

# **SOCIAL AFFAIRS SCRUTINY PANEL**

## **CENTENIERS' REVIEW**

**MONDAY, 6th NOVEMBER 2006**

### **Panel**

Deputy F.J. Hill of St. Martin (Chairman)  
Deputy D.W. Mezbourian of St. Lawrence  
Deputy A.E. Pryke of Trinity

### **Scrutiny Panel Officer**

Mr. C. Ahier

### **Witness**

Mr. W.J. Bailhache QC (HM Attorney General)

### **Deputy F.J. Hill of St. Martin (Chairman):**

We are ready. I will begin by thanking you for coming, and welcome to the Social Affairs Scrutiny Panel hearing. I am Deputy Bob Hill and the Chairman of the Social Affairs Scrutiny Panel. And to my right I have ...

### **Deputy D.W. Mezbourian of St. Lawrence:**

Deputy Mezbourian of St. Lawrence.

### **Deputy A.E. Pryke of Trinity:**

Good morning. Anne Pryke, Deputy of Trinity.

### **The Deputy of St. Martin:**

And our officer you know, Charlie Ahier. As you know, we have been going through this review now for some time and hopefully this morning we will conclude with you. We did prepare a few questions for you which you have sight of and maybe I could begin by asking you to explain your role as a titular head of the Honorary Police.

### **Mr. W.J. Bailhache QC (HM Attorney General):**

Yes, it is a question that has troubled me from time to time I must admit. The Connétable is, of course, the head of the Honorary Police in his Parish and he remains so at the moment. The creation of the Chef de Police also is relevant for the responsibilities of the Honorary Police in the Parish and, of course, that leaves over the question of what the role of the Attorney General is, because he is described as titular

head of the Honorary Police and has been for quite a long time. I think it really derives from the Attorney General's responsibility for the prosecution process. There are a number of signals to it. One of the signals is in the Police Force Law where a States' police officer can refer a decision by the Centenier not to charge on to the Attorney General in order that it can be reviewed, and the Police Force Law makes provision for the Attorney General to give such directions to the Centenier as he thinks fit. Part of it is much more historic. Article 5, I think it is, of the Magistrates Court Law in 1949 expressly reserves the position of the Attorney General to institute proceedings outside the scope of the Magistrates Court Law and bring proceedings directly in the Royal Court if he chooses to do so. So that is, if you like, an illustration of the Attorney General's responsibility for the prosecution process and it is particularly relevant because, unlike in England where a private citizen can launch a prosecution, here in Jersey a private citizen cannot launch a prosecution; it is the Attorney General who brings prosecutions in the Royal Court and the provisions for bringing them in the Magistrates Court started with the 1864 law on criminal procedure and then the statutory provisions continued with the 1949 Magistrates Court Law. I suppose the other element of the titular head of the Honorary Police is that the Attorney General moves conclusions when Honorary Police officers come to be sworn in on a Friday morning in the Royal Court. Theoretically the Attorney General might decide not to move conclusions or, at any rate, might say to the court: "I do not think this particular man or woman ought to be appointed as potentially a Constable's officer" as the case might be and then give his reasons as to why that should be so. The court is then seized of the matter and can decide whether or not that particular person ought to be sworn in. It is really putting those 2 discretions together that, I think, led to the delivery over a period of time of different sets of directives from the Attorney General to the Honorary Police. I think copies of most of these have been given to your panel already: the code on the decision to prosecute, the code on how to conduct Parish Hall inquiries. There have been codes on dress and on alcohol and various other things of that nature that go to the conduct of the Honorary Police. I suppose in terms of conduct, I should not have overlooked the last statutory function of the AG (Attorney General) in relation to the Honorary Police which is contained in the police disciplinary provisions under the 1999 law.

### **The Deputy of St. Martin:**

The question has been raised because it was raised by Clothier as well in 1996, that the Attorney General should cease to be the titular head of the Honorary Police. It appears 10 years on we are still rummaging around. One of the ways out was to possibly look at the formation of a police authority or something in that line.

### **Mr. W.J. Bailhache QC:**

That was the Clothier recommendation from Clothier One and as I understand it, it was before my time of being appointed as AG, and it did not have political approval at that time. I think the Attorney General of the day said that if it was not wanted that he should remain as titular head of the Honorary Police that was fine by him, he would do whatever the political will was and I feel exactly the same. I

will continue to perform these functions if people want me to but if it is suggested that somebody else should do it, that is fine.

**The Deputy of St. Martin:**

We will just move on then. What is the role of the Attorney General in the day-to-day running of the Magistrates Court, if indeed any?

**Mr. W.J. Bailhache QC:**

I think limited. There is a statutory right to appeal a decision by case stated if the prosecution does not like the decision that the Magistrate has given. In practical terms, the Attorney General does not have any part to play day-by-day in the Magistrates Court. He does have this part to play, in the sense that there are legal advisers who have the right to appear in the Magistrates Court who form part of the Attorney General's Department and who, therefore, come within the management and reporting rules. There is a management and reporting line from them to the Attorney General and, indeed, I have regular review meetings with Lawrence O'Donnell who is the Senior Legal Adviser Police who therefore heads up the team in the Magistrates Court.

**The Deputy of St. Martin:**

I think we will probably come to that little line later on. Possibly, if I could just move straight on to the main purpose of the hearing which is that on page 8 of Home Affairs July edition of the criminal justice policy it stated: "Having consulted the Attorney General at an early stage in the policy process, the Home Affairs Department will not pursue the Rutherford Report recommendation that a public prosecutor serves to be created. This could not be justified on cost grounds and resulted in Centeniers losing the traditional role of presenting cases in the Magistrates Court." Could you please explain how you arrived at that decision, arrived at the information that you gave to Home Affairs way back in 2002?

**Mr. W.J. Bailhache QC:**

I think it is right to go back on what the process was. As I remember it, the Home Affairs Committee of the day, and this was before Senator Kinnard's committee (it was Deputy Layzell's Home Affairs Committee), decided to retain Professor Rutherford to prepare a review to assist that committee in putting together a criminal justice policy or strategy which was in line with, I think, a request from the States or a commitment that the committee had given to the States back in 1998 or 1999, I forget which. So I had no decisions to take. Professor Rutherford carried out his review. He reported to the Home Affairs Committee, and, as somebody interested in the prosecution process, then to the extent that he made comments about what he thought ought to happen in the prosecution process, I think I was entitled to express the views which I did express. That really is where I came from and that is why I am prepared to express publicly my views to you today because it is not a question of legal advice. We had this discussion, if you remember, and it is not a question of legal advice being given to the Home Affairs

