

# STATES OF JERSEY

## COMMITTEE OF INQUIRY INTO TENDER PROCESS AND AWARD OF BUS SERVICE CONTRACT

BLAMPIED ROOM, STATES BUILDING

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Committee:            Mr Huw Shephard (President)  
                              Mr Christopher Blackstone (Member)  
                              Mr Trevor Garrett (Member)

In attendance        Mr Mac Spence (Committee Clerk)

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### EVIDENCE FROM:

**CONNÉTABLE A.S. CROWCROFT**  
**(Former President, Public Services Committee)**

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on

Friday, 4th February 2005

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*Reviewed 01/04/05 Committee Clerk*

MR SHEPHEARD: I think everyone who needs to be here is here, so we will begin this session of the Committee of Inquiry into the Bus Tendering process. The witness appearing this morning is Connétable Simon Crowcroft of St. Helier. Connétable, good morning to you.

CONNÉTABLE CROWCROFT: Good morning.

MR SHEPHEARD: You may be aware that the Committee is receiving evidence on oath. I will proceed to administer the oath to you, unless you wish to affirm.

CONNÉTABLE CROWCROFT: No, that is fine. Do you want me to stand up for that?

MR SHEPHEARD: No. It is fine if you remain seated.

### **The witness was sworn**

MR SHEPHEARD: Thank you. Now, Connétable, the position at the moment is this, I think, that you are the Connétable of St. Helier, but you did previously sit in the States as a Deputy.

CONNÉTABLE CROWCROFT: That's right, yeah.

MR SHEPHEARD: And it was when you were Deputy Crowcroft that you became President of the Public Services Committee.

CONNÉTABLE CROWCROFT: Yeah, that's correct.

MR SHEPHEARD: And that Committee ... you became President on 14th December 1999?

CONNÉTABLE CROWCROFT: Um, I expect that's right. Let me have a look at my submission. I mean, I assume that that detail is correct.

MR SHEPHEARD: That seems to be when the States first met after the 1999 elections.

CONNÉTABLE CROWCROFT: Yeah, I have got the 9th December 1999 in my submission, but, again, I don't know. If the States didn't meet on the 9th ----

MR SHEPHEARD: I will consult the States' minutes in a moment.

CONNÉTABLE CROWCROFT: Okay, right.

MR SHEPHEARD: And your first Committee fell on 12th September 2000.

CONNÉTABLE CROWCROFT: Can I interrupt you for a minute, please? Would you mind if I ask you a question before we get the questioning under way? There are two things. Firstly, you haven't introduced the other Members of the Panel, but ...

MR SHEPHEARD: Ah, I am with Mr Blackstone and Mr Garrett.

CONNÉTABLE CROWCROFT: Thank you very much. And if I could just be asked to put one question to you before the questions get under way, and that is, is the Committee of Inquiry in your opinion impartial and unbiased?

MR SHEPHEARD: Yes. The Committee hasn't formed any particular view on anything as yet. Certainly the evidence that the Committee has received so far has pointed us in particular directions, and we have been putting the conclusions that the evidence points to to various witnesses to ask them what their opinion is, to ask them for comment. But, no, the Committee has not yet come to any decided view. It can't do that until it has got all the evidence involved.

CONNÉTABLE CROWCROFT: I know that you can't always believe what you read in the media, but a statement was made by one of the Members on Wednesday, as reported by the *JEP*, who said "*Mr Blackstone put it to Mr Hacquoil that the intention of the Public Services President, Deputy Simon Crowcroft, was to remove the incumbent operator. 'That is my opinion and I don't think it is an unreasonable conclusion', said Mr Blackstone.*"

MR SHEPHEARD: I think Mr Blackstone was expressing the conclusion based on the evidence that the Committee has heard to date. I don't think that we have formed that view; and, indeed, it is a view that we can test today by putting appropriate questions to you.

CONNÉTABLE CROWCROFT: Well, that may be the case, but I need to remind the Panel that this is a quasi-judicial process. I have been asked to take an oath and clearly it is important in any judicial process that the person answering questions is confident that he or she is dealing with an impartial and unbiased panel. So your assurances that the Panel is impartial are contrary at least to what was suggested in the *Evening Post* on Wednesday.

MR SHEPHEARD: The Panel is completely impartial. We have not formed any settled conclusion. We can put to witnesses the conclusions which the evidence we have so far received point us to, but no more than that.

CONNÉTABLE CROWCROFT: Right. And if I may conclude with a second question, which really follows on from that. Is the Committee confining itself to the terms of reference in the course of its investigations?

MR SHEPHEARD: It is confining itself to its terms of reference, but it does need to test the evidence

before it and, for that purpose, it may ask questions which are not strictly within its terms of reference.

It is also very important, in the Committee's view, for it to understand the background to the events that it is looking into and, for that purpose, it will explore some of those areas.

