

SOCIAL AFFAIRS SCRUTINY PANEL

THURSDAY, 5TH OCTOBER 2006

Review of Centeniers' Role in the Magistrates Court

Panel:

Deputy F.J. Hill, B.E.M., of St. Martin (Chairman)
Deputy J.A. Martin of St Helier
Deputy A.E. Pryke of Trinity
Deputy D.W. Mezbourian of St. Lawrence
Deputy S. Pitman of St Helier

Witnesses:

Mr. Ian Christmas, Assistant Magistrate

Present:

Mr. C. Ahier, Scrutiny Officer

Deputy F.J. Hill, B.E.M., of St Martin:

Right, can I say good afternoon to Mr. Ian Christmas, who is our Magistrate. I am Deputy Bob Hill, the Chairman of the Social Affairs Scrutiny Panel, and I will introduce or, better still, my colleagues will introduce themselves to you around the table.

Deputy J.A. Martin of St Helier:

Judy Martin, Deputy for St. Helier No. 1.

Deputy D.W. Mezbourian of St. Lawrence:

Good afternoon, I am Deidre Mezbourian, Deputy for St. Lawrence.

Deputy A.E. Pryke of Trinity:

Good afternoon, Anne Pryke, Deputy of Trinity.

Deputy S. Pitman of St. Helier:

Hello, I am Deputy Shona Pitman for St Helier No. 2.

The Deputy of St. Martin:

Right, and the gentleman in the middle there is going to tell us who he is.

Mr. C. Ahier:

Charlie Ahier, Scrutiny Officer.

The Deputy of St. Martin:

This afternoon, as indeed other hearings are, everything is recorded and a transcript will be done eventually and you will have an opportunity to have a look at it before it goes on the website. So could I ask that anyone who has to speak to keep their voices up so everybody hears what is being said and that way we will make sure the public can as well. I had better give a warning as well. Please ensure all telephones or mobiles are off, including the Magistrate's. Prior to coming you would have received a notification telling you that you are subject to or you are not subject to privilege this afternoon. Can I confirm you received that notification?

Mr. I. Christmas:

I have.

The Deputy of St. Martin:

Fine, thank you very much. Can I make a quick introduction or ask you to give us a little résumé of where you were and what you were doing before you became a magistrate in Jersey?

Mr. I. Christmas:

Right. I qualified as an English solicitor in 1974. I had a commission in the Army as an Army prosecutor for 2 and a half years. Following that I was employed by what was known then as the Thames Valley Police Authority and I remained with them for approximately 10 years and rose through the ranks as a prosecutor to the position of what was known as, in those days, Principal Prosecuting Solicitor responsible for about half of a UK county. After that I went into private practice on my own doing both prosecution and defence work until I came to Jersey in 1987. In 1989 I was employed as the first legal adviser to the Jersey police. That position I held until 2001 when I was appointed to my current position as Assistant Magistrate.

The Deputy of St. Martin:

Thank you. Could I just ask, when you said "the legal adviser", you were the very first that we ever had in the Island? There was not any forerunner beforehand?

Mr. I. Christmas:

No.

The Deputy of St. Martin:

Are there any questions? Well, could I then ask you how do you see your role at the moment as the Magistrate in court? How do you define your role? Are you inquisitorial or ...?

Mr. I. Christmas:

Well, I am one of 2 magistrates. I am the Assistant Magistrate. So, to that extent, if you like, I deputise

for the Magistrate and fill in for him when he is not there. So far as my role in court is concerned, I do not see my role as an inquisitorial magistrate - that is, a magistrate in an accusatorial system - but on occasions verging into the style of inquisitorial when it becomes necessary.

The Deputy of St. Martin:

Could I just ask how does that define itself in how we have it in the UK? Is it very much similar or is it slightly different for Jersey?