Committee; it is the position that I am setting out as the person, the Attorney General ultimately in charge of the prosecution process, what I think of the proposals. I would just say as a preliminary that I found the language of the report to be pompous and self-important and I thought that was unhelpful. It presents itself as being an intellectual piece of work but on the whole I thought it was not very impressive. That view was shared, as far as I am aware, by members of the judiciary but I will not dwell on language because I think it is better to dwell on substance. The content of Professor Rutherford's report is, by and large, unremarkable for as long as it is competent but there is a serious misunderstanding about the Parish Hall inquiry and it goes right to the very heart of his recommendations. He seemed to think that the Parish Hall inquiry, or the report seems to disclose the Parish Hall inquiry, as being a kind of court as being the way forward for the future, that the Parish Hall inquiry will operate to keep some offenders, particularly young offenders, out of court and they can be dealt with in some way judicially. And that will not work. That is not what its history is and, in my view, it will not work either because the Parish Hall inquiry is not easily going to be a human rights compliant tribunal. If it is to be a court, if it is going to act judicially, it has got to be human rights compliant, by virtue of Article 6 of the Human Rights Convention. It has several spin-offs to it. It means first of all that the tribunal has got to sit in public. It has got to produce its reasons and those reasons have got to be properly reasoned decisions and should be, I think almost certainly, again delivered in public. There may well be consequences for legal representation and for legal aid which we would find difficult to meet. So it is not impossible to make the Parish Hall inquiry a judicial body but it is not a natural judicial body. The Centeniers running it are not lawyers and it would be a very, very difficult exercise to make it a human rights compliant judicial body. Does that matter? The answer is it does not matter as long as it is not holding itself out as being a judicial body. If it is part of the prosecution process, which is what it is, it does not need to be article 6 compliant in quite the same way. The whole process has to be article 6 compliant; the whole of the prosecution process does in the sense that the system has to deliver justice. That really is the key to what the Parish Hall inquiry is about. It is a decision by the prosecutor as to whether or not to prosecute and that decision has got to be taken on, first of all, the evidential test; is that passed? Secondly, is there any public interest reason as to why either a prosecution should be brought or not be brought? That is really critical. On the face of it, with most cases you might expect that if the evidential test is passed then a prosecution should be brought unless there is some public interest reason for not doing so. Of course in some cases there is that public interest reason and, particularly in the work which is done with young offenders, I think there is scope for the Parish Hall inquiry to deliver some real value. The way it works, and it is absolutely fundamental to understand it, is because it is related to whether or not a charge should be brought in the court so that if, for example, the Centenier has a youngster of 16 or 17 in front of him and it may be the first time this particular youngster has offended, the Centenier is able to say: "Right, I am not going to take a decision about whether to prosecute you for the next 2 months. You had better make sure you stay out of trouble, Johnny, or else it is the court for you." That sort of Sword of Damocles hanging over him is potentially a very useful weapon but it is absolutely related to the ability of the Centenier to

bring a charge in court. It is not related to the Centenier's ability to act as a judge and sentence him to a period of probation.

**The Deputy of St. Martin:**

There may well be some perception, and I cannot speak for Rutherford, but it would appear that Rutherford obviously came to his conclusions from inquiries he made. It may well be as a result of that he may agree that what he said is the right course, and you will have to agree probably disagree because we have not asked Rutherford how he came to the conclusion about the hearing at the public hall.

**Mr. W.J. Bailhache QC:**

You can only go by what is there on the face of the report and on the face of the report, and he has clearly not understood it, the process of Parish Hall inquiries and that is pretty fundamental. Now, the ability to charge, the decision to charge, which is really what the Parish Hall inquiry is very much linked into, is also connected with the presentation of cases in the Magistrates Court. As far as I am concerned there is very much a need for the person who is doing the charging to recognise again that it is a whole process and that when they charge they have got to know what the consequences of charging are. If you have a person who is sitting in a back room deciding whether or not to charge and he never sees the results of what he does, or she does, then there is likely to be a disconnect between the charging and the result and that is why, to my mind, it is important that Centeniers, if they are going to continue to charge which I think they should, that is coupled with the appearance of the Centenier in court as well. Now, I recognise that there are some cases where it is not in the interests of justice that the Centeniers should do all the prosecuting. That is not to say that they should not, on the face of it, go to court, see the way it works, deal with things that they are able to deal with which do not require specialist legal advice, and therefore keep the integrity of their part of the process together. I think that is very important because once you start unpicking bits of it then you are likely to find the whole system is going to fall apart.

**The Deputy of St. Martin:**

Do you know what proportion of cases do go to Parish Hall? In some cases a decision is made at the police station to charge there and then without reference to Parish Hall.

**Mr. W.J. Bailhache QC:**

In quite a lot of cases the decision to charge takes place at the police station.

**The Deputy of St. Martin:**

Exactly. So the argument would be that if that was the case the Parish Hall becomes superfluous because the decision is made at the police station.

**Mr. W.J. Bailhache QC:**

In some cases it is not necessary to have a Parish Hall inquiry because the decision is made at the police station but the Parish Hall inquiry is so useful in the more minor cases and the cases involving children which are minor cases that do not have to go to court. There are some cases involving youngsters that do need to go to court because the nature of the offence is so serious that they have got to be taken to court. But there are others that do not fall into that bracket.

**Deputy D.W. Mezbourian:**

Could I ask you, Sir, I understand that you advised Centeniers that if they took part in an investigation they should not then decide whether to charge at all, but at the moment there is nothing in the law that says that a Centenier who takes part in an investigation may not decide whether or not to charge and prosecute? Is that correct?

**Mr. W.J. Bailhache QC:**

Yes, it is correct. I think that it is better that the person who investigates the offence is not the person who takes the decision to charge. Of course that is one of the reasons why the Centenier making the charge in cases that start in the police station is a good system because it means there is somebody independent, outside the police, who is looking at the evidence that has been given to them by the States' police investigators and deciding whether or not to bring a charge. The Centeniers, particularly the experienced ones, are very rarely likely to get themselves into difficulties; sometimes there may be an inexperienced Centenier and there may be a difficulty. Sometimes there will be a genuine dispute between the investigating officer and the Centenier. Of course, it is just those circumstances that the powers of the police under the Police Force Law, of being able to refer to the Attorney General, are there to protect. But, generally speaking, I agree that the investigator should not be the person to make the decision to charge and that is why the direction which I have given to Centeniers is that they should avoid that. I try not to be too prescriptive about it in the sense that this is a small place; occasionally it may be right not to lay down an absolutely rigid rule. It is hard to imagine. but the problem with rigid rules is that sooner or later you come up against a circumstance that does not make sense to apply the rigid rule to and so what I have tried to do with the Centeniers is to say that: "As a matter of principle, you should not do it; as a general rule, you should not." And for as long as the Attorney General is titular head of the Honorary Police I expect that to be respected and I would regard that as a disciplinary matter if it is not respected. So, you say: "Is there any black letter law?" No, there is not but do I expect that direction to be respected? Yes, I jolly well do. That is my position on it.

**Deputy D.W. Mezbourian:**

In respect of what you said about things being rigid, it may be that due to unforeseen circumstances it did in fact happen, and we have heard that it has happened in the past, where a Centenier has been involved in an investigation and then dealt with the matter at the Parish Hall.

