

STATES OF JERSEY

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

BLAMPIED ROOM, STATES BUILDING

Committee: Mr Huw Shephard (President)
 Mr Christopher Blackstone (Member)
 Mr Trevor Garrett (Member)
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In attendance Mr Mac Spence (Committee Clerk)

EVIDENCE FROM:
SENATOR EDWARD VIBERT

on

Wednesday, 23rd March 2005

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Reviewed 01/04/05 Committee Clerk

MR SHEPHEARD: Good afternoon, ladies and gentlemen. The session of the Committee of Inquiry

is to hear evidence this afternoon from Senator Edward Vibert. Senator, welcome.

SENATOR VIBERT: Thank you.

MR SHEPHEARD: I do have to administer an oath to you.

The witness was sworn

MR SHEPHEARD: Thank you, Senator. Senator Vibert, you are a Senator of the States of Jersey.

Would you remind the Committee, please, when you were elected to the States?

SENATOR VIBERT: I was elected in February of 2001, in a by-election, and I am up for re-election this year, so I did three years to complete somebody's term of office. Sorry, I think it is 2002 it should be. It seems like longer than that.

MR SHEPHEARD: Senator, you were a Member of the Public Services Committee at one point, I think, in ----

SENATOR VIBERT: Yes, last year, from, I think it was, about May until about September.

Unfortunately, Senator Ozouf and I didn't agree on many things and he brought a thing to the States to remove me. **(Pause)**

MR SHEPHEARD: Senator, would you like to explain to the Committee how you became concerned about the bus service tendering process, please?

SENATOR VIBERT: Yes. I actually was in Australia when all this happened, so when I came back from Australia, Connex were basically ensconced in their position. I had known Jersey Bus ever since I was living in Jersey and I had a particular admiration for Mr Lewis senior, who I dealt with when I was a reporter on the *Jersey Evening Post* back 30 years ago. I in fact interviewed him when he bought the company and I have still got a copy of that interview. So I had no idea of what had gone on.

I prepared a set of proposals about the gaming industry, which I sent out to a number of people in the tourism industry, and Chris Lewis contacted me to discuss this gaming proposal. We had a meeting at the Living Legend. I had never met him, he had never met me and we discussed the gaming proposal. During that conversation, I asked him: "Why did you sell out to Connex? What actually happened?" He really began to tell me the story of how badly he felt they had been done, and I have to say I was pretty horrified by all the things he told me.

On its face, I felt that he had a very strong case, but basically my journalistic training is to go and get the facts, so I asked for a meeting with him and I asked him to go through why he felt he had been so badly done by. So I started to delve into the correspondence that he had had with the Committee over the whole issue and he showed me all of his files. It was as a result of that, just on its face, that I felt that Jersey Bus had been done a very bad deal.

Basically I have got a particular hatred for public servants who tell lies, public servants who mislead politicians and people who do injustice to other people, and I felt a grave injustice had been done. So I decided in my own work as a States Member to investigate the whole issue.

It began with a series of questions in the House, of Deputy Dubras, relative to the information I had received. I called for minutes. I called for copies of correspondence, as I can do as a States Member. I have to say throughout that whole period I was totally frustrated by the time it took to get information, failure to respond to the information and I had to constantly remind the President of the Committee that a ruling had been made or an opinion had been given by the Attorney General at the time, who is actually our current Bailiff, that a States Member had the right to see all correspondence and all reports because the Committee were simply an arm of Government and, as a member of the Government, I was entitled to see everything that they had.

The frustrations that I got as a result of that were, frankly, enormous. It took me four months to get a copy of the contract with Connex and, in the course of the contract, all the figures were obliterated and censored on the basis that this was commercially sensitive information, even though the tender had been awarded. We are talking two years after the event. I thought that was outrageous. I constantly battled, you know, with the Committee to get that information. I finally got the information and started to piece together all the lies that had been told, all the lies that had been told to the Committee, which I will be dealing with later in my evidence.

As a result of that, I asked a whole series of questions in the House and didn't get satisfactory answers. I was convinced then that Jersey Bus had really, as people of Jersey and business in Jersey and as a company that had maintained its position in the tourism industry, that they had been absolutely screwed by this Committee and by the public servants. So, having

armed myself with that information, I was prepared to launch quite a big attack on the Committee.

Then, in December 2004 -- yes, 2004 -- when Deputy Dubras presented the report to the States, which included this incredible allegation that Jersey Bus had connived with the trade union movement and had actually gone behind everybody's back to do a secret deal on the shift allowance and I had seen all the correspondence and was aware what a lie that was, I started to really push very hard to get all of the information that I required. So I called for every report that I could possibly get. I would go through the minutes and where it would say "*A report was presented by the Traffic Co-ordinator*", I would simply ask for a copy of the report and, wherever I got copies of the report, I was able to read information there that the public servants were giving to the Committee that were totally false.

As a result of that, of course, as we all know, Deputy Dubras called a public inquiry. Well, he called it a public inquiry. It actually gave the impression to the public that this was going to be a proper inquiry and I wrote to Liz Burst -- and I believe I have put that letter in to the Panel -- where I said: "I have got all this information. I would like to come and see you to discuss it" and I got a telephone call from Liz Burst, who said to me: "Look, I am only going to do this for a day. I am going to do a paper trail and all I am interested in is the documents held by the Committee and from Halcrow." So it was clearly not a proper inquiry and, in fact, I issued a press release to the effect to say that this was not a proper public inquiry, it was just a paper trail and Liz Burst will only get what the Committee wants to give her and that I had information that I was sure she would want to see, but she didn't want to see it.

As a result of that and the fact that I was able to prove ... because immediately this allegation was made in the House, I went and saw the ... I rang the Union up and I told them what had been said and they were outraged by it. They said "Look, we will send you all the correspondence that we have got on this." I did the same with Jersey Bus and they were equally outraged by it and they actually wrote to the Committee and I believe their lawyers wrote to the Committee and sent them all the documentation. Now, I think it is a matter of record and fact now, because Maurice Dubras had to apologise in the House for making that statement, that in fact the statement was totally untrue and there was no secret deal.

Now, the investigation that I did at that particular time included that I rang all of the tenderers and I asked them a simple question: "Did you receive details of the shift allowance from Halcrow?" Answer from all of them: "Yes." Next question: "Did you include it in your tender?" Answer: "Yes." So the statement that the consultants or the tenderers had never received information about this was totally false.

So, as a result of all this information, I asked for a meeting with Deputy Hilton and, at the time, she was the Vice-President of the Committee and in fact she and I had quite a close relationship politically, in that I had helped her election campaign and had written a lot of her speeches and really helped her to get elected. I did so because I felt that she was a politician who would be honourable and who would support justice, because she had been a former Centenier and also the fact that she would have an investigative mind; in other words, she would look into things and not just accept them.

So, as I have said, I have given you a few paragraphs about how that meeting came into being -- I don't know if you want me to basically go into it --and the sort of political background to it. But, in fact, we had a good personal relationship.

So we met at De Gruchy's coffee house over a cup of coffee and I had all the documentation from the Union, plus all the reports that I had been given. I sat her down and I gave her all the papers and went through piece by piece of the evidence. She then said to me: "Ted, I think you have got a case here. I think we should have a meeting with John Richardson." I said to her: "I think that is absolutely right, I would be happy to have that meeting, but where do you stand on this?" and she said: "I am in a very difficult position. I am Vice-President and I would have to support my President." I said to her: "Do you mean President right or wrong?" and she said: "I'm afraid so." So we then had a meeting with Mr Richardson and I would like to turn to that meeting and go through it.

MR SHEPHEARD: Senator, can I deal with two things fairly quickly?

SENATOR VIBERT: Hmm hmm.

MR SHEPHEARD: First of all, you referred to events taking place in late 2004, but I think, on the basis of the evidence that we have already been given ----

SENATOR VIBERT: It must be 2003.

MR SHEPHEARD: It must be 2003.

SENATOR VIBERT: Correct, it must be 2003, sorry, because the problem is that it was December, round about December, and I have messed the years up. You are quite right.

MR SHEPHEARD: And your meeting with Mr Richardson is, I take it, what is referred to in this statement which we now have?

SENATOR VIBERT: Yes. So basically, can I continue?

MR SHEPHEARD: Yes, yes.