Mr. I. Christmas:

Slightly different. The Magistrate here sits for most of the time slap in the middle of the prosecution and the defence and relies on his or her information from the prosecution or the defence. There is one sector of the work which requires the Magistrate to become rather more involved, and that is in the situation where trials are conducted by centeniers. But that is possibly only a slight involvement in the sense that the Magistrate questions the witness rather than the prosecutor.

The Deputy of St. Martin:

Have you any questions? Okay, we can move on to number 3.

Deputy J.A. Martin:

Number 2. It is our understanding that centeniers present cases in the Magistrates Court and do not prosecute. Is that your correct understanding?

Mr. I. Christmas:

I think the 2 words are interchangeable when it comes to the function that is fulfilled by those who stand up in the Magistrates Court on behalf of the prosecution. To be frank with you, I think that is a question of semantics. I think while a centenier is doing what he or she does in court, they are acting as prosecutors.

Deputy J.A. Martin:

Thank you.

The Deputy of St. Martin:

Are there any supplementary questions?

Deputy J.A. Martin:

No, it is quite clear.

Deputy D.W. Mezbourian:

Centenier L'Amy has recently produced a report following a visit to Nottingham Police and Crown

Prosecution Service. Have you seen a copy of that at all?

Mr. I. Christmas:

I have.

Deputy D.W. Mezbourian:

In it he states: "If centeniers are to maintain their role as junior prosecutors for many years to come, it is the opinion of a few like-minded colleagues that we need to change." Would you explain to us, please, what is meant, you think, in this context by the term "junior prosecutors"?

Mr. I. Christmas:

The division of work between centeniers and legal advisers currently is something that has evolved over the last 10 years or so. Initially, legal advisers became involved on the peripheral prosecutions in the Magistrates Courts and, indeed, when I first became a legal adviser had no function there at all except as an adviser behind the scenes. As the years have gone by, possibly encouraged by the magistrates, but also, I think, acknowledged by the centeniers, in fairness to the centeniers, some of the cases have become rather more complicated and it has been necessary to refer those complicated cases to the legal adviser. In the early days that meant simply receiving advice from the legal adviser, but as time went on, of course, the legal adviser, when the legal adviser has got a right of audience *ex officio*, on behalf of the Attorney General in the Magistrates Court, they actually presented cases themselves. So insofar as there is a demarcation between junior and senior, the legal advisers have been asked to take on - and do take on - the more complex and more serious cases very often as and when necessary. Not throughout the whole of the proceedings, but as and when necessary.

Deputy D.W. Mezbourian:

So you would agree that there is a demarcation between the 2 roles, junior and more senior?

Mr. I. Christmas:

I do not know whether junior and senior is the right way of referring to it. But quite clearly, the legal advisers have the appropriate experience as prosecutors and they are qualified lawyers and are able to advise the centeniers on any number of matters which the centeniers will require advice on, whether it is the substance of a charge, the wording of a charge; whether or not evidence can be called or not called in a particular case; the procedure to be adopted and so on and so forth. A myriad of questions might arise in the mind of a centenier and he or she needs somebody to refer to.

Deputy D.W. Mezbourian:

When we spoke to Mr. Le Marquand on 19th September, he stated, referring to centeniers: "Some of them are as good as a legal adviser except that they are not legally qualified." What are your comments on that?

Mr. I. Christmas:

I think some of the more experienced centeniers are certainly very good, are excellent at presenting cases. Whether they are as good as a legal adviser is a very sharp question, if I can put it that way. The fact of the matter is that I think we are very fortunate in the Island in that we have very good legal advisers in the Legal Advisers' Office. There is no guarantee, of course, that a lawyer is going to be necessarily better than a centenier. The presentation of cases in the Magistrates Court to a great extent is a question of skill and personal aptitude. Some centeniers have great skill and aptitude in that direction, others not quite so much. The same could be said of lawyers except, I have to say in fairness, the legal advisers currently with the Legal Advisers' Office are very proficient and efficient and good advocates.

