

# 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:

**DEPUTY MAURICE DUBRAS**  
**(Former President, Environment & Public Services Committee)**

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on

Monday, 31st January 2005

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MR SHEPHEARD: Good afternoon, ladies and gentlemen. The Committee of Inquiry is now in session taking further evidence. The witness appearing is Deputy Maurice Dubras.

DEPUTY DUBRAS: Good afternoon.

MR SHEPHEARD: Good afternoon to you, Deputy, and thank you for coming.

DEPUTY DUBRAS: You are welcome.

MR SHEPHEARD: You will be aware, as you have been sitting in on some of our earlier proceedings, that we are taking evidence on oath. I will shortly proceed to administer that oath to you.

### **The witness was sworn**

MR SHEPHEARD: Thank you. Deputy, as I have said to some of the other witnesses, the bulk of the questioning will be coming from my colleagues, Mr Blackstone and Mr Garrett and I will be chipping in with questions of my own as and when I see the need arising. Now, I think we will begin with Mr Garrett.

DEPUTY DUBRAS: Thank you.

MR GARRETT: Good afternoon to you. Can you just briefly outline your background, outside of the States initially, and then provide a brief overview of your service as a Member of the States? What did you do before you joined the States and what did you do when you were elected to the States.

DEPUTY DUBRAS: Right. First of all, I qualified as a professional engineer through an apprenticeship programme and through a first degree, between 1957 and 1962, in the United Kingdom, for the Atomic Energy Authority. I then emigrated to Canada and worked there for 25 years until 1990. During that time, I gained a second degree in Human Resources Development, a Masters Degree, at American University in Washington in 1984. Effectively, for the whole period of time between 1957 and 1990, I was employed by those two large organisations and, between 1990 until now, having returned to the Island, I was self-employed, running my own Organisation Development and organisational change consulting business until some time after I joined the States. I was first elected to the States in November of 1996. I started in the States in December of that year. I have been re-elected on two further occasions.

MR GARRETT: Sorry, just for clarity, would you describe yourself as a specialist in change processes?

MR SPENCE: Excuse me, gentlemen, could we ask the Deputy to speak up a little bit, please?

DEPUTY DUBRAS: Sure.

MR SPENCE: And speak to the microphone?

DEPUTY DUBRAS: Yes, I thought I was speaking to the microphone. No, I don't think I would describe myself as a specialist. My whole life has been that of a generalist -- general mechanical engineer, working in the nuclear industry predominantly; subsequently moving to the administrative, supervisory and administrative, side of the organisation; moving into what was then called personnel but subsequently called human resource management as a practitioner; and from there I moved into strategic management of the organisation both as an executive and then as an internal consultant to a large corporation of some 8,000/8,500 people, where I provided services to the organisation. But subsequently, as a result of the work that I did primarily between 1980 and 1990, I felt I was qualified to strike out on my own at the age of 50, and hence started my own business with the assistance of the organisation and that overlapped for a couple of years. So when I describe myself as a generalist, it as a practitioner of engineering initially and as a practitioner of human resource development and organisation change in the broad sense.

MR GARRETT: Would it be fair to say you have more knowledge of change processes than most people?

DEPUTY DUBRAS: I've certainly experienced a lot of change in my life, both organisationally and as an individual in a career, and I have the benefit of experiencing all sorts of change, both growth in organisations, reorganisations par excellence and also reducing organisations, so it has been a ... I think I could summarise it, Mr Garrett, by saying that nearly every incidence has been unique in its own way. I haven't experienced the same thing twice.

MR GARRETT: Such is life.

DEPUTY DUBRAS: Absolutely.

MR GARRETT: I understand that, during the period 12th December 2002 to 17th February 2004,

you were President of the Environment and Public Services Committee. Were you at the same time President or Vice President of any other Committees?

DEPUTY DUBRAS: I was ... between the end of 2002 until today, I am a Member of the Policy and Resources Committee and, in that rôle, I also chair the Human Resource Subcommittee of Policy and Resources, which follows on, although it was interrupted briefly for a couple of years while I was completing my term as the only President of Industries Committee (because it was subsequently renamed, the Economic Development), other than for those two years between 2001 and 2002, I was also a member of originally the Establishment Committee, which turned itself into the Human Resources Committee. So I have quite a lot of experience in that regard.

MR GARRETT: Okay. One of the things that struck me when I was doing my research was the number of meetings that the Public Services Committee (or Environment and Public Services Committee, as it became known) actually held and, indeed, the number of Acts of that Committee that were produced on some occasions, indicating that the Committee was dealing with a high volume of work. From your experience, would you say that it is one of the more demanding positions within the States of Jersey?

DEPUTY DUBRAS: The position of President?

MR GARRETT: Hmm.

DEPUTY DUBRAS: I would say that it is, possibly with the exclusion of the President of P&R and the President of Finance and Economics, I would say it is quite demanding, on a similar level to that of Home Affairs perhaps. I had the benefit of having been a Member of the Planning and Environment Committee from when I first joined the States under Senator Quérée, his first Committee, so I had three years apprenticeship then. So that, as well as having been a Member of the Harbours and Airports Committee at that time, plus two other Committees and a significant Subcommittee, so in my first term in the States I was effectively on five Committees, so I was, as I was in my private life, before joining the States, very much used to volume and responsibility.

MR GARRETT: But would it be feasible for an individual to sit on Environment and Public Services and hold four other positions on other Committees, do you think, or would the workload

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DEPUTY DUBRAS: No, I didn't at that time.

MR GARRETT: No, but would it be feasible, would you say that the workload on Environment and Public Services was so great that really it required fairly close to your full attention?

DEPUTY DUBRAS: Yes, it took a fair amount of time, but I have to point out that it was my predecessor, Senator Qu  r  e, from a Planning and Environment point of view, who had also been on Policy and Resources, because it was the desire of the then Senator Horsfall to try and assemble a Policy and Resources Committee. It was made up of key Presidents and he invited me on with that in mind. So I was used to being on both Policy and Resources and Environment and Public Services, if you like, having previously been President of the Industries Committee, which was equally a very demanding position, by the very nature that we had, for the first time, assembled a number of r  les. The only ones that were not included at that time were the President of Tourism and the President of Agriculture and Fisheries, but it was always expected that they would follow at the time three years later when we created the Economic Development Committee. So there was ... so when ... and I was responsible for organising the Industries Committee in the last part of 1999, and it was always envisaged that it would take three stages to make the transition from where we were to where we are now and where we will be at the end of this year with the Minister for Economic Development.

MR GARRETT: Okay. Ultimately, you paid a high price, you resigned ----

DEPUTY DUBRAS: Yes, I did.

MR GARRETT: ---- as President of the Committee. What went wrong, in simple terms?

DEPUTY DUBRAS: Yes, I don't see it as something going wrong. I made a very clear statement in the States and I have it with me and I am prepared to quote from it this afternoon to help put everything in context. The issue is that I think it is a fundamental principle that Committees of the States of Jersey operate under. First of all, a President is chairman of a group of people. The title "*President*" over time has in some people's eyes given that incumbent a fair amount of responsibility and leadership and the spokesman for the Committee, the function, the department. But one is still chairing a group of people. There isn't a directional r  le; there isn't

a decision-making rôle really. It has to be the decisions of the Committee. However, by convention, it is expected that the President will certainly deal with some of the day to day matters.

I don't think one can describe something as having gone wrong. I think what I inherited from the previous Committee and the previous President was a set of facts. A process had been completed and during the period from 1st May 2002 through till March 2003, the consequences of a contract having been awarded and the transition of responsibility having been made between the incumbent organisation and the new organisation, in terms of the matters under your Inquiry today, some facts came out and were addressed, some were not explicitly addressed (or certainly to my knowledge) and, as we went through the process of 2003 and early 2004, more facts became known to me and my Committee that had not been known. So when you take an onion and you start peeling off layers, you sometimes discover things that you were totally unaware of until perhaps you get to the core of the onion.

MR GARRETT:           Okay. Did you ever have the feeling that you were let down?

DEPUTY DUBRAS: I could, if I wanted to, spend a lot of time laying blame to various individuals or organisations. I try not to do that. I don't think there is a prize for finding fault. I prefer, as has been my life's work, to try, if there is a problem, find a solution or work with others to find that solution. If one is challenged with a situation over which you can actually do very little, if it is dysfunctional in some way you try to live with it and work around it and address the consequences of it.

MR GARRETT:           But I would hope that you would accept that we have a responsibility not simply to identify what went wrong, but really why it went wrong and, indeed, if possible, to identify more specifically who was responsible for things that went wrong.

DEPUTY DUBRAS: I am totally with you in that last statement. Did something go wrong? I think there is no question that events took place, and if we turn to your terms of reference, we can start, as I believe you have been set a milestone, at 31st July 2001, when the Bus Strategy was approved by the States of Jersey and you can take everything that happened that's related to that up until today. Of course you will find that some things didn't go as planned. You will find that some information did not find its way through the path that might have been expected by the

people who initiated that information and, therefore, some people did not have all the information; and, even if people had some of the information or all of the information, it can be interpreted in different ways, just as one could interpret these terms of reference in different ways.

From my perspective, what went wrong with that process doesn't necessarily mean that something went wrong that led me to resign -- and it was a unanimous decision of the Committee, it wasn't a personal decision, although I obviously had some influence on whether or not we should do that or we should contest a vote of no confidence. I think you asked whether I felt let down.

MR GARRETT:        Hmm.

DEPUTY DUBRAS: I would have thought that my predecessor might well have been more let down than I was, as I started unpeeling the onion. I was part of the process from time to time that he led, but I would suggest to you that if anyone can be demonstrated as having responsibility for failing to pass accurate information or failing to interpret that information and communicate with the Committee of the day and with the President of the day, I would suggest he would be feeling more let down than I am.

MR GARRETT:        Okay.

DEPUTY DUBRAS: I gather you haven't heard from him yet. I was expecting that he would be giving evidence this morning and I would have sat in on that, but, in view of the fact that the schedule has been changed, we will have to await his evidence.

MR GARRETT:        If I could put my question in a slightly different way, did you ever feel, or did you ever have reason to question the quality, completeness or anything else of the information that was provided to you by Officers of the Public Services Department?

DEPUTY DUBRAS: No. I have made myself very clear, both internally and externally, on that matter. I am satisfied that the advice that I was given during my time as President and that my Committee was given was as complete as I think it could have been given the information that was available and when it was available. I would like, if I may, to quote from my statement at the time: *"The Committee inherited the responsibility for the public bus services and we have relied upon, and worked with, the documents and information with which we were provided."*

*“There are clearly some major issues which still have to be resolved, particularly in relation to the public bus contract. To this end, we are grateful to the Policy and Resources Committee for agreeing to implement our decision and to lodge this morning the Projet establishing a public Committee of Inquiry into the matter as soon as possible.”* I smile as I read those words, because here we are a year later really where we are, as they say.

*“There has been some criticism of what was portrayed as my reluctance to admit errors and apologise to this Assembly.*

*“I have apologised to the Assembly and that apology was absolute in its sincerity.*

*“However, I wish to make it clear that I have never knowingly misled the Assembly and I am confident that the Committee of Inquiry will vindicate me in this. I am full of hope that any serious errors made and/or deliberate misinformation provided by whomsoever will be exposed by this process.*

*“The truth must out; and the truth will out. I have every confidence in that.”*

I believe, and I can't find it just at this moment, but I believe I said elsewhere that I had every confidence -- I think it was in answer to some questions -- that the work of the previous Committee was complete and excellent and that at no time do I believe the officers misled or misinformed that Committee; and nor do I believe the same people did likewise with our Committee.

MR GARRETT: We will move on. Can I just point out that, although our terms of reference are quite specific and there is a commencement date on that, we are striving to identify the background to some of the issues that we are dealing with and we have in fact explored some of the earlier history, because I think it is important?

DEPUTY DUBRAS: Yes, I am aware of that, because I sat in on your very first session, so that is why during this last week I've spent quite a bit of time revisiting some of the documents with which I have no familiarity.

MR GARRETT: Okay. Were you involved in the production of the Sustainable Transport Strategy at all?

DEPUTY DUBRAS: If you are referring to the document that was published and agreed by the States



in July 2001?

MR GARRETT: No, that's the Bus Strategy. Predating that, there was a Sustainable Transport Strategy produced.

DEPUTY DUBRAS: All right, okay.

MR GARRETT: Were you involved in that at all?

DEPUTY DUBRAS: Um ... **(Pause)** I'm just trying to recollect. If I go back a little bit before that and perhaps just put something in perspective, I was reminded, listening to Mr Chris Lewis on Monday, of my earliest involvement as a Member of the States, because I hadn't in any way been involved before to my knowledge, but, as a Member of Planning and Environment and a Member of the Harbours and Airport Committee at the same time, one of my earliest involvements with Mr Lewis was to assist him and his organisation, together with the two Committees I have just mentioned and the Waterfront Enterprise Board, at that time under the chairmanship of Mr Don Filleul, to try and resolve what appeared to be an insoluble difficulty of allocating space to the bus company at the time down at La Collette. I proposed, persuaded and indeed facilitated, because that was one of my professional skills, a meeting that was put, loosely called "the Summit", some time, I think, in 1997 -- I don't have an exact date in my head, but it was some time during that first year that I was in the States, as best I can recall -- where we overcame the difficulties of locating space down at La Collette 2, to replace space at La Collette 1 for the bus company to establish garage space. There were conflicting demands on very little space available. That was my first exposure to the public bus service at the time.

I seem to remember (and I may have my timing wrong, but, to come back to your question) the next significant event was the strategic Transport Strategy, which I believe the then Deputy Crowcroft and his Committee of the day picked up following the time of Mr Tomes. My only recollection is that there were discussions when I was President of Industries Committee and a Member of the P&R Committee of the day as to how best that could be implemented in terms of involving outside assistance, but other than that I don't recall being directly involved other than as a Member of the States.

MR GARRETT: Okay. We will move forwards to the Bus Strategy. Were you involved at all in

the actual production of the Strategy? Did you contribute at all to the production of the Bus Strategy?