SENATOR VIBERT: So, on the basis of asking Deputy Hilton to organise a meeting with John Richardson, that meeting was duly organised and we had it early in January. I think it was 8th January, but I am not certain. I wouldn't swear to that, but it was around about that time. Frankly, I didn't want to go through with John Richardson all that we could agree on. For instance, he had already agreed and Liz Burst had already investigated -- I think she was investigating the situation -- there was no doubt that the Department, sorry, the consultants and the tenderers all knew about the shift allowance. He agreed that that was the position. So I said: "Let's not go down avenues where we agree. Let's deal with where we are going to disagree." He said that Jersey Bus and the Unions had written to him in January, sending him the correspondence, and I had given copies to Jackie Hilton, which he had as well, and he told me that he had also contacted Halcrow and they were perfectly clear that not only did they know about it, but they had informed the Committee.

Now, I actually rang Roger Halkin (sic) when this matter came up in the States in December and I asked him immediately: "Did you send all the documentation that you sent to the tenderers to the Committee?" and he said: "Absolutely and without doubt." So Mr Richardson agreed with me that, whilst the consultants clearly knew, he now found out, he was quite adamant that the Department had never seen that correspondence and had only seen it early in December of 2003, when Jersey Bus' lawyers had sent it all to him and the Unions had sent it all to him. He was quite adamant about that. I said to him: "Well, the problem you are going to have is that Halcrow say that they sent it to you, you say that they didn't send it to you, so you

are going to have a battle with Halcrow over this, aren't you?" and he said: "I'll be dealing with that matter."

So I moved on to the next thing. I then said to him: "Did you approve the letter which Alan Muir wrote for Deputy Dubras that was sent to Senator Le Sueur on 19th May 2003, which referred to the Committee being outraged at the conniving that appears to have taken place", and I believe I have put that letter in in the attachments. It was the letter that Deputy Dubras wrote to Senator Le Sueur in which he was asking for the money. He said: "I think I saw it, yes." I then said: "They were very damaging claims against Jersey Bus and the TGWU. What did you do to check out whether what was in the letter, which stated '*At no time during the tender process up to the award of the contract did the TGWU advise the States, its consultants or all of the tenderers that such a substantial claim had been submitted*'?" I then said: "Did you ask Alan Muir, if he had checked this with Halcrow or the tenderers, whether this was true because it is a very, very serious allegation?" He said: "No, I assumed Mr Muir had done that." I said: "Well, it is a very easy thing to check. I rang Roger Halkin (sic) of Halcrow and he told me yes of course he knew all about it and so did the Department as Halcrow sent all the details of the tender process. I then rang all the three tenderers other than Jersey Bus and Connex and they told me they knew all about it and had made allowance for it in their tenders. That took me a couple of hours. It was a pretty simple exercise." He said: "I agree we should have checked it." I said: "Surely you would have been aware that the statement dealing with this given in the House has put your President in a very dangerous position because I am going to be bringing a vote of no confidence in him because of this highly irresponsible statement and yet you and Alan Muir were responsible by the simple fact that you failed to carry out any basic checks." His answer to that was: "I understand that position."

I then said to him: "You claim that you didn't receive any detail about the shift allowance until Alan Muir spoke to Mick Kavanagh of the TGWU in May 2002, after the contract had been awarded to Connex." He answered: "That's right. We didn't know anything about this award until that time." I then said: "I've looked through all the minutes of the period of your Committee and yet I can find only one reference to the shift allowance as being a problem. In

view of the difficulties that this caused you, could you explain to me why you never discussed this with your Committee?" He answered this: "Our Officers discussed this with Connex and they felt they could absorb parts of it and would hope to persuade the Union to renegotiate the agreement. By October it was clear that the Unions would not move on it and Connex came back to us to report this and felt that they had been misled and that they didn't know about the deal." I then said to him: "So when you found out about it in May, your Officers weren't outraged by the alleged connivance of Unions and Jersey Bus, but they became outraged in October/November when Connex couldn't renegotiate the deal." He said: "Well, that's your interpretation of events. The fact is that Connex were not aware of the shift allowance and didn't allow for it in their contract." I said: "That's rubbish. Here are the pages of their tender in which they say twice that their contract includes the Union's agreement in full. They received all of the information from Halcrow, which included the Union demands, so when they say 'in full', they can only mean including the shift allowance which is in the letter." He said to me: "I can't remember what's in the contract, but I will look it up and check on what you say."

I said I was amazed by this. I said: "Do you mean to tell me you don't know what Connex said in their contract on this? I would have thought it would have been emblazoned in your mind. After all, it's crucial that you looked at the contract before you decided to pay £186,000 to Connex. It's there twice in black and white." I then said: "I understand you sought legal advice before you paid that £186,000. What was their advice?" He said: "I can't reveal that as it's confidential." I then said: "My understanding is that you did not ask to get that legal advice until after Deputy Dubras wrote the letter to Senator Le Sueur on 19th May and that the advice was that you did not have to pay the £186,000 because of all the reasons that I have outlined to you."

I then said: "Over this £186,000, isn't the position this? There is no correspondence with Halcrow covering this important issue, which so outraged your Officers in November, after they had spent from May to October not being outraged, and it was never reported seriously to the Committee until the new Committee took over in March 2004? It is clear that the Officers rejected completely the relief bus argument put forward by Connex, having studied the contract

and talked to Connex, and yet it was prepared to accept the Connex case for £186,000 despite all the statements in their tender?" He then said: "I believe that Connex were referring to 4.5% laid out in the Jersey Bus letter of 12th February 2002, which said 'We have budgeted for a 4.5% increase from March 2002 and a further increase of 5% in March 2003'. Connex told us this is what they worked on."

I then said: "So you had the letter of 12th February 2002", and I showed him the 12th February letter from Mike Cotillard to Roger Childs. He said: "Yes." I then said: "If you had that, I'm very surprised you didn't have all the rest of the material from Halcrow. Can you explain that?" He said: "I know we had this letter on file." So I then said: "Having totally rejected Connex's claim for relief buses, you then felt you had to do a deal with Connex of 'Well, you've agreed with us on relief buses, so we'll agree with you on the shift allowance and pay it.' Would you agree that was a very stupid piece of negotiating when you had such a strong argument not to pay?" He then said: "We were in a very difficult position. They were threatening to pull out of the deal." I said: "That's exactly my point and, to ensure that they didn't, which would have been an enormous embarrassment for your Officers and the Committee and all the people who pushed this Connex contract on to the people of Jersey, if it fell in a heap you would have to go cap in hand to Jersey Bus to take over the bus contract. You knew that, if this happened, your head would have rolled, along with Alan Muir and Mike Collier as well as all the politicians involved and, to save this position, you allowed them to take £186,000 worth of taxpayers' money they were never entitled to." He said: "Well, that's your interpretation of the position. I don't disagree with all of it and obviously there was great concern that Connex would pull out of the deal if we had insisted that they wouldn't get the money. When all of this was happening, you have to realise that we were not aware of the shift allowance as we had not received all those details. We believed, like Connex, that the deal was 4.5%."

I have made a note in my statement regarding this, that I draw the Inquiry's attention to the minutes of the Sub-Committee of 17th March, items B2 and B3, which are attached to the submission.

I then said: "Look, by now you know that Connex received all the details of the shift

allowance included in their tender and you know that all the tenderers included it, as did Jersey Bus.”

He said: “But how do we know that Jersey Bus included it in their tender?” I said: “Because the very first line of their tender says so and they have given me the breakdown of their figures, which clearly show that the wage component of their tender matches up to the shift allowance at a cost of £220,000, giving double proof that they did. They agreed the deal with the Unions between their letter of 12th February and submitting their tender a week later. Having agreed with the Unions, it would be very silly of them not to include it in their tender.” He said: “Yes, but we still don’t know when the agreement was signed. If it was not signed until after the announcement of the agreement with Connex was announced, it would be clear that this was just a spoiling action by Jersey Bus.” I said to him: “What a silly argument that is. All of the tenderers knew they had to include the shift allowance in their tenders and all did.” He then said: “I would like to know when the formal agreement was signed.” I said: “I think it was May 24th.”

