

STATES OF JERSEY

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

BLAMPIED ROOM, STATES BUILDING

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

In attendance Mr Mac Spence (Committee Clerk)

EVIDENCE FROM:

DEPUTY GERARD BAUDAINS
(Former Member Public Services Committee)

on

Monday, 31st January 2005

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MR SHEPHEARD: As all the interested parties seemed to be present, I think we will begin this

meeting of the Committee of Inquiry. Deputy Baudains, we are very glad to see you here.

DEPUTY BAUDAINS: Good morning.

MR SHEPHEARD: Good morning to you. You are probably aware that the Committee is taking its evidence on oath and I will, therefore, proceed to administer the oath to you.

The witness was sworn

MR SHEPHEARD: Deputy Baudains, we understand that you were a Member of the Public Services Committee from 14th December 1999 until 12th September 2000 and it is in relation to matters occurring during that time that we wish to take your evidence. Most of the questioning will be done by my colleagues, Mr Blackstone and Mr Garrett. I will chip in as and when I think it appropriate, but I may have one or two more structured questions of my own a little bit later. So I will hand you over now to Mr Blackstone.

MR BLACKSTONE: Good morning. Your time on the Public Services Committee was relatively short as a Committee Member. Was there any reason for your resignation?

DEPUTY BAUDAINS: Yes. The Hoppa bus was something that the Committee was anxious to get running again, I believe it was for the second year, as a trial process and we were basically running out of time to get it going for the summer season, so we needed to press on and get that done. However, I don't know how much detail you want to go into here, but basically the Hoppa bus ended up as a shambles and, as a result of decisions taken, I and three other colleagues found we had no other position than to resign.

As you pointed out, the resignation occurred on 12th September, I think, but we actually resigned before that, but it is a quirk of government that you can't ... although you can tender your resignation, it doesn't become official until the next States meeting and, because of the summer recess, that carried over for nearly a month. So there was a caretaker Committee at that time, which consisted of the remaining members, but they weren't a quorum so one or two of us had to pop in occasionally to make the numbers so that vital pieces of work could go ahead.

MR BLACKSTONE: Deputy Duhamel resigned at that time, did he?

DEPUTY BAUDAINS: Deputy Duhamel, that's right.

MR BLACKSTONE: And Constable Le Brocq? No, he carried on. Deputy Rondel resigned?

DEPUTY BAUDAINS: I believe -- and you'd have to check on this because I don't want to mislead you -- I believe the people who resigned are myself, Deputy Rondel and Deputy Scott Warren. I can't remember who the fourth one was.

MR BLACKSTONE: No, I think Scott Warren stayed on and Deputy Le Claire perhaps resigned at that time. **(Pause)** So basically you were not happy with what went on with the Hoppa bus situation. Would you like to give a little more detail, please?

DEPUTY BAUDAINS: Certainly. Things were not going well. There were some curious happenings. The Committee was meeting quite often to try to resolve them. In fact, we had a meeting just in the room behind us across the way there, which was the old Committee Room. Basically, our understanding was that the workers of Jersey Bus were not happy about the Hoppa bus starting up because they thought that their jobs may be in jeopardy. We didn't see it that way because we thought that overall the slice of the cake would remain the same, if not perhaps increase slightly, with the buses being more convenient for the travelling public. As a result, if there was any small loss of jobs at Jersey Bus, they would be taken on by Pioneer, who were the people who were going to run the Hoppa bus. In fact, there was an advertisement running at the *JEP* at that time, if I remember correctly, by Mr Eden, the owner of Pioneer, for bus drivers and we were advised that there was a movement, a flow of drivers between the two companies at most times anyway.

What happened was, towards the end of this scenario, there were two or three Committee meetings that took place within a matter of two or three days, and I particularly remember the last one because we had the Committee Clerk on the phone quite often during the day to say "The meeting will be tomorrow morning at nine o'clock", "No, it will be tonight at five o'clock", "No, it will be tomorrow morning at nine o'clock", and so when we did go in at nine o'clock in the morning -- I think it was a Friday morning, if I remember correctly, but obviously you have the minutes so you can check that -- we were told that actually the President and either the Chief Officer or his deputy had had a meeting the previous evening and they presented the Committee with a paper outlining the conditions which would resolve the issue. They basically amounted to telling Pioneer that the contract which we were about to sign with them went in the dustbin. I

wasn't going to allow my name to be associated with something like that and I resigned.

MR BLACKSTONE: So the President of the Committee took certain actions without consulting the Committee, did he?