DEPUTY DUBRAS: Not directly. I was ... during my period as President of Industries Committee and a Member of the P&R Committee, the matter as to how best to deal with the consequence of the series of events that took place during 2000; if you like, for me the starting point there was around the time of the end of July/beginning of August and the strike over the Hoppa service. So, over that period of time, because one of the outcomes of creating the Industries Committee had been to try and establish a comprehensive group to look at transport within the Island as a whole, all forms of transport, we started talking to the various bodies, including the Chamber of Commerce, as to how best to try and grapple with that and to bring everybody together. It didn't materialise as a strategic group, but it was one of the groups that we looked into during the organisational phase. I seem to recall that the bus company was one of the groups. Indeed, I think Mr Lewis, as a member of the Chamber of Commerce, contributed to our consultation process during 1999 on that.

MR GARRETT: It didn't take off. Why didn't it get going?

DEPUTY DUBRAS: Because our priorities were set out during the first year of the Industries Committee and because other organisations were responsible, particularly the Public Services of the day, we felt that we had to place greater priority on establishing a competition policy, which is about to see the light of day (and that shows how long things can take within the States), but nevertheless we kicked off with that as our top priority, and setting up an economic forum in order to get all of the interested parties who had been consulted during 1999 to actually help us develop and Economic Development Strategy -- that is about to come out and be published in the next couple of months -- and so on. So there was a lot of foundation work and a lot of higher priority work for us than trying to bring the various parties together in terms of domestic transport. It was determined that the best body to continue with that was the Public Services of the day.

MR GARRETT: Following your contact with Mr Lewis and, indeed, working in those early days, did you form any impression or did you pick up any information from any source which would have led you to believe that there were difficulties in the relationship between Public Services

and Jersey Bus?

DEPUTY DUBRAS: I suppose, apart from what one read in the public forum, in the public organ of the *Jersey Evening Post*, I was aware of minutes coming from other Committees to Policy and Resources and to Industries Committee where some of that would have been manifest. Certainly I decided that it would be helpful to the process if ... and my acting Chief Executive at the time, John Mills, and I discussed the possibility of involving the then newly forming Competition Regulatory Authority and the Chairman who had just been appointed in the May, and we invited a meeting with the President of Public Services at the time.

Now, just how that happens, numbers of conversations can take place, but you gradually come to the conclusion that that would probably a good idea; and that is documented, that there were informal and more formal meetings to tease out how best we could benefit from newcomers to the Island having previous experience in this field. We talked about it in terms of taxis. We talked about it in terms of buses. We also had the benefit in August of 2000 of appointing OXERA as the economic advisers to the States of Jersey and they also were tapped into from time to time to give us advice.

So I would say that, over a period of six to nine months, during the end of 2000/the beginning of 2001, until we actually got to the Bus Strategy approved by the States on July 31st, there would have been a number of discussions, meetings, gatherings of politicians and officers, some together, some separately, to have input to it. I wouldn't say I personally had a lot of input to it, but I was part of the process of facilitating, enabling and getting from where we were at mid-point of 2000 to mid-point of 2001 to arrive at the approach that was described and approved in that Bus Strategy.

MR GARRETT: Fine, but the background, what is your understanding -- let me press you on this -- of the relationship between Jersey Bus and the Public Services Committee prior to the point where the Strategy was taken to the States? Was it a harmonious relationship? Was it fraught? What was the situation?

DEPUTY DUBRAS: Well, I don't ... I will preface my remarks by saying that, of course, one has read the files, one has heard questions answered in the States and one has read various statements

over that period of time. As someone who was not directly involved, I did not participate in face to face meetings with Jersey Bus Limited or Tantivy Blue Coach, so I don't have personal experience of that. I do know that from time to time I sat with Mr Lewis or met with Mr Lewis informally during that period that we have just described and made suggestions to him from my Canadian experience of how buses run in Canada, and in particular the Ottawa area, and encouraged him to perhaps go out there and meet with some of the people because that happens to be, in my view, one of the best run bus services in Canada. I felt some ideas that he might glean from that would be a help, particularly as it affected traffic in my parish and assisting in getting people in the rural part of the parish to use the buses more effectively and avoid vehicles crossing one another on Mont Felard, so one can work at the detail at that point or one can work in the bigger picture at the more strategic level.

At the more strategic level, my view, my understanding is -- not my view, my understanding is -- that relationships between the States of Jersey, predominantly through the Public Services Committee of the day and the sequence of Committees and Jersey Bus and its other organisational units, I would say that the relationship probably varied from time to time from tremendous accord and bonhomie no doubt to extremes of tension and frustration, depending on the nature of the particular time and certainly depending on whether they were looking for renewing licences or whether they were coping with something like the Hoppa situation, where employee relations came into it, it could well be that tensions were such and frustrations were such that the relationship was close to breaking down if not broken down, and I know that other States Members and outsiders have been involved in trying to repair some of those situations. But I believe that, at other times, the relationships were very good.

MR GARRETT: Can I refer you to an amendment that was proposed by Deputy Dorey in response to the Bus Strategy, which, in effect, suggested that both parties should retreat with grace and that everybody should be given time for constructing negotiations and action? Does that indicate to you that in the build up to the Bus Strategy there was harmony between Jersey Bus and Public Services?

DEPUTY DUBRAS: Yeah, I recollect broadly that there was a feeling by Deputy Dorey and maybe

one or two others that it would have been wiser to put off dealing with that matter, but the States has always been very good at coming to the point of delivery and then backing off and delaying. As we have described already this afternoon, things take long enough. I was President of a Committee at that time that decided that it should amend, and the amendment was accepted, the Bus Strategy so as to not have seven years as a limiting factor in the tender process, but that it should be left more open to allow whoever submitted tenders to see what they would offer.

MR GARRETT: Great, but you are not answering my question really.

DEPUTY DUBRAS: No, I am trying to put it in perspective.

MR GARRETT: Can I point out that the actual words that Deputy Dorey used were *“To allow all sides to retreat with honour from what appears to be entrenched positions and to give the Committee a clear timetable for constructive negotiations.”* Does that indicate to you that there was a difficulty in the relationship between Public Services and the bus company?

DEPUTY DUBRAS: Yes. I don't think there is any question at that particular moment in time that there had been a series of difficulties and the conclusion of the States as a body -- 53 Members or whoever was there on the day -- was that that amendment was inappropriate and badly timed. I think the argument was made by the Committee of the day that it was critical for the States to get on and approve the Strategy and move from what had been several attempts, as I understand it, to resolve the difficulties. In fact, if my memory is correct, the timing was that the offer of a four or five year contract after a series of one year contracts, as we heard from Mr Lewis, effectively fell apart, but the proposal was rejected, it wasn't pursued and, therefore, the decision was made to pursue the new tender, the new contract arrangements through a tendering process.

MR GARRETT: Who do you believe rejected the proposal?

DEPUTY DUBRAS: I think there were probably aspects of it that were accepted on both sides and some aspects of it that were rejected on both sides, but the net result was that the Committee of the day decided that it was not prepared to continue and that it had a responsibility to the Island and to the users of the bus service to start out on a new route (if you will excuse the pun).

MR GARRETT: Do you think it is acceptable for a States Committee to seem to be in an entrenched position?

DEPUTY DUBRAS: Um, my guess is that when you reach a situation that was reached at that time, there were people on both sides, if there were only two parties, who were in an entrenched position, and either when you have an attempt to complete a set of negotiations to establish a contract, if both parties are not satisfied with the deal and they are not close in terms of their relative positions, then you could say both parties are entrenched. But if one party has a responsibility to itself, if you like, the organisation that is trying to establish an agreement, and its shareholders, and you have the other party, in this case a public body acting on behalf of the Government and acting on behalf of the community, which also has its responsibilities and it is held accountable to the wider community, therefore, you know, how each party sees its responsibility and accountability is different. They are two different entities.

MR GARRETT: I go back to my original question. Do you think it is acceptable for a States Committee to be seen as being entrenched?

DEPUTY DUBRAS: I believe so, yes. There have to be times when you draw the line and there have to be times when, in order to ... you know, a Committee of the States is a very interesting entity. We don't need to spend time on philosophy and theory, but it is a group of people (in today's world, five or six or seven persons) who have been charged by the States as a whole to be accountable and to move a particular portfolio of activity and to deliver on certain established policies. In this case, my understanding is that the Public Services Committee of the day had a responsibility to implement the Transport Strategy in the particular element of it to do with the public bus service and to some extent school bus service, and if it believed that a particular action was required in order to move that forward, then it couldn't pussyfoot around. If it reached a point where it came to the conclusion that there was no point in carrying on down the previous line of effort, for whatever reason, I think absolutely the public would expect it to become entrenched if it was clearly determined that there was no solution to the, if you like, conflict.

MR GARRETT: Just seizing on the word you used there, "*effort*", are you satisfied in your own mind that before Public Services got to their entrenched position they had actually put in the effort to negotiate in a meaningful way, a constructive way, without necessarily just confronting

Jersey Bus with a *fait accompli* as a way forwards in trying to advance a new approach to the bus service in Jersey?

DEPUTY DUBRAS: I don't think I can answer that in the way that you would like me to because I was not intimately involved in that effort. I was on the periphery of it. I think the efforts of the Public Services Committee of the day would have come to us through minutes, copies of minutes, either as a Member of P&R or as a Member of Industries Committee. We would have had the benefit of perhaps informal conversations, but I think that, in terms of what you are describing, I would have been more distant than that. So I couldn't judge from other than what I would read in the paper or hear in the media or hear in the States -- and perhaps in this context what one hears in the States during a debate or in answers to questions on in a statement by a President of the Committee, I would suggest that that is the source we have to rely on as primary. Acts of the Committee would be secondary. Hearsay and informal conversations and other views that might somehow get to you, I would suggest, would be tertiary.

MR GARRETT: Dealing with a hypothetical situation for the moment, but actually looking specifically at your skills and background, would you have dealt with the issue in a slightly different way? Would you have spent more time and effort working with Jersey Bus to find solutions?

DEPUTY DUBRAS: I think that is a hypothetical question. All I can rely on is what I did do in 1997 - - and bear with me if I have got the date wrong, others could perhaps give me a more accurate date, but I believe it was '97 -- where I did apply those skills, but (a) I was a newcomer to the States, (b) I was closer to my professional work at that time because I was doing the work at the same time as I was part-time in the States, and (c) the degree of conflict didn't seem, I think, to be as intense then as perhaps the situation you are describing. I provided an opportunity which had never been tried before, and it worked, and I used it on a few other occasions too.

When you have got multiple parties, it seems to me it is a lot easier to bring everybody together, in the room together, at the same time so everybody can hear one another. I think certainly some things came out on that occasion that came out for the first time and, as a result, we found a solution. It eventually has been implemented, but, again, took a long time and not

with all the same players.

The situation you are describing, I'm not sure that would have been the solution. Of course, there are processes called mediation and conciliation which are more current. Mediation is something fairly new here. It is not new to the world, but it might have been another device or another process for bringing a solution. But, you know, if I can use the analogy of a soccer match and a soccer referee, which I spent some time in my earlier days doing as a leisure activity, when it became hard work I ceased, but when you are a soccer referee, as it was before technology influenced the game to some extent, you didn't have the benefit of video taping and watching the replays. You had to see the game as it played itself out and you made decisions on the basis of the information in front of you at the time, disregarding the audience and disregarding some of the supporters, if you like, or the key players on the touchlines. You had to make that decision on the spot and, if you got it wrong occasionally, you got it wrong. But I think, to use that analogy in this case, I am confident that the Committee of the day made its decision on the basis of the information it had and the way it saw the game unfolding and it felt that is how it had to take it forward. Hindsight, as we are in the position now, you can read all the files and you can get a very different view.

MR GARRETT: Yes. Whilst the analogy was interesting, wouldn't you accept that politics is a bigger game than football and possibly there's a greater expectation on politicians?

DEPUTY DUBRAS: I think it would be fair to say that the arena of politics is at times a circus and at other times theatre and at other times it's more like the gladiators and the Romans. As we see from time to time, at times it is very pleasurable.

MR GARRETT: But is there not an expectation on the part of the community that politicians will do everything possible to manage the affairs of the Island in a caring and constructive way?

DEPUTY DUBRAS: Absolutely.

MR GARRETT: Okay. Moving on to the specifics of the Bus Strategy, were you present in the States when it was debated?

DEPUTY DUBRAS: When the Bus Strategy was?

MR GARRETT: Yes.



DEPUTY DUBRAS: Yes. I brought along the minute of the day just to be quite sure that I voted in favour of it. My recollection is a bit ... yes, as amended and as rejected by the amendment by Deputy Dorey that you referred to earlier and then subsequently I voted *pour*. I was one of 37 against six *contre*.

MR GARRETT: When you look back at that strategy, how do you view it? Do you see it as a sort of visionary document providing a way forwards for the long term, or do you see it as having weaknesses and very much more focused on the short term?

DEPUTY DUBRAS: No. I very much look at things from the longer term. I think the decision ... I think the States had gone through a series of short term decisions and I think it is unfortunate but, from all sorts of perspectives, and certainly I have a lot of sympathy for Mr Lewis and his colleagues when they were confronted with a series of one year contracts or licences as we heard at the beginning of last week. It must have been a very difficult stage to go through, both for them as the employers as well as for their staff and also for the users of the bus service. So to move from this sequence or series of short term decisions, short term licences, to something which was going to give a degree of certainty for up to about 10 or 12 years, depending on what period the tenderers felt they should come in at in order to recoup their investment in new equipment, for example, is very much a long term view. For the States to agree a direction, which is what a strategy is all about, and an approach to achieve a seven plus number of years, as it has turned out -- the original number that was suggested by Public Services was the term that was contracted for -- at the time, on 31st July, I believed that was a shift in direction that the States endorsed. It fitted with what had already been approved as part of the bigger Transport Strategy, which, again, was intended to be a long term thing. The States makes things as long as it likes, so even something that was thought to be intermediate sometimes turned out to be rather long term. But this was ... joking apart, this was clearly a change in direction and emphasis for the longer term, and I think it was the right move at the time and I haven't changed my view.