Deputy D.W. Mezbourian:

I would like to just follow up on what you said. The Magistrate, in a written report that he presented to the Panel, spoke about training and the abilities of the individual. I would like to quote again from his written report: "In reality the efficiency of individual centeniers depends upon their ability and their training. Training can never compensate fully for a lack of natural ability." Would you like to comment on that, please?

Mr. I. Christmas:

Well, I would not disagree with the general sentiment. I think, in fairness to centeniers, in fairness to every prosecutor, their effectiveness depends to a certain extent in the first place on the quality of the material which they have managed to collate in support of their prosecution file. The court is ever only as good as the information it receives and an experienced centenier, as an experienced lawyer, will anticipate the needs of the court and ensure that the information that the court is likely to require is at hand.

Deputy D.W. Mezbourian:

Do the centeniers collate all the material?

Mr. I. Christmas:

I am not privy to how they go about collating their material. I would guess that there is a standardisation between the way in which that occurs between the parishes, but I honestly do not know.

The Deputy of St. Martin:

Could I just ask, do you think sometimes we are asking too much of a centenier? Maybe in a changing society as people start getting legal aid to defendants and maybe the -- I think it is called equality of arms, do you think ...?

Mr. I. Christmas:

I think sometimes that it does become apparent that we are asking a great deal of them. In fairness to

them, centeniers I think approach the task with a great deal of courage and I give them all credit for that. But I think, interestingly - and it is more apparent, frankly, since we moved into the new court - the way in which the court is set out is such that if a centenier runs into difficulties, almost without exception there is a legal adviser on his or her shoulder to give advice. So if the situation is calling too much on the part of the centenier with regard to the actual presentation in court, then there is usually advice on hand.

The Deputy of St. Martin:

If indeed there is not a legal adviser in court and the centenier would like to ask for that advice, you are always prepared to adjourn to allow --

Mr. I. Christmas:

No, neither I nor any of my colleagues would hesitate to give a centenier the opportunity to get that advice.

Deputy J.A. Martin:

Can I just have a supplementary on the training aspects? I do not know if you have a view. Obviously Magistrate Le Marquand was talking about training. It has been put to us from the AG (Attorney General) that because it is a voluntary post centeniers cannot be made to train. Would you agree with that or would you not want to comment or ...?

Mr. I. Christmas:

My experience tells me that -- and I have seen civilians, I have seen police officers and I have seen lawyers prosecuting cases in the Magistrates Court. I do not know of any that I have come across previously, before I came to the Island, who had not had training. I think training is essential. The fact of the matter is that the criminal law nowadays - and the Island's laws are a reflection of the UK's laws in many respects - is complex. I think in order to weave their way through the tangle of criminal procedure and substantive law, anybody who prosecutes in the criminal court needs training.

Deputy J.A. Martin:

Thank you.

The Deputy of Trinity:

Just to go back and talk about the role of the legal advisers in court, you said that you were the first one over here and you have changed position. Over the years do you think the role of the legal adviser has changed in court? Enhanced or stayed the same?

Mr. I. Christmas:

I think it has changed; there is no doubt about it. I had no role in court at all when I was first appointed as a legal adviser; indeed, on many occasions was invited to leave the court. So that has changed quite

dramatically. I think it has been a slow process of evolution which has been helpful not only to the system but actually probably to the centeniers as well, who have welcomed it - possibly not initially - wholeheartedly. But they have welcomed the presence of a legal adviser and the opportunity, I think, to take legal advice at every stage.

The Deputy of Trinity:

There is always a legal adviser in your court alongside the centenier?

Mr. I. Christmas:

More often than not there is a legal adviser, not all the time. But legal advisers would always make themselves available if it was necessary, and if the magistrate thought it was necessary a case would be adjourned until such time as a legal adviser could come along and assist.

The Deputy of Trinity:

Thank you.