DEPUTY BAUDAINS: Yes, basically. **(Pause)**

MR BLACKSTONE: This was a difficult period when you were there because, shortly before you joined the Committee, Jersey Bus had its three year licence refused for the first time in 30 years, I believe. There was also a fare increase.

DEPUTY BAUDAINS: It was a one year ----

MR BLACKSTONE: They were put on to a one year basis, which was quite difficult for a company with heavy capital and equipment which needs, you know, renewal on a regular basis. Now, you are talking about the Hoppa bus business, which was July/August 2000, I think, wasn't it?

DEPUTY BAUDAINS: Hmm hmm.

MR BLACKSTONE: Were you aware that Halcrow had already been engaged at that time to prepare proposals for a bus tendering process?

DEPUTY BAUDAINS: I knew that consultants were employed -- and I can't remember the name of them -- to advise on bus strategy. I don't remember that they were looking for a tendering process, no.

MR BLACKSTONE: At that time in 2000?

DEPUTY BAUDAINS: No.

MR BLACKSTONE: It was not discussed on Committee?

DEPUTY BAUDAINS: If it was, I have forgotten.

MR BLACKSTONE: Right.

DEPUTY BAUDAINS: I don't recall.

MR BLACKSTONE: It is quite an important point, but you have no recollection of that matter being discussed?

DEPUTY BAUDAINS: No.

MR BLACKSTONE: And you can't remember when Halcrow first came on the scene?

DEPUTY BAUDAINS: I can't unfortunately, no.

MR BLACKSTONE: No. Because the Bus Strategy which provided for the tendering process didn't come into effect until a year later, did it, until 2001, after you had left the Committee?

DEPUTY BAUDAINS: Hmm. As I say, the situation is that obviously I'm not au fait with the tendering process that ultimately led to Connex winning the contract because I was not on the Committee at that time, but it is my view that the roots of this actually go back to the Hoppa bus situation.

MR BLACKSTONE: And I think possibly even earlier, yes. Can you confirm that, as a result of the Hoppa bus (shall we call it) fiasco, Jersey Bus were promised a service level agreement for a term of three to five years?

DEPUTY BAUDAINS: Yes.

MR BLACKSTONE: They were? This undertaking is recorded in the minutes of the PSC meeting on 3rd August 2000. You recall and can confirm that?

DEPUTY BAUDAINS: It sounds familiar to me, yes.

MR BLACKSTONE: Okay. Would you me to just read those minutes to remind you, or ----

DEPUTY BAUDAINS: If you wouldn't mind. I haven't trawled through the minutes again. I presumed you had the minutes in front of you. I was not going to duplicate your work.

MR BLACKSTONE: I will just read the relevant section, obviously, rather than the whole meeting.

DEPUTY BAUDAINS: Thank you.

MR BLACKSTONE: It starts off: "*Having considered the position, the Committee decided to agree the proposed package as follows*" and Section B is: "*A three to five agreement will be made between the Public Services Committee and Jersey Bus. This will initially be covered by a memorandum agreement to be made available by the end of September 2000, which would subsequently be covered by a formal service level agreement to be available by or about the end of March 2001. It was accepted by all parties involved that there might be competitive tendering for such services after the initial three to five year period.*" Does that confirm your memory?

DEPUTY BAUDAINS: It does, yes.

MR BLACKSTONE: Are you aware that that undertaking was never complied with by the Public Services Committee?

DEPUTY BAUDAINS: I don't recall it being implemented.

MR BLACKSTONE: Neither the memorandum agreement nor the service level agreement?

DEPUTY BAUDAINS: No. There was that much going on around the whole issue that I don't remember that being progressed.

MR BLACKSTONE: Do you consider it morally acceptable for a Jersey States' Committee to renege on a written undertaking given to a Jersey company?

DEPUTY BAUDAINS: No, I do not.

MR BLACKSTONE: Not morally acceptable. **(Pause)**

DEPUTY BAUDAINS: For precisely the same reason that I resigned over the Pioneer situation. We hadn't actually signed a contract, but we had told them ----

MR BLACKSTONE: You had given them an undertaking.

DEPUTY BAUDAINS: ---- that this was just about to be done or that sort of thing.

MR BLACKSTONE: You have already mentioned that on one occasion you were not happy that the President of the Committee took action without consulting his fellow Committee Members. Generally speaking, were you happy with the Chairman of the Public Services Committee's conduct during your period of service on that Committee and were you satisfied that he consulted the Members of the Committee on all important matters?