MR GARRETT: Setting aside a couple of objectives for the longer term about improving the quality of the bus service and so forth, would you accept that it was fairly narrowly focused in so far as it was really about the implementation of change and providing the mechanism for

competitive tendering?

DEPUTY DUBRAS: Yes, it provided a process, a mechanism.

MR GARRETT: But it didn't actually spend a great deal of time focusing on the important issue of providing a quality bus service for the Island of Jersey. It was about, to put it bluntly, getting rid of Jersey Bus. Would you not agree?

DEPUTY DUBRAS: No, I would absolutely not agree. Um, the decision was made by the States and clearly by the Committee and working with its advisers that, in order to ensure a quality bus service of a different order than we had been experiencing as a community for the last two or three years -- as we all heard on Monday from Mr Lewis, working under frustration, not able to invest, not prepared to invest, reasonably so -- we also had to move into an area of expectation that people experienced elsewhere, which was buses that were more friendly towards disabled people or less mobile people or more aged people.

I can recall during knocking on doors seeking re-election members of my constituency in the parish saying to me "I'm not prepared to ride on the buses because the moment I get on the bus before I've had a chance" -- and I'm talking about a less abled person, a more aged person, a bit older than I am today but certainly less able to cope -- "the bus would take off with a start. I would be thrown against the seats before I've managed to sit down and, therefore, I felt I was putting myself at risk and I won't ride the bus." That was the sort of feedback I was getting. Now, these are the sorts of comments you assimilate from people, and that helps to build a picture of what it is like to travel on the bus. When I travelled on the bus, I didn't experience it quite the same way, but then I'm more agile perhaps and more able to cope with a sudden start.

MR GARRETT: Whilst I can see that being good reason to implement some form of driver training, is that in itself good reason to get rid of the bus service?

DEPUTY DUBRAS: No. I have given you one minute example of a whole lot of commentary that I am sure the Committee, its Officers, the Bus Users' Forum and others were collecting at the time. I'm sure the bus company would agree it also received information like that. It wasn't a question of getting rid of the existing company. It was a question of determining how the States wanted to take direction from the Transport Strategy to a Bus Strategy in order to, for the benefit

of everybody, achieve a higher plane in terms of quality, in terms of the equipment, in terms of the approach, how we would present ourselves as a community to visitors in terms of the quality and effectiveness and viability of the community bus service and associated with the school bus service. You can't differentiate, you can't just separate them apart. You have to look at the whole bus service, the whole bus system. I think that is important.

MR GARRETT: During my research, I noted that you attended a meeting of the Public Services Committee on 18th September 2001 ----

DEPUTY DUBRAS: Yes.

MR GARRETT: ---- to consider the possibility that Jersey Bus would cease operating on the 30th.

DEPUTY DUBRAS: Yes.

MR GARRETT: In what capacity did you attend that meeting?

DEPUTY DUBRAS: I was invited as President of the Industries Committee, along with the President of Finance, the President of P&R and probably ... maybe Deputy Layzell of the day was already on the Steering Group, but he was President of Home Affairs.

MR GARRETT: Can you describe your recollections of the background to how that situation had arisen where Jersey Bus staff or Jersey Bus were threatening to pull out?

DEPUTY DUBRAS: I think it came ... however, it came to our notice on Industries and P&R and information that I would have been sent ahead of that meeting, it became clear during the process of what I think has been described, if I am correct in my timing, as the "*final offer*" for a four to five year period contract to get past the series of one year agreements. If my recollection is correct, the bus company had come to the point where it felt that it was not prepared to carry on and I believe, as a result of discussions that flowed from that meeting, there was a revisiting of that and the conclusion was that Jersey Bus would continue to operate for a further year during the tendering process and during the outcome of that. That is how I recollect it. I am not sure I have got the documents to hand that I can look up, but that is the vague recollection that I have.

Am I correct?

MR GARRETT: What is your knowledge of the final offer situation?

DEPUTY DUBRAS: It's not something I can readily call to mind, I'm sorry.

MR GARRETT: Would it surprise you to learn that, as a result of considerable discussion between representatives of Jersey Bus and a number of States Members, a document was proposed, the bottom of which or the comment of which was no reasonable person could turn down, and yet it seems that Public Services did.

DEPUTY DUBRAS: I'm not familiar with that, I am sorry.

MR GARRETT: During that meeting I note that consideration was given to Southern Vectis taking over from Jersey Bus. Can you recall the circumstances under which Southern Vectis was raised as a possible alternative operator?

DEPUTY DUBRAS: I seem to recall that there was ... I seem to recall there was something about a challenge that was put to the Public Services Committee of the day to have a contingency plan. You would have to obviously ask Members of that Committee, the Connétable of St. Helier now. I believe he was President of the Committee of the day, but I seem to recall that, given the position of Jersey Bus, which I think was to say they were going to effectively withdraw their service at the end of September and that they would be ... therefore the staff would be no longer employed and that no services would be run, say, from the end of September, but I may have that wrong, then the Public Services Committee felt that it had to provide for an alternative. However they got in touch with Southern Vectis I don't know, but that was one of the bodies who were contacted, and I believe the Managing Director came over and explored what could be provided. There may well have been other companies involved. I seem to remember some link with Guernsey in place, but, I am sorry, I am drawing deep from the memory bank there. I may well not have that completely accurate.

MR GARRETT: Is it your recollection that the Southern Vectis option was raised by the President of the Committee?

DEPUTY DUBRAS: I couldn't respond to that one way or the other, I am afraid.

MR GARRETT: Again at that meeting it seems that the President of Finance and Economics accepted the need for an open book policy but advised that the replacement service must not be more expensive nor less effective than Jersey Bus. Can you describe your recollection of the discussion on the requirement for an open book policy? Do you know what demands had been

made of Jersey Bus and how they had reacted? (**Pause**)

DEPUTY DUBRAS: The impression I got at the time is that there had been a lot of discussion as to whether or not -- and, again, this is drawing information from a variety of resources -- I believe the conclusion that had been reached about that time was that in order ... whatever transpired at that time, the States was moving into a much more ... it desired to have its contracts, if indeed they were States' contracts, much more open and transparent.

The particular situation that we were dealing with, as I recall, and "we" collectively, was that here was a private organisation that was operating under a licence and, because monies from the States of Jersey on behalf of the taxpayers was being paid to that organisation in a number of ways, then the States felt it was appropriate that the accounting for that money was clearly above board and that it could be supported. Members of the States were looking for that and I think the community were looking for that.

So the move to open book accounting, I think, probably began -- and this is something that was in my mind a little earlier when you asked me a question about management of change - - changes sometimes happen quite quickly, but it's really the transition process that one leads into and goes away from that change that one has to think about. Here we were going through a period of time where a number of philosophies were changing, a number of principles were changing, a number of methodologies were changing, so we were in a transition from what effectively had been no desire to look into the books of organisations providing services to the States, be they private organisations, commercial organisations or be they charitable organisations, as we have today, in terms of some of the social services and health services. So we have moved over a period of probably 10 years from not having a particular interest in the accounts of the organisation providing the service to a stage where we want to know everything about the accounts.

I think at the time you were describing, the President of F&E was probably demonstrating that we were in that transition stage and there was a new expectation that we would be able to have access to the accounts of the organisation providing the service because public monies were going into that organisation. I think it probably began some time earlier

when the fees that were being paid for HIE and old age pensioners started to become significant.

MR GARRETT: Was public money going into the Living Legend?

DEPUTY DUBRAS: Not to my knowledge.

MR GARRETT: The Boardwalk Café?

DEPUTY DUBRAS: Which one are you referring to?

MR GARRETT: The one down at St. Brelades Bay?

DEPUTY DUBRAS: I have no idea.

MR GARRETT: Would you find it surprising then that the open book policy which was being imposed on Jersey Bus was extended to those operations?

DEPUTY DUBRAS: Um, why that might have been I think is something that others would have determined. I do believe that one of the organisations that the States however would have wanted to know more about was what was then called, I think, Tantivy Blue Coach. I think Blue Coach had been incorporated into the Tantivy Bus Company.

MR GARRETT: But you can't think of a legitimate reason why the States would want to have an interest in the accounts of the Living Legend and other such enterprises?

DEPUTY DUBRAS: To answer your question slightly differently, the way in which the company called the Diamond Group was organised and arranged its finances and how that interplayed with the provision of services to the States is for others to determine. I was not directly involved or intimately involved in that, so I'm not going to respond affirmatively or negatively to your question because I think others are better positioned.

I think one has to accept, and if we go back to the time that I mentioned earlier, when I was involved in assisting in determining areas at La Collette to be made available, either for the Harbours or for the bus company, I found it quite intriguing that here we are dealing with Jersey Bus one day and then the next day we receive a document which calls itself Sunburst as being the body that was likely to want to lease the land. Now how an organisation arranges its affairs is to some extent for it, mostly for it, but how it then interfaces with the States of Jersey in its various guises is not something I have studied, but I believe organisations, some organisations, manage their affairs in a very compartmentalised way for various reasons, and accounting

purposes may be one of them. I sense that this may be where you are trying to take me, but I'm afraid I'm not an accountant, I'm not someone who is well equipped in the area of finance, so I can't answer your question, I'm afraid.

MR GARRETT: I'm not looking for a comment from you in terms of accountancy. What I'm looking for is a matter on principle. Can you think of a reason why the States of Jersey would wish to enquire into organisations or operations that were absolutely divorced from the bus service such as the Living Legend?

DEPUTY DUBRAS: That particular one I can't give you an answer other than it seems surprising. However, we did hear on Monday -- I sat in the public gallery and we did hear, in relation to questioning from you, Mr Blackstone -- that the accounts and the manner in which certain allowances were made within the organisation did have an effect on various parts of the company, so ----

MR GARRETT: But those could be -----

DEPUTY DUBRAS: ---- somebody, like members of the Treasury staff, could well have determined that there were questions to be asked and maybe it was important to have access to those other accounts. I'm sorry, I'm not equipped to respond to that in any detail, and I would be surprised if many of my colleagues in the States would be able to. I think this is something that either has validity and justification because of knowledge that somebody has of the accounting methodology and the way things have been assembled, but I'm sorry, I can't. I was not directly involved in that, not even on the periphery.

MR GARRETT: Can I just comment on possibly the outcome, certainly from what my colleague has calculated, and he is an accountant?

DEPUTY DUBRAS: Yes.

MR GARRETT: All activity could have been detected from within the accounts of Jersey Bus and there was no real need to look at those other issues.

DEPUTY DUBRAS: That may well be, but forensic finance, other than simple accounting, is a bit of a foreign language to me, I'm sorry.

MR GARRETT: Can I take you into another slightly hypothetical area? Can you put yourself in

the position of Mr Lewis for a moment and consider what your reaction would be if you found Members of the States making demands of you to supply financial information which, in your view, is not required? How would you react? Could you become a little entrenched?

DEPUTY DUBRAS: Mr Garrett and Chairman -- President rather -- I am curious as to why I'm being asked this line of questioning today when I really was not in any way responsible for that and I find these questions, as you have described them, hypothetical and not something that I either came to answer or expected to be asked on. I have prepared myself on the basis of the terms of reference and the rôle that I played in this. I mean, I will try and answer your questions ----

MR GARRETT: Can I just say ----

DEPUTY DUBRAS: ---- but I just find it extremely difficult to deal with hypothetical questions. Coming back to my analogy of being a soccer referee, you don't referee a game that might have happened, you referee the game that you are directly there involved in.

MR GARRETT: What I'm trying to do is to take the views of a reasonable number of people to assess whether or not what happened was itself reasonable, and your views I would respect and welcome.

DEPUTY DUBRAS: Well, thank you for that. I will continue to try and answer the questions accurately, as I swore to do, but I can't answer questions accurately which are hypothetical and which are ----

MR GARRETT: But if you can give me an idea of your view.

DEPUTY DUBRAS: Well, you will have to ask me the question again.

MR GARRETT: What I said was could you put yourself in the position of Mr Lewis for a moment and, if you were facing demands from Members of the States to provide information which was of no relevance, i.e., it related to unrelated companies, not bus providing companies at all, how would you react? Could you see yourself becoming a little entrenched?

DEPUTY DUBRAS: Well, I have the benefit of hearing a week ago his views on that, and I can understand and appreciate his personal frustration, as was evident, as he described it at the time. You know, one of the things that we all confront occasionally is not necessarily seeing and understanding why people ask us questions or investigate particular lines of enquiry because we



are seeing the situation unfolding through a particular set of spectacles. If and when somebody asks you a question, if they then give you a statement before that and say "I'm going to ask you a question and this is why", or they ask you the question and tell you afterwards "I'm asking you this question because", that sometimes helps to illuminate the situation. You are able to see where that individual is coming from and try and deal with it.

At the time, it may well be that the person investigating or seeking to have the information, the other accounts, had a reason for doing so. I don't believe most people go around, you know, being mischievous and requiring things of people unnecessarily. Every now and again I've experienced that. I've experienced that over this situation from time to time. You try and get behind the question or the request and you try and understand, but it is not always possible. People are not always that open to say "Well, this is why I'm doing this."

MR GARRETT: Thank you. Moving forwards, I understand that you were invited to join the Bus Strategy Steering Group in October 2001. At that time were you supplied with a copy of the terms of reference of that group?

DEPUTY DUBRAS: My recollection is that, after having attended the September meeting, where I was invited as President of the Industries Committee because already two Members of the Committee who were on the Steering Group, the then Deputy Hacquoil and the then Deputy Ozouf, I believe I was invited again in November -- I don't remember October, but November -- at a meeting that I was not able to attend somewhere in the latter part of November, 22nd or 23rd -- the date seems to come to memory -- with regard to looking at a long list of possible organisations. I did not attend that meeting. I don't believe I was involved subsequently until the New Year.