The Deputy of St. Martin:

Could I just get back again to the training? I am just going through my notes here that in 1990 the Le Quesne report carried out a review again of the judicial and legal services, and they produced what they call a second interim report. That was in 1990. To just show how fast we work in Jersey, in 1998 we set up a working party to review it and in that working party was a Mr. Christmas. Can I ask if you are the Mr. Christmas then? Because in the 1990 review it did make a recommendation, and I will read it out. Training and administration says: "It should be obligatory for a newly elected centenier, before he presents any case in court, to receive some training in presentation of prosecution cases. The same obligation should be attached to the existing centenier on re-election." That endorsement was not followed up in the 1998 report. Have you any reason why not?

Mr. I. Christmas:

I have no idea.

The Deputy of St. Martin:

No. Because it seems to be that at the end of the day I think it has been encouraging to hear a number of centeniers themselves who have said: "If we are going to do the job we have got to be trained to do it" but the difficulty is knowing who is responsible for the actual training. How much emphasis do you think has been coming from the Magistrates Court? Have you had any discussions at all with anyone to say that you are not satisfied with the situation?

Mr. I. Christmas:

I do not know that we have currently had any discussions. I think the subject of training has always

been there in the background. I know that the legal advisers give training to the centeniers, certainly for -- I cannot remember apart from possibly one occasion several years ago where the magistrates involved themselves in a training session of the centeniers. I think it is probably something that everybody involved in the Magistrates Court has acknowledged is necessary. It may be that it has been difficult to organise. I do not know.

The Deputy of St. Martin:

It might be a good point to bring you in, Anne.

The Deputy of Trinity:

Do you take any part in the training?

Mr. I. Christmas:

I have not done. I cannot remember a situation where I have, although I do remember one evening session early on in my appointment. I can't remember; it may have been to do with bail applications or something of that sort but I cannot honestly remember what the subject was. It is not that ... I do not think either I, Mr. Le Marquand or any of the relief magistrates would be at all reluctant to play their part in any training role.

The Deputy of Trinity:

But you have never been asked as such to form part of a formal --

Mr. I. Christmas:

Although how appropriate it is, I am not quite sure. That is another thing.

The Deputy of Trinity:

Right.

Deputy D.W. Mezbourian:

Can I just ask for clarification, Sir? I may have missed it but would you tell the Panel whether you believe that training for centeniers to present cases in court should be compulsory or not?

Mr. I. Christmas:

I think it should be compulsory.

Deputy D.W. Mezbourian:

Thank you. Mr. Le Marquand said the same.

Mr. I. Christmas:

I am pleased to hear that. [Laughter]

The Deputy of Trinity:

Could you expand on it and perhaps give us your reasons why you think it should be compulsory?

Mr. I. Christmas:

Well, if you think about it - it is not the case, of course, for experienced centeniers; take them out of the pot for the moment - but a centenier might be elected on a particular day, he might be sworn in and potentially could go into court the very next day. Now, how is that centenier expected to deal with a bail application, with the criteria for granting or refusing bail and many of the other things that a centenier has to do on a day-to-day basis in court. There must, in my view, be some training. I mean, without it ... A lawyer, you see, who presents cases, it may be that they have no experience at all; it may be that they are recruited by a prosecution agency immediately after their qualification, but the chances are that they will have done some training before, either as a barrister or as a solicitor, which will allow them to model their performance on others that they have seen, even if they have had no specific training as to the presentation of cases in a court. That is not going to be the case for the centeniers - sometimes.

Deputy J.A. Martin:

Can I just ask you to expand slightly on that? You said take the experienced centeniers out. Would you not agree - because in your earlier statement, the laws changing, procedure, everything else - that all centeniers once they are in training should be kept under review and, if they are presenting cases in court, that they carry on training and that is kept under constant review? Not every week but a certain amount of time?

Mr. I. Christmas:

Let me say that in every quarter I think it is necessary now for people to have training on a regular basis which brings them up to speed. That is not just the case for centeniers; it is the case for legal advisers and, dare I say it, for magistrates too.