DEPUTY BAUDAINS: Um, generally satisfied, yes. Otherwise, I would have resigned or made my feelings known or minuted earlier. I think he was somewhat feeling his way, but we were quite happy with his work. I mean, this particular instance, I think, was a case of pragmatism really. Perhaps he felt that something had to be moved along quickly and he could solve it. Presidents do go and talk to people by themselves and report back to Committee, as in fact he did, because, when he came back to that Committee meeting that morning, all he could do was present us with a paper and ask us to ratify it. He couldn't have actually progressed it himself.

MR BLACKSTONE: No, okay.

DEPUTY BAUDAINS: It is not unusual. It was just, I think, given the severity of that particular situation, it might have been done differently perhaps with hindsight.

MR BLACKSTONE: We are just looking into the fact that Halcrow had already prepared a tendering document before the Hoppa business when officially they were not on the scene until a year later after the Bus Strategy came into effect. You have confirmed that you have no recollection ----

DEPUTY BAUDAINS: I do not recall that.

MR BLACKSTONE: ---- of the Halcrow business, so it could just be ----

DEPUTY BAUDAINS: I know we had consultants who were advising on the Bus Strategy, basically trying to find a better system that would enable people to discover that bus usage was of benefit to them and increase the number of travelling public by bus, but that is the only work that was ongoing that I was aware of.

MR BLACKSTONE: Going on to September 2001, you put some questions to Deputy Crowcroft in the States. Were you happy with all the replies that you received?

DEPUTY BAUDAINS: I'm invariably unhappy with replies I receive. Could you remind what they were?

MR BLACKSTONE: *"In view of the possibility that Jersey Bus will cease operations at the end of this month, would the President give assurances that a full bus service will continue to run. Could he also at this late stage outline the contingency plan alluded to during the recent Bus Strategy debate?"*

DEPUTY BAUDAINS: I think this refers to a period of time when there was, perhaps to put it mildly, considerable uncertainty about there being a bus service at all. I seem to recall that this was about the time that ... sorry, could you tell me the exact date again?

MR BLACKSTONE: This was 18th September 2001.

DEPUTY BAUDAINS: 18th September, right, yes.

MR BLACKSTONE: Just to clarify that there had been a final breakdown in negotiations, I think, between Jersey Bus and PSC.

DEPUTY BAUDAINS: This was a time when some other States Members were trying to

resolve the situation. I think the Deputy of Trinity was one of them. There was a small group of people that went to meet with Mr Lewis to try to resolve the issue. I think this was the time when the ex-Senator Shenton made his trip across to the Weighbridge, is it not?

MR BLACKSTONE: I don't recall Senator Shenton's involvement, but certainly there was a meeting with Jersey Bus, the Transport and General Workers and certain States Member and it was chaired by Senator Le Sueur.

DEPUTY BAUDAINS: Right, I do. There may be a later occasion when I recall the picture in the paper when I think it was the then ex-Senator Shenton was walking across to the Weighbridge to try and sort things out.

We felt that ... there was a group of States Members at the time that felt that the resolution was not difficult; it was a matter of intransigence that had got into the situation and, with a bit of goodwill, it could easily be resolved. I remember I had one or two meetings around that time with Mr Lewis himself. I believe the first one was at his invitation. I found no difficulty discussing issues with Jersey Bus. I found it difficult to understand why the Committee and the Department were saying that they had difficulty and that they couldn't see the books and this sort of thing when I really did form the opinion at that time that perhaps the people who were negotiating with Jersey Bus were perhaps not used to business and were not used to negotiating. I wasn't trying to broker any deal; I was trying to understand what the issues were and I found Mr Lewis of Jersey Bus to be a businessman the same as anybody else, trying to get the best deal. But I remember a comment he did make to me was that he was finding it increasingly difficult to negotiate because people would come to him and discuss matters and then apparently some hours or so later they would phone up and say "Well, the agreement we have just had can't be met" and he felt that he was getting quite exasperated over the whole situation.

As I say, going back to what I said a moment earlier, I felt that the resolution was within our grasp but that perhaps people weren't looking at the right issues or looking at it the right way. There seemed to be an intention that was unhelpful.

MR BLACKSTONE: Are you able to identify any of those people with whom you say he was

having a particular difficulty?

DEPUTY BAUDAINS: No, I'm not, not because I don't want to name them, but I'm genuinely not aware.

MR BLACKSTONE: Thank you very much. I don't have any further questions at this time.

MR SHEPHEARD: Deputy Baudains, can I pick up on a couple of points that really arise out of your answers to my colleague, Mr Blackstone's, questions?

DEPUTY BAUDAINS: Hmm hmm.

MR SHEPHEARD: I'm right in thinking, am I not, that, on 12th September 2000, the entire Public Services Committee resigned?