But coming back to your question, terms of reference. My understanding of the terms of reference was that the Steering Group was there to assist the Committee in overseeing the process of the tendering process. Whether it had terms of reference, I can't recall at the moment, but there was a series of meetings every now and again, some when it met alone and some when it met with the Committee, and I seemed to remember sitting in on meetings when it was primarily with the Committee at sort of milestone points. I was not a permanent member of the

group. In the New Year, in the beginning of 2002, I sat in on more meetings because my representative, Senator Ozouf, who was then Deputy still then, I think, he was tied up with matters of a personal nature and he was not available. So I did participate in the final stages of that process.

MR GARRETT: From your observations of the meetings that you attended, did you feel there was absolute clarity on what responsibilities the Strategy Group had and what the Committee should be doing, or did you find that there was overlap between the activities of the Committee and the Strategy Group?

DEPUTY DUBRAS: I think it was the Steering Group.

MR GARRETT: Steering Group.

DEPUTY DUBRAS: Yes. The Steering Group, yes, from working with other Committees at different times and working with steering groups, as I have done subsequently, it is clear to me that the word "*steering*" is there to designate a group that has been assembled by the Committee -- and usually it is drawn from members of different Committees and others -- to steer a process, to make sure that the objectives of the process are achieved. Very often, it does not have a decision making responsibility; it is there in an advisory capacity, just as sub-committees of States' committees often have. They are given limited decision making usually.

The purpose of that Steering Group, as I understood it, evolved, because I think it started from a body with the President of the Committee of the day and advisers were formed and then, during the period after the Bus Strategy was approved, two or three additional Members joined. I think Deputy Maltwood and Deputy Layzell joined it from the two key Committees, F&E and H&A -- sorry, not H&A but HA, Home Affairs. Then gradually the Industries Committee was then asked to join it and there may have been another Committee as well, but it evolved, it grew.

It was clearly there to ensure the process of achieving a tender, a set of tenders, received, evaluated and a decision made by the Public Services Committee. It was only the Committee who could actually make that decision, as only that Committee could make the decision with regard to the regulations. So I think it was there clearly to run in parallel, to draw in information and experience from other bodies, other Committees, to advise the Public Services Committee of the day.

MR GARRETT: When you joined that Committee, were you given copies of minutes of previous meetings, or did you enter the process cold?

DEPUTY DUBRAS: I'm sure that I probably received emailed copies or hard copies, depending on the time. I certainly would have seen Acts of the Public Services Committee that related to that.

MR GARRETT: But how about minutes of the actual Steering Group?

DEPUTY DUBRAS: I think I have been asked this question before. I think there would have been a series of minutes, but they would not have been provided by Committee clerks. We would not have seen them as formal documents. They would have been presumably recorded by a member of the staff who was designated to make notes of the meeting, so I am sure I have seen them from time to time and I don't know whether there is a binder where they are all collected together or not. I don't know.

MR GARRETT: When you say "*staff*", that would have been somebody from Public Services Department?

DEPUTY DUBRAS: Typically, yes, but not necessarily always, depending on who was present at the meeting.

MR GARRETT: Did you work with Halcrow at all, the consultants?

DEPUTY DUBRAS: No, I don't believe I did.

MR GARRETT: Are you aware of their ----

DEPUTY DUBRAS: I think the first time I would have met with somebody from Halcrow was probably in the first quarter of 2002, when ... probably in March 2002, when the shortlist was produced down from five to three tenders.

MR GARRETT: We will come on to that.

DEPUTY DUBRAS: I think it went from 13 down to five, or something like that. I don't believe I met anyone from Halcrow before that.

MR GARRETT: But just while I'm focused on them for a second, are you aware of any rules, guidelines or any other documents which would provide guidance to Committee Presidents or Chief Officers on the selection of consultants at all?

DEPUTY DUBRAS: I think F&E has some codes of direction that have evolved over time, but,

certainly from the various experiences that I have had with various steering groups or various groups to select, we have relied on the officers predominantly to make sure that the process that we followed was appropriate. There are a range of different codes of direction depending on the particular situation, but, in terms of selecting bodies, the one that is coming to mind at the moment is the one I mentioned earlier, when a group of us assembled to select an economic adviser to the States, not the rôle of economic adviser, but the firm, which ended up with the appointment of OXERA. The Committee, in fact there was an assembly as a subcommittee of F&E, the Presidents of P&R, F&E, myself from the Industries Committee and somebody else, Senator Ozouf, I think, or Deputy Ozouf, plus the Economic Adviser and perhaps the Treasurer. That was a small group that was assembled that would meet as an exchange body from time to time to make sure that the information was exchanged by Committees and that we helped to advise each of the collective, the individual Committees that made up the collective.

Now, when it was decided that it was necessary to appoint a consultant to provide economic advice, that group then went and started the process of selection. The officers did the work, or they may have used outside consultants to help -- I can't recall now -- and we then interviewed the shortlist of possible consultants. So that is a typical process. The decision, the recommendation, as to which company then went to the principal Committee, which would have been F&E of the day, or P&R of the day, depending on what it is we were dealing with.

Another form of steering committee that I worked on was that for the selection of and the carrying out of the organisational review that was performed in the period '98/99 for the manner in which States Committees were operating. A company called ERM was selected and then we all saw how they went about delivering their review. I think each of the Committees had a similar process. Different Members were collected together to do that.

Now, I don't think you will find, I may be mistaken but I don't recall seeing, a document which says "Guidelines or Directions for Steering Groups for selecting consultants and conducting a process." I think this is something which has evolved and that is practised by States Committees to this day. I worked with my Committee and set up a Strategy Group (coming to your earlier use of the word) for waste management, for transportation, for -- there

was another one -- for water resources. In fact, it was the Water Resources Steering Group. So, again, that nomenclature has been used and the format has been used and the practice has been used in a range of situations where it enables Members from different Departments or Committees, Members from different Committees, to work together in support of a Committee and make recommendations to them.

MR GARRETT: Okay. Where a consultant is used, from your experience, is it normal for a consultant to be bound by some form of contract, if for no other reason than to protect the States?

DEPUTY DUBRAS: The successful body, do you mean?

MR GARRETT: Yes.

DEPUTY DUBRAS: Well, it depends. If the consultant is the only body that is going to produce an outcome, then I believe, yes, there is a contract, a contractual arrangement set up.

MR GARRETT: And some form of terms of reference for it?

DEPUTY DUBRAS: Yes, but that could be, depending on if it was being used in a delivery mode for a product and a report or something like that, I am sure there would be a letter of contract exchanged at the very least. If it was being used as a facilitating body to arrive at another outcome, such as the bus tendering process, which itself had terms of reference and had conditions applied and had a contract, you may find that the particular vehicle for involving that organisation might have been less formal.

Halcrow, of course, as I recall now, was being used as a firm in a totally different way by the States of Jersey, in that jointly Public Services and Planning and Environment (and I think I was off the Committee by then), but Halcrow was used in the period after 1999 to develop a study on the Island site, as to what was the appropriate way in which it should be designed and the traffic flow and so on. I think it was used to advise the Public Services and P&E Committees of the day, but I was not in any way involved at that time.

MR GARRETT: Whilst you were working with the Steering Group, did you form any views on the timescales that were being proposed for the running of the tendering process?

DEPUTY DUBRAS: I got the impression that the original timetable was almost entirely stuck to, in that the date of mid-February ----

MR GARRETT: But don't you think it ----

DEPUTY DUBRAS: ---- had been identified fairly early in the day and that remained the date on which the bids had to be submitted.

MR GARRETT: But do you think that setting that timescale was sufficient? Do you think that it could have been a little more generous to allow greater research on the part of tenderers?

DEPUTY DUBRAS: I think, Mr Garrett, it was probably determined by working backwards from the date when everybody agreed that the implementation had to take place and it was agreed, as I understand it, in September of 2001 that, in order for the one year licence to be replaced by a multi-year licence at the end of September 2002, you had to allow a certain amount of time for whoever was the person/company awarded that contract. I think originally it was intended that that would be some time in March, certainly by 1st April. Subsequently it became 1st May, but I think, working backwards, somebody said, you know, "Rule of thumb, you need about six months to be able to enable whoever gets the contract to go through whatever work has to be done to achieve that deadline. So if you are starting in September 2001, you had better make sure the tenders come in by the middle of February." I was not involved in that timetabling. It was probably recommended by Halcrow and the Committee of the day accepted that and those were the boundaries. So, considering the starting point was fixed, because that is where you are at the moment, and the end point had been predetermined by some other arrangement that it had to be the end of September, *ipso facto*, that's where you are.

MR GARRETT: I don't know if you were present when we heard an expression of concern on the timescale, particularly with regard to the gathering of information on relief services and passenger demand.

DEPUTY DUBRAS: No, I was not here, to my knowledge.

MR GARRETT: Do you believe that concerns that there was not enough time available for tenderers to gather accurate information on passenger demand could be valid? **(Pause)** Bearing in mind it was mid-winter and ----

DEPUTY DUBRAS: I seemed to recall ... yes, I have heard this discussion before in other situations, that you take a survey of anything in the winter and it is not the same as if you take the survey in

the summer, and that, you know, you can never get it right. In terms of your particular question, I seem to recall that the list of bids -- sorry, the list of tenderers -- was established some time in October, so it was fairly soon after the process began. That is when, I think, the number of something like 13 comes to mind. That list was determined around the end of November. I believe the numbers stayed the same from that exercise. I think that first stage was to do with an assurance that the organisations that were tendering had sufficient financial capability to meet the needs beyond that. As I say, I wasn't involved so I'm stretched at the moment.

Then the next deadline was the submission of those in that first stage who wanted to go into the second stage. That is when I think it naturally reduced itself to five. I can only assume that the advice of Halcrow was there is sufficient time to do that reasonably well. Now, at what point people needed to start doing their own research to make sure they had sufficient information, I have a feeling the actual tender documents didn't go out till January, so it may be that January was when they actually saw what the specific requirements were because the decision wasn't made until December that they were all able to receive that information. As I say, I wasn't immediately involved with that.

MR GARRETT:        Would you agree that January through to mid-February is a fairly tight timescale in terms of assembling all the information?

DEPUTY DUBRAS:    Yes, it seems to be, and I'm not picking on this particular example, but I do know that in the construction industry, for example, it has always surprised me that businesses are able to respond to invitations to tender in a remarkably short period of time. It seems to be ... you know, in that industry it seems to be normal that people have about four to six weeks to do these things. Having never had to do that, I don't, I can't answer. I do know that in my own business very rarely did I have to respond to an invitation to bid. It was usually of the order of two to four weeks, but what I had to provide was very often just a four or five page proposal, a lot less complicated than the sorts of things we are dealing with here, but I have to say that I assume the consultants said "That is enough time or the industry norm is to have so many weeks and people will be able to do what they have to do." I don't have better information than that, I'm afraid.

MR GARRETT:        Can you remember at the Steering Group, what observations did you make on

the effectiveness and efficiency of the group and their relationship particularly with Officers of the Department? Did things work successfully? Was there tension? Were there differences in approach or different views on the way things should progress?

DEPUTY DUBRAS: For those meetings that I was involved in, they were usually meetings, they were more often meetings of the Committee with their Officers, with us sitting in, as far as I can remember and nothing untoward appeared to exist, I found. There was a lot of pressure, I think it is fair to say, on everybody at that time because, along with everything else being done, this was a first. People were dealing with each element of it as it happened and, given the pace that we were working at with all the other things going on, it didn't seem to be unnecessarily rushed or different. The nature of the relationships between the Committee of the day and the Steering Group and the Officers seemed to me to be perfectly normal.

MR GARRETT: Just sort of leaping forwards, just for a moment, when did you cease to be a member of the Steering Group?

DEPUTY DUBRAS: Effectively on 1st May, when the President of the day, the then Deputy Hacquoil, read his statement to the Members of the States who were present in the Société de Jersiaise Members' Room and we had done our job. The tender process had been completed and it was then for the Committee to carry that forward through the officers and the consultants to deliver the result. I didn't have any ... to my knowledge and recollection, I don't think I had any contact until I got an email saying "Would you like to come and see the new buses arrive", which was due to be in the August/beginning of September and then the boat broke down because of damaged gates in Guernsey and, after two abortive attempts, I never did get to see the new buses arrive. I was off-Island, I think, when the service began.

MR GARRETT: At any stage prior to the point when the tenders were open, did anybody indicate, infer, imply or whatever that Jersey Bus would not be selected as the preferred operator?

DEPUTY DUBRAS: Oh not at all, absolutely not. From my recollection, all of the discussions and correspondence was that Jersey Bus was just one of the bidding companies and it was being treated as one of the bidding companies. I don't believe that there was any preference or



whatever the reverse of preference would be to that organisation. I think, if you look at the correspondence, you will see that there were various indications, I think both from their perspective and from everyone else's, that an incumbent organisation is in some sort of prime position -- to put it in racing terms, pole -- because obviously they have a certain advantage because they are on the spot and they know how the thing has been working, but I don't think any more or less than that.

MR GARRETT: Did you ever have the feeling that the relationship between Jersey Bus and the Committee was not conducive to the development of a successful partnership?

DEPUTY DUBRAS: Again, I wasn't on that Committee, so I can't speak first hand other than at the meetings that we were attending, which were nothing to do with the direct relationship with Jersey Bus. I was there as part of a small group that was overseeing the implementation of the bidding process, so the other issues would have been, would not have come into play.

MR GARRETT: Could you understand why Halcrow made that reference in their assessment of the bids? It specifically focused on Jersey Bus.

DEPUTY DUBRAS: My recollection of the final document at the beginning of March ... I can only assume that they had come to that conclusion from their involvement with their various hats on because they had been called upon to work with that organisation in terms of presumably consulting with them at the time of the discussion on the Island Site, the traffic flows and things like that. That would have been one. Secondly, I believe they were asked to assist both organisations in part of the process we started off discussing this afternoon. Presumably they also had exposure to them, along with the other bidders, during the final stages, but at what point or what they experienced to arrive at that statement I can't say. I don't remember it being particularly discussed during the Steering Group meetings.