**Mr. W.J. Bailhache QC:**

Did he charge on that occasion or was the decision not to charge?

**Deputy D.W. Mezbourian:**

I cannot remember exactly but that is irrelevant. The fact is that it could happen.

**Mr. W.J. Bailhache QC:**

Well, I am not sure it is irrelevant. If the decision is to charge then what is the worst that has happened? The worst that has happened is that the accused has been taken to court where he will be dealt with by the court. He is either guilty or he is not guilty. If he is guilty, then he is guilty and he has been told by the court and that is entirely appropriate. If he is not guilty then he will have been discharged. The worst that you can say there is he has had to go through a prosecution process in court and had to defend himself. But that does happen; people do have to defend themselves in court. So, systemically, it is not a major problem. If you are saying that the Centenier has investigated and decided not to charge then I agree there is more of a potential for difficulty. So I do not think the question is irrelevant.

**Deputy D.W. Mezbourian:**

I beg your pardon. I meant it was irrelevant whether it had happened in the past, but I was going to say it is not irrelevant to the fact that it could happen. It may still happen because there is nothing in law to prevent it.

**Mr. W.J. Bailhache QC:**

Let us suppose that somebody is driving their tractor down a road in St. John. It seems to be a fair country road where there might be a tractor. Somebody is driving their tractor down the road in St. John and a cyclist comes around the corner and he drives into the hedge and hurts himself. Let us make it that the cyclist is aged 17. The Centenier knows the tractor driver. He investigates it and he says: "I am not going to charge you. Obviously the cyclist was coming too fast or on the wrong side of the road. Anyway, I will just give you words of advice. Drive your tractor a bit more carefully next time around." What you would expect to happen next is either that the kid on his bike accepts that maybe he was on the wrong side of the road or he will grumble. He will either grumble at the Centenier directly or he will go to the Constable or he may come to me, or more likely he will grumble to his father or his mother and they will almost certainly raise it first of all with the Connétable or with me. So, although the decision has been taken by the Centenier in the first instance it usually -- and when I say "usually", I have had 2 or 3 occasions of this in my 6 years as Attorney General, where as a result the matter has been referred to me afterwards. I cannot recall whether or not I directed at that stage a charge be brought. I think I have in one occasion and I think I did not in the other occasion. At any rate, systemically, that does operate on Centeniers as a brake. Centeniers know they have got to behave properly in their conduct on Parish Hall inquiries. Like any system, of course, it may go wrong from

time to time. The important thing is that you have some form of check and balance of what happens when it does go wrong. I think by and large we do. I am not saying it is perfect because, of course, it is not.

**Deputy D.W. Mezbourian:**

Do you believe that the code of practice is sufficient?

**Mr. W.J. Bailhache QC:**

Well, I should be interested to know if any Centenier took the view that they were not bound by the code of practice because I think they are and I think Centeniers think they are.

**The Deputy of Trinity:**

Just to follow up, on average through a year how many complaints do you get from the public regarding Centeniers?

**Mr. W.J. Bailhache QC:**

Probably fewer complaints now than about 4 or 5 years ago, I would say. I am sorry, I probably need a note of that question so I can go and have a look but I would say this year less than 5 that I have received directly; maybe less than 10 but less than 5, I would think. But I will certainly go back to my rooms and check those numbers and let you have them.

**The Deputy of Trinity:**

You might not have the information. In looking at those 5, roughly in what area?

**Mr. W.J. Bailhache QC:**

Usually the complaints have been about an honorary officer being rude or being high-handed. It is usually that sort of complaint. Occasionally there has been a complaint about a decision not to charge the other person involved where it has been a traffic accident or something like that. I remember I did have one about 3 or 4 years ago where the question was whether or not a person should have been charged and the honorary officer had not taken any road measurements; there was no information available to me so I could not overrule him because we had no evidence. The result of that was a meeting with the Centeniers and with that particular Centenier who was engaged in that particular case, where I certainly made it plain that it was the duty of the Centenier to take his road measurements to make sure that there was evidence that could be considered if his decision had to be reviewed.

**The Deputy of Trinity:**

Looking at our terms of reference regarding Centeniers in court, presenting in court, have you had many complaints?



**Mr. W.J. Bailhache QC:**

In court?

**The Deputy of Trinity:**

Yes, about the way Centeniers present in court.

**Mr. W.J. Bailhache QC:**

No, I have not and I read in the *Evening Post* the comments which one or maybe both the Magistrates made that some Centeniers were better than others which I am sure is true; I am sure some Centeniers are more competent than others in presenting at court. But I have not had any complaints from members of the public at all; I have not had any complaints from either of the Magistrates. I think that is partly because the Centeniers' functions in presenting cases in the Magistrates Court are relatively limited but I think you have to be careful when you say "relatively limited"; I will define my terms a bit. The Centeniers do not deal with not guilty pleas, as I understand it, in all the more serious offences which occur in the Magistrates Court. They do deal with not guilty pleas for the very much less serious offences, urinating in a public place or minor breach of the peace and that sort of thing. Here there really is a balance to be struck because if we were to take those cases away from the Centeniers, quite apart from the impact on charging which I mentioned earlier, there are quite a lot of those cases and it would require a resource in terms of lawyers in, presumably, my department to add to Mr. O'Donnell and his team in presenting those cases. Because the functions are relatively limited and because we have a stipendiary magistrate, a lawyer magistrate, who is able to run the system himself, he runs his own court, I think the scope for criticism of the Centeniers and their prosecution is probably more limited than you would think. So I am not surprised that I have not heard very much by way of criticism of the Centeniers, to be honest. In cases where there is the question of bail which the Centeniers often deal with, first of all they have one of my legal advisers often sitting behind them and therefore able to help out. Secondly, there have been some training sessions which Mr. O'Donnell and I have put into place and which he and Robin Morris conduct which I think have been helpful. So, I have not had many complaints, any complaints, about the presentation in court. That is not to say that there are not occasions where no doubt it could have been done better. I am sure that is true. Maybe there have been complaints and they should have come to me but I have not had them.

**The Deputy of St. Martin:**

Could just come in here? You talk about "they"; the word "they" you have used. I understood that the role of the Centenier was to present cases to court and in 1999, I think it was, following a Magistrates Court practice and procedures working party report, a legal adviser was introduced to the Magistrates Court to assist the Centeniers. Understandably, I gather, there was some concern expressed by the Centeniers about them losing their rights or their powers of presentation and prosecution in the

Magistrates Court. It would appear that over the course of time there has been a good liaison, a good deal of trust, developed along with the Magistrate over the Centeniers and the legal advisers. At the end of the day though, whose decision is it to take a case through the court? Is it the Centeniers or is it the legal adviser who tells the Centenier? You had the word “they”, and I am just trying to work out who has responsibility at the end of the day.