DEPUTY BAUDAINS: It did, because the Committee was not quorate. The President could not continue, so the only way forward was he could either ... he had two options. He could either add more people to his Committee and invite people to stand on his Committee and then maybe other names would be put forward and the States would decide accordingly, but it was felt at the time that, because I think it was four of us had resigned en bloc and because of the magnitude of that ----

MR SHEPHEARD: It was better to seek a fresh mandate?

DEPUTY BAUDAINS: It would be, because otherwise it would be seen to struggle on in the face of adversity and that really wouldn't give the Committee a great deal of credibility. So I think he did the best thing.

MR SHEPHEARD: And the next matter is were you at any time that you were on Public Services aware of ... you described people as retreating into entrenched positions, but are you aware of any breakdown in trust between Jersey Bus and the Committee or between Jersey Bus and the Department?

DEPUTY BAUDAINS: I felt that, towards the end, there was (and, as I say, it was only a feeling) that the Department really did not like Jersey Bus, but for what reason I couldn't tell you and no names in particular. I just felt a general feeling in that direction, that that was the case.

MR SHEPHEARD: Thank you, Deputy Baudains. Mr Garrett?

MR GARRETT: Just going back to the more sort of general issues about your involvement with

the Committee, I know that you have been on a number of Committees, but, reflecting on your services with Public Services, certainly in my research I have noticed that there was a high number of meetings in this period just on the numbering of the Acts of the Committee. It seems that a great number of subjects were discussed. Is it your experience that it was one of the most demanding Committees, in terms of the time that you had to put in to prepare for these meetings and, you know, that the range of subjects was fairly comprehensive?

DEPUTY BAUDAINS: Well, without going into a proposition which I have just recently lodged on that particular issue, the Public Services Committee has a wide range of responsibilities. I remember learning at the time that something came up on the agenda one day that even the Chief Officer at the time was not aware that the Committee had responsibility for. It is a terribly wide-ranging Committee because, as you will recall, it was born out of a merger between Public Works and the Sewerage Board, which, at that time, going back some years, quite a number of States Members thought it was creating a Committee with rather too wide a remit. There were many issues, but I would like to think that we were on top of them. It is just that, at that particular time, the Hoppa bus seemed to stir up a bit of a hornets' nest. It came as a bit of a surprise because we didn't really consider that it should be that controversial.

MR GARRETT: But it was?

DEPUTY BAUDAINS: Indeed, in the nature of politics.

MR GARRETT: Bearing in mind the demands that were placed on the Committee, really was the efficiency and effectiveness of the Committee dependent on the quality of the support that you got from the Department?

DEPUTY BAUDAINS: A committee always has to rely on information that it receives from the department. Clearly at times of stress when you are having many meetings it is ... I mean, one shouldn't have to check on the work the department is giving you because, otherwise, you might as well do the work yourself. There has to be trust, but there are sometimes things which come before you which you think "Well, that could be done differently. We could do that another way." I'm now moving on to thinking about waste management, where we did suggest at the time that the officers perhaps took a different line on waste management. When you have

got an issue like the Hoppa bus, on which sometimes we were having two or three meetings a day, clearly other issues have to be left to one side whilst you focus on the matter in hand and, clearly, when you have papers passed on to your desk and decisions need to be made in an hour, or something like that, because somebody is going to go on strike, or something of that nature, you don't have ... obviously, clearly, you don't have time for research. You have to rely that the material in front of you is correct.

MR GARRETT: Bearing in mind all that happened then and subsequently, do you feel that you always got good service and that you could rely on the quality of the work that was provided by the Officers of the Department?

DEPUTY BAUDAINS: I know there are one or two occasions where I would challenge, where I did challenge, the information given to me by the Department. I would hasten to add that I don't think it was done wilfully; it is just the information was clearly not correct.

MR GARRETT: Did you ever have the feeling that there was bias, conscious or otherwise, within the Department, for or against Jersey Bus?

DEPUTY BAUDAINS: Yes. I had a feeling, an awareness -- it was only a feeling and it had no basis in fact -- but my own personal feeling was that towards the end of this, around about the time I left the Committee and thereafter, there probably was advice against Jersey Bus, but that is only my personal feeling.

MR GARRETT: Moving forwards to ----

DEPUTY BAUDAINS: I can't take you to evidence that would prove that.

MR GARRETT: No. Moving forwards, we touched on it before, but Terry Le Sueur provided an oral report to the Committee on 3rd August 2000, where clearly he had intervened in the Hoppa bus issue. You have described the background, your knowledge of the background and you have described the fact that there was a certain amount of ... there was evidence that people were entrenched in their position. Who would you say were the main protagonists? Was it the President versus Chris Lewis, or was it wider than that? **(Pause)**

DEPUTY BAUDAINS: I would have thought it was mainly the Department and Chris Lewis.