MR GARRETT: Bearing in mind the crucial point at which that comment was made, and that was literally days before the final decision was being taken on who should be chosen as the preferred operator ----

DEPUTY DUBRAS: Yes, but I think you have to remember that they made equally critical remarks -- and I mean critical in the evaluator's sense -- of some of the other organisations as to whether

they had interpreted things properly, whether they would be able to conduct -- sorry carry out -- the terms of the tendering requirements ----

MR GARRETT: Do you think ----

DEPUTY DUBRAS: ---- just as much as -----

MR GARRETT: Do you think it was their position to make that kind of damning remark?

DEPUTY DUBRAS: I wouldn't call it a "*damning remark*" necessarily.

MR GARRETT: Well, it is saying "Don't ----

DEPUTY DUBRAS: It could be a matter of alerting the Committee to possibilities based on their third party experience. Perhaps it's fair to say that they had had more exposure to that organisation because they'd been involved with it in a number of different scenarios. Frankly, I have no idea whether the same individuals within Halcrow had dealt with that range of experiences or whether they had only dealt with the tendering process. I really don't have that knowledge. You are perhaps in a better position from the paperwork to discern that, and I gather that you have now met with them.

MR GARRETT: We have.

DEPUTY DUBRAS: So you may have been able to elicit that. You have made a statement this afternoon which is sort of damning in its own right.

MR GARRETT: What I'm trying to do ----

DEPUTY DUBRAS: So it may be that you've come to that conclusion yourself from your exposure to the people during the course of this Inquiry. I don't know.

MR GARRETT: What I'm trying to explore with you is whether or not it influenced your minds.

DEPUTY DUBRAS: Mine personally, no.

MR GARRETT: Or indeed any Member of the Committee.

DEPUTY DUBRAS: I can't speak for the other Members of the Committee, you'd have to do that yourself. I do know that the final presentation from the three finalists was a very challenging, interesting, exciting, thought provoking process in itself. We did it through a period of about three or four hours and, as I have experienced many times before in that sort of interview process, whether it is with individuals or with organisations, some organisations let themselves

down, some organisations come across extremely well and enhance their position, which may give you information which isn't in the written document. So, you know, every one of these is an individual situation.

MR GARRETT: We will come on to that later.

DEPUTY DUBRAS: Good.

MR GARRETT: Can I just take you on to the review and subsequent amendment of the Motor Traffic (Jersey) Law 1935?

DEPUTY DUBRAS: Yes.

MR GARRETT: Did you participate in any way in that process?

DEPUTY DUBRAS: I participated only as a Member of the Steering Group. As we got drafts that came, as is my wont, I read these things fairly carefully and, if I spot something that doesn't make sense to me in the way the revisions as presented, I will offer my comments.

MR GARRETT: Sorry, these weren't drafts. This was the work of the law draftsman as opposed to the work of any Officers producing drafting notes.

DEPUTY DUBRAS: Yes.

MR GARRETT: Fine. Do you know how or why the process of getting the legislation on the books was delayed? **(Pause)** Because the tendering process was scheduled to end February time or March, but in fact it was delayed because the legislation wasn't in place.

DEPUTY DUBRAS: No, I can't remember why the legislation was delayed. I do remember that the sequence of events had to be given, that we had to approve the regulations in order to complete the tendering process. I think you ended up with a parallel process there, if I remember, rightly, and, for whatever reason, sometimes the law drafting process is hung up and it could be because the individual has to be away and therefore it stops because they don't get put between Assistant Law Draftsmen, or it could be some particular piece of advice was required from the Law Officers. I don't remember offhand.

MR GARRETT: I'm aware that part of the delay was in fact the death of the Queen Mother, but that only produced a delay of ----

DEPUTY DUBRAS: Yes, I think that was only when the States sat to deal with it.

MR GARRETT: That was only a matter of days.

DEPUTY DUBRAS: I think the die had been cast in that regard. No, my hunch is that it was known back in September/October when the whole process was kicked off that, in order to do the one the other had to be completed, and it may be that, for some reason, it just got a bit drawn out or they had to go round the loop a couple of times. I just don't remember, I am sorry.

MR GARRETT: With the benefit of experience, including any observations that you might have made about the appearance of the Easylink service, what are your views on the effectiveness of the legislation? Do you think it hit the right spots?

DEPUTY DUBRAS: It seems to me that the changes that were made to it were to enable a process, such as a tendering process or an auctioning process, to be completed which the legislation didn't previously envisage because it had been there for a hell of a long time. I can only imagine that the advice that had been given as to what was required hadn't been properly interpreted on the basis of law drafting instructions. It seemed to make sense to me at the time, yes. **(Pause)**

MR GARRETT: Looking back ... or, no, in fact, taking things as they are today and looking at the objective of trying to provide a first class bus service for the Island, do you think there is any requirement now to revisit that legislation and either relax certain provisions or strengthen aspects of it?

DEPUTY DUBRAS: Well, there is a key element, which has yet to be implemented, and I'm looking at it in the big picture now. The intent when I first became involved in the beginning of 2001, I suppose, was that it had been intended to separate the operational function of a States Committee from the regulatory body and we had envisaged in the early conversations that Deputy Crowcroft, myself and Mr John Mills had that, if this was going to work, it was important that the fact that the Committee was also the regulator as well as trying to act as a policy maker had to be separated. I think one of our conversations of a series happened just after the appointment of the then chairman of the JCRA. Because we knew from the interview process that he came with lots of experience of transportation in Ireland as a regulator, that that body might well be a good one to involve.

It was also clear to us, based on the OXERA information and approach, that we were into

a competition policy environment and that the tendering process was competitive, even though you ended up with a single supplier. We did look at times as to whether or not the legislation should have enabled several suppliers providing not necessarily competitive services but alongside one another services. So, from that point of view, the legislation has yet to be modified to actually take away from the Committee or in the future the minister being a regulator to a body like the Jersey Competition Regulatory Authority. I know one of the questions that I was asked in the States during 2003 was when is this going to happen.

MR GARRETT: That was my next question.

DEPUTY DUBRAS: And my recollection of the answer was -- I have got it in here, I think -- that the Competition Regulatory Authority still does not have the vehicle (no pun intended) to actually conduct itself in that way under the Competition Law. It was felt that it was in order for it to work that the Competition Law had to be in place, number one. Their priorities were Telecoms Law, Postal Law, Competition Law and anything else came after. Changes to the Traffic Regulations to enable them to be the regulator, it was seen to be a lower priority and they just did not have the resources and they probably still don't, but I would like to think that now that the Competition Law is within a stone's throw of becoming effective, then the remaining regulatory functions to do with taxis and buses and what-have-you -- well, no, we have got rid of the Jersey Transport Authority, so those sort of functions that have been traditionally States Members -- would move out of the domain of the political influence.

MR GARRETT: Okay, the next ----

DEPUTY DUBRAS: But I can't think of any other reason for the laws needing to be changed.

MR GARRETT: Fine. Moving to the next area of interest to me, which is the terms and conditions of employment of the bus drivers and support staff, do you accept that, when the tender documents were issued in January 2002, they highlighted an agreement dating from August 2001, which I think was brokered by (as he was then) former Senator Shenton, whereby the States gave an undertaking to the Unions regarding the preservation of the terms and conditions of employment for the bus staff?

DEPUTY DUBRAS: Yes. I think that is a very critical part of your Inquiry.

MR GARRETT: When it was stipulated that the new operator would have to employ the bus drivers and support staff on the same terms and conditions of employment, do you believe that the Public Services Committee of the day expected wage negotiations to effectively be frozen and that no progress would be made on the pay negotiations scheduled for February and March 2002?

DEPUTY DUBRAS: No. I think that would be unfair and unrealistic. I think we have to bear in mind that Members of the Committee, some of the Members of the Committee, would have been used to working with other employee groups and would know that the pattern in Jersey is for annual increases, for some organisations, two or three year agreements for others, depending on the state of the economy perhaps or the nature of the organisation. The fact that pay negotiations seem to be the style of doing things here I found slightly foreign to my experience in Canada, but the principle is the same. So, with those sorts of negotiations, it is quite normal to have a relatively small increment being made to the base rates to recognise the various economic factors affecting people. RPI tends to be seen here as one of the predominant ones, but that is not necessarily the case everywhere, but it is to do with affordability, it is to do with the ability of the consumer to pay consequentially and so on and so forth.

But I would suggest that it would have been in people's minds that the terms and conditions of employment, which I think were referred to by Mr Lewis as being in a document, a handbook or something that every employee would expect to have, together with the contractual or negotiated contract between the company and the employees' representatives would deal with each year or every second year or what-have-you, that combination, I think the expectation would have been, and my expectation was, that allowance will be made for factors such as inflation and the affordability of the organisation to pay.

MR GARRETT: But would you also ----

DEPUTY DUBRAS: That would have been the norm.

MR GARRETT: But would you also accept that one of the sort of factors which is taken into account on wage negotiations locally is comparison between groups?

DEPUTY DUBRAS: Internationally?

MR GARRETT: Whether it is the Hay Evaluation Process or whatever?

DEPUTY DUBRAS: No, no. The Hay Evaluation Process is predominantly an internal comparability or, sorry, internal relativity process, as I am sure you are well aware. It sets levels of responsibility and accountability and orders people in some sort of ranking arrangement.

MR GARRETT: Is it not your experience though that some organisations in the private sector try to compare themselves with various groups or various levels?

DEPUTY DUBRAS: Well, everybody does, but it is usually done rather cursorily and on very broad comparative terms. The worst of it is when people compare job titles with job titles everywhere else, but that is not very professional. No, I would I expect there to be two processes running at the same time, internal relativity, which is the predominant one, and external comparability is the secondary one. But that depends whether you are talking of job worth or whether you are talking about pay increases and so on.

MR GARRETT: Do you know whether the tender documents, the whole set of tender documents, were actually seen and approved by the Committee prior to them being issued, or is that something that Halcrow got on and did?

DEPUTY DUBRAS: I can only assume, because I did not see that or participate in that part of the process, I can only assume that both the Steering Group and the Committee of the day would have seen those documents. I don't know. I have not heard that question being asked before and I haven't seen one way or the other. I can only assume that Deputy Hacquoil would be the person, former Deputy Hacquoil will be the prime person, to answer that question, I'm afraid.

MR GARRETT: But you actually didn't see them?

DEPUTY DUBRAS: No.

MR GARRETT: Is that because they weren't shown to you because you weren't present at the meetings at that sort of critical time?

DEPUTY DUBRAS: I wasn't a Member of the Steering Group at that time, as I recall, not actively, no. Deputy Ozouf was on the Industries Committee at that time.

MR GARRETT: Do you know from any source whether the terms and conditions of employment that were referred to in the tender documents focused on pay predominantly or did they cover

pay and what I refer to as the sort of softer issues of terms and conditions of employment, including annual leave entitlement and all that wide range of subjects? Was it mainly pay or both?

DEPUTY DUBRAS: I don't want to get into semantics here, but my understanding of what is loosely called pay negotiations is not just the base rate but would link itself with things like overtime rates, hours of work ... well, some organisations have holiday pay and others don't.

MR GARRETT: Hmm.

DEPUTY DUBRAS: You get time off. Changes to the numbers of days of leave -- and this is where, you know, coming back to something you said earlier and I didn't pick up on it at the time -- there is not very much difference between private sector organisations and public sector organisations in the professional practitioner aspects of compensation and terms and conditions of employment. They are all linked to the fundamental of a contract of employment in whatever form that takes. Every individual should have a contract of employment, but, when you're dealing with a representative group that has as an agent a union organisation, then it will grow up within the organisation being a particular form.

MR GARRETT: Darwin's law prevails?

DEPUTY DUBRAS: I'm sorry.

MR GARRETT: Darwin's law prevails. It is an evolution.

DEPUTY DUBRAS: Oh absolutely, yes, but my experience of having been exposed to the Transport and General Workers' Union over here as a Member of the States in this particular situation and when I was working as a consultant previously before I came into the States, I know that there are some common themes in the way that the Transport and General Workers expects its annual agreement to look. The fact that it seems to be done by an exchange of letters over here is a bit bizarre. I wasn't used to that. I was used to negotiations where you sat down opposite and you crunched out an agreement in two days, four days or six months, however long it took, and you signed the agreement there and then and, you know, you saw the wet ink on the paper and then you went away and photocopied it. Subsequently, maybe a month or two months later, the printed handbook would be delivered with all the changes that had been made and every individual employee had it and I had it as a practitioner in the company so that we could all look



at the finished product. That doesn't seem to be the way things have been done here.

MR GARRETT: Sorry, the documents that were circulated, which is what I'm trying to get to, the documents that were circulated by Halcrow illustrating the terms and conditions of employment, how comprehensive were they or did they focus purely on pay or did they cover the other issues as well, to your knowledge?

DEPUTY DUBRAS: I believe, because I only saw those documents in 2003 or 4 -- some of them as late as January 2004 -- they were initiated, as I recall ... other than the actual terms of the tender process, which made reference to the terms and conditions of employment being the same as in 2001, the composition of them rather than the absolute numbers I believe were based on this document, which is the 4th March 2001 agreement, which was stimulated to be sent out to the tendering bodies through correspondence from the officer, who reminded the Union that it needed to have this information, to have its permission and it had to have the permission of the bus company to release this confidential information, confidential to those two parties, to the tenderers. My recollection is that there was a letter. I am working on what I have learned since, obviously, because I wasn't involved in this aspect of it at the time.

The 2001 document was then distributed to Halcrow to make sure it got into the final package, but that couldn't happen until both the TGWU representative and the bus company were both agreed that it was okay to release that, because everything had been kept confidential up until that time. To this date, I have never seen a copy of the Jersey Bus Limited handbook or equivalent for the terms and conditions for its staff. I'm not sure that it was ever actually distributed to the officers.

MR GARRETT: But, to your knowledge, the tenderers received something?

DEPUTY DUBRAS: To my knowledge, they would have received a letter of some sort from Halcrow, or a bulletin from Halcrow, to which this agreement of 4th March was attached, setting out the rates of pay, overtime rates, public holidays, holiday pay, sick pay and pension. This is the document that is signed by Mr Pickering and Mr Kavanagh. It has no date as to when it was actually signed, but there is a date stamp which I know to be the TGWU office received or input to the office on 4th February. There is a heading, a fax heading, of something of the 8th 2001

from the TGWU. There is no date of when the agreement was signed, but the effective date was 4th March 2001.