**Mr. W.J. Bailhache QC:**

Well, I think the legal advisers do. I say that knowing that I may have some Centeniers in the audience who do not take the same view, but I think ultimately it is the legal advisers who decide because they are my representatives in that court and they are deciding whether they take this case or not. If I may say so, with respect, it is an unhelpful question because it is not an issue and one should not try and make it an issue because it is not an issue. With all these things, it requires some give and take on the part of Centeniers and my legal advisers to ensure that they work together in the presentation of justice, in the presentation of cases brought to court.

**The Deputy of St. Martin:**

I think it might be helpful to say that certainly in the evidence that has been put before us we have no reason to have any concerns at all. We believe there is a good relationship between the advisers and the Centeniers.

**Mr. W.J. Bailhache QC:**

If I may say so, it has improved enormously in the last 4 years or so since Mr. O’Donnell arrived. He has been absolutely first class in understanding how the system should work. Perhaps if I can add to that, it is always open to the Magistrate to say: “I want to leave the adviser to deal with this case” if he thinks that this is something which he should not be having to deal with himself as the old fashioned *juge d’instruction*. He can always say: “I want a legal adviser to be engaged.” And so, really, it is a combination of those 3 parts of the process: the Magistrate and the legal advisers and the Centeniers finding a way of dealing with the cases before them.

**The Deputy of St. Martin:**

That would certainly be the evidence also received from Mr. Le Marquand. I will quote what he says. He talks about the difficulties about there not being an existing statutory base to operate the Magistrates Court. He said that he considers the whole thing wholly defective. However, because it would work in practice, the system works and works, in his mind, efficiently enough although he does say it is wholly defective. Maybe that is something you may like to give credence to and consideration today.

**Mr. W.J. Bailhache QC:**

I am sure what he meant by that is that it is difficult to justify today, in 2006, a Magistrate acting as an

old-style *juge d'instruction* where he extracts the evidence himself as a prosecutor and then sits back and judges it as a judge. This is only relevant for not guilty pleas. Of course, theoretically, that is very difficult to justify. So, to that extent I would agree with him entirely. I am sure that is what he meant when he said it is a defective system, but it works and it would be very expensive to change it.

**The Deputy of St. Martin:**

Could we get just get back to the decision making process when you came into Home Affairs? The *comité attache* makes no reference whatsoever to the Parish Hall inquiry or the concerns being raised by the Parish Hall inquiry. It really gave 2 terms. One was they thought it was going to be a costly exercise if one took the Centeniers away from the Magistrates Court on the prosecution side, and also it obviously would lead to a loss of status. Can I ask what sort of consultation did you make? Did you discuss things with Centenier support at any stage before making that decision?

**Mr. W.J. Bailhache QC:**

I was not making a decision. Can I say that again?

**The Deputy of St. Martin:**

Sorry, giving advice.

**Mr. W.J. Bailhache QC:**

I was expressing my own view as Attorney General, as head of the prosecution service. I have no doubt that I did speak to Centeniers at the time but I am not sure that was any form of formal consultation. It probably was not. I cannot recall, frankly.

**The Deputy of St. Martin:**

We could not find any evidence. We did ask the Centeniers: "Was it formal" and they said it was not.

**Mr. W.J. Bailhache QC:**

That does not surprise me.

**Deputy D.W. Mezbourian:**

Do you remember, Sir, making any comment on the cost implications if the system was to change?

**Mr. W.J. Bailhache QC:**

I am sure I did.

**The Deputy of St. Martin:**

Could we ask what those cost implications are? I think you talked about 2 extra officers being required.

I think it would require at least 2 members of staff to fulfil these duties. Did you give any indication at all as to what the cost would be if, indeed, one followed the recommendation?

**Mr. W.J. Bailhache QC:**

I do not recall, to be honest. I can certainly tell you that we have looked at it again more recently in the light of your Scrutiny Panel's inquiry which seems to me to be much more, if I may say so, the right focus because the question is not what the Home Affairs Committee did or did not do back in 2003. The question really is whether or not you want to recommend any changes, is it not? So I think one needs to look at what the cost would be today and we have done some more on that.

**The Deputy of St. Martin:**

Yes, if I could probably lead on to that. Can you tell us what the cost is of running the services?

**Mr. W.J. Bailhache QC:**

The straightforward answer is I really do not have a clue because when you set out to change something you have to make a whole lot of assumptions and guesses, do you not? Some of the figures that we put together in my department would suggest that if you take everything out of the Centeniers' role, and I am now talking about the decisions to charge and the presentation of all cases in the court, there would be a very large increase in the resources that we needed because you would have to have a lawyer on hand pretty much 24 hours in the police station to review a file and decide whether or not to charge. That is going, as it were, to the extreme. Of course, you would wash away Parish Hall inquiries at the same time because there would not be any basis for them. These figures I am about to give you do not go that far but I think you would need to go quite a long way if you were to take the decision to charge away. If all cases were to be presented in the Magistrates Court – last year at 2,600 cases in total, and those that are currently done by our staff are about 125 or 130 at the moment. So there is a big difference. I do not think you need multiply the number of staff we have there by 20 to make up that difference because quite a lot of the cases they are not dealing with are parking offences; there are 750 parking cases a year, 1,100 parking arrest orders. So that is a big chunk of the work that the Centeniers are doing. The long and short of it is that I think it is somewhere between 2 and 3 full time equivalent legal staff more that we would need and probably one or one-and-a-half full time equivalent secretarial staff. So, probably, an extra 4 to 5 staff in total. Then when you start saying: "Well, how much would that cost in salaries" you have also got an accommodation problem because at the moment my team are given some accommodation in police headquarters but it is pretty cramped and it certainly could not cope with more people. So there is an accommodation problem that you would have to consider. In terms of salaries alone you would be looking at around about £300,000 a year and then on top of that, as I say, supplies and services, accommodation costs. Then you start worrying about overall supplies and the extra management time and costs that go into that as well.

**The Deputy of St. Martin:**

The reason behind the question was that there was nowhere that we could find any mention at all of costs either from asking the Home Affairs Minister as to what the cost would be when indeed there is nothing from the committee (...several inaudible words). When one looks at the cost at the end of the day, and certainly with the designated caseworkers I think you have now in the UK, it could be much more simplified. We did have the good fortune to go to see the Guernsey situation there and they work on quite a small panel of officers taking the cases to court.

**Mr. W.J. Bailhache QC:**

They are police officers in Guernsey, are they not?

**The Deputy of St. Martin:**

They were police officers, yes.

**Mr. W.J. Bailhache QC:**

Yes, and to my mind that is a thoroughly bad system because you have much too much closeness between the investigator and the person who is deciding whether to charge. The Guernsey system is more like the UK system of 20 years ago, and I firmly think that is a bad way to go. The question as to whether or not you need to have - or if it would be helpful to have - a small team of Centeniers who did most of the work in the Magistrates Court is a different question, and it is one option.