MR GARRETT: Right.

DEPUTY BAUDAINS: I have a feeling that, as I say, after I left the Committee, but I believe it was Deputy Hacquoil who was President at that time -- I will have to be careful what I say because he's looking at me over there -- I had a feeling that, by that time, the whole of the ... the tendering of Connex and all this sort of thing had got an inertia of its own and the Committee were being taken along with it basically. I know that, at that time, I did ask the President at that time some questions and I don't blame him for not knowing the particular answer, one of which was the width of the buses.

MR GARRETT: I will come to that.

DEPUTY BAUDAINS: Right, okay.

MR GARRETT: Would you describe the position as were they deeply entrenched, mildly entrenched, slightly entrenched and, more importantly, do you think there was any chance of setting that ill feeling aside as long as those parties were in play?

DEPUTY BAUDAINS: It's up to the ... the Committee are the people who are the drivers. It's up to the Committee to recognise that there are issues like that developing and to address those issues. Unfortunately, if the Committee, as you said before, were extremely busy, they may not have the time to do so. It shouldn't allow a situation to develop where there may be bias because of a particular feeling. Why that feeling should exist or why that bias should exist, I don't know, but I had the feeling that there was. Had I been President at the time, I would have got stuck into that because clearly that would only fester and create problems.

MR GARRETT: Just picking up on words you used before, this thing picked up a momentum all of its own. Was the Department driving that momentum that actually set the ball rolling, do you think?

DEPUTY BAUDAINS: In most parts of government the department is the energy that drives things forward and the committee are the people who look at what is going on and pass it or not pass it and decide, but they should be deciding the policy. They should not be deciding the actual day to day running. It is rather like a Home Affairs Committee and the States of Jersey Police Force. You don't direct people to go and book cars for parking, but you set the policy. So ----

MR GARRETT: But nobody within the Committee said “Hold on a minute, I’m not sure that we’re going in the right direction here”?

DEPUTY BAUDAINS: Maybe it had got to the stage where there wasn’t time and, as I say, things had begun to get an inertia of their own and it’s not possible to alter the course to any large extent -- one or two degrees to port or starboard would be about the maximum.

MR GARRETT: Moving forwards to July 2001, the time of the Bus Strategy was coming forward in the States, Deputy Dorey lodged a number of amendments to the proposed strategy which were intended (to quote his words) “*to allow all sides to retreat with honour from what appears to be entrenched positions and also to give the Committee a clear timetable for constructive negotiations and action.*” Clearly this amendment conveys an impression that there was an unhealthy situation in place at that time. Would you agree?

DEPUTY BAUDAINS: Yes, and it wasn’t ... for the benefit of everybody, it wasn’t being addressed. As I said a moment ago, I think perhaps what the Committee should have done -- but hindsight is a wonderful thing -- would be to step back and see why the process was not working, why one was getting into that position, being led, or almost being led, into a disaster. Why can’t we stand back and say “Why are we going there? We need to go about it this way. Can we resolve the issues by talking? Are we talking to the right people?” There are a number of issues that perhaps the Committee was just too busy ... in fact, in government generally, at the present time, we have sufficient work that we are not always able to address policy, which is what we should be doing.

MR GARRETT: And do you think that the momentum that you described earlier just carried the day and, no matter what Jerry Dorey might have actually raised -- and I think, to be quite honest with you, the foundation of his amendment was probably quite sound -- it wasn’t going to carry the day because the momentum was so great that the Committee was going to proceed with the Bus Strategy?

DEPUTY BAUDAINS: Round about that time I certainly had the opinion (and I believe others did as well) that we had got ourselves into a situation where we wouldn’t have Jersey Bus as the operator in Jersey because of this feeling that it had grown out of all proportion from whatever

and wherever it started from. If there was nobody else going to come forwards, we wouldn't have a bus service basically because it had got that strong, which, to my mind, is completely silly and unproductive.

MR GARRETT: Looking at the Bus Strategy itself, I don't know how you voted and it is not an area that I want to explore particularly, but, with the benefit of hindsight and applying your sort of knowledge and wisdom to it, how would you describe that strategy? Did you see it as effective, visionary, strong or whatever, or was it weak, ineffective and very much focused on short term objectives?

DEPUTY BAUDAINS: As most States' decisions are. No, I wasn't terribly happy with it at all.

MR GARRETT: Are you able to identify any particular weaknesses, any real areas of concern?

