

SUBMISSION

TO THE

SOCIAL AFFAIRS SCRUTINY PANEL

BY

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ON

THE ROLE OF THE CENTENIER'S

IN THE MAGISTRATES COURT

The Role of the Centenier in the Magistrates Court.

1. To assess the justification for why Recommendation 4 of the Review of Criminal Justice Policy (that "the role of the Centenier in the Magistrates Court should cease") was not pursued by the Department of Home Affairs.

Ignoring the political implication of removing the Centeniers from their role in the Magistrates Court, the alternative would be prohibitively expensive. The UK Public Prosecution Service is both expensive and is notoriously inefficient. (See the enclosed UK press cuttings) Unlike the UK there are not significant numbers of unemployed lawyers in Jersey to fulfil this role.

However if nothing is done to ease the role of the Centenier, then there will be no Centeniers to carry out the Court role. To find Centeniers is becoming increasingly difficult as the Court work is a great deterrent as it requires attendance in Court during normal working hours, and well as a heavy commitment to the numerous duties of a Centenier in the Parish. The establishment has attempted to find an answer to this by fining a Parish if the latter fails to produce a candidate for Centenier. (In view of the recent tragic news, will the Parish face a further fine?) In these circumstances any Parish that has this difficulty now finds a candidate that is nominated into office at the Parish Hall, is sworn before the Royal Court with everybody knowing that person cannot carry out their oath of office. There are now increasing numbers of Centeniers through work commitments who rarely, if at all, carry out Court work. In past years the self employed were more numerous and were the main source of candidates for Centenier, but society has changed and it is the retired and semi-retired who now mainly fulfil the role in court. **Failure to rectify the situation has now led to a situation where you need revolutionary instead of evolutionary change.**

2. To assess whether the role played by Centeniers in the Magistrates Court meets the Court's (and consequently the Public's) expectations and requirements.

This term of reference is rather putting the cart before the horse. It is the Attorney General, the Law and Courts that rather determine the role of the Centenier. Like every Magistrate, Advocate and solicitor, not every Centenier is either perfect or good at carrying out their duties all the time. It is inevitable that some Centeniers are better than others. The very experienced "Court" Centenier from St. Helier is going to be better than a Centenier from a quiet Parish that rarely presents a case. The high turnover of Centeniers adds to the problem that there is in some parishes, no Centenier of experience to steer a new Centenier through their first few appearances in Court. When I first became a Centenier in St. Peter in 1986, my Chef de Police was Mac Pollard who started me off with my first case of a guilty plea speeder. It is very important that a Centenier prepares every case properly before going to court, if this is not done, it soon becomes very apparent when a Centenier has failed to do so.

The public perception of the Centenier's Court role is very limited, and any criticism will be tempered by the fact that any alternative is going to cost them money.

3. To examine the system of training and assessment provided to Centeniers for their work in the Magistrates Court.

While training does take place it is by necessity is very limited. You can set up a court and give a limited practical exercise as to how the court works. However the best way is for potential candidates for Centenier is to attend court and watch it operate and see it in all its various facets, warts and all. On occasions I found court frustrating, time wasting, and sometimes frightening, because you could come unstuck even though it was not your fault. It is a public arena with the press in attendance and this can nerve racking on occasions. However it can be hilarious, challenging and above all fascinating. It is theatre and I am glad I have had the experience. If Court and conducting Parish Hall Enquires were the only duties of a Centenier, then I would have enjoyed the role.

Unless you somehow create a situation where to become a Centenier becomes more popular, I fail to see the point of assessment in general terms. If a Centenier is not up to the post where are you in the present circumstances going to find a replacement.

4. To assess the administrative support and advice given by the Parishes, States Police, Courts and Crown Officers to Centeniers for their work in the Magistrates Court.

Having served as a Centenier in St.Peter's and St.Brelades Parishes both of which provide very good support for their Centeniers. However I am concerned that in a few years both these very experienced administrators will be retiring and to replace them is going to be extremely difficult. They both in their different ways provide a continuity of service which is invaluable to an inexperienced Centenier, especially in relation to Court work and Parish Hall Enquiries.

The States Police do not have a great role in court unless they appear in Court as witnesses etc. However the States Police Court Officers were always helpful to me but have a busy role themselves prior and during a court sitting and in the new Magistrates Court are no longer present. The charging process at Police Headquarters can be rather fractious at times and that can have bearing on the ability of a Centenier to present the 'case' in Court effectively. There are three main situations when Centeniers have to charge persons for court. Firstly at the completion of a Parish Hall Enquiry.. This should not be a problem as the Centenier should have studied the papers prior to the Enquiry and if the Centenier is not satisfied with the facts or needs more information, the Centenier can make contact with the investigating officer or other agencies for more information etc. The Centenier can also postpone the enquiry to await the details required. Under these circumstances the Centenier should have no excuse not prepare the case properly