**The Deputy of St. Martin:**

We will come to that.

**Mr. W.J. Bailhache QC:**

I am slightly against it because I think it starts to achieve that disconnect between the person who charges and the person who presents. I do not think, on the whole, that there is a sufficient problem in the presentation of cases that it is necessary. So, for reasons of preserving the integrity of the process as a whole, for reasons of maintaining the respect for the Honorary Police as a whole, and because I cannot see that there is anything much wrong, in practice, with the way things are going at the moment, I am against that. I appreciate that some Centeniers, particularly those who think they are rather good at presenting in court, might not take the same view. They might think it is rather a nice idea to be quasi-prosecutors down there full time. I do not think that is in the Island's overall best interests.

**The Deputy of St. Martin:**

Maybe we could develop that really along with coming into the other side of page 41 of what Rutherford had to say. We drew your attention to it particularly because although it did not really refer to him under the part of recommendation - certainly page 41 - really what Rutherford, I suppose, in summary,

was saying that you had an opportunity here of either going down the Crown Prosecution Service route, the UK system, or alternatively it says: "If Centeniers are to continue prosecuting, consideration needs to be given to creating a branch of the Honorary Police Service that specialises in prosecuting and receive specific training in that regard. Such an arrangement would ensure better coordination of the honorary service and greater efficiency in respect of timing. Alternatively, legally qualified prosecutors present the case in all cases." So, we are now looking at possibly having this pool of officers that could be considered as the way forward. That was the alternative. We did ask Senator Kinnard what action was taken, because the decision was taken not to go down the CPS (Crown Prosecution Service) route. However, what consideration was given to ensuring that possibly better training was given or, alternatively, a pool of Centeniers was created?

**Mr. W.J. Bailhache QC:**

Well, as you say, Rutherford did not recommend a pool of Centeniers. He does mention it in his report, but it was not his recommendation.

**The Deputy of St. Martin:**

It was a consideration, yes.

**Mr. W.J. Bailhache QC:**

Well, he does not recommend it and anyway, I am afraid, Sir, I just do not think his report is very good. So I am not terribly impressed with his report, as I said. I am not surprised that the Home Affairs Committee of the day did not go with it. The problem is really just the one I have expressed to you: how do you make sure that you, first of all, support the Honorary Police; that you maintain the integrity of their process as a whole? The right way of doing that, at the moment, is that as there is no obvious problem I think the best thing is to leave well alone and we can tackle it if we need to. Now, as far as training is concerned, I had already started - before Rutherford did his report - the question of training with the Centeniers. You have to have the right people to do the training if you are going to do some training. At that time in 2002, I think, one of the States' police officers was giving some training to Centeniers usefully helpfully received. But there was not an obvious facility within my grasp for doing so. When Mr. O'Donnell arrived in June 2002 I was able to have a discussion with him about training and he agreed that he should take on some training of the Honorary Police, and he and Advocate Morris have done so. I would not like this scrutiny hearing to go past without my paying tribute to them, because they do it for nothing, in their own spare time. I am sure, from everything I have heard from the honorary officers, that it is very much appreciated, it has been useful, and it has been a good service.

**Deputy D.W. Mezbourian:**

That training, Sir, is, as we understand it, not compulsory for a Centenier --

**Mr. W.J. Bailhache QC:**

No.

**Deputy D.W. Mezbourian:**

-- in order to present cases in court and, indeed, Rutherford quoted that it was not possible to impose radical changes on individuals who give their time on an honorary basis.

**Mr. W.J. Bailhache QC:**

I have done him an injustice. He had that right then. **[Laughter]**

**Deputy D.W. Mezbourian:**

The question remains then if it is not compulsory for a Centenier to receive training in order to present cases in the Magistrates Court, should training be made compulsory?

**Mr. W.J. Bailhache QC:**

I think it is difficult to make it compulsory for a couple of reasons. One of them is the reason that Professor Rutherford identified: they are giving their time for nothing. The other reason is that, rightly or wrongly, Centeniers are elected and once they are elected, they are elected. It is difficult to see how you can enforce Centeniers to take up training. I think, in practice, the Centeniers who have been elected have all taken up the training, as I understand it from Mr. O'Donnell. I may be wrong, but I have been told that they all have, in fact, been trained, and that is because they want to do a good job. They are given the opportunity of taking up the training and it works. Again, it is one of those cases where theoretically there may be a problem. I understand there is not one, and that they do undergo that training. If that is not right, I would certainly like to hear it.

**The Deputy of Trinity:**

Just carrying on there, do you think it is right that the legal advisers give some of their training out of hours? Should it be part of their job description?

**Mr. W.J. Bailhache QC:**

I do things out of hours. I do not see why they should not. Really, again, this is not somewhere that I think one should go.

**The Deputy of St. Martin:**

We will not even press it then.

**Mr. W.J. Bailhache QC:**

I could not possibly treat it as being a disciplinary matter if they did not do it, but it is part of the team

mentality that we try and encourage, and they are prepared to do it. I am delighted they do. I respect them for doing it, and I am grateful to them for doing it, and I would, frankly, rather leave it there.

**The Deputy of St. Martin:**

I think one of the things we have been finding with the review is the lack of structure in so many ways. It all seems to be working by goodwill, and one felt if that goodwill fell apart, what would happen? We have had Centeniers who are, I must not say having their arm twisted to become Centeniers, but to save the Parish getting fined, they have become Centeniers, and they are doing things probably for the wrong reasons. I think it was highlighted also by one of our previous witnesses who felt that should we, in a modern age, be looking at encouraging people to do a job when they do not really want to do it, but they are doing it because they feel it was just something to save the Parish a fine.

**Mr. W.J. Bailhache QC:**

I think honorary service is a wonderful Jersey thing. I think it is a wonderful Jersey thing. It is not just that you can get something done for nothing instead of paying for it. That has to be a good thing; but it is about community. It gets people engaged in the community. That is such a positive. It is such a plus, that we should be doing everything we can to encourage that. Now, you are right, I think there are quite a lot of grey areas. There is a lack of basic structure. But for my part, if it works that way, I would continue with it until such time as it does not, and then you tackle the problem.

**The Deputy of St. Martin:**

I think it was said, again, by a previous witness, where else would it happen where someone with absolutely no training whatsoever is given such a responsibility, not only a responsibility to themselves, but also to the offender and to the court themselves. I think this is the concern that again we have been finding throughout the review, is that it just works. It works well because of that goodwill, but it is dependent on all the pieces fitting together.

**Mr. W.J. Bailhache QC:**

Well, it works because of the goodwill, but also because there are a series of protections. There are some balances, so that if essentially it does not bring a charge and the States' police have been investigating it, then the States' police officer can refer it to the Attorney General, and they do from time to time. I think less in the last 2 or 3 years than in my first 3 years as Attorney General. I think I had more references then than I have done more recently. That presumably means that the Centeniers are coming to more decisions which the States' police investigators are respecting. Either because they are doing what the States' police want, or because they are not doing so, but the process of them reaching their decision is respected. It could be either, but for whatever reason, I have had fewer cases referred to me.