Deputy J.A. Martin:

Thank you.

Deputy D.W. Mezbourian:

Are you aware of any form of assessment that is made on the performance of the centeniers by perhaps other centeniers?

Mr. I. Christmas:

In the sense that their own peers can be critical of their performance?

Deputy D.W. Mezbourian:

Yes, whether there is any formal assessment of their continuing development and their presentation?

Mr. I. Christmas:

I am not aware of any. Certainly in my capacity now or in any capacity previously, I have never been invited to comment upon the effectiveness or performance of any individual centenier.

Deputy D.W. Mezbourian:

Do you think it is something that you should be asked to do, perhaps?

Mr. I. Christmas:

I do not know whether I should be asked, but if I were asked in the context of training needs and so forth and so on in the future, then I think probably a magistrate would be the right person to ask.

Deputy S. Pitman:

May I just ask regarding the training issue, do you think that to become a centenier that you should have to go through the ranks and while you are going through the ranks you train for the position of centenier, or do you think the training should come as you are elected?

Mr. I. Christmas:

That is a much wider question, is it not? I can only, I think, focus on the position of those who occupy the position of centeniers and as and when that happens, and if part of the obligation of a centenier is to present cases before the Magistrates Court, then at that point training should be available to them.

The Deputy of St. Martin:

It is fair to say it is a different role, really, in many ways. You would not expect that of a constables officer or a vingtenier.

Mr. I. Christmas:

Can I say this, for those in the honorary system who might aspire to becoming a centenier, there is a great deal to be said for immersing themselves in the system and becoming interested in the presentation of cases and seeing how it is done by others, just as young lawyers will go and watch senior lawyers present cases and their colleagues present cases before they qualify. That is how people get experience.

The Deputy of Trinity:

Moving on slightly, are you satisfied with the current system of centeniers presenting cases in court?

Mr. I. Christmas:

A lot of the time, most of the time, I would say, I am very satisfied. The centeniers are always very

courteous, they are very diligent and they are very committed. It really depends on the individual. I am satisfied that where an individual is finding difficulty there is assistance for that individual, either by his senior colleagues or from the legal advisers. Every now and again, as in any system, frankly, the quality of presentation will fall below par. But, frankly, that does not happen too often, I think, nowadays.

The Deputy of Trinity:

If you had, say, a magic brush and no financial restraints, how would you see the service being improved?

Mr. I. Christmas:

I think without a doubt -- I read what my colleague had to say to the Panel and I agree with much of what he said in the sense that I think there is a great deal to be said for training up a cadre of centeniers to an appropriate standard.

The Deputy of Trinity:

Sorry, a cadre?

Mr. I. Christmas:

A group of centeniers. Clearly it would be very difficult, I think, to make training available to every person who was elected as a centenier to allow them to appear in the Magistrates Court, to the standard we are talking about in an ideal world. But it might be possible for those who are elected and who volunteer to take on this task to undergo training which would actually equip them, I think, to present cases very adequately in front of the magistrates.

The Deputy of Trinity:

Do you think centeniers still have a role to play?

Mr. I. Christmas:

Well, they obviously do have a role to play. They do play a role. They play a most valuable role in the sense that they do present still by far and away the greatest percentage of cases in the Magistrates Court.

Deputy S. Pitman:

Are you aware of mistakes made by centeniers who have presented cases in court?

Mr. I. Christmas:

Oh, yes. But I am equally aware of mistakes made by lawyers who present cases to the court.

Deputy S. Pitman:

Do you put any down to lack of training?

Mr. I. Christmas:

It is possibly a combination of all things. It is possibly a lack of training, personal aptitude, nervousness, inexperience; it could be all sorts of things, or maybe because they had been to a good party the night before.

Deputy S. Pitman:

Are records kept of these mistakes?