Then Deputy Hilton spoke for the first time, saying: “That was after Connex was awarded the contract and that proves it.” I said: “It proves what?” She said: “This was spoiling tactics.” I said: “Don’t be daft. How can it be a spoiling tactic when everyone knows about it and it is included in their tender?” She then said: “Well, that’s what you say, but that’s not certain.” I said: “Look, I’ve done all the checking and spoken to all the companies and they all say they included in the award and their tender. What else do you need to know?” She said: “I’m not happy about the fact that this was signed in May, after Jersey Bus knew they had lost the contract. You know that the Jersey Bus directors have not been entirely honest with the Committee in the past.” I said “What evidence do you have of that, Jackie?” She said: “Well, I’ve read the Officers’ reports.” I said: “Even though you know the allegation they made about Jersey Bus and the Union conniving was false and John has agreed it was false, you are still prepared to believe those other Officers.” I said: “I can’t believe you sometimes. I think you’ve left your brains at home.” She said: “When I look at the letter of 12th February to Terry Le Sueur and the 4.5% and the fact that they didn’t sign the contract until the end of May, I believe they did this to make life financially difficult for Connex.”

I then said to John Richardson: “You seem to be quite adamant that your Department did not know about the shift allowance until May, when Mick Kavanagh spoke to Alan Muir.” John Richardson said: “That’s absolutely right.” I then said to him: “Well, what would you have done about it if you had known in February 2002? You knew about it in May 2002, but you didn’t do anything, or you seem to have done very little, until March 2003. You didn’t talk to Halcrow. You didn’t report it to the Committee. You didn’t write to the Union for an explanation. You didn’t write to Jersey Bus. You didn’t contact the other tenderers. In fact, you did nothing about it until it was obvious that Connex couldn’t renegotiate the deal. Then your Department was suddenly overcome with righteous indignation and accused the Union and Jersey Bus of conniving and the Department was outraged. Why weren’t you outraged in May of 2003 when you found out about it?” He said: “Because of what I said before. The Officers and Connex were trying to hold the deal together and we were in partnership and we were trying to help them.”

I then said to Mr Richardson: “I have irrefutable evidence that your Department was fully aware of the shift allowance soon after the tenders were put in, about February of 2002. Are you aware that Mr Alan Muir attended a meeting with Jersey Bus executives and Roger Halkin (sic) from Halcrow on February 28th 2002 and that the shift allowance was discussed in Mr Muir’s presence?” John Richardson said: “I don’t think that’s right. It would have been most improper for Mr Muir to be attending a meeting with one of the tenderers during the process. Whoever gave you that information is completely wrong and I can give you a categoric assurance that Mr Muir would not have attended such a meeting. It would be most improper.” I said: “So the three directors of Jersey Bus who are prepared to swear in court that this meeting took place and that Mr Muir was there and that they all discussed the shift allowance, they are lying, are they?” He said: “I think they are just mistaken.” I then said: “Look, I have got a record of the meeting taken by Mr Chris Lewis and there is no doubt that the meeting took place and that Mr Muir was there and it was on February 28th and it was held at Jersey Bus’ offices and that Mr Lewis, Mr Cotillard and Mr Pickering were present, as was Roger Halkin (sic) of Halcrow.” Mr Richardson then said: “Well, I’ll soon get to the bottom of this” and left the room.

He came back about three minutes later, sat down and said: "I have just spoken to Alan Muir and he says he only went to the meeting to introduce Mr Halkin (sic) and left and took no part in the discussion." I said: "He is telling you lies. The record of the meeting has him there right at the start, right through the middle and he asks the last question. He was there throughout and he discussed the shift allowance." Mr Richardson then said: "Well, we don't know how accurate these minutes are. I wouldn't trust Jersey Bus' notes of the meeting." I said: "You're just unbelievable." I said: "Alan Muir has told you two lies within five minutes and you still can't accept that he is still doing it. You have got a hatred for Jersey Bus and it has been clouding your judgment for several years and it is going to cause you all sorts of problems. I presume Alan Muir kept notes of this meeting. It will be interesting to see how they compare with the notes from Chris Lewis. I am sure that Roger Halkin (sic) would have kept notes of the meeting. Why don't you compare them and I'll send you Jersey Bus', if they consent to that, and you can get me Mr Muir's and Halkin's (sic)?" Mr Richardson said: "I agree. If you send me Chris Lewis' notes, I will get your Alan Muir and Halkin's (sic)."

On January 12th 2004, I sent Mr Richardson a note with a covering letter, which is attached, as well as the detailed breakdown of how they had arrived at their tender costs. I would ask the Inquiry to note that I never received what I was promised. I never received Alan Muir's notes or Mr Halkin's (sic) notes.

I also wish to say that I understand that evidence was given by Mr Muir that he was actually not present at the start of the meeting and, therefore, missed any reference to the shift allowance. This is not backed up by the facts because I have the record of that meeting and I would like to draw the attention of the Inquiry to the opening statement made by Roger Halkin (sic). He said: "On compliant bids, we have had five bids. They are all quite close, similar margins, not much difference" and that the purpose of the meeting was to seek clarification not negotiation. The Steering Group was likely to determine the preferred bidder and they had had similar meetings with other bidders on the mainland, but this was the only one Alan Muir has attended. I put it to this Inquiry that if Alan Muir had not been there, they would never have said that this meeting was the only one that Alan Muir had attended. Clearly from these notes he was

present right at the start and, in fact, if you look at the minutes of that meeting you will see that the Transport and General Workers' proposed and agreed to a shift allowance was discussed by Jersey Bus.

I would also like to point out to the Inquiry how obvious it would be that they would discuss it, because Jersey Bus wanted to make sure that all the other tenderers had included the shift allowance in their tender, because, if they didn't, Jersey Bus were going to be £220,000 dearer than anybody else, so it is obvious that they would want to discuss this with Halcrow to make sure that all the other tenderers had put this in their tender. I think that is so obvious as to almost be ridiculous.

Anyway, my conclusions at the end of the interview with John Richardson were that their explanation about the meeting changed so regularly that it was obvious that they were making up the lies as they went. The only conclusion is that either Mr Muir was asleep during the conversation or he didn't understand what was being discussed, in which case I have to wonder about his competence to deal with the matter.

I ended the meeting with Mr Richardson and Deputy Hilton by saying: "I have no doubt Alan Muir knew about the shift allowance in February 2002 and he wasn't concerned about it and neither were you. When the contract went to Connex, Dennis Ord wasn't concerned about it either as they had included the shift allowance in their tender and it is so stated twice in their tender. What they made a mess of was the relief buses, because they had no way of calculating this and had to make an estimate. They grossly underestimated it and, by November 2002, Dennis Ord had gone and the French company was in place. They tried to put on a fuss about not knowing about the relief buses and Alan Muir knew there was no way they should get away with this, so they made the shift allowance the major issue. I have no doubt that the Officers were complicit in that, because the last thing in the world they wanted was for Connex to pull out before they started or face such industrial action that the whole plan would collapse. I said to John Richardson: "Your political masters would not have wanted this either. Politicians don't like egg on their faces. This was the reason why you paid £186,000, when all the facts were screaming at you that the taxpayer did not have to pay this amount."

On the way down from South Hill, I gave Deputy Hilton a lift in my car, and said to her: “What a bunch of incompetent, lying bastards they are. They should be in jail for what they’ve done, for what they’ve cost the taxpayer.” She said: “I’m still not happy about the fact that the deal was signed after the contract.” I told her to get her head out of the sand, face the facts and get off that Committee before I brought it down. She said: “I’m enjoying it too much. Anyway, you know my feelings of loyalty to Maurice.” It was like having a dialogue with a deaf person.

So, having had that experience and interview with Mr Richardson, I would like ... I am sorry. Can I just take a quick break?

MR SHEPHEARD: Yes, of course.

SENATOR VIBERT: I would like to go to the loo, if I may.

MR SPENCE: Sure. If I may steal your script because I left a page out of the Committee Members’.

MR SHEPHEARD: We will adjourn for five minutes.

SENATOR VIBERT: Can you? Thank you.

Adjourned for a short while

MR SHEPHEARD: Senator, I hope you are feeling better.

SENATOR VIBERT: I am fine now, thank you. Sorry about that. I’m at the point where I’ve done the interview with Mr Richardson and I was going to move on to the next stage.

MR SHEPHEARD: I, in fact, have one or two questions arising out of the evidence you have just given, if you wouldn’t mind?

SENATOR VIBERT: Yes, fine.