for court. Secondly when charging someone at Police Headquarters for a FUTURE court date. This inevitably will be a more serious charge, but the person can be warned or bailed to appear in court. However the Centenier should be certain that there is sufficient evidence to charge the accused.. However because it is not always possible to have all the evidence, the Centenier has to trust the Police Officer is in charge of the case to provide all the evidence before the court date. For example a Hospitable Doctor's report can be notoriously difficult to obtain on occasions, which is understandable as the Doctor's concern is for the patient, not the prosecution process. If the officer in charge goes off on a few rest days, the Centenier needing to clarify certain facts has in my experience sometimes great difficulty in obtaining the information . However the advent of the Criminal Justice Unit has solved many a problem of this kind, but in my opinion is understaffed.. The facilities at Police Headquarters for Centeniers to study the documentation in a quiet area., is very limited on a busy evening, and there is a feeling of pressure for the Centenier to co-operate with his professional colleagues. Sometime this atmosphere can be quite intimidating for even an experienced Centenier.(*See Chapter 7 of Crown Advocate Robin Morris's On Criminal Procedure in the Magistrate's Court*) Unfortunately during the evenings and at weekends there are no Police Legal Advisers on duty for a Centenier to consult. Theoretically you can contact them out of hours, but there is a reluctance to do so. The Custody Officer is supposed to check that there is sufficient evidence. However, not every Custody Officers knows the borders of every parish , and sometimes the wrong Centenier has been called.

The third scenario is to charge a person for court whose has to be kept in custody and put into court that day or the next morning. Not all the evidence is available and you have trust that the promised evidence will be forthcoming. However in most of these cases, there will be a remand for legal aid etc. With this scenario it is very unlikely that the paperwork has been submitted to the Criminal Justice Unit to be checked, which makes it more important that a Centenier checks and questions the evidence, but the need to prepare the charge sheets and the lack of time can make this a difficult situation for the Centenier. I used to hate this situation.

When it comes to court procedure the Court Greffiers who between them have many years experience can be very helpful, but it is not a good idea to ask them a complicated procedural question just before Court is about to begin! However one of the most difficult things for a Centenier to come to terms with is that he/she is not a lawyer and at times no matter how experienced you are the Magistrates seem to give very little time to the Centenier's point of view. A magistrate who has practiced in the Court has more idea of how the Court works and understands the Centenier's role .

ENCLOSURES

If the panel comes to the conclusion that it would like to see a Public Prosecution Service instead of Centeniers, can I humbly suggest it studies the enclosed press reports from UK newspapers. I rest my case!

A copy of a speech given to Centeniers by the then Assistant Magistrate, Mr. Robin Short in 1986 which in my opinion is as valid today as it was then. Mr. Short then went on to become Magistrate.

A copy of Crown Advocate Robin Morris's brief overview of the Criminal Procedure in the Jersey Magistrate's Court. Chapters 7 to 11 is the best explanation I have ever seen of the Centenier's role in the Magistrates Court and the charging process.

RECOMMENDATION TO CHANGE THE ROLE OF CENTENIER

If the panel comes to the conclusion that Centeniers should continue in their court role then it would be of service to this island if they looked at ways to alter the role so as to give an opportunity for more people to seek election to the office,

Recently I had the opportunity to see the new Magistrates in Court in operation and afterwards the Court Greffier David Le Houze very kindly took me around. I was impressed with the new facilities, but I think there are one or two minor matters that which will be ironed out in due course without too much difficulty, once everyone has got used to the new sophisticated systems. As a Centenier I had to suffer the very warm courts in the summer where everyone but the Centeniers was allowed shirt sleeve order. The air-conditioning in the new court is wonderful.

However to use the new Court for only eight hours per day is a dreadful waste of a very necessary but expensive resource. I would like to see the Magistrates Court during the day with Crown Advocates or Legal Advisers prosecuting, but with greater powers so as to relieve the Royal Court of its workload. My understanding that the new Magistrate's Court in general terms is more secure than the Royal Court. Then use Magistrate's Court on a Monday to Thursday evening and on Saturday during the day as what was once called a Police Court, which would deal with non prescribed offences and all parking fine cases, with the Centeniers presenting cases. *(I understand that in the not too distant future the Courts are going to have to open on a Saturday and on Bank Holidays)* This would relieve the Magistrates Court of a lot of trivial matters which require a Court Conviction.

Perhaps this would be in conjunction with a Centenier's powers at the Parish Hall being increased substantially to deal with more cases summarily. A Parish Hall sanction is

recorded but is not a full conviction. I consider that it should be possible to have also a higher class of offence dealt with at the Parish Hall that would be a CONVICTION, on the condition that the accused accepted the punishment.

These ideas or something similar may at first sight to the purists seem revolutionary, but failure to solve the problem of finding those willing to seek office as Centeniers will mean that you will eventually have a Crown Officer calling a Parking Infraction offence in the Magistrates Court.

My sole reason for making this submission is to attempt to ensure the survival of the Centenier's role . With the arrival of the new and more powerful form of Ministerial Government it is now increasingly important that the power to charge should remain in the power of the Crown Officers and the Centeniers, so that the States cannot be accused of being a Police state and the States of Jersey Police cannot be accused of being tools of the State.

A handwritten signature in black ink, appearing to read 'R Stent', with a long horizontal stroke extending to the right.

Richard Stent

Wednesday May 23rd 2006