Mr. I. Christmas:

No, not formally. I mean, you know, people make mistakes and behind the scenes there may be comments made, but hopefully we pass on to another day, another week and it is forgotten and, you know, so life goes on. Nobody keeps a record in a bottom drawer of mistakes by Mr. X or Ms. Y. Gosh, that would be terrible.

Deputy D.W. Mezbourian:

If mistakes are made then surely they should not be made again?

Mr. I. Christmas:

If a bad mistake is made then the lines of communication, I like to think in this day and age, are well and truly open between the magistrates and the legal advisers and the centeniers and all of those of us who play a part in the administration of justice in the subordinate courts. So if there is something glaringly wrong we have court users' committees in which these things can be discussed or, alternatively, behind the scenes, frankly, I can pick up a telephone. I do not think, in this day and age, either a legal adviser or a centenier is going to worry that he gets a call from Ian Christmas saying: "What on earth happened in this case or that case? Can we make sure it does not happen again?" Equally, it works both ways. The legal advisers and the centeniers may feel that the magistrates are making a muck-up of it for one reason or another and they will not hesitate to mention it to us. [Laughter]

Deputy D.W. Mezbourian:

I was going to come on to that.

Deputy S. Pitman:

Do you think a significant amount of mistakes could have been avoided if there was sufficient training?

Mr. I. Christmas:

Yes. I do not think one could doubt that.

The Deputy of St. Martin:

Would it be fair to say that while you do not have a procedure in place, you have what I call a good

working relationship with people that you feel you could pick the phone up and say: “Possibly we could find an improvement here”, and that is probably a better way than having something standard?

Mr. I. Christmas:

Absolutely. The view we take, I think, is that each and every one of us involved in business of the Magistrates Court makes a contribution and to that extent it is important that we can all talk to each other and discuss our strengths and our failings and so forth and so on.

Deputy S. Pitman:

Have you suggested further training, more training at any of these times?

Mr. I. Christmas:

Have I suggested it previously?

Deputy S. Pitman:

Yes.

Mr. I. Christmas:

Well, I have because, as the Chairman said, I made mention of it in a report that was made to the States earlier.

Deputy D.W. Mezbourian:

We understand that there is a training group for centeniers who are responsible for the training delivered to and received by the centeniers. Are you aware of that group?

Mr. I. Christmas:

Yes, I think I am, vaguely. I am not aware of who is involved in it, but I am aware of it.

Deputy D.W. Mezbourian:

I find it somewhat surprising that you as the Magistrate can say that you have not been approached by this group to give any assistance or advice on training.

Mr. I. Christmas:

Well, all I can say is that if I were approached I would not hesitate to give it. If someone called me today and said would I kindly attend at a meeting next week to help the centeniers with this problem and that problem and the other one, I would not be saying no.

Deputy D.W. Mezbourian:

I think perhaps following this hearing you may be contacted. **[Laughter]**

The Deputy of St. Martin:

It is called the 1864 Group. Have you heard of the 1864 Group?

Mr. I. Christmas:

No. Not the 1922 Group?

The Deputy of St. Martin:

That is for another day. I was wondering, Deidre, do you want to go on to yours now? We will leave number 13, I think, and number 15. What we have done, we have prepared something very much along the lines of what we had asked Mr. Le Marquand and, while it is important to get the answers, they are coming out very much the same with slight variations. Anne, could I get you to ask number 14; we will readjust number 14.

The Deputy of Trinity:

All right, okay. You just mentioned briefly that you do talk to various organisations there. Do you meet with the Comité des Chefs or the police or legal advisers and the Attorney General regularly?

Mr. I. Christmas:

No. Although things are more relaxed in this day and age than they used to be, there has always been an understanding that there should be something of a distance between the judiciary and those who operate the system in front of them. That said, none of the magistrates, I think, hold regular meetings other than court users' meetings and possibly committees looking into particular pieces of legislation on a regular basis.

The Deputy of Trinity:

You mentioned court users; can you just confirm who makes up the court users' meeting group?