MR SHEPHEARD: Firstly, there is an anachronism on the third page. You are quoting yourself. It is the paragraph that begins: “*I said: ‘Over this £186,000, isn’t the position this’*”.

SENATOR VIBERT: Yes.

MR SHEPHEARD: If you look in the fourth line down, what is that date in March? It can’t be March 2004 because this is a conversation that took place in January 2004.

SENATOR VIBERT: I am sorry, it was in March 2003. That is when the Committee actually took over, so there was an election in November 2002, which is the one I stood in, and there was a

change of Committees then and Deputy Dubras and it was the new Committee that started to deal with this problem.

MR SHEPHEARD: Right. Now, it is a very detailed account of the conversations you had with Mr Richardson and Deputy Hilton at this meeting. Did you write it up afterwards or?

SENATOR VIBERT: No, I didn't. I have a clear recollection of these meetings. I've been a journalist for many years and I'm able to ... I suppose I've trained my mind to be able to do it. **(Pause)**

MR SHEPHEARD: When did you actually put pen to paper to produce this, or fingers to keyboard or whatever?

SENATOR VIBERT: About a week ago. **(Pause)**

MR SHEPHEARD: Do you have with you, Senator, the notes which you obtained from Jersey Bus of the meeting of 28th February 2002?

SENATOR VIBERT: Of the meeting with the?

MR SHEPHEARD: The meeting of 28th February 2002?

SENATOR VIBERT: Yes I do.

MR SHEPHEARD: I wonder if we could trouble you for sight of that because we want to refresh our memories of it.

SENATOR VIBERT: Yeah, fine. **(Pause)**

MR SPENCE: Do we have copies of these?

MR BLACKSTONE: No, these are different from the ones we have.

MR SPENCE: They look to me like the ones we have had before.

SENATOR VIBERT: Yes, that is a copy I have supplied to the Inquiry. **(The Committee conferred)**
Perhaps it could also help the Inquiry if I explain to the Inquiry how I came to get those minutes and why I got them.

MR SHEPHEARD: Well, I think the Inquiry has heard evidence from Mr Chris Lewis about that, Senator.

SENATOR VIBERT: Fine.

MR SHEPHEARD: I don't think we need to trouble you on that particular point.

SENATOR VIBERT: Thank you.

MR SPENCE: It came in as part of the Senator's third submission as well. **That** is another copy of **that**. **That** is annotated by me as being a copy of something that we have seen before. (**The Committee conferred**)

MR SHEPHEARD: Senator Vibert, we have got a bit of a problem, in that we have now extracted from our files a copy that you submitted as part of one of your bundles. We also have a copy, which was provided to us direct by Jersey Bus and, looking at the document which you handed up to me now, it appears to have an annotation on it which is not on either of the two copies that we otherwise have.

SENATOR VIBERT: I think I can explain that to you, if I may. I actually didn't have a copy of those minutes because I had sent them in to you and I needed to refer to them and this morning I went to Jersey Bus and asked them if they would copy me a copy of the originals and I picked that up from them this morning, so it is quite possible that it's not the same as the one that I actually issued to the Inquiry. I don't know what annotations there are, but I can only assume that that is basically what happened.

MR SHEPHEARD: Right. Okay. (**Pause**)

SENATOR VIBERT: I suspect mine has probably got my own annotations on it -- I can't remember -- my original.

MR SHEPHEARD: Yes. This copy, thank you for letting us see this, but, as I say, this one has some annotations.

SENATOR VIBERT: They are more for my reference than yours.

MR SHEPHEARD: I suspect very possibly, as you say, they are more for your reference than for us.

SENATOR VIBERT: Yes.

MR SHEPHEARD: The weight of the evidence that we have received so far indicates that, at that meeting on 28th February 2002, it was intended that Mr Muir would be present, but that he was not able to be present for the whole of the meeting. In fact, he came late. Certainly the evidence that we have heard from Mr Macklin of Halcrow indicated that any discussion that took place about the shift allowance took place before he arrived.

SENATOR VIBERT: Hmm.

MR SHEPHEARD: Now, does that in any way change your view of the matters that you were putting to Mr Richardson?

SENATOR VIBERT: No, not in the slightest, because the fact that Roger Macklin opened the meeting and explained what it was all about and then stated that this was the only one that Mr Muir had attended, clearly illustrates to me that he would never have said that in the absence of Mr Muir and it was after that was written that they dealt with the wage negotiations because it goes on to say about the wage negotiation and the Union and all of the structure of it, after it has been written that Mr Macklin has said this is the only one Mr Muir has attended. I can't believe it is possible in any way, shape or form that that could have been said without Mr Muir being present. It just belies common sense. **(The Committee conferred)**

MR GARRETT: Can I just ask you a question in connection with these notes?

SENATOR VIBERT: Yes.

MR GARRETT: What is your understanding of who actually produced these notes?

SENATOR VIBERT: Oh, Chris Lewis. It is Chris Lewis' notes.

MR GARRETT: Do you know when these notes were produced?

SENATOR VIBERT: When they were produced to me?

MR GARRETT: No, when they were actually written up?

SENATOR VIBERT: Knowing, and this is where I would like to explain to the Committee, I actually went and asked for those notes after the announcement had been made of the "*conniving with the Union*" in December in the States. I rang Chris Lewis up and I said: "Look, this statement has just been made in the House" and I said: "It's absolutely outrageous because I know because I have read the correspondence that the Union, everybody knew about it." He said that he thought it was outrageous as well and, having dealt with his outrage, I then said to him: "Look, have you got any evidence of any meetings that you had with anybody prior to this?" He said: "Well, yes. We had this meeting with Alan Muir and Roger Macklin." I went down to his office and we sat down and I said to him: "Can you get the notes? Did you keep notes of the meeting?" Every meeting I have ever had with Chris Lewis he has a pad alongside him and he writes his notes up, even if I'm just there to discuss a cup of coffee. It's almost like an obsession that he constantly

... so when I got to a meeting with him, he will say to me: "Look, I told you this last week" and he can find his notes. It is just something that he does. I've watched him do it.

So when I went there, I said to him: "Do you have any notes of the meeting?" He said: "Hold on, I'll go and get them." He went out of the office and he came back with a file. He went through this big file like **this**. He went through it and through it and through it and through it and he said: "Right, ah, here they are" and he gave them to me and I read them. At the time, of course, I didn't know ... all I did was pick the notes up and clearly it is said in here that they discussed the allowance and the fact that Alan Muir was present, because it says: "*Meeting with Roger Macklin from Halcrow and A. Muir from PSC.*" As far as I was concerned, that was evidence that the Officer in charge of the whole thing knew about the shift allowance and that is why I took it with me to see Mr Richardson, to challenge him on the statement that they didn't know about it.

MR GARRETT: And the evidence that has been presented to us thus far indicates that these notes, this particular version of the notes, are not the original notes. These notes were produced at some later stage from notes that were recorded at the time and they were just jottings which are no longer available unfortunately.

SENATOR VIBERT: Well, that may be. I don't know that. All I asked for is: "Do you have any notes of the meeting?" and Chris Lewis said: "Yes, here they are." All I can tell you is that, in all my experience, whenever there is a meeting with him, and I am sure on a meeting like this, knowing how he takes notes of meetings with me and I am sure with other people, he would have taken those notes as they were happening. Now, whether those are the exact notes that he took then I don't know.

MR SHEPHEARD: Anything you want to ask, Mr Blackstone, arising out of this? (**The Committee conferred**)

MR BLACKSTONE: We have had conflicting evidence on this very point, Senator, as you are obviously aware. We have heard that Mr Muir was due to be at the meeting, but was delayed and did not get there on time. Playing Devil's Advocate slightly, is it not possible that it could have been written down, this one, as attended by Mr Muir on the assumption that he was on the

doorstep and about to turn up, because the first time there is actually a reference to him having spoken does come after the shift allowance is discussed?

SENATOR VIBERT: I accept that.

MR BLACKSTONE: Is that possible or am I stretching it to the unlikely?

SENATOR VIBERT: I think it is a long bow, I really have to say that, but it is possible.

MR BLACKSTONE: Is it possible?

SENATOR VIBERT: Yes.

MR BLACKSTONE: Just.

SENATOR VIBERT: I think it is a matter obviously for the judgment of the Inquiry as to what weight they give that.