DEPUTY BAUDAINS: I draw a parallel with the Integrated Transport Strategy, where I complained at the time that there wasn't sufficient flesh on the bones and could that be put on as soon as possible. The way the Government works is clearly you don't do a whole pile of work to find that it is not one that's appropriate with Members and so you go for the "in principle". The trouble with an "in principle" decision is invariably, when the flesh does come back later on the bones, you are told, when you don't like it, "Well, you voted for this", but you didn't, you voted for the principle. So the system is that you take a principle forward first and then flesh it out later.

The argument that I was coming to on this particular point is that quite often it ends up not getting fleshed out. The Integrated Transport Strategy seems to have been milling around since about 1997, is it, 1998, and it has only just been picked up in the last month or so. It is the same with the bus. I really couldn't see. What I was looking for when I was on Committee, and I hoped that successive Committees would have taken it forward, was a completely fresh look at the bus service because I didn't believe it was delivering.

The same thing is happening today. I don't blame Connex, but it's ... The way the system has evolved is that we are basically running the same routes as we used to run. There are less visitors, so, therefore, the routes that used to bring in the money to cover the poorer winters

are not there. So, in order to save money, the weaker routes are getting cut back and cut out, which means ultimately, if you carry on that process to its ultimate conclusion, there won't be any buses running. I would rather have seen a new approach and let's look and see how we can really serve the Island with an integrated policy to make buses more convenient for people so that we get more people on buses and, to my mind, the strategy lacked that.

MR GARRETT: Do you agree that the main focus of the strategy was, in effect, to facilitate competitive tendering and the sub-plot was to get rid of Jersey Bus?

DEPUTY BAUDAINS: It seemed to be that way. Um, of course, we all think that competition is good, but that is not necessarily the case in a small island because, with competition, comes extra expenses. You take Telcoms, for example, if you only have one telephone company, you will pay your telephone bill or you won't have a telephone. If there are two companies, well, you can run up bills with one telephone company and not pay them and go to the next company. There are advertising costs and there are all sorts of other extra expenses that come in. Competition is not always the best answer. Sometimes a service level agreement with a sole operator is a fairly good alternative.

MR GARRETT: However, a service level agreement clearly requires goodwill on both parts, on both parties, and, from what you have been saying, that didn't seem to exist at that time.

DEPUTY BAUDAINS: Well, there seemed to be a breakdown in negotiations and, for reasons that I said at the outset, I had a feeling that perhaps the people negotiating at that time possibly lacked experience in business negotiation.

MR GARRETT: Moving forwards to the legislation, did you contribute in any way or take part in any debates on the amendments to the Motor Traffic (Jersey) Law 1935?

DEPUTY BAUDAINS: I don't remember.

MR GARRETT: Okay. You will recall that, in pursuance of the Bus Strategy, there was a requirement to amend the law and, in due course, that was done. But subsequently Easylink appeared, which raises the question as to the effectiveness of the amending process. What are your feelings on the legislation that appeared?

DEPUTY BAUDAINS: I don't think there was a full understanding by the Committee -- when

I say "*the Committee*", obviously the continuing Committee under various Presidents -- of the entire issue. If I recall correctly, when Connex took over, it was assumed that they would put the bus timetables up on the bus stops. It then transpired, again, if I remember correctly, that they couldn't do that because Jersey Bus owned the bus stops. I would have expected the Department to know that. But there were some people actually that thought that when the new operator came in, they would service their buses down at the Weighbridge, clearly not realising that the property was not public, it was owned by Jersey Bus or the holding group, whichever.

MR GARRETT: So do you think that the whole process picked up such a momentum that in fact it was rushed and that the I's weren't dotted and the T's weren't crossed?

DEPUTY BAUDAINS: Well, clearly there was a need to move forwards because we have to maintain the bus service for the public of Jersey. We can't let it disappear while we sort it out. So sometimes it is a case of, in fact often in politics, it's the art of the possible as opposed to what you would really like to do and in some cases pragmatism has to take first slot. You have to do what is necessary in order to keep the buses running or whatever and it may not be what you wanted to do. I'm just ... my whole feeling throughout that longish period was that not everybody had a full understanding, a complete understanding, of the issue which I would have liked them to have had.

MR GARRETT: Thank you. Without wishing to open a debate at this stage, what are your feelings on the legislation? Do you think that, as it stands today, it should be tightened, relaxed or whatever to provide a better bus service for the Island? Do you think it should be revisited?

