

Scrutiny Panel

I see this particular scrutiny exercise as having a fairly restricted input from a purely evidential aspect as only those directly connected to the procedures, namely the Magistrate, Assistants and Court Officials, States of Jersey and Honorary police officers and persons charged and presented before the court have experience of the intricacies involved.

There may be many citizens of the island who have personal interpretations of procedures, but these are purely conjectural and may not stand the test of true evidence.

A U.K. academic, Andrew Rutherford stated in a report that the role of Centenier should be scrapped. I am not aware of Mr. Rutherford attending to meet the Centeniers association or indeed attending sittings of the Magistrates Court to witness the working of the Centeniers. His statement may be as a result of combining his academic understanding of the facts of the human rights law etc, and reading the paper submitted by Sir Cecil Clothier, in which interestingly in his opening comments Sir Cecil states that he has no real understanding of our Honorary system. Reading through his report and recommendations one has to accept that in his wise council he has detected a lack of fine tuning and modern encompassment of the administration of justice, in which he has made I believe 38 suggestions as to how improvements could be brought to effect. At no time did he promote the disbanding of the Honorary service or more specifically the role of Centenier. The most quoted observation of his report appears to be that of the occlusion from the states assembly by right of office, of the 12 Connetables. It is interesting to note that Rutherford in his submission failed to include the Connetables along with the Centeniers. They, as is clearly stated in their oath of office have the power of charge and presentation of an accused person to the court. (extract from oath)

"Vous garderez et ferez garder la paix de Sa Majesté, vous opposant et saisissant de fait, tous ceux qui tentent ou commettent toute façon de crime, de délit ou de contravention lesquels vous présenterez en Justice pour être punis selon leurs méfaits."

Herein is an indication to my previous point of Rutherford's lack of understanding of the system. I believe it is fundamental that a clear and concise understanding of all aspects of the role of Centenier in the Island is vital before any singular judgement can be made to the absolute benefit of this Island. Cherry picking objectiveness leads to disaster: if it isn't broken do not try and mend it!

1) As stated in my written application to the scrutiny panel I am of the opinion that only the Dept. of Home Affairs or as it was then known the Home Affairs Committee can provide the answer to this.

2) This I believe to be the most important of the 4 terms of reference. My stating a short while ago of the complete understanding of the duties of Centenier is paramount to the satisfactory conclusion of this item. For the benefit of the panel I wish to outline the basic procedures of a case presentation and would draw particular attention to (a) correct compliance of the regulation that an accused, charged with an offence and held in custody must appear at the next sitting of the court, (in the case of juveniles this is effected by a pre sitting of the court where the juvenile is presented for further deliberation by the court) and (b) in the circumstances of the case being remanded, adjudication by the Magistrate in the granting of bail conditions.

In all cases brought before the Magistrates Court he will have given prior consideration to jurisdiction: i.e. the Magistrate has open to him three options, to hear the case in his

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court, send up the case to the Royal Court or refer the case back to the Parish Hall to be dealt with by the Centenier. This option is not effected very often and proves therefore the good track record of the accused being correctly dealt with correctly by the Centenier. I well recall the words of the assistant magistrate Mr. Trott who on more than one occasion made the utterance that "brevity of justice is a very necessary requisite." Please consider the aspect of brevity as applied to each stage of my hypothetical case

The charging of an accused person is at the sole discretion of the Centenier or Connetable. (please infer in future comments when the word Centenier is used I also include that of Connetable as per the aforementioned oath.)

He may be guided by reports of the case from the States of Jersey Police, which by a directive of the Attorney General must be completed before charging is effected; but his subsequent action which again is ruled by a directive from the A.G. must always be governed by an accountable reasoned process. Having been charged the accused is warned to appear in court subject to various terms. They may be held in custody, they may be required to provide a sum of money in surety for their next appearance, which is estreated if they do not appear, or they may purely be put on a warning to appear. The Centenier then attends to the preparation of the paperwork to accompany the case, and this can sometimes be at very short notice. A court listing officer collates all the cases and liaises with the Centenier to fill the court time. This is a very important point as it is necessary to clear as many cases as possible in the allotted time without overloading the system. As previously mentioned there are last minute custodials which have to be presented. I do not feel that to involve a Crown appointed presenter for all cases would be as effective as the present system. However during my term as Centenier it was directed that the then Staes of Jersey Police Advisor should be involved in all not guilty pleas in sensitive cases and all trials in the Juvenile Court.. This worked well but I recall an occasion when due to unavoidable circumstances when both the Police Advisor and the Crown Advocate were unavoidably absent I received a telephone call informing me to proceed with the case. The accused having heard the charge against them read by the Centenier is asked to plead to the charge. They have four options, to plead guilty, to plead not guilty, to reserve their plea or make no reply. In a straightforward situation of a guilty plea the magistrate will hear the facts of the case read by the Centenier and ask the accused if they have any questions to put. Their reply may come from themselves or their legal representative if they have one. The magistrate then orders one of the following.

For a guilty plea...immediate sentencing or remand for background reports from the probation service when bail conditions will apply.

For a not guilty plea.. A date will be set for a trial which will involve the calling of witnesses and bail conditions will apply.

For a reserved plea..remand to a future date and bail conditions will apply.

This then outlines the first appearance of an accused in court and the case being recorded into the system.

I would like to comment on bail conditions which has a very important bearing on our overcrowded prison establishment. I believe that huge strides could be made in this area. Sadly Clothier missed this item completely but I feel that re-addressing this is vital. There were in my opinion too many custodial remands in my day 1995 - 2001 and from the court reports I read in the current local press I am led to believe that there is room for improvement here. Without a doubt the Centenier and subsequently his Honorary Officers

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