MR SHEPHEARD: I think you are right there, Senator. I think it is a matter we have to take into account in weighing up the evidence. **(The Committee conferred)** Yes, Senator.

SENATOR VIBERT: Right, thank you.

MR SHEPHEARD: Sorry about that interruption.

SENATOR VIBERT: No, that's okay. Well, after that meeting with Mr Richardson, I had another meeting with Deputy Hilton in the same place about three days later and I asked her: "What are you going to do about this situation because I'm going to bring a vote of no confidence in the Committee without doubt and you are on the Committee and the Committee is going to fall, in my view, no doubt and you are part of it and I think you should get out before that happens." Her answer to me was: "I have looked at all the stuff you've given me, Ted. I'm still worried about the fact that this contract, this deal, wasn't signed until afterwards."

I tried to point out to her that that's not the slightest bit unusual in negotiations. When you are negotiating with people and you do the deal, you don't sign up immediately. You can sign up whenever you wish to sign up. The deal is done and that is how union relationships work. That is how business relationships work and, in fact, this contract wasn't actually signed until December. Even though Connex had the deal done, it wasn't done or signed until December. So I saw absolutely no argument at all that this was in any way connected with the whole business. I just kept telling her that it was totally irrelevant, but she took the view

constantly that she was going to stand by her President.

I had done all I could do to convince her and she clearly wasn't going to be convinced, so I then prepared a series of questions for Maurice Dubras in the States, which was unprecedented in the history of the States. I asked him 18 questions. In those days, I was allowed to do it, but they have changed the rules since. All of them were honed in on their incompetence, the lies, the mis-information and Deputy Dubras had answers prepared by his Officers which were attempting to contradict it, but, half way through the questioning, he decided to call it a day and he resigned and the Committee fell.

Now, following that, the normal situation is that the man who brings the Committee down, the convention is that he takes the position as President. At the time I had just been appointed head of the Scrutiny Panel and I couldn't be a Committee President and be the head of the Scrutiny Panel. I didn't want to give up Scrutiny because I had only just started it, so it was open to the House to decide who was going to be President of the Committee. It is only a convention. It doesn't follow that you have to do it that way. It is just a convention. So I decided to stay on Scrutiny and it was up to the House to appoint a Committee.

They appointed Senator Ozouf and Senator Ozouf asked me if I would wish to be on his Committee. I said to him: "I am only prepared to come on your Committee on one condition, and that is you allow me to handle the Connex situation." I said: "I know it inside out and back to front and I wish to take Connex head on, with a contract, with a tender and go and ask them to justify the fact that they had got £186,000." He took me on the Committee on that basis, that that was going to be the job that I was going to do.

What happened in fact was that I was barred from having anything to do with the buses on a ruling of the Solicitor General. The Solicitor General had been approached by Senator Ozouf on the basis that, because I had done so much work for Jersey Bus and had clearly developed a close relationship with them, that ruled me out of having to do with anything on the basis of a conflict of interest. I thought the argument was absolutely ludicrous and challenged her on it. In a series of correspondence, which unfortunately I can't find the file, but I am sure if the Committee wants it, they can get it from the Solicitor General, there was a whole series of

correspondence about my position and the Solicitor General made the extraordinary allegation that I had attended a meeting of Jersey Bus' legal representatives at Bailhache & Labesse's office to discuss the result of the ruling on Easylink. It was an absolute lie and it was an outrageous lie. I wrote to her, asked her to withdraw it and apologise to me. We have all this correspondence. I even wrote to the Attorney General, saying to him: "Who's in charge of your Department? This is an outrageous lie that has been told. I want it put right." It has never been put right and in the end the correspondence ended by saying: "We do not intend to have any further correspondence on this matter."

The reason why I raise this with the Inquiry is because it raises, in my view, the correspondence raises a very important issue about conflict of interest, because, if I was conflicted because of my friendship to Jersey Bus, I believe that every person who was opposed to Jersey Bus, who made the decision to award the contract to Connex, was also conflicted, because most of them had made some very serious statements about Jersey Bus and the way they ran their businesses. There is no doubt in my mind that all of those people should not have been allowed to actually take part in the awarding of the contract.

I have brought in evidence a letter that I wrote to Miss Nicolle on April 7th 2004 in which I said to her: "*The case of bias against Jersey Bus by the Officers, Members of the previous Committee, the Committee before then, the Jersey Bus Strategy Steering Group and Halcrow, the consultants, is open and shut as far as I am concerned and I have no doubt that a public inquiry will come to the same conclusion when they see the documentary evidence.*" That may be presumptuous, but that was my view. At the time, they hadn't announced the public inquiry.

"I also have no doubt that this will be the view of a court when Jersey Bus have their case tried when they sue for damages over the awarding of the contract. You might find the words of your memo being quoted back to you when this case finally reaches the courts, especially this" -- and this was a quote from a letter she gave me -- "*It is a settled principle of administrative law that bodies exercising functions such as the Committee exercises when considering applications for licences must be seen to be free from any risk of bias'.*"

It was on that basis that I was removed from anything to do with buses because it was her view that basically I was biased because I had taken up the case and fought the case for Jersey Bus. I said also: *“If I would be considered prejudiced against Connex because of my fight for justice for Jersey Bus, with which opinion I totally disagree, the question of my impartiality pales into significance alongside that of the Officers and, in the presence of Deputy Hilton, Mr Richardson has alleged that Jersey Bus fiddled their books, couldn’t be trusted and I should take with a pinch of salt anything they told me. Unbiased?”*

So, in my view, the position is this, that the people who were on the Steering Group, the people who were the politicians who were involved, who had all expressed particular views about Jersey Bus, about an alleged failure to produce documents, an alleged failure not to give them accounts and all of these things that had been alleged against them, should never ever have been allowed to sit on that Committee to decide the contract. I will be putting basically that in evidence to the Inquiry. So I have basically got all of that here.

So that is what happened with me when I was on the Committee. Of course, I think, you know, it is a matter of public record that that made me extremely angry with what Senator Ozouf had done and he and I clashed repeatedly because, at the same time, the Trinity infill matter was going on and I disagreed entirely with the way the Committee was handling that and, of course, eventually he went to the States and removed me from the Committee and I was off it completely. So I then simply waited for the Inquiry to take place.

In the meantime, I had a meeting, a discussion, with Constable Crowcroft, as I have outlined in my statement, and I will read it: *“After a States’ meeting, a group of like minded politicians usually calls into the Peirson Hotel for a drink and a chat. We are occasionally joined by the Constable of St. Helier, Simon Crowcroft.*

“At the latter end of last year, prompted by the announcement of the Bus Committee of Inquiry, I took Simon Crowcroft aside when we were in the Peirson Hotel and I said to him: ‘From all the information I have on the bus tendering and Connex’s contract, you are going to get a rough ride. Why were you so down on Jersey Bus?’ and he said to me: ‘Well, it just wasn’t me. We all wanted a fresh face running the buses. Frankly, we’d all had enough of Chris Lewis

and his attitude.’ I said: ‘But it’s a bloody shambles now and it’s costing us a fortune.’ He said: ‘I know it is. We made two very serious mistakes. We should have insisted that if Connex got the contract, Dennis Ord, who handled all the negotiations and presentations for Connex, should have been included in the deal for at least a year to bed the programme down. When it switched to France, it was a disaster. Our second mistake was to leave a loophole in the law which allowed Easylink to operate.’ I said: ‘Well, it’s a good job Easylink was operating. Connex was so short of capacity that people were being left stranded on bus stops. Fortunately, Easylink were able to carry them to their destinations. Otherwise, there would have been a summer of chaos.’ I then said to him: ‘I bet you wish you hadn’t been involved at all.’ He said: ‘It wasn’t one of my best experiences.’”

What I would like to do now, if I may, is to actually go through with the Inquiry the minutes of various meetings about selecting a new operator because they are very revealing and I have got them to put in evidence in case you haven’t had them made available to you, because I know you will have called for all of the information, but it is quite possible you haven’t had it all.

I have got here the minutes of 1st August 2001. Those minutes clearly spell out in the second paragraph about the way in which this was going to be dealt with. It says: *“The Committee remained committed to the development and improvement of the bus service and under proposed franchising arrangements would expect service levels to increase and with it the need for drivers and support staff. It agreed that companies bidding to operate the bus services would be required to outline their approach to terms and conditions in their expressions of interest and in general would be expected to comply with existing terms and conditions. The successful operator would also be expected to give priority of employment to the existing staff of Jersey Bus.”* Now, in my view, in 2001, that is a very clear indication that Jersey Bus were not going to get the contract. I put that in as evidence.