**The Deputy of St. Martin:**

But I come back again; we had to write to you to get clarification. I think there has been a little bit of misconception along the line, even with the Minister of Home Affairs, as to who has responsibility in certain areas, and the one thing we will be trying to do is put together something in our report to make a little bit more clarity in the situation. But we have come back again maybe to the training of the officers. If it is not part of the legal advisers' role, whose role should it be? It is not the titular head of the Honorary Police, it is ...

**Mr. W.J. Bailhache QC:**

Ultimately, who are the people who might be concerned with it? The Attorney General is concerned with it because the training goes to the way in which the prosecution process works, so the Attorney General is concerned with that. The Honorary Police Association is almost certainly concerned with it because the association has, I am sure within its remit, something about standards as well as looking after honorary officers. The Comité des Chefs, I am sure, equally, has a part to play in that because they are concerned with the standards and the uniformity of standards across the parishes and in their presentations to the court. The Comité des Connétables, presumably, are also engaged with it because the Connétables are responsible for the Honorary Police in each Parish. The Home Affairs Minister, undoubtedly, has an interest in it, in the sense that as a matter of the Criminal Justice Policy in the round, that is within her remit. I am sure the Treasury Minister is going to have an interest in it if it means paying for it. It is a very Jersey solution, is it not, where responsibilities and interests are pretty diffuse across the system, but on the whole, it does seem to work.

**The Deputy of St. Martin:**

Well, exactly, it is amazing. It is remarkable to see how well it does work because it is an interesting review. Talking about the training, et cetera, about the payment, because we know that Home Affairs used to put up funding -- and the fact that they ceased paying towards the training of officers now for the last 2 years. Also, we have found that there is no actual fund made available for training, specifically for Centeniers for their role in the Magistrates Court. Has any consideration been given to ensuring that funding is made available to the officers?

**Mr. W.J. Bailhache QC:**

The areas which my team train the Centeniers on are the Attorney General's Code on the Decision to Prosecute, and on the question of bail, both at the police station and in court, and how to handle bail applications. They give training on the way in which Parish Hall inquiries might work and refer back to the Attorney General's guidelines. There is training on the jurisdiction of the Magistrates Court, and on the trial process and familiarity, basic stuff for new Centeniers: the familiarity of the court geography. So, the Centeniers do get a fair amount of training --

**The Deputy of St. Martin:**

Yes, I was asking about funding, sorry.

**Mr. W.J. Bailhache QC:**

I know you were, but when you talk about funding, you are not just talking about funding in isolation. Does it mean members of my team paying them overtime to do it, or are you talking about funding for some other training, send them off on a course somewhere else? Which seems to me to be theoretically possible, but I am not sure how practical it is, and how desirable it is. There is no point in learning how other courts do things. You need to know how your own court does something, which I think therefore comes back to who are the right people to do the training? If it is the legal advisers who are the right people to do it, and I happen to think it is, because it is good for the relationship between the legal advisers and the Centeniers that they should feel able to talk to each other and discuss cases pretty openly at any given time. So I think the training is good for keeping that relationship open, and it is good because it is the legal advisers here who know how the system works here and therefore are in the best place to train the Centeniers here. The only question is whether or not we should be funding the legal advisers with overtime if that is what the funding question means.

**The Deputy of St. Martin:**

No, I think looking at it generally we found that we have asked each Parish to give us some indication of how much money is being paid or given towards the training of officers, and specifically about training Centeniers for the role in court. We have been waiting; we have only had one reply from those that we have asked.

**Mr. W.J. Bailhache QC:**

That was no money, was it?

**The Deputy of St. Martin:**

Pardon?

**Mr. W.J. Bailhache QC:**

That was no money, the reply you have had?

**The Deputy of St. Martin:**

Well, they did say --

**Deputy D.W. Mezbourian:**

It was very little.

**The Deputy of St. Martin:**

The Parish that did reply said they gave no money at all whatsoever into specific training for Centeniers in their role in court.

**Mr. W.J. Bailhache QC:**

That is because it has been given by the Law Officers - by the legal advisers in the Law Officers' team.

**The Deputy of St. Martin:**

But in fairness to the legal advisers, and I think the Centeniers are certainly grateful for the work they are doing, but there will be costs involved. We did have both officers here last week and certainly from their visit to York, I think that they will feel they probably will require some improvement in a training package. It may well be that they have a need for videos and things like that, and there is a cost there, so where should that cost come? Who should pay for it? Will that be your department, or will it come from the Centeniers at all?

**Mr. W.J. Bailhache QC:**

That is quite true. There will be a small funding requirement, and where that comes from at the moment, I do not know, but I am sure it will come if it is needed. Whether it comes out of the Criminal Offences Confiscation Fund, which it could do, or whether it comes out of my own budget, or whether we have some good Jersey negotiations with the Comité des Connétables, I do not know. But I am sure that the funding will come. I think it is not going to be a major issue of funding.

**The Deputy of St. Martin:**

Deputy Pryke, do you have any questions you would like to ...?

**The Deputy of Trinity:**

No.

**The Deputy of St. Martin:**

Deirdre?

**Deputy D.W. Mezbourian:**

I am sure I have; let us see. We have spoken about a pool of Centeniers and, indeed, a number of Centeniers who have spoken to us profess that the system sounds to them to be one worth considering. Mr. Le Marquand, himself, said that we seem to be going along that route anyway: that there are Centeniers who tend to present more than others. Would you give us your comments on the probability of a pool of Centeniers over here?

**Mr. W.J. Bailhache QC:**

I can well see that some Centeniers will prefer not to appear in court. If they do not do it very often, they will not feel very confident; they may decide not to go. I think that is a shame because it is going to court and having to do the job which allows you to grow the confidence to do it. So it becomes almost a self-fulfilling prophecy. If you are worried and do not want to go to court, then the more you do not go, the more worried you are going to be, and so the less you will want to go. I think that is something to be discouraged. On the other hand, you cannot stop Centeniers from getting together and one saying to the other one: "Would you mind going to court on such and such a day for me, because I have to go to a funeral?" Or: "I have to do this; I have to do that." The team spirit within the Honorary Police Force is important: people will cover for each other. There are some pluses there. I frankly hope that it does not develop in that way and to the extent that I have any influence over it, I would try to discourage it developing for the reasons I have given you. So it may develop that way. I think it would be a shame if it does. I certainly would not encourage it.

**The Deputy of St. Martin:**

Just to hop around a bit now. It is important - just tie up a few questions we have not asked. Part of our remit is to examine the system of training assessment provided to Centeniers for their work in the Magistrates Court. We have heard about the training, and the training is certainly coming along quite well, I think anyway, but how about the assessment, because we have asked about -- one quite often goes on a course and either you pass or you fail. But there are the courses you attend and by the fact that you have attended it means that you are competent to carry on. But we have had very little evidence given to us of any assessment whatsoever of either how well people have been trained, and also how they are using that training in their day-to-day work. Has any consideration been given about assessment or possibly something in that line?