Mr. I. Christmas:

Yes. Representatives of the centeniers are there. Now, that is probably, I think, currently one of the provincial -- sorry, one of the country centeniers, certainly a St. Helier centenier; a probation officer; somebody from the Legal Advisers' Office; somebody from the Criminal Justice Unit, representing the police; the magistrates; the Greffier to the magistrates; and a representative of the local advocates.

The Deputy of Trinity:

How often do you meet?

Mr. I. Christmas:

It is varied somewhat but once a month, I think, generally speaking.

The Deputy of Trinity:

What type of issues would you raise at that meeting?

Mr. I. Christmas:

It could be all sorts of issues. Very often to do with the paper flow one way or another because the business of the court on a day-to-day basis relies on the availability of various documents to various people involved in the court process. A lot of the documentation is prepared at police headquarters and it finds its way by fax and other ways to the various parties involved and so on. Sometimes what is in the documentation, how it gets there, how it is copied and so forth and so on is the subject of much discussion.

The Deputy of Trinity:

Do you find that is a big issue when you are sitting in court, lack of paper? Or not lack of paper but lack of having the right information in the right place?

Mr. I. Christmas:

Well, it is not necessarily a big issue; it can be an issue in every criminal court that I have ever come across. For example, judges will ask for information about compensation and damage and that sort of thing and sometimes the prosecutor does not have that current information on the file. There could be all sorts of questions, questions as to the injuries suffered by an alleged victim. There can be all sorts of explanations for why the prosecution does not have that information at that time. It may be that examinations have not been carried out or that they have not got statements from the victims of crime generally. There could be all sorts of reasons. But it is for those who present cases to make sure as well as they can that they have the information that the court will need.

Deputy J.A. Martin:

Can I just ask about the role of the legal adviser? You said earlier from your day that it has really changed and that they are in court most of the time. I know the centeniers are voluntary and not paid, but having to need more and more the legal adviser in court - and they are in court - it is a total duplication of 2 people in the court or sometimes 4. Well, obviously one centenier, different centeniers presenting cases, but at least one or 2 legal advisers sitting behind who may not be doing anything but are totally well equipped to present the case anyway, but they are there not doing anything.

Mr. I. Christmas:

The logic is undeniable, is it not? It is duplication.

Deputy J.A. Martin:

Thank you.

The Deputy of St. Martin:

We talked earlier about your meeting with chefs, et cetera. Is any hierarchy or accountability working through the system? Who is responsible for the good management of the Magistrates Court? Who are you accountable to yourself as a magistrate?

Mr. I. Christmas:

That is a good question. The machinery of the court itself is a function of the Judicial Greffe. So far as the hierarchy is concerned and the way in which it all operates, I am the Assistant Magistrate so I look to the Magistrate for guidance and so forth if I need it, but when we are sitting in court we sit independently as judges in the court. As to who else I am responsible to, well, if I were summoned one day by the Bailiff because he had read something in the paper to suggest that I had got it wrong, then, yes, I would be quivering in my boots. So, to that extent I am responsible to the senior judges in the Island.

The Deputy of St. Martin:

We had the opportunity of discussing and asking very junior centeniers - I say junior in time served - and one of the concerns that they had really was sometimes they are not quite sure what to expect of a magistrate. They go into court one day and they give the facts as they see them because that is what the last magistrate wanted and then, lo and behold, they go in the next day and they are asked for something different. How much interaction is there with the magistrates to obviate that problem?

Mr. I. Christmas:

Between the 2 magistrates?

The Deputy of St. Martin:

Or the 4 of you because I understand you have even more sometimes, do you not? You have 2, yourself and Mr. Le Marquand, but you also have other people, assistant magistrates, who come in?

Mr. I. Christmas:

Yes.

The Deputy of St. Martin:

I am just wondering how much interaction there is so you have some consistency of what is expected of a centenier. Because it can be a bit unfortunate, a centenier going: "Well, I did this yesterday for Magistrate A and yet Magistrate B tells me today it is not quite what I really should be doing."