CONNÉTABLE CROWCROFT: Well, that may be the case, but I should remind the Committee of Inquiry that, under the relevant law, it says: "*The Committee may ask questions under any of those terms of reference.*" It doesn't say that it may stray outside its terms of reference. Again, it appeared to me only from what I read in the media (and you can't always believe what you read in the media) that the Committee has strayed considerably and for long periods outside its terms of reference. I merely flag that up because I have not come equipped to do that because I used the terms of reference as a guide to the aspects of this long business to which I should be prepared to answer questions.

MR SHEPHEARD: Well, the Committee's position is simply this. As I have already said, we have terms of reference. We are following those terms of reference. We may need to ask questions that go somewhat wider than those terms of reference in order to understand the material that is before us and, if we do, we do.

CONNÉTABLE CROWCROFT: And you will understand if I can't answer those questions ----

MR SHEPHEARD: Well, of course.

CONNÉTABLE CROWCROFT: ---- because they are outside of your terms of reference.

MR SHEPHEARD: We won't ask you to speculate, not at all. If you can't answer, just say so.

CONNÉTABLE CROWCROFT: Thank you.

MR SHEPHEARD: Now, the first Committee of which you were President sat from 14th December 1999 until 12th September 2000; is that right?

CONNÉTABLE CROWCROFT: Again, possibly. The date I have got is that the new Committee began on 12th September, but, yes, so the old one would have fallen technically just before that.

MR SHEPHEARD: Certainly, looking at the States' minutes, that is what happened. And then the new Committee lasted until 15th January 2002?

CONNÉTABLE CROWCROFT: Yeah.

MR SHEPHEARD: And was the change in January 2002, again, the consequence of an election?

CONNÉTABLE CROWCROFT: Yep. Deputy Hacquoil was elected. I don't remember who he was up against, but the minutes will record that.

MR SHEPHEARD: I think it was the case that there had been Deputies' elections at the ... no, that can't be right, can it? Oh yes, yes.

CONNÉTABLE CROWCROFT: No, I resigned in order to concentrate on my work in the parish and that forced an election.

MR SHEPHEARD: That is right. That's right. You were elected Connétable and then Deputy Hacquoil was elected, but you continued as a Member of the Committee under then Deputy Hacquoil and under Deputy Dubras until February 2004; is that right?

CONNÉTABLE CROWCROFT: I have September 2003 as the date of my resignation. Again, it's not particularly material, but I am sure the minutes, the States' minutes, will clarify that.

**(Pause)**

MR SHEPHEARD: Now, when did you first become a Member of the States?

CONNÉTABLE CROWCROFT: '96.

MR SHEPHEARD: And what had you done up till that point?

CONNÉTABLE CROWCROFT: Well, a variety of things. I mean, I question the relevance of the question to the Committee.

MR SHEPHEARD: The Committee is trying to explore the nature of witnesses' experience to understand some of the expertise that they bring to the position that they occupy or occupied.

CONNÉTABLE CROWCROFT: Well, with respect, I don't think that is the Committee's job. The -

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MR SHEPHEARD: Connétable, it is for the Committee to decide what areas it looks into. It is of vital importance to the Committee and to everyone else that it is able to assess the evidence it is given properly. This is a question that is designed to assist us in assessing the evidence.

CONNÉTABLE CROWCROFT: Could you please point on the terms of reference to the Article which your question falls under? **(Long pause)**

MR SHEPHEARD: Connétable, the question was asked, as I have explained, to enable the Members of the Committee of Inquiry to assess the evidence. That question is permitted under Article 36 I

of the States of Jersey Law, and I do hope that the Committee is not going to be obliged to invoke the procedure under Article 36 G

CONNÉTABLE CROWCROFT: Sorry, can you point to where in 36 I it does give the Committee of Inquiry the right to range outside its terms of reference?

MR SHEPHEARD: *“The Committee of Inquiry may regulate its own procedure for the conduct and management of the hearings.”*

CONNÉTABLE CROWCROFT: With respect, that doesn't refer to the questions; that refers to the ... well, it gives as examples, the venue and adjournments. It is talking about the manner of the meeting, not the questions that are put.

MR SHEPHEARD: It gives the Committee a sufficiently wide jurisdiction to ask questions that will assist it in deciding the issues it has to decide.

CONNÉTABLE CROWCROFT: I would suggest that Article 49(b) is the more relevant, where it says: *“Any person who refuses to be examined or to answer any lawful and relevant question put by the Committee of Inquiry is guilty of an offence.”* Sir, the issue, I think, not only for this question but possibly for various other questions you may have lined up for me is whether the question is lawful and relevant. I would submit that relevance can only be determined in terms of whether it is in the terms of reference agreed by the States for the Committee of Inquiry.

MR SHEPHEARD: Relevance in law is a much broader concept than that, Connétable. It goes to the question of whether the Committee can properly assess the evidence before it and ... **(Pause)**

CONNÉTABLE CROWCROFT: You see, I would suggest that if the States had wanted the Committee of Inquiry to analyse whether the States Members on the various Committees concerned were competent or had sufficient experience to deal with certain matters, then they would have included that in the terms of reference. Equally, they would have included an examination of the Bus Strategy in the terms of reference. The terms of reference are very clear. They start the Committee off after the States made its decision on the Bus Strategy.