I also put in evidence the minutes of 16th July. These are minutes of the Public Services Committee of 16th July 2001 and it says on the second page: *“The Committee having considered the proposals put forward by Jersey Bus was adamant that it would not enter into a long term*

agreement with the company and should continue to progress its Bus Strategy with a view to entering into a competitive tendering process to select a new operator.” That is “a new operator”.

MR SPENCE: Which Act number is that, please, Senator?

SENATOR VIBERT: This is, sorry?

MR SPENCE: Which Act number?

SENATOR VIBERT: That is Act number ... er, B1.

MR SPENCE: Yes, we have got that.

SENATOR VIBERT: Right. Again, I think that clearly spells out that the intention was that Jersey Bus were never going to get the contract, otherwise they would have been in “*the preferred operator*”. They didn’t. They talked about selecting “*a new operator*”. **(Pause)** So basically in that area I have put in those minutes which, in my view, clearly show that the Committee was always intending to put in a new operator.

I would also like to put into evidence correspondence with Connex, between Connex and the Public Services Committee, about the shift allowance and their reasons why they felt that they deserved £186,000 extra.

MR SHEPHEARD: I think, Senator, subject to us seeing the documents that you are referring to, those may well be documents that we have already seen.

SENATOR VIBERT: That is quite possible, but I don’t know what you have seen. I also want to draw attention to some of the things in the document, to highlight what I believe the Committee of Inquiry should be looking at.

I am quoting here from the letter of December 31st 2002 from Connex to Mr Alan Muir, signed by Philip Julhes, General Manager. It says in this: “*All participants of the tender process were informed of the openings of discussions and a reasonable wage increase was included in Connex’s offer. But, as you know, the previous operator also created a shift allowance of £72 a week, which generated an increase of 21.9% compared with the weekly wage and started only to pay it on September 1st 2002. I would be highly grateful if you would examine the attached figures, especially those which relate to the shift allowance. Following meetings with Mike Collier and Roger Childs, we would like to discuss further how Connex could share with PSD*

these unexpected additional costs that we are now bearing alone.”

Now, as you know, the case that I am making before this Inquiry is that Connex knew all about the shift allowance. It was not a surprise; neither should it have been. Yet, here they are, writing to the Committee on 31st December, saying that they would expect that Connex would share with the PSD unexpected additional costs.

I would also like to put into evidence a letter from Mike Collier to Mr Julhes on 4th February 2003. I think that is probably the most important letter that the Committee of Inquiry should be looking at. In the third paragraph of this, it is about winter relief services and the third paragraph says: *“I would like to point out again that these services”, that is relief bus services, “are part of the contract for which Connex tendered and that the company or its agents should have been aware of their existence in the same way that other bidders were able to observe the practice and include them in their tender price.”*

This is the paragraph that I want to draw your attention to: *“There is no possibility of direct negotiation on this issue, since that would invalidate the tender.”* They then go on to say: *“However, as previously stated, there is some possibility of negotiation concerning the shift allowance that Connex was required to accommodate as an unexpected part of the 2002 pay settlement with the TGWU. This will need to be achieved with senior Officers and the Committee, who will be appraised of the situation shortly.”*

So, on the one hand, they are saying to Connex: *“We can’t deal with the relief buses and renegotiate this because it would invalidate the tender”,* which is right, but also they are prepared to renegotiate the shift allowance, which would also invalidate the tender. I mean, I think that letter is extraordinary in its content in terms of the way in which this whole thing went and that they ended up paying £186,000. So I would like to put that letter in also.

I would also like to put in a copy of a report issued by Mike Collier to the Committee dated 24th March 2003. I am sure you have a copy of this, but, if not, I am happy to leave this. The area I would like to refer to is, again, about the relief services. It says here: *“To date, Connex’s stand on this matter has been that they were contracted to operate only the published timetable within the tender price and they were not aware of the requirement for reliefs. This is*

not a correct interpretation as far as PSD Officers and Halcrow Fox, the States' transport consultants, are concerned. The matter is satisfactorily covered in the contract and Connex were given information and every opportunity to observe the Jersey Bus operation for themselves to the tender submission. It has been pointed out to Connex management that there are quoted figures in their tender that indicate that some provision has been made in their tender for these reliefs. As a result of these recent discussions, Connex have accepted that the provision of reliefs that had been allowed for by Connex staff involves more costs than they allowed. The true cost is now calculated by Connex", and it gives the figure and they end up with an outstanding amount of £92,708.

Now, it says: *"It is proposed, subject to resolution of the shift allowance issue, that Connex will address the operating deficit within their own resources."* So what they are saying, again, to Connex is: *"You should have known about it. It was very clear that you had to include it in your tender and, in fact, we can prove that you under quoted for these reliefs."*

But then it goes on to talk about the shift allowance payment and it says, quite inaccurately and wrongly: *"This was an agreement made by Jersey Bus beyond the notified TGWU wage claim negotiated by Jersey Bus as a private company after the States had directed that Connex employ the transferring staff on the same conditions of employment as Jersey Bus. This has meant that Connex has been forced to pay the unexpected increase in order to be able to be able to operate at all."*

Now, what is significant here, in my view, and I point this out to the Inquiry is that, whilst with the relief operation, they looked at the contract and they went through the contract with a fine tooth comb and pointed out to Connex: *"Sorry, but it is in the contract and we have discussed this with Halcrow and you are not going to get the money, you are not entitled to the money and we reject your claim"* -- I think that is very clearly put -- when it comes to the shift allowance, they don't look at the contract, they don't discuss it with Halcrow and, if they have done, there is no correspondence so there is no letter to Halcrow saying *"Hey, look, these people are looking for another £186,000. Do we need to pay this money? Would you look at the contract and see whether we are right or not?"* There is absolutely no evidence that they have

done that at all.

Then it goes on to this extraordinary position where what they say is: *“Following discussions with Connex management, there may be an opportunity to reach a compromise whereby Connex will accept the cost of the relief services and will incorporate them into scheduled services if the States will accept the additional unforeseen cost resulting from the shift allowance payment.”* So, having rejected their claim for relief buses, totally rejected it, they then say: *“We are going to negotiate this position and, if we don’t pay the relief buses, because we don’t think we should, we will pay you the shift allowance of £186,000.”* It is the kind of negotiations that a child wouldn’t do.

There is no answer to it, because the recommendation to the Committee from Mr Muir was that they *“refused to accept any liability for payment of essential and required relief services”* -- so they made it very clear that they are not going to pay that -- *“but, on behalf of the States, we should accept a one-off payment of £186,000 to facilitate the first year of operations.”* I think that is about the most extraordinary piece of negotiating that could have possibly been done and I think it is an absolute disgrace that the taxpayer has had to pay that money.

Now, I would like to also in the same vein draw attention to a letter from Connex, dated 24th February, written to Mr Alan Muir by Mr Philippe Julhes. In this letter I would like to draw the attention of the Inquiry to this statement: *“In March 2002, the previous operator signed an annual agreement being a 4.5% hourly rate increase in March and the creation in September 2002 of a shift allowance of £12 a day, which corresponds to an increase of 20.8% of the basic weekly pay. When Connex took over from Jersey Bus, we had no other choice than to maintain the payment of this shift allowance with a purpose of starting the service efficiently and save any criticism of Public Services Department’s choice of a new operator.”*

I believe that clearly spells out why they felt that this £186,000 ought to be paid, because, if they didn’t and they pulled out, there would be enormous criticism of the way Public Services had chosen their new operator, and that is out of the mouth of Mr Philippe Julhes. I think that is all the correspondence that I need to draw your attention to in that.

MR SHEPHEARD: Thank you for that, Senator. I think those are all items of correspondence which

are already amongst the Committee's records and which we shall of course pay due regard to when we come to formulate what our decision are.

SENATOR VIBERT: Thank you. All I am trying to do is to, from my point of view, highlight to the Inquiry how I saw what all this was all about. In other words, these are the issues that I wanted to take up when I was on the Committee because these are the things that gave me grave concerns about what had happened.