DEPUTY BAUDAINS: It certainly needs to be revisited. As I said earlier, my main concern ... I think it was Deputy or Senator Carter, when he was President of Public Services, had some revolutionary idea or proposed it -- whether he invented it or not, I don't know -- which, to me, had some merit of a complete reorganisation of the bus service to hopefully make it more convenient for people to use. So if you lived at St. John's you didn't have to come into St. Helier in order to move 50 yards west or east along the top of the Island. I was hoping that, whoever was the operator, whether it was Jersey Bus or whether it was Connex or whoever, would start afresh. But, as I said earlier, it didn't happen. We just carried on following the same

decline basically.

MR GARRETT: Okay. Moving on to the question that you posed of the President in June 2002 on the tendering process, you said in there “*Can you confirm that part of the tendering criteria was that the buses provided should conform to the Island’s maximum width restriction.*” And also you sought confirmation that “*The buses currently ordered by Connex are almost three inches over width and state whether other tenderers were offered the same exceptions and, if not, why not?*” Did you receive a satisfactory response to those questions?

DEPUTY BAUDAINS: Have you got the answer down there?

MR GARRETT: I don’t immediately have access to it, but it is my recollection that it was a bit woolly.

DEPUTY BAUDAINS: My recollection is that basically they did not comply with the requirement and, of course, we know they didn’t because I had information that they didn’t and I was basically seeking to ensure that the President knew that they didn’t. I was advised that they were about 2½ (or thereabouts) inches over width, and I believe that is what they are. Of course, when they came to the Island, you can’t very well send them all back again, so the DVS were put in a bit of a spot really to allow them to circulate for public interest, which means that when the two buses pass each other along the coast road in quite a number of places they have to drive along the pavement.

I was concerned about this. Were there any other tenderers who may have been counted out because their tender was too high because they had tendered for buses which actually did comply? Are they more expensive? They can be made. Pioneer was able to purchase coaches made within width. You don’t buy buses. You don’t go to a dealer and buy a bus, you have them built. There are certain problems because it’s not a standard seven foot six or the new metric equivalent of 2.3 metres or whatever it is. It is not a standard size bus because they are normally wider, but they can be built to size. I wondered if perhaps some of the other tenderers had missed out and we never had a satisfactory, or I never had a satisfactory, explanation of why Connex had constructed their buses over-width. One of the reasons I have been given was that, because of disabled access, they had to be a bus without a front axle and, therefore, it couldn’t

easily be narrowed and it had to have independent front suspension. I haven't climbed under a Connex bus to look, but I don't believe they are constructed that way.

MR GARRETT: I haven't been under a bus either. Were you aware at that time that in fact Connex in their tender submission had made an emphatic statement that their buses would comply with Jersey width restrictions?

DEPUTY BAUDAINS: I don't recall that, but, as I say, I was given information that the buses that were currently being built would not comply with the width. The purpose of my question was to bring that out into the open and to actually ensure that the President was aware of that. I believe, and I hope I'm not misquoting the President or doing him a disservice, but I believe the information he received was that everything was fine and that they would be in width.

MR GARRETT: Accepting what I have just said about Connex making that declaration that buses would comply with Jersey width regulations, when it was discovered that they didn't, do you think it would have been reasonable for somebody to have taken some positive action against Connex in some way, penalised them?

DEPUTY BAUDAINS: I mean, it's an unsatisfactory situation. The only reason, as I say, that it concerned me at the time was because it may have been to the disadvantage of other tenderers. Whether it was or whether it was not, clearly I don't know. Once a situation has arisen, what do you do? Penalising them is not really going to be helpful. Ultimately, it will probably end up costing the taxpayer money, so where is the advantage in that? You can't very well send the buses back, which is the sort of thing that I might be minded to do in the first few moments of anger and then consider that, no, that's not really practically acceptable. What do you do? It shouldn't have happened in the first place.

MR GARRETT: But wouldn't you think that even a letter expressing discontent might have been appropriate?

DEPUTY BAUDAINS: Well, that would have been the least that I would have expected.

MR GARRETT: As opposed to simply finding a way around it, by effectively saying to Rohan Minkley "I think these should be given an exemption certificate"?

DEPUTY BAUDAINS: Well, again, it was a question of time. I mean, we weren't talking

about months or weeks or even days. I think we were talking about hours to get these buses on the roads. Connex didn't even have a workshop to get their buses serviced ready for the road. If I recall correctly -- and, again, you will correct me if I am wrong -- I think some of them were done down at DVS.

MR GARRETT: Yes, I think many of them were prepared at the workshops at Bellozanne.