MR SHEPHEARD: The terms of reference do indeed start from the time of the Bus Strategy, but the question of whether the Committee could explore matters that occurred before that date has been raised by the Committee and the Committee have been advised that it can properly do so. Now -

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CONNÉTABLE CROWCROFT: Do I see a copy of that advice?

MR SHEPHEARD: ---- that is quite a separate question, however, from the question of how the Committee assesses the evidence of the witnesses that are before it. The purpose of the question that I asked you was so that the Committee could have some idea of your background and of your thought processes so that, in assessing your evidence, we could see clearly where you were coming from. I don't think that is an unreasonable or an unlawful question and I must ask that you answer it.

CONNÉTABLE CROWCROFT: You said just now, Chairman, that you have been advised that the Committee may ask questions that predate the approval of the Bus Strategy. Could I be provided with a copy of that advice? That is clearly going to influence the fact that I have not certainly briefed myself with matters pre-July 2001 because I took the terms of reference as indicating where I was supposed to be concentrating. Indeed, my submission that you received makes that fairly clear.

MR SHEPHEARD: Well, Connétable, with respect, we have not yet reached the position where you have been asked any questions about any matters that occurred during your period of office as President prior to the adoption of the Bus Strategy. Let us cross that bridge when we get to it, shall we?

CONNÉTABLE CROWCROFT: Well, yes, except you have asked me about my career before I entered the States, which I still maintain is irrelevant in terms of the terms of reference of the Committee of Inquiry.

MR SHEPHEARD: I have tried to explain to you, Connétable, that, from the Committee's perspective, it is important for us to understand the individual witnesses we have appearing before us. Your background does have some bearing on how we assess your evidence. Now, I asked, I think, nearly all of the witnesses who have appeared so far and none of them had any objection at all to explaining what their background is. I know that Mr Muir, for example, is an engineer. We have learned that Mr Richardson is an engineer. We have learned that Deputy Dubras was a mechanical engineer in the nuclear industry in the United Kingdom and in

Canada. All these things are relevant to the Committee's assessment of the evidence given by those witnesses.

CONNÉTABLE CROWCROFT: Well, I think that you think they are relevant. I would still contest that they are not relevant in terms of the terms of reference. However, and it is made quite clear in my diary, which you have also asked me to bring, it is made quite clear that I ran, at the time that I entered the States, a small business which was a language school, and I am quite happy for you to know that I was a language school proprietor prior to my entering the States. But I simply make the point because I think it is important that things are done by the book. That is why it is perhaps making it a little unnecessary for me to ask you to stick to the terms of reference, but I think that all witnesses have the right to expect you to do that. **(Pause)**

MR SHEPHEARD: Now, as President of Public Services Committee, when did you first really become involved in the bus issues?

CONNÉTABLE CROWCROFT: I don't know. I don't have ... as I said, you have been given copies of my diary, which I refer to in my submission. That begins ... well, the first entry after the Bus Strategy is 2nd August. That is where it takes up the story of my political life and that is the record on which I have drawn in coming to the Committee of Inquiry today. If you want to ask me about my life in Public Services before the period covered by the terms of reference, then I will have to go away, print out my diary for the previous year and a half and then I will be able to answer your questions, but I certainly can't answer them off the top of my head. **(Long pause)**

MR SHEPHEARD: Connétable, I think the matters you have raised so far are matters of concern to the Committee.

CONNÉTABLE CROWCROFT: Sir, which matters? Which matters are those?

MR SHEPHEARD: We will adjourn ----

CONNÉTABLE CROWCROFT: Right.

MR SHEPHEARD: We will adjourn until half past then and then we will resume then.

CONNÉTABLE CROWCROFT: Thank you.

**Adjourned until 10.30**



MR SHEPHEARD: Connétable, the Committee has considered the points you have raised and we think that the legal position is clear. The questions that we wish to put, although they may in some instances stray outside the terms of reference, those questions are put for the purpose of enabling us to assess the evidence. We note that you do not accept that the legal position is as I have described and, in order to afford you and ourselves an opportunity of clarifying that, we are going to adjourn taking your further evidence until a date to be fixed in March and we will notify you of the new date, or we will negotiate a suitable new date fairly shortly. The proceedings of the Inquiry for this morning ----

CONNÉTABLE CROWCROFT: Sorry, can I just interrupt you, Sir? Thank you for that. Can I just assure the Committee of Inquiry, as I said in my submission, that I have personally no problem with going as far back as anybody wants to; and indeed I think my submission, quoting from my personal diary as it does, is more than open and frank to the Committee of Inquiry. But I do believe it is important that the proper process is followed.

MR SHEPHEARD: Well, it is in the interests of all of us that the proper process is followed and we are adjourning to make sure that it is.

CONNÉTABLE CROWCROFT: Thank you.

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