MR GARRETT: And really that document refers to rates of pay.

DEPUTY DUBRAS: It does indeed.

MR GARRETT: And there is nothing in there about disciplinary procedures, grievance procedures ----

DEPUTY DUBRAS: I am assuming that is in the handbook, which I am assuming this document also somehow gets built into, because I know how it is done for the States of Jersey.

MR GARRETT: But you can't tell us whether or not those other issues were ever notified to the tenderers?

DEPUTY DUBRAS: I hope they were and I can only assume that at some point the Transport and General Workers Union and/or hopefully together with Jersey Bus released that document to the consultants for it to be distributed to all the companies.

MR GARRETT: Are you aware of the sequence of events following the selection of Connex?

DEPUTY DUBRAS: I am just reminded that last Monday, I believe, Mr Lewis said yes, there was such a booklet.

MR GARRETT: Yes. What I am trying to do is to cover the gap in between Mr Lewis and Connex really to make sure that things did work according to plan.

DEPUTY DUBRAS: That's right.

MR GARRETT: Are you aware of the sequence of events following the selection of Connex as the preferred operator and the sort of final resolution of an agreement with the Transport and General Workers' Union, or did that happen really after you had parted from the Steering Group?

DEPUTY DUBRAS: I have no awareness whatsoever after 1st May until March. From 1st May 2002, I have no knowledge whatsoever until March 2003.

MR GARRETT: Did the issue ever come back to you at all when you became President of the Committee?

DEPUTY DUBRAS: In March 2003.

MR GARRETT: Hmm hmm. Did it?

DEPUTY DUBRAS: I was certainly told that we have a problem.

MR GARRETT: And that was the terms and conditions in relation to pay?

DEPUTY DUBRAS: Yes.

MR GARRETT: I will come back to that.

DEPUTY DUBRAS: Yes, yes.

MR GARRETT: But other issues you were not aware of, for argument's sake, whether or not all members of staff were offered employment on exactly the same terms and conditions, were ultimately offered the same terms and conditions of employment?

DEPUTY DUBRAS: No, I wasn't. I don't recall that in my final period on the Industries Committee that, from the May, for the rest of that year I don't think anything came to me, as I said, other than being asked to go on the buses, which didn't arrive, so, to my knowledge, there was nothing. There was no exposure whatsoever to the internal process that went on.

MR GARRETT: Okay. I would like to actually focus now on the issue of the wage claim and explore the sort of level of knowledge that existed at the key time.

DEPUTY DUBRAS: Yes.

MR GARRETT: Did you receive a copy of the conditions of contract within the tendering documents that were supplied? That was circulated by Halcrow. They are dated January 2002.

DEPUTY DUBRAS: If I could see that, but I don't believe so. **(Same handed to witness) (Pause)** No, I have seen photocopies or faxes of pieces of this, but I'd never been involved in this until the spring of 2003.

MR GARRETT: Can I highlight one particular section for you in the first instance, which is section 3 of the document, which in fact I have broken down in my analysis that I have got here into four sections, but that is to help me?

DEPUTY DUBRAS: Okay.

MR GARRETT: The first part is: *"The Contractor shall satisfy himself that the information, including documentation provided by the States, is adequate and will not prejudice the performance of any of the Contractor's obligations under the Contract."* So that puts the emphasis and onus on the recipient of the information that he must brief himself fully on

everything that is supplied to him by Halcrow on behalf of the States. Would you agree with that?

DEPUTY DUBRAS: That is reasonable. I am sure that is standard.

MR GARRETT: The second part of it is: "*The Contractor shall inform the States immediately of any inadequacy whereupon the States shall make good the inadequacy to the reasonable satisfaction of the Contractor.*" So, in other words, my interpretation is, having received the document, if the contractor or the tenderer has any concerns regarding the quality or completeness of the information, he must get back to raise a query.

DEPUTY DUBRAS: Yes, and I think it is normal in tendering processes that there is a sort of an overt exchange of documents through the process. There can then be communications between individual potential suppliers and the person issuing and, if they are doing their job, they will then assemble all that information and make sure that everybody gets the same answers. I have been part of that sort of process. So, yes, I'm sure that was going on and it's up to every individual to ask questions as to whether or not they properly comprehend what is being asked of them in order to bid.

MR GARRETT: The third part of that provision is: "*The Contractor shall be deemed to have examined the requirements specified and these conditions.*" So really it is put the emphasis and the onus totally in the hands of the contractor. The fourth part of it, which I think is crucial ----

DEPUTY DUBRAS: There is probably still an element of the person who is being asked to supply extra information, to make sure they provide all the complete information.

MR GARRETT: Yes, it does say in the previous section that "*shall make good the inadequacy to the reasonable satisfaction of the contractor,*" so there is a limit in there somewhere.

DEPUTY DUBRAS: Yes, and I am sure a lot of this goes on without people consciously being aware of the letter of the contract.

MR GARRETT: Okay.

DEPUTY DUBRAS: If they are doing it all the time, it's normal practice.

MR GARRETT: The fourth part of that provision states: "*No claim from the Contractor for additional payments will be allowed on the grounds of misinterpretation of any matter relating to the requirements specified in these conditions on which the Contractor could have reasonably*

*satisfied himself.*” Now, I’m not a lawyer, but my interpretation of that is if you receive the documents, you don’t query them at all, you are deemed to have accepted them and, from that point, don’t come back to the States.

DEPUTY DUBRAS: I think, in a broad way of interpreting, that is a reasonable conclusion, yes, but there has to be a caveat there that nothing unexpected is turned up, or nothing that is reasonable for you to have assumed turns up, that everything is on top of the table.

MR GARRETT: Okay. Can I show you a copy of a letter dated 6th February from the Transport and General Workers’ Union ----

DEPUTY DUBRAS: I think I have it here.

MR GARRETT: ---- which was circulated by Halcrow with *Bulletin 2* on 12th February.

DEPUTY DUBRAS: Yes.

MR GARRETT: And which was received by Connex the same day.

DEPUTY DUBRAS: Yes, it would have been received by all of the contractors, hopefully including Jersey Bus, to show that the loop had been closed.

MR GARRETT: It was indeed. It was sent in two forms, one was by email (as an attachment to an email) and also by fax, as I understand, to make sure.

DEPUTY DUBRAS: I am sure that is what happened.

MR GARRETT: Okay. From your reading of it, is there any ambiguity in the document, particularly that referring in the section marked “2” -- “*On 1st September 2002, a further payment of £72 per week shift allowance.*”

DEPUTY DUBRAS: No, nobody could have any ambiguity with a blunt statement like that, but that doesn’t mean that a claim, which is what this is -- it says “*pay claim*” -- is necessarily what is going to be negotiated.

MR GARRETT: But would you accept that, if you are in a tendering process, you are then faced with a very interesting commercial decision? You either include it in your tender, merely do some calculations and it is not that complicated to work out what the financial implications of it would be, or you ignore it and, if you ignore it, you do so at your peril, because if the claim is converted into an actual payment, your position is difficult, bearing in mind the provisions set

out in paragraph 3 that I have read recently.

DEPUTY DUBRAS: Hmm.

MR GARRETT: Would you accept there is a difficult problem there?

DEPUTY DUBRAS: Well, you've got to look at this in the context of any negotiation and I am presuming, although I can't say for certain, that not all of the companies were necessarily used to bargaining with unions. I think some of the organisations that tendered probably have employee groups, but they weren't necessarily unionised, so I can't tell you which were or which were not. Retrospectively, we did know that Connex, because that was one of the questions asked during the presentation, post-presentation interviews, we know they did have experience of working with the TGWU.

But, forget who the union is, we have got to look at this very carefully. It seems to me that every year a union agent is going to make a claim for what they think they can reasonably ask for, that they are particularly asked for by their employees. My experience with the States of Jersey and the various union groups over the last eight years on and off confirms that. The initial claim and what you end up with can be miles apart. It is very rare that they are so close that what is asked for is actually given. Now, my understanding of what was understood by everybody in July 2001 under Senator Shenton ----

MR GARRETT: August 2001.

DEPUTY DUBRAS: Yes, sorry, August 2001, was that the terms and conditions would be fixed and, as we discussed earlier, the only thing that was likely to change was an increase to allow for things like an RPI change and so on. It was, I think, understood by everybody involved that something new would not be suddenly added during the process of tendering. It was as if a certain amount of -- you used the word "*freeze*" earlier, but I don't think freeze is the right word, but the terms and conditions were now being effectively set and, until a new operator was in place and was able to negotiate directly with the employees, nothing would change. Now, my understanding from the correspondence that I have seen since 2003 ----

MR GARRETT: Is that correspondence setting out Connex's position?

DEPUTY DUBRAS: No, correspondence from everybody that was involved at the time, including

Jersey Bus. Jersey Bus' letter to the contractors said "We have allocated ..." They were aware of this claim. They said "We have allowed for either 4.5% or 5% for the first year and something for the second year", I don't remember the exact numbers. The other bus company, the other individual contractors, interpreted this document in different ways. We have to remember that this document arrived effectively one side of the weekend before the deadline that was going to occur on the other side of the weekend, and that was 18th February. So, when you have received all the other information back in January and you get this within days -- I think the 12th, you said?

MR GARRETT:            Hmm.

DEPUTY DUBRAS:        Within days of the deadline by which you have got to get your package in and you had to deal with schedules and all that sort of stuff, I can imagine that people will have looked at this. They have probably done all their calculations by then and they will have taken an instant decision as to whether or not to take account of all of these individual things. Now, how many of them actually picked up that item 2 and incorporated it and those which disregarded it I can't say because I haven't talked to each of the individual organisations. My sense is, looking back at the documentation, that there was a spread, but certainly the Jersey Bus correspondence does not say explicitly "We have made sure that we have accounted for £72 per week allowance." Now, we heard from Mr Lewis last week -- and I think it was in connection with his non-compliant bid -- that he would expect to negotiate the terms and conditions with his staff.

MR GARRETT:            No, I think there has been some sort of misunderstanding there.

DEPUTY DUBRAS:        Well, I was sitting here listening to what he said.

MR GARRETT:            He expected to negotiate specific costs on elements of the provision of the bus service. He wasn't referring to this. Can I also say that ----

DEPUTY DUBRAS:        I am sorry, but, with respect, my notes here, and I highlighted it, Mr Lewis -- and I haven't seen a transcript and I don't know if you have one yet, but my note says -- "*had they been successful*" -- "*they*" being Jersey Bus -- "*they would have negotiated the shift allowance. We told the men we had budgeted for it. We didn't sign the agreement until after the award.*" I

think those are reasonable ----

MR GARRETT: But they budgeted for it. They had actually included it in their tender.

DEPUTY DUBRAS: They may have done, I don't know. What I do know is that the letter they wrote to Halcrow in their submission on 18th February or thereabouts said "We have anticipated or budgeted for the cost of living increase of X" -- I can't quote you the number -- "for 2002 and we have allowed for an amount for 2003, March." Now, in discussions that I had with Connex, to come back to that point, in January 2004 when I, having learned about all this, started looking into it, I was told by them that a claim is a claim. They didn't hold much store by this excessive claim and they didn't expect it to have been negotiated.

Now, can I say one more thing, please? I think we have to bear in mind -- and this came out in the evidence last week and I heard it for the first time during the discussion with Mr Lewis, by which I mean I heard it from Mr Lewis for the first time, but I was aware of it obviously from the paperwork -- that it was to do with an expectation of the Union on behalf of their members that they would be able to maintain their earnings level because their earnings were at risk because they would be working fewer hours and therefore fewer days because they were unlikely, given the change of the Committee's stance with regard to the buses, the school buses, the employees felt they were at risk from not having as many hours of work and, therefore, their earnings level. Now, that is not unusual. The States of Jersey has confronted that issue many times. All employers confront that issue with individuals as well as with employee groups. There is no God given right to somebody whose earnings have been at a particular level because of overtime or because of shift arrangements always and for ever and a day being maintained. So if operational circumstances change, it could mean that you are going to earn less or it could mean that you are going to earn more, it is going to vary. But this was a claim (and every union is entitled to make that claim) for somehow maintaining its members' level of earnings. I don't believe in the States of Jersey that's exactly a policy that we sign up to, and I doubt if many employers would either.

MR GARRETT: So would you agree there is no policy that says it shan't happen?

DEPUTY DUBRAS: Mr Garrett, I don't know what your experience is in negotiating with unions.



MR GARRETT: What I'm saying is ----

DEPUTY DUBRAS: It would be a very rare organisation that would receive a claim from a union and say "Oh that looks reasonable [*thumps table*] and away you go." I think, you know, one expects to negotiate. You start from over here and you work towards somewhere, but not necessarily in the middle.

MR GARRETT: Okay. I accept that point ----

DEPUTY DUBRAS: It is the same with buying and selling a car.

MR GARRETT: ---- but not knowing where that point might be, the only point of certainty for any tenderer was £72 per week. Now, I will come on to the terminology which was used in the Connex bid. If it had been settled at £40, £30, £20, still ----

DEPUTY DUBRAS: A judgment is made.

MR GARRETT: A judgment is made.

DEPUTY DUBRAS: Correct.

MR GARRETT: Now, what Connex is trying to tell us is that they made a judgment that it wouldn't be paid at all and, therefore, they have said ----

DEPUTY DUBRAS: I don't think that is necessarily true, but I wasn't there.

MR GARRETT: ---- they have said that they didn't include it, for whatever reason.

DEPUTY DUBRAS: Um, no. I think the information that we received -- and you have talked to some of the Connex people, I think -- from the information we received in January 2004, some account was made of the claim. An assessment was made of the likelihood of it being successfully negotiated based on their experience and they put in sufficient, or they put in ... sorry, they put in an amount in their estimates which I think was more than the 4.5% that had been negotiated.

MR GARRETT: They put in 5% in.

DEPUTY DUBRAS: Something like that, yes.