DEPUTY BAUDAINS: I know people were scrounging around looking for facilities to do that. There was ... I think DVS had initially proposed that they should check the buses whilst they were in England before they came over to enable them to get into circulation pretty rapidly, which was the whole purpose of the exercise. I mean, once you've got a dozen buses arrived on the Island and they are all over width, I would entirely agree with the action that DVS took. It's not in the public interest to send them all back again because the public will be without buses. We now have to live with this. It is unsatisfactory, but, again, we have to live with it. It is being pragmatic. The alternative is worse.

MR GARRETT: Thank you. A slightly hypothetical question, but if the States were embarking on this kind of project again, what do you think they should do differently?

DEPUTY BAUDAINS: A lot of things. I have often thought that the States for a start -- I hope you feel comfortable in the chair you are sitting on because if you knew the cost of it -- the States should employ a professional buyer and maybe they should buy a professional negotiator because you can't really expect a department, even a department the size of Public Services, I don't think, to be skilled in everything. They are engineers that know about roads; they are engineers that know about sewerage. Why would we expect any of them to be hard nosed negotiators being able to get the best deal for Jersey -- a fair deal, I don't believe in driving people into the ground? Perhaps that's where it goes wrong. Perhaps we don't have the expertise where we need it.

MR GARRETT: Is that not where consultants can come into their own?

DEPUTY BAUDAINS: Yes. They can obviously assist in matters like this. Unfortunately, in my other capacity of sitting close to the desk, the seat where you are at the moment, sitting the other side of this room, we find that on the Scrutiny Panel the consultants ... who is it that

chooses the consultants, because, depending on which consultant you choose, you will get a certain slant or a certain tendency to one particular view. This is not to suggest anything wrong in the process. It is merely that some consultants have expertise in one area and some consultants have expertise in another area and, depending on which one you choose, they will obviously have a favourite aim to go for because that is where they are most comfortable, that is where their expertise lies. So you need to know which consultant to choose. It's not quite as easy as it may seem. It is very difficult to find a completely independent consultant that covers the whole range of the subject that you are looking at who will give you a totally impartial answer. Usually there is a partiality somewhere, but not through any malpractice or anything like that, it is just one thing you have to be aware of. So even in the selection of your consultant there is a problem.

MR GARRETT: In your research, not wishing to cross our sort of terms of reference into your terms of reference, but have you come across any guidelines, rules or anything else relating to the hiring of consultants?

DEPUTY BAUDAINS: Er, if any rules do exist, I'm not aware of them. They would be in the remit of the Policy and Resources Committee. As to Committees that I've been on, if we have required consultants, we have chosen the ones that we think are best suited the job that we need, bearing in mind what I have just told you. If we are researching a subject, we don't want consultants that have got a particular speciality because they are likely to be focusing on that and not on the entire issue. It can be extremely difficult to find somebody who has not been involved with the process before, which means you have normally got to go outside the Island, and even then to make sure that somebody is completely detached from the previous consultations or works on that subject to do with the Island. For instance, there are not dozens of consultants floating around that you can get hold of. Some of these subjects themselves are not that large and there is not that many people to choose from in the first place. You have to choose carefully and you can only do that by giving the matter very careful thought.

MR GARRETT: In the context of the sort of bus issues, I would assume that it would have been difficult to find anybody within the sort of States employment side of things who could have acted as a negotiator because bus issues are fairly specialised and don't come up very often. I

mean, it has been many years since the Island has thought about changing or bringing about any change in the bus service, and it will probably be many years before they do it again. So do you think that a suitably qualified consultant with mediation skills might have actually been beneficial?

DEPUTY BAUDAINS: Well, that presumes that you know that you are going to end up with problems that require mediation.

MR GARRETT: There was a point where clearly those problems existed.

DEPUTY BAUDAINS: Yes.

MR GARRETT: Do you think it would have been beneficial at that stage to bring in a third party who had not been previously involved?

DEPUTY BAUDAINS: Sorry, I had misunderstood you. I thought you were talking about the consultants that would be able to advise on bus strategy. What you are suggesting is a consultant to assist in negotiation.

MR GARRETT: Yes.

DEPUTY BAUDAINS: It certainly couldn't have hurt. I think positions had become entrenched. There was ... how can I describe it? I'm not sure that the negotiations were at a sufficiently professional level to achieve the best result.

MR GARRETT: Thank you. A couple of final points from me. Is there anything that you want to tell us that we've not covered, or indeed do you want to point us in the direction of any issues that you believe we should be investigating?

DEPUTY BAUDAINS: I don't think so. I think we've covered most of the ground that I have tried to refresh my memory on. **(Pause)** No, I think we have covered everything.

MR GARRETT: Thank you.

MR SHEPHEARD: Deputy Baudains, thank you very much for coming here today and for giving us your evidence.

DEPUTY BAUDAINS: Thank you.
