolutely echo his words. Jersey needs its own version, in my view, of a foreign office. We actually, in my view, should have a Minister who - answerable of course to the Chief Minister - is responsible for international affairs. We have no Minister with that brief at this time. It's generally regarded as part of the Chief Minister's role. I don't think it's possible, looking into the future, for one individual to undertake both the role of Chief Minister and that of international Foreign Minister. And if we were to create a Foreign Minister, then of course it would be necessary to have an office or structure, a departmental structure that supported him or her. I think that's one of the things that should happen, but it's not at this time, although I hope that some thought is being given to it.

**MRS BACKHURST:** We have been charged, I think, with looking at the economics of making new suggestions in stringent economic times. I mean, that would not be something they would suggest. But, you know, there are going to be things that are going to have a financial impact and that might or might not, I do not know.

**MR WALKER:** It would have some financial impact in terms of direct expense. In my view, it is likely to have a very much bigger beneficial financial, economic and political impact if that position was more officially established and if more time was given to international affairs than is possible currently.

That is not to make a criticism of any of the individuals, political or in the Executive, in terms of how they're doing their job at the moment, but in my view, we just don't have the right structure.

**MRS BACKHURST:** Would it relieve the Bailiff of some things as well? It would relieve the Bailiff a little bit of some responsibility?

**MR WALKER:** Will it relieve what, sorry?

**MRS BACKHURST:** Would it relieve the Bailiff of some responsibility or not?

**MR WALKER:** Yes, I think it would. I don't know whether "relieve the Bailiff of some responsibility" is necessarily the right way of putting it. I think the position that the Chief Minister, certainly in my case, and the Bailiff developed could be continued with a foreign minister. It may not be the right title, but it's the best way of explaining it, I think, at the moment.

But whatever the political structure, I do emphasise the point that I think the Bailiff's role should be much more of an advisory role and a civic role as well where such matters occur. But the actual workings, the day-to-day workings should be much more of a political responsibility.

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

**MR CRILL:** The government can consult with and take advice from whoever it wants, but the suggestion is that the Bailiff is in position of political influence. Are you aware of any political influence, or is there a feeling of political influence emanating from the Bailiff's office?

**MR WALKER:** I can't recall an occasion where the Bailiff sought to impose his role. He is certainly the Bailiff and I think all Bailiffs should continue to do so. The Bailiff has felt it very appropriate to express a view, and rightly so. It's an interesting point, where there is a



practical involvement by the Bailiff, it is the Bailiff who decides ultimately what questions are allowable in the House. It's the Bailiff who decides what propositions are allowable in the House and there are wider responsibilities as well, but those are probably the two principal ones one where the Bailiff currently gets directly involved.

**MR CRILL:** But his default position is that he has to accept them unless there is a reason to reject them, is it not?

**MR WALKER:** Yes, but sometimes reasons are open to interpretation of course under the law or the Standing Orders or whatever it may be. So there's no doubt that the Bailiff in his current role - and quite rightly in his current role - has an ability to influence the proceedings of the States, there's no doubts about that. If change was considered along the lines I've proposed, that of course would no longer happen. That would be the role of the Speaker.

**MR CRILL:** And do you think the Speaker would have the same influence, obviously by being able to choose or create the order?

**MR WALKER:** Well, I think that would be entirely the Speaker's role, and there are many other precedents for that throughout the world, particularly in the British Commonwealth. I don't see why Jersey should have any greater problem in that area than do many other governments.

**THE CHAIRMAN:** You did mention a couple of possible other avenues to the Bailiff sitting regularly. You ruled out the idea of a Speaker from among the Members, you did not think that was a good idea, you were looking for an outside Speaker. What about the Deputy Bailiff?

**MR WALKER:** As Speaker?

**THE CHAIRMAN:** Yes, on some or all occasions. Have you any thoughts on that?

**MR WALKER:** I haven't thought that through, but instinctively, I don't think that would work. I think we either, in my view, should stay as we are or if we do separate the role of the Bailiff, I think the Deputy Bailiff should follow and the role of the Deputy Bailiff should follow that of the Bailiff. So I think you would have then a Speaker and a deputy Speaker.