**Mr. W.J. Bailhache QC:**

Frankly, no, but I think it is an interesting question. I think it is one I would like to ponder a bit more. When one talks about an assessment of practising lawyers, there is no assessment for lawyers who go to court and argue cases, except that the judges make it pretty clear where the lawyer has done badly. They are not always so good about saying when the lawyer has done well, but the feedback from judges to lawyers who have done well is becoming more common as well. When I started there was certainly no feedback whatsoever, except a very grumpy judge if you did not perform properly. I think in a sense that is going to be part of the appraisal or assessment process today. If a Centenier goes to court and makes a complete nonsense of the presentation, I would expect the Magistrate to be pretty grumpy with that Centenier. Maybe our Magistrates are too polite, but I would still expect them to be pretty grumpy, and in that way the Centenier will get something of a hard time and will not behave in that way again. I would expect my legal advisers, if they were in court, to say to the Centenier afterwards: "Well, that did not go terribly well, did it? Now how can we try and make sure things do not go as badly next time

around?” I would expect the Centenier, himself or herself, to say: “Gosh, that was a pretty uncomfortable experience. I do not want to be there again. How can I make things better?” So I think, from my part, that is the sort of practical way of dealing with appraisals and assessments. I do not think I am in favour of a Hugh Johnson *Book of Wine* appraisal where you get, say, 8 out of 10 for each presentation. I do not think that would work.

**The Deputy of St. Martin:**

Of course it followed on from a wider aspect also that Centeniers have an appraisal system, but I am sure the States’ police say they have an appraisal there for every rank and someone more senior to the person being appraised, and it so goes on. But we found that we were getting no evidence, any at all, of any assessment or any appraisal system. Not just for people going to court, but in general for -- I am going to put the argument that these people are volunteering but, again, they are volunteering to be police officers.

**Mr. W.J. Bailhache QC:**

Well, yes, that question of appraisal is one, within the Honorary Police, that you would have to approach that fairly sensitively, and I can see the advantages of appraisal. I personally think appraisals are good things, and although when I first introduced them with my own law firm 10 or 15 years ago, I had some hesitation about it, it was a good thing to do. It is a way of dealing with problems in a non-confrontational and helpful way. But at the end of the day it does take time. There is nothing worse than doing an appraisal in a rush, and nothing worse than doing it when people do not want to do it. So, when you do have volunteers that does put a different angle on appraisals, because it either means that you have less time to do the job for which they volunteered to do, or you have to make them commit more time for the purposes of the appraisal. So, I would not be against it, but I do think it just needs a bit of sensitive handling, that is all.

**The Deputy of Trinity:**

Just going back to when we were talking about the pool of Centeniers and I understand that you were not in favour at the moment. If the Comité des Centeniers - or whatever they call themselves, and I stand corrected with the name - came back to you and said: “We would like you to consider or discuss further” how would you deal with that situation?

**Mr. W.J. Bailhache QC:**

We would sit down and talk about it, and I would hope to persuade them otherwise, the way I feel at the moment. But, you never know, they might persuade me otherwise. It has not arisen yet.

**The Deputy of St. Martin:**

The question would be, of course though, are you in a position to say yes or no, as a titular head?

**Mr. W.J. Bailhache QC:**

I think I am, Deputy. [Laughter]

**The Deputy of St. Martin:**

One must say one of the things we have been trying to do is to get clarity of who has responsibility for what along the line.

**Mr. W.J. Bailhache QC:**

I think I am, because there are some areas of honorary policing which clearly do not fall within the Attorney General's remit, but what we are talking about here is the presentation of prosecutions in court. I think that does fall within the Attorney General's remit, and that is why I think it is ultimately for the Attorney General to give a direction.

**The Deputy of St. Martin:**

Okay. We said we would talk about the Phillips Report. I do not think there is really much to expand on what we have already said inasmuch as -- one of the arguments we would have possibly is you still having a police officer making a decision to charge as opposed to a non-police officer.

**Mr. W.J. Bailhache QC:**

But it is an Honorary Police officer.

**The Deputy of St. Martin:**

But you are not seeing the difference between an Honorary Police officer --

**Mr. W.J. Bailhache QC:**

I do see a difference between the Honorary Police officers and police officers, and I know that there is a view that it is important to see an Honorary Police officer as identical to States' police officers. But one of the strengths of Honorary Police officers is that they are not States' police officers: they are apart from that system, and that is why they should be able to look at a case and decide that the States' police have become too close to it and they may be, in a particular case, hounding a particular individual, or the evidence just is not there, whatever it happens to be. That is the strength of the system, or it ought to be.

**The Deputy of St. Martin:**

Anymore, Deidre?

**Deputy D.W. Mezbourian:**

I am just trying to double-check if we have gone through everything.

**The Deputy of St. Martin:**

I think we have covered most of the areas we were looking at. I always ask if there are any questions you would have liked us to have asked that we did not ask, in which case we will ask them.

**Mr. W.J. Bailhache QC:**

No. Thank you. The important thing, as far as I am concerned, is that if there are other questions that you think you should have asked me, and you want to ask me, then please come back and ask later on.

**The Deputy of St. Martin:**

Okay. We are hoping to come to a conclusion fairly soon. This has run on longer than we expected, but then it has been a very useful exercise, and we have been grateful for people like yourself giving of your time to come before us. Unless the Deputy can think of anything else ... you have one more, do you?

**Deputy D.W. Mezbourian:**

I would like to ask what criteria you think the competency of Centeniers in the Magistrates Court should be based upon?

**Mr. W.J. Bailhache QC:**

What criteria should that competency be based upon?

**Deputy D.W. Mezbourian:**

Yes. Well, we spoke before about appraisal and assessment. How do you assess whether a Centenier is competent to present a case in court?

