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24th June, 2006

The Social Affairs Scrutiny Panel Review
The Role of the Centenier in the Magistrate's Court
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Dear Deputy Bob Hill,

In my view it would be preferable for legally qualified prosecutors to present cases at all times in the Magistrate's Court and Centeniers should cease to perform such role. My reasons are as follows:

Lack of Training & Legal Knowledge

1. Centeniers have numerous powers and responsibilities including the granting or opposing of bail, the formal charging of a person with an offence, the presentation of a case to the Magistrate, the decision not to pursue a charge (for instance to accept a lesser charge) etc. However, in an age where professionally trained persons are expected to conduct proceedings in a Court, it is an anachronism that Centeniers, who will have little in the way of formal training, are permitted to conduct such an important role. While they may have a basic knowledge as to why bail might be refused or granted, I doubt that they would be able to assist the Court on more difficult issues that might arise during a particular case for example.

By way of background I set out some of the regulations that apply to others who might appear before the Magistrate's Court and for whom a great deal of expertise and training is prescribed.

The 1993 case of ***Dick v Dick*** contains a convenient neat summary to start:

RIGHT OF AUDIENCE—foreign counsel not permitted to appear in Jersey courts

By the Advocates (Jersey) Law 1968, art. 1, only appropriately qualified advocates may appear before the Jersey courts, although limited audience is granted to solicitors by virtue of two specific statutory exceptions (Loi (1891) sur la Cour pour le recouvrement de menues dettes and the Licensing (Jersey) Law 1974). Foreign counsel may not even appear when the Royal Court sits as an examining body to take evidence at the request of a foreign court for use in proceedings there, although the same does not apply to an examination before the Viscount or any other examiner appointed by the court. Even if objections are taken to particular parts of such an examination, however, foreign counsel may not appear before the Royal Court to argue such objections, but may only appear as an expert witness.

Dick v. Dick (Royal Ct.: Crill, Bailiff and Jurats Hamon and Rumfitt), January 14th, 993.

There have however been certain developments since this case. For instance, the Advocates and Solicitors (Jersey) Law 1997 revoked the previous Advocates (Jersey) Law 1968 and sets

out a revised qualification process, but in this context it is useful to note an amendment that added the following article 14 to the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949:

PART 4
PROSECUTION OF PROCEEDINGS

14 Proceedings by a legally qualified prosecuton

The conduct of proceedings in the Magistrate's Court may, with the approval of the Attorney General, be undertaken on behalf of the prosecution by –

- (a) an advocate; or*
 - (b) a solicitor or a person who has been admitted
 - (i) to the degree of the Utter Bar of one of the Inns of Court of England and Wales, o*
 - (ii) as a solicitor of the Supreme Court of Judicature of England and Wales,**
- and who is employed in the Law Officers Department.*

In summary therefore it is unacceptable, in my view, for lay persons to be involved in the presentation of cases in the Magistrate's Court when in every other sphere, professionally trained personnel are required.

Efficiency

2. Greater expertise and training ought to bring with it a greater chance of efficiency. Accordingly, for Centeniers to be seeking guidance from the Law Officers Dept. (as will inevitably be the case because the Centeniers do not possess sufficient legal training) is a waste of time for those employed by the Law Officers Dept. Furthermore, the presentation of cases by legally trained individuals will enable the earlier identification of relevant issues and the earlier disposal of cases.

Further, and more generally, I have found myself sometimes most frustrated at the manner at which some Centeniers have chosen the cases that they have wished to call on, without any appreciation that there were far shorter cases that could have been dealt with and the legal representatives then freed up to deal with other matters. On one occasion, despite being Duty Advocate and having a client in custody, I and my client (who was eventually granted bail) were kept waiting 5 hours, in part while the Centeniers on duty that day chose a myriad of less serious cases to deal with first, including parking infractions. Cases were then chosen that involved a great deal of argument and delayed all other matters whilst they were adjudicated upon. Certainly in my experience in England of Prosecuting and Defending criminal cases both in the Magistrate's and Crown Courts, one would report to the usher whether or not one's case was ready and give a time estimate so that the cases in the list could be dealt with as expeditiously as possible.

Accountability

3. Centeniers may be accountable to the Attorney General but I feel that a professional who is directly employed by the Law Officer's Dept itself must have greater accountability for their

actions. In particular, I have heard what appeared to me to be well substantiated complaints of offenders either not being charged at all, or a lesser offence being accepted that one wondered the extent to which the familiarity of the Centenier with the offender involved had affected that Centenier's judgment, or whether the Centenier was simply too inexperienced. In general, I think that the benefit of local knowledge held by Centeniers in any individual case is exaggerated and that there are, in fact, dangers in too much familiarity.

I hope these views are of use to the Scrutiny panel in its deliberation.

Yours sincerely

Timothy Hanson
Advocate