In addition to that, I have minutes now of the Committee where the shift allowance was not mentioned when Jersey Bus or the contract was being dealt with by the Committee following the discovery in May of the fact that the shift allowance had been awarded. The first minutes are 22nd July 2002, when the Committee received Deputy Layzell to discuss the colour, branding and design of the new buses, etc. There was absolutely no evidence in that meeting, which was a Committee meeting to deal with buses, about the shift allowance -- no objection, no concern, no outrage, nothing.

The same applied to the Committee meeting of 9th September 2002, where they were dealing with school buses and the whole of the network, the rationalisation as at September 2002, and, again, absolutely no mention to the Committee of this outrage that had been perpetrated.

On 16th September 2002, the Committee was considering the omnibus service licence to be issued to Connex, and they dealt with the whole of this: "*The Committee having noted the schedule of conditions and accepted on behalf of the States of Jersey the provision of a public bus service of £4.3 million a year, subject*", etc, etc, etc and about the lease of the new bus garage facility and the fact that, you know, it was a £20,000 a year lease for the bus station at St. Helier, blah, blah, blah. There is not one mention of this outrageous deal that had been done by the Transport and General Workers' Union and Jersey Bus officials.

I simply, again, wish to draw the attention of the Inquiry to the fact that there were many opportunities when Jersey Bus was on the agenda at the time to have raised this matter. I can't find any reference in any of the minutes from May, when they knew about it, until that Committee finally ended in December after the elections, where this matter was brought to the

attention of the Committee once, not once.

The next thing I would like to deal with is the question of bias against Jersey Bus. I would like to draw the attention of the Inquiry to a report issued and written by Mike Collier to the Committee, dated 17th March '03. This was a report to the Committee about the introduction of the start of operations by Connex on 29th September 2002, so this is written in March, so they were reporting on six months of operation. I would like to point out to the Inquiry the amount of venom there is in the Public Service officials towards Jersey Bus.

The first item is under an item "*Résumé of the obstacles faced*". Actually, I am sorry, it is in the opening paragraph. It says: "*The start of operations by Connex*", etc, etc, "*The company was faced with greater logistical problems than had been allowed for an Island operation, despite the warnings given.*" In other words, obviously Public Services said: "You are going to get some problems in this area", but, despite having been told this, Connex didn't take too much notice of them. It goes on to say: "*On top of this, the incumbent operator, Jersey Bus, was non-co-operative and even obstructive in the final period leading up to the changeover.*" They go on to highlight "*Résumé of the obstacles faced*", and he says "*Negotiations with Jersey Bus for the temporary use of their Weighbridge facility proved fruitless.*"

That is untrue. I am putting into evidence, because when I got a copy of this report, when I was searching and receiving all the documents, I went and saw the executives of Jersey Bus and said: "Look, there are a lot of serious allegations being made about you here, how do you answer them?" On that particular issue, they gave me a copy of a letter that had been written about the Weighbridge and Jersey Bus premises from Paul Tucker. It was a letter to Mr Cotillard from Paul Tucker, Director of Property Services, thanking them for their generous offer and for the co-operation and the lease and all the rest of it. So this question that Jersey Bus were unco-operative is totally disputed by that letter.

MR SPENCE: Could we read in the date of that letter, Senator?

SENATOR VIBERT: I am sorry, yes. That is 23rd August 2002. It is a letter to Mike Cotillard from Paul Tucker, Director of Property Services.

MR SPENCE: Thank you very much.

SENATOR VIBERT: And copied to Deputy Hacquoil, John Richardson, Dennis Ord and Alan Muir.

So they all received a copy of that.

MR SPENCE: Thank you.

SENATOR VIBERT: The second matter is "*Protracted negotiations with Jersey Bus for the sale of up to a dozen of their newer vehicles foundered late in the day when Jersey Bus insisted on a premium of close to 200% on the market value of the buses.*" According to Jersey Bus executives, that is absolutely untrue. They had negotiations on a business basis with Connex about some of their buses and it never got past square one because Connex just lost interest in the deal and they totally deny that they were talking about a premium of 200% on the market value of the buses. One has to wonder where does Mr Collier get this information?

The next item that I would like to draw attention to is all about the shift allowance, so that we know what they are saying here about the shift allowance, that Connex didn't know and nobody knew, we now know that to be totally untrue, and that is included in this letter.

Also in this letter, it says: "*Jersey Bus passed no information of any sort, operational or staff records, to Connex. This is unheard of in transport operations, where at least drivers' disciplinary records are always transferred.*"

Untrue. I have a letter here from ... it is a letter between Dennis Ord and Jersey Bus, where it is quite clear that all of the information regarding the staff was passed on to Connex. The letter is dated 27th June 2002 from Mike Cotillard to Dennis Ord, and I will read a bit very quickly: "*Thank you for your email dated 21st June regarding the information you require. I enclose all relevant information with regards to our employees. With the exception of Maria Crowley and Margaret Reid, all staff have residential status.*" It includes information about the staff. So I would like to put that in as evidence to the Inquiry.

The next item of misinformation is: "*Jersey Bus did not comply with instructions to make sure their vehicles vacated the Weighbridge site during the early hours of 29th September. The new Connex workforce were obliged to move their vehicles off stands to the rear of the site, where they remained for three weeks, making operations difficult.*"

I would like to put into evidence letters that were sent from Jersey Bus to the Waterfront

Enterprise Board (“WEB”) about the problems that Jersey Bus was having in trying to locate something like 60 buses and the help that the Waterfront Enterprise Board was able to give them and the co-operation that they have received from Jersey Bus. I have a letter that went to WEB in relation to that matter, which I know I will find here somewhere. I will come back to that one. I know it is here. So, again, totally untrue.

You see, we have got a situation here where we have a public servant reporting to the Committee and basically pouring a bucket of scorn on Jersey Bus and telling outright lies. You have to wonder what was the purpose of all this, because the contract had been awarded to Connex. This was a report about their performance and this, allegedly, all these things, were making life difficult for Connex. I think this kind of stuff is absolutely unforgivable. If it wasn't for somebody like myself who goes and looks at this stuff, goes and asks the questions, those kinds of things will rest in the mind of the politicians, so it poisons the minds of politicians about the people at Jersey Bus and the kind of people they are and they don't get a chance to defend themselves against this. This kind of stuff is not public, so this is given to the Committee. Seven politicians or six politicians read all this. What do they think of Jersey Bus? They think what a bunch of shysters they are making life so difficult for everybody. I just think it is absolutely unforgivable and I draw the attention of the Inquiry to this on that basis, that it purely shows that the public servants have always, in the last five years, taken a position with Jersey Bus that I think is untenable.

I would also like to pose the question to this Inquiry about whether Halcrow did their jobs properly. I have here a ... I asked for and received on 7th ... well, it is dated 7th March 2002, but the Halcrow assessment of the tenders. It is a 13 page document. Here we are talking about a massive contract, an important transport business. We have employed a consultant called Halcrow, who are supposed to be transport experts, to do an assessment of the tenders. What we get is about one paragraph on each company, a commentary on bids. I would have expected at least a five page to six page analysis and report on each company's bid, including a spread sheet that laid out the differences between what they were tendering for -- in other words, Jersey Bus, Connex, Anglia, etc: wages, bom, bom, bom; overheads, bom, bom, bom; staff costs,

bom, bom, bom -- so that the Members of the Committee could have looked at that and said: “Well, yes, we can see here Jersey Bus ...” or ask questions “Why is Jersey Bus’ wages a bit higher than everybody else’s?” and “Why has this company put so much in for fuel?” and “How come tyres are so expensive with this bus company and it’s not with the other?”

The concept of Halcrow was to create a level playing field for this contract. When you look at what they prepared for the Government, it is really quite pathetic that they can only have a paragraph or two about the various companies. I am convinced that, in fact, on March 7th when they wrote this, they had been given the tip: “Don’t bother too much about it because the contract is going to Connex.” Why else would they do it other than being no good at their job?

Of course, we have got this extraordinary statement that they made about Jersey Bus, the incumbent operator. What they say is: *“Whilst they are more expensive than either Connex Bus UK or Dunn-Line, they do however have the short term advantage of being the established operator in the Island, which may ensure a smooth transition from the present to future arrangements. We are not, however, convinced that the spirit of co-operation that is essential for the development of the successful partnership arrangement exists or is possible between the parties.”*

What an extraordinary thing for a consultant to put in a report assessing each of the companies. Where did this information come from? Did they sit down with Jersey Bus and say to them: “Look, we’re not convinced that you have got the spirit of partnership that is required. What is your answer to that?” They gave them no chance at all to deal with that particular issue.