**Mr. W.J. Bailhache QC:**

I think I probably require notice of that, but it is very important the Centenier knows when he or she is going outside their comfort zone. I would regard a competent Centenier, first of all, as being one who knows when he or she should stop and say: "I want some advice from a legal adviser." That is, to my mind, very important. One has to bear in mind that the way in which this works in the Magistrates Court is that where Centeniers are doing the presentation, and it is not a legal adviser doing the presentation, the Magistrate, as a lawyer, is in charge. Therefore, the Centenier has a slightly different role from the legal adviser. It is not the Magistrate then sitting back and hearing the competing arguments on either side. The Magistrate is directing the investigation, as it were, in court himself. For all the criticism you can make of that theoretically, which was what we touched on earlier, at the level at which he is doing it, for these relatively minor cases of urinating in a public place, that sort of thing, it is quite a convenient way of administering what used to be called *bonne et brère justice*: good, straightforward and quick justice. That is not to say that accused people, if they are charged with

urinating in a public place, are entitled to a lower standard of justice than somebody who is charged with murder. But it is just a practical recognition of the fact that society needs to get through a system; you have to have a system that works for the more common offences. I think, therefore, you look at what Centeniers' requirements are and what you expect a Centenier to achieve in court against the background that he is not presenting a case as a lawyer would present a case, because his function is not the same. Certainly in relation to bail, he has to be expected to advance the police views about whether bail should be granted. Is there a concern that the accused is going to interfere with witnesses? Is there a concern that the accused is going to leave the Island and will not turn up for trial, and if so, why? So, those sorts of things the Centenier must be able to do, because that is part of his job. He has to be able to do that. He has to be able to read a charge. He has to know whether or not when he introduces a charge of a conduct likely to cause a breach of the peace and the accused says: "I will plead guilty to some lesser charge" he has to know whether he is going to do that, or an assault down to a conduct likely to cause a breach of the peace. So, he has to have some appreciation of the different ingredients of the different criminal offences. That is why Advocate Morris' book is of note - which is available to Centeniers - on the ingredients of each offence is so valuable. Those are the sorts of things that would go towards the criteria that I would design. It may be that I ought to have further discussions with the Honorary Police Association, or with the Comité des Chef probably, about an appraisal process and the criteria that they ought to look to. It is probable that it could be a self-regulating appraisal done by the legal advisers down there who see them in action, and done by other Centeniers who might be in court at the same time, which does happen occasionally, but less often than it used to.

**Deputy D.W. Mezbourian:**

Finally, based on the question of competency, we know that the Centenier has the right to present the cases in court ... and you look doubtful.

**Mr. W.J. Bailhache QC:**

Well, I do not call it a right because I think if I direct that it is to be taken by a legal adviser, it will be taken by a legal adviser. I think if the Magistrate says: "I want to have a legal adviser" it will be taken by a legal adviser. That is the reason I looked doubtful.

**Deputy D.W. Mezbourian:**

Yes. Okay, we understand that the case could be handed over to a legal adviser, but the Centeniers deal with minor issues such as parking; infractions such as speeding.

**Mr. W.J. Bailhache QC:**

They deal with the more minor defended issues, and they might deal with more serious charges where there is a guilty plea such as there might be an assault charge, for example, where they might deal with that. If it is clear, it is going to be in the jurisdiction of the Magistrates Court.



**Deputy D.W. Mezbourian:**

Yes. Even so, it is still the Centenier who may present or prosecute that case: what is the position if you have a Centenier who is not competent at presenting such minor cases? Because it does not mean that having been elected as a Centenier you, as a person, are then competent to stand up in court and present a case.

**Mr. W.J. Bailhache QC:**

Theoretically, you are right, of course. But it is not yet a problem that has come home. The Magistrate would say that, I am sure. There are some - and my own legal advisers would say - Centeniers who are better at presenting than others, and that some of them really do need quite a lot of help. My first response to that is, well, that is fine, but they ought to do more of it, because then that experience will be more important than anything else. So it is partly a question of encouragement; it is partly a question of training on the job, and getting on and doing it. If ultimately you have somebody who is just not able to do it, the probability is, is that person would want to stop being a Centenier. It probably does not have any impact on justice as a whole, because the Magistrate in these cases is still, broadly speaking, in charge of the process. If he thinks that the result of the Centenier's incompetence is that he is not able to do justice, he is going to adjourn it. He is going to say: "I want to have a legal adviser present." So, probably, the answer is that the Magistrate will cope. I mean, he is a lawyer, he ought to be able to cope. But he probably will cope, and when he thinks that there is a problem because of the way in which it has been done, he will call upon the legal adviser. I think that is the protection probably.

**Deputy D.W. Mezbourian:**

So, in one of the reports that we have looked at - I think it may have been the Le Quesne Report - it suggested that Centeniers should have training in presenting cases before they do just that. We understand that that has not been implemented. We have touched on the issue of compulsory training, but a Centenier could be elected on a Friday and, in theory, present a case in court on the following Monday morning.

**Mr. W.J. Bailhache QC:**

Has that happened?

**Deputy D.W. Mezbourian:**

I believe that we have been told it has done in the past. It has happened in the past.

**Mr. W.J. Bailhache QC:**

My understanding, which is, I am afraid in some respect, sometimes historic -- and there has been a bigger turnover of Centeniers in the last 6 years or so, unfortunately. But certainly in the old days the

senior Centeniers in a Parish would very much look after the new Centeniers coming in. Now, of course, there are some parishes, St. Lawrence being one, where there have been a whole new group of Centeniers coming in at the same time, and that makes it much more difficult. I think in the case of those Centeniers that there was some very early training that was put in place for them. If it has happened, I think that is a bad thing. I think Centeniers should not be elected on a Wednesday and sworn in on a Friday, and present somebody the following Monday. I do not think that is right at all. The way in which you deal with that is, I think, capable of being managed without putting in the formal structure, but I am not opposed to having a formal structure of training. I think it is quite difficult to do it formally, because if you were to say that no Centenier shall present a case in court until he or she has done the 6 week training course, and they choose not to do it, where are you then at the end of the 6 week period? You just have 4 Centeniers in some country parishes where only 2 or 3 are able to go to court. Well, that does not seem to be right, because you have all the same problems that we have had previously. It puts more pressure on the ones that can do it. So, I am not sure what is the best answer to that question. I see it could be a problem, but I think it is one that ought to be managed by the existing Centeniers, by the Connétables, by the legal advisers, and I think, on the whole, it is.

**The Deputy of St. Martin:**

Could I just ask, in the 27th March 2003 minute it says that - the “he” would be yourself, Sir - it says: “In satisfying the present system the Magistrates Court worked reasonably well. We have moved on a lot from Rutherford.” I think “from Rutherford” was October 2002; this was 6 months on. Have you every reason to believe that you are still satisfied - even more so I would have thought with the way things are - as a result of what Rutherford’s recommendations were and the training that has followed through? Because certainly from the time we have started our inquiry to where we are now, we have seen quite an improvement in the way things are moving forward with the Honorary Police and through the courts. Have you every reason to be satisfied yourself?

**Mr. W.J. Bailhache QC:**

I am very pleased with the way the training has gone, because that is something that was new which we started in June 2002. I think the introduction of a system with the Comité des Chef has been a very positive move. I think that has been good for training. I think the Honorary Police Association has been good for the integrity of the Honorary Police, so I think it is all moving in the right direction. That is far from saying that we cannot improve and get better. I think we must keep trying to do that and the sort of questions that you have put to me today, particularly around appraisal, and maybe some formal training sessions as a pre-condition for taking things to court, with a few hesitations, but maybe these are areas that are worth looking at, but I think it is all going in the right direction, yes.

**The Deputy of St. Martin:**

Good. Once again, can I thank you for your attendance. I thank the members for coming and conclude

this hearing. Thank you.