MR GARRETT: But, in respect of the shift allowance, they totally excluded it.

DEPUTY DUBRAS: Yes. Let me be blunt with you. I just, in the last 24 hours, because I had nothing better to do, did some calculations on the claim, and the claim of that so-called shift allowance was worth something like 21.9% on top of the wage increase. Now, that is so huge ----

MR GARRETT: But, sorry, I go back. It could have been settled at £30, £40, £20 or whatever.

DEPUTY DUBRAS: Or not at all.

MR GARRETT: Or not at all. But to actually totally exclude it from your reckoning, you are taking a commercial risk.

DEPUTY DUBRAS: I do not know whether they totally excluded it or not. In fact, the impression I got last January when I confronted them, their representatives, with this, because I asked explicitly “Was the claim taken into account in your calculations”, and the impression I got was that they took the claim into account. It doesn’t mean that they believe that 100% would be negotiated, but so did I understand the other companies took it into account, but I don’t know to what extent each one determined how much of the claim was likely to be realistic. As I say, the document I have seen from Jersey Bus infers that they disregarded it, because they just made reference to the cost of living increase, which I think everybody would have expected to be the case because that is what the terms and conditions say.

This shift allowance, so-called, is a change from the terms and conditions that were established and agreed to by Senator Shenton, Mr Shenton at the time, as being the make up of the terms and conditions. It is clearly additional to it if you compare 2002 with what was signed off in 2001 and if you look at what was signed off in previous years. There was a pattern, and I doubt if there was anything in that set of changes. You would have to look at it. I haven’t seen them, but my hunch is that the pattern that was established was significantly changed by the introduction of this claim for £72 per week, because not only was the magnitude huge percentage wise, but it was new and different and not part of what had been agreed and which was in the general terms of the tendering process.

MR GARRETT: But would you not accept that it is part of an overall wage claim?

DEPUTY DUBRAS: Yes, of course.

MR GARRETT: Can I point out that Mr Lewis, I think, came back to us and we did question him on a supplementary session -- I don’t think you were present ----

DEPUTY DUBRAS: No.

MR GARRETT: ---- on that letter and clearly there is some misunderstanding in relation to that

letter.

DEPUTY DUBRAS: I was ... no, I was not. I haven't heard anything in that connection.

MR GARRETT: Okay. Can I move forwards to the actual selection process?

DEPUTY DUBRAS: Yes.

MR GARRETT: 25th February, first of all, the Public Services Committee was reminded that once the preferred operator had been selected, it would bring a report and proposition seeking the States' endorsement of its decision. Do you know who was tasked with the ----

DEPUTY DUBRAS: Sorry, can you?

MR GARRETT: 25th February.

DEPUTY DUBRAS: Yes.

MR GARRETT: The Public Services Committee. Now, I don't know whether you would have had knowledge of this.

DEPUTY DUBRAS: I would probably have sat in on that.

MR GARRETT: Okay. The Public Services Committee was reminded that, once the preferred operator had been selected, it would have to bring a report and proposition seeking States' endorsement of its decision.

DEPUTY DUBRAS: Just a moment. I might have that document.

MR GARRETT: It is Act B7 of 25th February, if you have the Public Services Committee Acts.

DEPUTY DUBRAS: It would be G something, wouldn't it, for February of 2002?

MR GARRETT: No. I have got it down as B7. It is Act B7. I don't know where it was filed.

DEPUTY DUBRAS: These are in ... Each letter is given a month.

MR GARRETT: Right, okay. I don't have that reference. **(Pause)**

DEPUTY DUBRAS: It is a February document?

MR GARRETT: February 2002.

DEPUTY DUBRAS: No, I don't. Do you have a copy that I can see?

MR GARRETT: I don't. It is just a point as to whether or not you had any knowledge of it and whether or not you knew who had been tasked to address that.

DEPUTY DUBRAS: No. Retrospectively I am aware that there was ... in the original thinking, one of

the options or one of the expectations was that once the tenderer had been ... once the successful bidder had been selected it would be submitted to the States for a debate. I think that is what you are referring to.

MR GARRETT: Yes.

DEPUTY DUBRAS: I believe that it was determined during that period of February/March/April that in fact the Committee did not need to do that, that the States had, in agreeing the process, effectively delegated the decision making to the Committee and so, on the advice of the Greffier and the advice of others -- and I don't know all of the people who were consulted -- the Committee came to the conclusion that indeed it had the *vires* for making the selection and appointing the successful bidder and signing off the contract on behalf of the States of Jersey.

MR GARRETT: Okay, that is what ----

DEPUTY DUBRAS: That is my understanding.

MR GARRETT: Okay, thank you.

DEPUTY DUBRAS: But, again, it is not a piece of the process that I was personally involved in.

MR GARRETT: Okay.

DEPUTY DUBRAS: I think that would have been dealt with by the Committee rather than the Steering Group.

MR GARRETT: Yes. Were you, or any other representative of the Steering Group, present when the tenders were opened?

DEPUTY DUBRAS: No. I believe they were opened by the Officers. Mr Swinnerton -- Dr Swinnerton, I beg your pardon -- was the Chief Officer of the day and I believe he did, but maybe others, but I am not aware of any politician who was present.

MR GARRETT: Did you participate at any level in the subsequent initial evaluation of the tenders?

DEPUTY DUBRAS: No. I mentioned earlier that ... no, sorry, we are into the selection of the five. No, my next involvement was when we received a letter dated 7th March, a technical note, assessing the bids and there was a Committee meeting -- and I don't have the minutes, but there was a Committee meeting -- which received that and then said "Right, Steering Committee,

conduct the interviews.” Now, if I remember rightly, there was a Committee meeting on the Monday 11th March, the States met on the 12th or maybe the 13th and the interview process was on the Friday the 15th.

MR GARRETT: Friday the 15th, yes.

DEPUTY DUBRAS: There had to be sufficient time between the Monday meeting of the Committee and the Steering Group combined, I think, to give those that were to be selected for interview sufficient time to get themselves to Jersey, so that is my recollection anyway.

MR GARRETT: Do you know why the compliant bid -- sorry, the non-compliant bid -- of Jersey Bus was excluded at a very early stage? Did anybody ever explain that to you?

DEPUTY DUBRAS: I think it was explained in the document that I am looking at right now, because -  
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MR GARRETT: But there was no other explanation or discussion?

DEPUTY DUBRAS: No, hang on. Sorry, with respect, I can only move so fast. There were five compliant bids. According to this document, there were two non-compliant and my recollection of what was discussed last week was that Jersey Bus presented a zilch, a zero submission for the non-compliant and, in answer to your questions, whether that was a smart thing to do or not is not for me to comment. But that was explored by you last week. Let me just see what else is in there. **(Pause)**

No, this document doesn't have the recommendation on it. It is a pre-document. I'm trying to remember. I sensed that it was because there was very little to go on because of the zero, although I seem to remember that there was a document with some explanation of some of the savings that could have been made. I think you were alluding to that earlier. Some of the savings were to do with whether or not, if they were successful, the buses would need to go from the Weighbridge to La Collette 2 and, therefore, by keeping them at the Weighbridge, that would be saved, that money could be recovered from somebody else using the depot.

Then the second bit was this bit about “Well, we can negotiate down some of the costs of the drivers and the other staff when we actually finally negotiate the agreement.” But, I mean, I think, to be fair, that sort of detail would have been there. We would have read it all, but, not

being aware of the claim, not being aware of some of those documents in the run-up to that, there was nothing to call our attention to some particular aspects of that.

MR GARRETT: When you received the report from Halcrow, did you receive a copy of the tenders, the tender submissions?

DEPUTY DUBRAS: I don't think we did. I believe that when we met for the ... that was on 11th March. I am sure they were available to us. In fact, by golly, I haven't been asked this question before. I think all of the paperwork was in the room and it was available had we wanted to research it, but I think we got the information, if not over the weekend ... yes, probably just over the weekend we would have been emailed or hand delivered the assessment. I could be corrected on this, but my memory says that we then went into session and went through the document, with Halcrow advising us on how they arrived at the various points, how they arrived at their recommendation and how they had evaluated. Certainly last week, for example, in researching the files and just getting myself up to speed, I know I saw a document for the first time that had come from one of the bidders who was not successful, ... (indistinct) ... so they, having been excluded, for example, I wouldn't have seen one of the documents that formed their package, so it was fresh to my eyes. It was not overly material, but I am using that as a guide as to how much I saw in March 2002.

MR GARRETT: But the material would have been available to you.

DEPUTY DUBRAS: I am sure it was there.

MR GARRETT: Was there universal agreement within the Steering Group in support of the conclusions that Halcrow reached or did anybody dissent at all?

DEPUTY DUBRAS: I can't tell you. If there was a dissent, it would have been recorded. I do not recall a dissent. There were certainly lots of questions and backwards and forwards about the details. I think people were very ... I think some people were surprised by the range of the bids, the numbers of which had been published between the low of something just under 4 million and the high of nearly 5½ million. So having such extremes I would have thought was surprising and that range was explained to us to some extent by the fact that one of the organisations had not included an allowance for the pay increases. There was a footnote to that effect.

But the one thing I am quite clear about is that the final package that we were given after a second in intimation by the Halcrow people, was that they assured us both then and subsequently that what they presented to us was a like for like bid and, to complement that, they said “And here’s the shadow bid, which is five point something million. So we are satisfied that the three that you are going to interview are fair and reasonable and are presented to you on a like for like level playing field basis.” There was never any comment in my recollection, and there was no document that said “Well, these people have included this and those people have included that and these people have” and so on. There was nothing, because the whole objective was they were expected to present all of the bids on a like for like basis. As I have said, I have seen nothing to suggest that that wasn’t what we had.

MR GARRETT:        So if one of the tenders included an explicit reference to the pay claim, including the shift allowance, you would have thought that, based on the information being fed to you by Halcrow of the existence of a level playing field, they had validated the fact that all tenders included that feature?

DEPUTY DUBRAS:    Yes. To make that explicit, it seems to me that in the evaluation they did a balancing act on a range of different elements of the bids. They were ... I think, with the one exception of Connex, they were all adjusted, and this is, again, not unusual. You look at a set of tenders announced in the States, or certainly as a Member of the Environment and Public Services Committee, we had recommendations from the officers for a particular piece of work, whether it was drainage or roads or what-have-you and you expect to see adjustments made to the numbers, either for corrections to make sure that there are no inaccuracies or because the manner in which they have been submitted means they are not quite all the same, so adjustments are made so that what you get is “*an absolute level playing field*”, to use your terminology. Otherwise, we would be constantly, as people making a decision are constantly, having to weigh one against the other against the other. I think that is one of the ... I would expect all the variabilities to be extracted so that you knew you were looking at an apples and apples situation.

MR GARRETT:        Okay. Did anybody probe the reason why there was such a range of costs?

DEPUTY DUBRAS:    Yes. I alluded to one of them just now. We didn’t have to probe particularly

because Halcrow did their job of explaining how each of the organisations had arrived at its number and where they felt they were either over-egging it or short-falling. One of the organisations, it was pointed out or it was believed that they had misinterpreted some of the requirements of the bid and, therefore, in so doing, they had undershot significantly. In another case, there were comments to the effect that it was believed that more had been made of some aspects of it and, therefore, for some reason ... and it was made up, don't forget, of a whole series of components, so, when you're looking at a document which is, what, probably about 10 pages long -- yes, this is eight without the recommendations, so probably another couple of pages, I have seen it recently -- when it is boiled down to that, you have to work with the knowledge of the organisation, you know, the consultants, that they are giving you 'the gears', that they are telling you the truth. There is no reason or justification for them to influence you one way or the other. You have hired them to do the evaluative work based on their knowledge of the industry and what was agreed as the requirement and this is the outcome. They are there to enable you to make an effective decision.

MR GARRETT: Looking at the decision making process, did anybody ever consider or propose the use of some almost scientific method of selecting the successful tenderer, a matrix approach or whatever, which went beyond simply the price that was quoted and actually evaluated the proposals in terms of quality of service and all the other issues? Did anybody ever propose that?

DEPUTY DUBRAS: Well, that came with the interview process. There was a first step, which was to address what was delivered in documentary form from all of the companies and the bids varied in complexity in terms of numbers of pages and additional information such as the financial ability of the company to meet the expectations and so on. After the selection of three from five on 11th March, the next step was to actually interview those three, and there was no question but that all three -- this was my understanding at the time -- were all potential successful bidders. So the arrangements were put in train and we had the three interviews.

MR GARRETT: But did you use a matrix, a weighted matrix, at all in the selection process?

DEPUTY DUBRAS: No, no, because the ... obviously ... how do I say this? **(Pause)** One of the key factors was how much was it going to cost the taxpayer to deliver effectively the same service,



because if the tendering documents were sufficiently valid and well prepared, there shouldn't be too much judgmental effort on that and we relied on the consultants to take out any of the (to use your word last Monday) ambiguities, any of the uncertainties. That was that stage.

The final stage was to experience the three last contenders to demonstrate to our satisfaction that they could deliver or not the product, and that included quality of service, experience elsewhere, the ability of the company to deal with a transition of the nature that was going to be clearly difficult. Everybody appreciated that, even for the incumbent, there were going to be changes in the nature of the service. There had been a lot of talk about customer care, livery, dress, behaviour and all of those sorts of things. So I don't think any of them were under any underestimate of what was being expected of them and I am sure, as we heard last week, to some extent it was perhaps the most difficult for Jersey Bus because they were on the spot. They had to either convince us that they could continue and deliver what was being asked of them or not. The others were relative strangers and, therefore, we had a lot less information to go on, and the ability of each of them to deliver on all of the issues you have just described was in that final hour long interview.

MR GARRETT: Having sat through many a presentation myself on a variety of subjects, is there not a real danger, in the absence of predetermined, agreed, weighted criteria, that people get caught up in the hype of the presentation, get sold the good story and run with it.