In fact, what they also didn’t do, being a professional company doing transport, they did nothing to make any comment about Connex’s problems because, at that time, had they looked up on the Internet, they would have found on the Internet stories about Connex’s problems in Western Australia, which starts: *“One of Perth’s four public bus operators is understood to be on the brink of shutting its services amid speculation that the company is losing millions of dollars”,* right, and it went on about *“the company put in a very low tender.”* *“The company put in a very low tender when the former Court Government completed privatisation of bus services in Perth more than four years ago. It is also understood that it was advised that its tender was*

too low, but pressed ahead because it wanted to get a foothold in the Perth market.” Why didn't Halcrow know about that and, more importantly, why didn't they include that in their report, that there were problems with Connex in other parts of the world?

Another story that had got on the Internet was the fact that, in the United Kingdom, Connex South Central, which is a train company, became the first train company to lose its franchise. They lost its franchise because they put in a low cost bid and couldn't make it pay. They lost that.

Now, if this company were so ... if Halcrow were doing a job of creating a level playing field, why wouldn't they have commented on any of this, if they were prepared to make a comment about Jersey Bus? All it proves to me is that they were poisoned by the Officers, who never ever wanted Jersey Bus to get this business. So I, again, argue that Halcrow absolutely failed totally to do their job and their job was that they were trusted by the States and paid by the States of Jersey to provide a level playing field. They never went anywhere near a level playing field for this contract, in my view, and I draw the attention and I leave these press clippings for the Inquiry to basically look at.

I think, Sir, I have finished. No, not quite, sorry. I come back to this question of when I joined the Committee and what I wanted to do. I am going to put in as evidence letters that I wrote and memos I wrote to the President of the Committee regarding what was happening with Jersey Bus, the failure to have inspectors on the buses, which we all know is costing the Island a fortune. To suggest that you can have fare control and not have inspectors on buses flies in the face of the practice of any transport company anywhere in the world and yet, despite that, I was constantly being told “We don't need inspectors. We have got systems that are set up that can't be overcome. We have got a cast iron system that can't be overcome.”

I know there has been a scam going on with pensioner tickets and it has been reported to the Committee. What happens is that a pensioner gets a special ticket, which is an HIE ticket, so it is a no cost operation, and it is very simple for the bus driver to give that ticket to an ordinary fare paying passenger and pocket the money. If there is nobody on the buses going around checking the tickets and doing the checks, a bus driver can make £20 to £30 a day with no

checks whatsoever. This argument that keeps being put to me was absolute rubbish, which was “We do not need inspectors.” Well, that makes us a unique bus company anywhere in the world. So all of this correspondence deals with this. It deals with the fact that I tried to legally establish just what the situation was regarding Connex information.

Now, John Richardson holds the view that every piece of financial information that we get from Connex is confidential under Article 23.1 of the contract. That contract reads: “*The Committee shall not, and shall procure that no other body, person or authority shall, without advising the contractor in writing prior to its disclosure, disclose to any person, except as may be required by law, any contract document which is not already in the public domain or any information contained therein. All of the information shall be confidential to all parties.*”

What they are really saying is that that is without advising the contractor. If you advise the contractor that you intend to make it public, the question I asked is that surely gets rid of that clause? All you have to do is write to the contractor and tell him that you are going to release the information. It doesn't ask for their consent. It doesn't say they have to consent to it. It simply says “*without advising the contractor in writing*”. All the time, every piece of financial information that I wanted to get from Connex when I was on the Committee I was told it was all confidential. I am putting in a memo that I wrote to Caroline Anderson, the Financial Controller, to get me a clear legal position regarding what we were entitled to see. The reason I did that was because I pushed to get the Connex accounts.

Now, right at the start of this whole matter, one of the major arguments put against Jersey Bus was that they were not prepared to show their figures to the Committee. They were not prepared to have Diamond's figures released and the Committee insisted that there was absolute transparency: “We must see all of the figures”, which basically was nonsensical because Diamond has nothing to do with Jersey Bus and they had no right to see it, and that is what they fought.

The situation was that I pushed to get the balance sheet of the first year of operation of Connex and couldn't see it because they hadn't yet been signed off by head office. This went on for about two months and eventually I was able to get the figures. What I wanted to do was

compare what the year's profit and loss account showed and compare it to what they put in their tender document. In other words, I could find out what was the real wages effect, what did they put in their tender document and make comparisons.

What in fact I was told was I could not show those figures to anybody because of this legal restriction. I argued that I wished to take them to an accountant to see whether there were things in there that ought not to be. I'm not an accountant and I was told I couldn't show that, so I have still got the figures, but I'm not allowed to show them to anybody. What is extraordinary is not one other Member of the Committee wanted to see the figures. They were offered to all of them, did any other Member of the Committee wished to have this balance sheet? "No, no, we don't want to see the balance sheet. What would we want to see the balance sheet for?"

Now, when I finally got the actual tender document with all the figures on it, once I was on the Committee, I found that in fact there were two sets of figures in the tender document. I wrote them all out. There was a set of figures which were the tender document and there was another set of figures, which were never explained, which were different from the tender document figures. I am going to put those in as evidence, because clearly what happened, in my view, is that they put the tender document figures in and then they were allowed, after they were awarded the contract, to change those figures, because there are some significant differences between one set of figures and the other set of figures and, of course, had I been allowed to meet Connex, I would have argued: "Can you please explain these figures to me? Why have you got two sets of figures?" I was never allowed to do it. I was not even allowed to photocopy the figures. I had to write them out in my own hand. I mean, for what reason I don't know, but that is what they told me I had to do, so that is what I did. I wasn't going to kick up a fuss about it. But I put those in also as evidence.

I think the most important, final, point that I wish to make to the Inquiry is that there was a very important change to the tender conditions when the final document actually appeared, because the original document that went out to all of the tenderers included a section that was headed "*Insufficient funding*". That section stated that, if the Public Services Committee did not have sufficient funds, that was a reason to cancel the contract.

Now, it was as a result of that condition that Jersey Bus received advice from their lawyers that they had to be very, very careful about ... first of all, their lawyers considered the contract too one-sided and they shouldn't really sign it, but they also said that this condition that was put in there, when they put their profit margin in, they should make an allocation in case they suddenly found that they were in a position where there was insufficient funding and that contract could be cancelled. So they upped their profit margin to 12%. Connex kept theirs at 8% and had that clause removed. The question is who removed that from the tender document? Why was that done? Who did it and for what reason? It was a very important clause that was clearly put in there by our legal advisers in case, because as you know, the problem was funding for the bus service and what they wanted to put in there which was "If we don't have enough money, if we can't get the money from the States, this is a reason to cancel the contract" and it is there in black and white in the documents that went out to all the other tenderers. It was there when it went to Connex, because I got the copy of the tender documents that went to everybody, but it is not there in the final tender. It has been taken out. So I think it raises some very serious issues about how this could have been changed.

I suppose the final conclusion is well, you know, what do you think we ought to do about it? I have got no doubts about the fact that if Connex had included the things that they left out of their contract, which was the shift allowance and the relief buses, they would never have been in the race for the contract, because they would have to have put in something like £400,000 more. As the decision was made on price, I am convinced that this contract was wrongly awarded. I think the process was appalling. I think it was unfair, it was biased and I believe it needs to be redone and I believe that the finding of this Inquiry on all the evidence, I would hope, would say that what happened was unsatisfactory and it really needs to be done all over again in fairness to Jersey Bus. I don't think there is much more I can add, but I will be happy to deal with any questions.

MR SHEPHEARD: Thank you, Senator. Mr Blackstone, any points?

MR BLACKSTONE: I have no questions.

MR SHEPHEARD: Mr Garrett?

MR GARRETT: No, thank you.

MR SHEPHEARD: And I have none. Thank you indeed, Senator Vibert, for coming in and giving us your evidence this afternoon.

SENATOR VIBERT: Thank you.

MR SHEPHEARD: The inquiry will now adjourn until tomorrow morning, when we shall be receiving some evidence, we hope, from another jurisdiction.

SENATOR VIBERT: Sounds like Australia to me.