**THE CHAIRMAN:** And the other possibility that has been mooted to us is the Greffier.

**MR WALKER:** The role of Greffier would need to be reconstructed if the Greffier was to act very nearly fulltime as Speaker. There would be some consequential essential changes to the role. Again, I think there is a better structure and there are better possibilities open to us than appointing the Greffier to the role of Speaker. The role of Greffier is in itself critical to the efficiency of the government of Jersey, and I don't see any need or any great desirability in fundamentally changing that role, and appointing the Greffier as Speaker would require a fundamental change in the role, in my view.

**THE CHAIRMAN:** It has been suggested that it is incompatible to have the role of clerk and Speaker. I am just wondering in principle whether it is so incompatible? It is very unusual, I am well aware that the clerk does the arrangements and the Speaker then turns up and presides, and relies upon the clerk to put the arrangements right. But one wonders whether a chairman could not act as his own clerk, putting it in those terms, make his own arrangements and then preside. Is there a problem in principle that you see?

**MR WALKER:** I'm not sure I see a problem in principle. I probably see a practical problem.

**THE CHAIRMAN:** Yes, this is why we are interested in your experience.

**MR WALKER:** Yes. Again, my experience in that context is that in fulfilling his duties as Speaker, the Bailiff has relied very heavily on the Greffier, and I see no reason to change that relationship, irrespective of who's in the chair.

I think the role of clerk, Lord Carswell, as you referred there quite rightly, is very important and I think it's undertaken very effectively at the moment and I see very little need to change that, even if we find and elect a Speaker other than the Bailiff.

**THE CHAIRMAN:** Anything further, ladies and gentlemen?

**MRS BACKHURST:** Just one quick one. In the past there has been some tension between the role of the Lieutenant Governor and the Bailiff, and that eventually was resolved with the Bailiff taking precedence. If the Bailiff was no longer in the States, would that have an effect?

**MR WALKER:** I don't think so, because I believe the Bailiff should remain as civic head for Jersey. Again, it would require careful thought, because just where does the civic head role begin and end? It's a new definition of the Bailiff's duties obviously, and it would require clarity and the understanding of all concerned.

I don't think the relationship between the Governor and the Bailiff, given certainly the quality of people who have occupied both positions of late, is a problem. Now, it's not to say, as it was in the past, it couldn't become a problem again in the future, but as in clarity of roles, clarity of

responsibilities which don't necessarily fully exist today, but that's another story. Clarity of roles and responsibilities would be essential, particularly if any change was going to be considered in the future.

**MRS BACKHURST:** So obviously the Speaker would have a relationship not only with the Governor but also with the Bailiff?

**MR WALKER:** The Speaker?

**MRS BACKHURST:** The Speaker would have?

**MR WALKER:** Yes, I think the Speaker's relationship with the Governor again would have to be clearly defined, but there would be three people clearly -- where two currently undertake the role, there would be three people and therefore the duties would have to be particularly clearly established.

**MRS BACKHURST:** Thank you.

**THE CHAIRMAN:** Mr Walker, we are very grateful to you. You have left us with a great deal of material to think about, and we shall give serious thought to all you have said along with many other submissions we have received. May I express our thanks to you and our gratitude for the trouble you have taken to assist us. Thank you very much.

**MR WALKER:** No, thank you very much. May I just add one point?

**THE CHAIRMAN:** Of course.

**MR WALKER:** I put it right at the end of my paper, but I think whatever decisions are taken, whether there's to be any change or not, I think the resources of the Law Officers' -- the Crown Officers' -- departments are vital. I don't believe they're adequately resourced at the moment and I believe that the level of salaries paid to post-holders is a problem. We've been very lucky in attracting very good candidates, and it is as much luck as anything else in recent times. I think the level of salary is not competitive in the current Jersey market, and I think that Jersey relies so heavily on the legal capabilities and the legal advice that it receives that it must always be in a position to both appoint individuals of the greatest ability and integrity, and also sufficient numbers of them. And that requires thought which has been undertaken before, but I have to say, largely ignored by the States; thought to be given on both the levels of staff in those offices and the rewards they receive.

**THE CHAIRMAN:** Yes. Thank you very much.