DEPUTY DUBRAS: Mr Garrett, I am sure you have recruited a number of people in your life, as I am sure Mr Shephard and Mr Blackstone have, and you have to make a decision on the basis, as I said earlier, with the football analogy or the referee analogy, on the basis of the information you have got in front of you and you have to ... if you are going to do it well, you have to set your mind on what you hear and see and how it is presented and how each individual at an interview, whether you are recruiting for a policeman or whether you are looking at a Miss St. Lawrence, you are going to be influenced by all sorts of things, not just what the person says, but the manner in which they say it and the manner in which they conduct themselves.

MR GARRETT: But in this instance we weren't looking at recruiting a police officer or picking Miss St. Lawrence, we were looking at multi-million pound contract.

DEPUTY DUBRAS: Absolutely, but the principle is the same.

MR GARRETT: I go back. Is there not a danger that some of the people involved in that process would have been caught up by the hype?

DEPUTY DUBRAS: No, I don't think so, no. Everybody had an equal opportunity to present. They knew they were in the final of the race. So, in my book, it doesn't matter whether you are selecting an economic adviser or you are recruiting somebody for a piece of work as a consultant or you are actually hiring somebody to work for you, you are looking at exactly the same sorts of things and it is a judgment call.

MR GARRETT: I'm not suggesting ----

DEPUTY DUBRAS: It is as subjective as you can make it.

MR GARRETT: I'm not suggesting that the situation applied in this instance, but if you have got a seriously slick, professional presentation, using all the modern technology and at the other end of the scale you have got somebody who is struggling a bit, which one do you think is going to get the job ordinarily? It is more likely that people are going to be influenced by the slick presentation, wouldn't you say?

DEPUTY DUBRAS: Um, no. I have to say you are asking questions which I did not think were quite within the terms of reference of this Committee of Inquiry, but I will try and stay with you. I recently, as a member of the public, watched a process on television come *Come Dancing* or something like that, where there was a very interesting process of both technical people, experts in their field, who were making selections and the public at large were able to phone in or vote in on who should win. Some of the people presenting were slick and some were less able at dancing. We all possibly were surprised at some of the finalists in the outcome, but I think, when you got to the very last cut-off, I think there was a common understanding as to who was best technically and in terms of entertainment. Now, how do you define "*entertainment*"? They all had equal chance.

Now, to some extent, and I heard the phrase used that you're into a "*beauty contest*", but I don't particularly believe that we approached this as a beauty contest. I think the Steering Group approached this with the Committee because it was effectively a joint endeavour. I think

there were very few Members of the Committee who were missing. I believe we looked at that knowing full well the responsibility that we were carrying on behalf of the community, on behalf of the States of Jersey, to pick the organisation that would best deliver what was being expected and what had been effectively set down through the medium of the Strategy on July 31st in the States. We were acting on behalf of the whole of the 53 Members and on behalf of the community.

How each of the three companies delivered to us and convinced us or not was in their hands. I believe the Members around that table applied as objective an approach as possible. I don't believe there was any hype, but I do believe there were some concerns and questions raised, if you look at it from the other perspective, as to whether or not all three would actually be able to deliver technically and all three would actually be able to form the partnership and work with the States of Jersey and they were all very different. There were pluses and minuses for all three.

MR GARRETT: Which is why ----

DEPUTY DUBRAS: You know, I think, as well as I do that in any selection process no mechanical or matrix diagram ever produces the results because, in applying numbers to try and end up with a number at the end, some judgment has to be applied. There is no, to coin a phrase from another part of my past life, there is no mechanical exactitude in these things. People look for numbers to solve the problem. I am sorry, decision making doesn't rely on absolutes. It is ... and you are in a prime position to know that.

MR GARRETT: We will move on. Can you tell me were the presentations recorded in any way? I am looking at video tape recording or indeed detailed minutes recorded of the presentations and, indeed, the deliberations afterwards.

DEPUTY DUBRAS: My recollection is that there was a Committee Clerk doing the normal rôle of the Committee Clerk at that meeting. I can't remember now. I happened to have the only one that I kept in my personal files, which was the Connex one, but I am sure there were handouts from all three.

MR GARRETT: But there wasn't actually a video recording or anything like that?

DEPUTY DUBRAS: Of the process?

MR GARRETT: Yes.

DEPUTY DUBRAS: No, no, no. I don't think any States' decision has been made that way.

MR GARRETT: I have attended selection processes where video has been used.

DEPUTY DUBRAS: What, as an assessment parade or?

MR GARRETT: As a ----

DEPUTY DUBRAS: At an assessment centre?

MR GARRETT: No, no, actually looking at tenders and videoing for the purposes of absolute clarity.

DEPUTY DUBRAS: I was not aware of that.

MR GARRETT: During the presentations did anybody, any of the tenderers, express any concern or raise any points about the inclusion or exclusion of the wage claim, including the claim for the shift allowance at £72 a week?

DEPUTY DUBRAS: No, I don't believe the issue was mentioned by anybody.

MR GARRETT: Did any of the tenderers express concern regarding the timescales that had been applied to the process?

DEPUTY DUBRAS: My recollection is that the only concern that I can think of -- I am helped by having reviewed some of the documents recently and I was aware of it at the time certainly -- was whether or not any of the contractors could guarantee the delivery of new buses because that was a very critical part of the bid that the Island would have ... for the money that was being invested, the Island would see new equipment on the roads and would know that we were into a new era, if you like. Certainly during the evaluative stage, in the final couple of weeks, I think we all said "Well, it's going to be interesting to see (a) what the buses being proposed look like, (b) what features they are going to have, are they going to handle the disabled needs and so on and so forth, which was a high priority, and (c) would they in the time that was left, especially with the delay that we had, would people be able to actually meet their commitments and promises of delivering the product.

To my recollection, only Jersey Bus said "We don't think it's possible", and that has been

confirmed in what I read last week. “We don’t think it’s possible to get the equipment orders in time because of the size and so on to meet Jersey’s needs are not as readily available as we would like.” It may be that there was an anxiety that the two companies that were proposing who were new to the Island may or may not have been able to actually find the equipment and get it here in time.

MR GARRETT: It is an issue that I explored with Jersey Bus and with Connex. Is it not the case that, bearing in mind the size of Connex really and their relationship with the bus builders, to an extent the timescales were bias slightly in their favour because they would have had greater influence on the bus builders than, say, a company like Jersey Bus.

DEPUTY DUBRAS: I don’t think that was an influencing factor. I don’t think um ----

MR GARRETT: But they would more likely be able to deliver new buses on time than, say, Jersey Bus.

DEPUTY DUBRAS: I don’t know. I think I would surmise that it wouldn’t have mattered who had been given the order.

MR GARRETT: You were clearly missing, but Connex did explain to us that they have a permanent build order in with the bus manufacturers. What comes out at the end of it is sort of -- --

DEPUTY DUBRAS: I could envisage that in their French or UK model, but I doubt it, because we were looking at buses that are of a different custom size.

MR GARRETT: No, it doesn’t make any difference. Can I just say ----

DEPUTY DUBRAS: Well, you have information that I don’t.

MR GARRETT: Okay.

DEPUTY DUBRAS: I can’t second guess you, I’m afraid.

MR GARRETT: At the conclusion of the presentations, did you actually hold a formal discussion within the Steering Group to actually comment on the quality of the presentations and reach your conclusion?

DEPUTY DUBRAS: Yes. After each of the three presentations had been made, there was what I would call a final session to then make the evaluation and come to a conclusion, but bear in mind

that was a two stage process. There was the first stage of that which happened in March. Then there was the second stage after the regulations had been approved and the final evaluation was made on the final document that came from Halcrow because, for each of the companies, there were some questions that were asked in the third round of the third stage.

MR GARRETT: Okay. We will come on to that in due course. What were the factors that influenced you particularly to favour Connex, can you recall?

DEPUTY DUBRAS: Are you talking about me personally?

MR GARRETT: Or the Committee?

DEPUTY DUBRAS: Well, one has to decide. Which is it that you want me to answer?

MR GARRETT: Give me your view.

DEPUTY DUBRAS: Um ... the thing that stood out for me with the Connex submission and presentation was that they had some experiences, particularly in the French communities, of introducing some novel ways of delivering services. We talked about the disabled. We talked a little bit about park and ride and things ... sorry, not park and ride. What is the phrase?

MR BLACKSTONE: Buses on demand?

DEPUTY DUBRAS: Sorry?

MR BLACKSTONE: Buses on demand?

DEPUTY DUBRAS: Yes, thank you. Again, something that I had been very familiar with in Canada, because something which I didn't mention earlier which has only just come into my head is that one of my community efforts in a place close to the city of Ottawa called City of Kanata was where I was chairman of the transportation advisory group to the local council. So I was familiar with the sorts of services that were being provided, and I am going back to 1989, '88/89, before I went back to Toronto. There, we were responsible for trying to get the bus company to increase the number of services, to bring services out and also to expose us to the sorts of assistant services for less able people. Now, sorry, I said '89 and that should have been '79.

In the 20 years since, those sorts of services have expanded dramatically and I am very familiar with that sort of thing. That was the sort of expectation I had that whoever was going to be the successful bidder would be able to bring to the Island that sort of experience. I think we

were also obviously looking for an organisation that would be able to demonstrate that it could work with its staff after a transition and successfully handle new ways of working, improved customer care, improved information and so on. So all of the elements that were in the tender were all coming together in the final piece.

So in that sort of judgment, you come with the experience you have gained from other places and you have certain expectations and you look to see whether the finalists are going to be able to come close to those sorts of expectations, not mine personally but those of the community. Those are the sorts of things that I was focusing on in the final selection.

MR GARRETT: Can you recall whether there was any suggestion that Connex might run buses with a disabled capability past the hospital, for argument's sake, as a means of, I don't know, improving or enhancing or supplementing patient transfer?

DEPUTY DUBRAS: No. That discussion didn't take place until I was President of the Committee in 2003. In July, the first presentation that I experienced from Connex about their experience of the previous period of time and looking ahead, that is when we talked about those sorts of things.

MR GARRETT: Thank you.

DEPUTY DUBRAS: In fact, strategically, the Presidents met and we agreed that was something we needed to look at. Senator Syvret offered his ambulance services of the range that they have to do with patient transportation, that that would be looked at in combination with what might be provided and that was a piece of work that hasn't seen a conclusion yet, but that was something that was looked at by the officers in the last part of 2003.

MR GARRETT: Am I right in saying that the reason why there was such a delay between ... really the only reason why there was such a delay between the presentations and the final decision was basically that people were waiting for the legislation to be approved? There was no other reason?

DEPUTY DUBRAS: That was the primary reason, but there was information that had to be clarified with each of the tenders. There is a document which shows what the questions were and what the responses were.

MR GARRETT: But that could have been done the following week, and the reason why it wasn't

was because the legislation wasn't in place?

DEPUTY DUBRAS: I'm not putting a timetable on it. I'm saying there were questions left over from the selection process that still had to be answered, yes. We knew that we could not make the final decision, so that was ... we had got to that point naturally and whatever had to take place during April took longer than was expected, as you said earlier, because the demise of the Queen Mother and so on.

MR GARRETT: Now, concern has been expressed about whether or not a level playing field actually existed. What assurance could anybody get at this stage that a level playing field did exist in the selection or the decision making process that you went through at the conclusion of the presentations?

DEPUTY DUBRAS: I think it is fair to say that the Committee and the Officers ... the Officers were not directly involved in that evaluation process, but I think the Steering Committee and the Committee were reliant on the consultant. They were reliant on the consultant doing his job.

**(Pause)**

MR SHEPHEARD: Well, I have got one eye on the clock and I don't want to tire anybody unnecessarily. I think perhaps this would be a convenient moment to adjourn and resume taking Deputy Dubras's evidence tomorrow morning.

DEPUTY DUBRAS: I have got a States' sitting at 9.30.

MR SHEPHEARD: You have a States' sitting at 9.30?

DEPUTY DUBRAS: And I likewise on Wednesday as well. I can come in early if you wanted me to.

MR SHEPHEARD: Well, Deputy, I think we are in a little bit of a quandary.

DEPUTY DUBRAS: I am not sure what the rules and regulations are on this.

MR SHEPHEARD: Well, they are fairly straightforward. As you are still in the middle of giving evidence, you cannot discuss the evidence you are going to give with anyone except us.

DEPUTY DUBRAS: Well, thank you. I accept that.

MR SHEPHEARD: But, as far as your attendance here is concerned, perhaps, given that there is a States' meeting tomorrow and possibly on Wednesday, Mr Spence, where are we with convenient slots?



MR SPENCE: Early Thursday.

DEPUTY DUBRAS: Thursday I am committed, I am afraid.

MR SPENCE: That takes us to Friday. **(Pause)**

DEPUTY DUBRAS: I am committed up until about 2.30 on Friday afternoon, but Friday afternoon is clear at the moment.

MR SHEPHEARD: Three o'clock Friday then, if you would be so kind.

DEPUTY DUBRAS: Yes. If the States doesn't sit, then obviously I can get here earlier.

MR SHEPHEARD: If the States does not sit on Wednesday, then perhaps we can reconsider.

DEPUTY DUBRAS: But I know you have got a fairly jam-packed arrangement.

MR SHEPHEARD: We have admittedly a fairly tight schedule.

DEPUTY DUBRAS: So you would like me to put on three o'clock on Friday?

MR SHEPHEARD: If you could for now anyway book three o'clock on Friday afternoon.

DEPUTY DUBRAS: Yes.

MR SHEPHEARD: And we will adjust if desirable and possible tomorrow.

DEPUTY DUBRAS: We will just have to see how it unfolds. I can be as flexible as you want me to be within the boundaries that I am committed to, I am afraid.

MR SPENCE: You know better than I do, Deputy, that the chances of the States not sitting at all on Wednesday seem to be fairly slim.

DEPUTY DUBRAS: I think you may have heard Deputy Dorey in another forum over the weekend saying that States Members have a particular yen to fill space that is available, for instance, much as some of us would like to feel differently.

MR SPENCE: I think Friday would be convenient, Sir.

MR SHEPHEARD: Friday it is for now anyway. We will adjourn until 9.30 tomorrow morning and, Deputy Dubras, we will see you on Friday or earlier if we are able to arrange it.

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