Mr. I. Christmas:

It is very difficult because the style of any particular magistrate is going to differ. It is very difficult for judges to ensure that their personal approach is consistent with each other in such a way that it does not

discomfort those who are presenting cases before them. If you were to talk to any lawyer who has appeared before any number of courts, they will always tell you that their style has to differ between one judge and another because -- and they have to become aware of that and that is part of the skill. I have no doubt at all that our senior and more experienced centeniers will know that if they come in front of my colleague they can do one thing, if they come in front of me they have to do something else. If they see me twitching or scratching my left ear that may mean one thing, it may mean entirely a different thing before my colleague.

Deputy D.W. Mezbourian:

That really is the comment that we received from one of the centeniers who spoke to us, but does that not mean really that the centeniers should involve the magistrates in their training for presenting cases in court?

Mr. I. Christmas:

I am not sure to what extent training would actually obviate that. What we are talking about are the quirks of a magistrate, I think, insofar as one magistrate may call for a particular piece of evidence at a particular time whereas another calls to do it at another time and so forth. It is very difficult without actually giving an example where the differences lie. I do not know because, of course, I never see my colleagues present cases.

Deputy D.W. Mezbourian:

So, it really is --

Mr. I. Christmas:

Not present cases, sit in court, rather. I never go and watch Mr. Le Marquand any more than he comes to watch me.

Deputy D.W. Mezbourian:

So it would seem then that it is something that each centenier must learn through experience?

Mr. I. Christmas:

I think so.

Deputy D.W. Mezbourian:

How to deal with a magistrate or what the requirement of each magistrate will be?

Mr. I. Christmas:

Absolutely. I mean, hopefully if there was -- these things can be raised at various meetings. I feel sure that if something really worried the centeniers, that they were doing it in one way with me on a Monday

and with Mr. Le Marquand on a Tuesday and this was really getting under their skin, they would come to a meeting and they would tell us: “Why are you doing it that way?” or: “Can we not have some conformity here?” They would say it.

The Deputy of St. Martin:

Would you say it is really more of a case really of centeniers if they have a problem just to make sure it goes through their particular organisation or association for that to come up? Probably that is one way of answering the question we had, but we thought we would ask it because it had been raised during the course of our hearings. I do not think there is a lot more here to deal with. We did talk about complaints, et cetera, but we had one that you do not generally get much complaint from the public about the role of people in court, whether magistrates or centeniers, et cetera. The other question I was going to ask, have you a procedure for dealing with it, really? If Joe Public wanted to complain about the way in which he or she was dealt with during the Magistrates Court either because of the way the magistrate had dealt with it or the centenier, et cetera?

Mr. I. Christmas:

If a complaint comes in - and every now and again we get somebody who is disgruntled with a result and a letter is passed to the Greffier - the Greffier normally replies on behalf of the magistrate. It is always very difficult for the magistrate to comment on any decision or sentence that has been passed after the event.

The Deputy of St. Martin:

It would be wrong for you to deal with a complaint against yourself, in other words, but you would expect that, yes.

Mr. I. Christmas:

Yes.

The Deputy of Trinity:

Do you have a formal complaints system?

Mr. I. Christmas:

In what respect?

The Deputy of Trinity:

If someone did complain, is there a formal ...?

Mr. I. Christmas:

Normally, if there were a complaint against me personally, as a judge in the court, I would think that that

complaint would be handed to one of the senior judges and looked into by either the Magistrate or the Bailiff or Deputy Bailiff. It depends how strong the complaint, how serious it was.

Deputy D.W. Mezbourian:

Mr. Le Marquand referred to the difficulty of having multiple presenters on one day. Would you agree with his comment?

Mr. I. Christmas:

If he said there were difficulties, yes, I would.

Deputy D.W. Mezbourian:

What are those difficulties?

Mr. I. Christmas:

If you imagine sitting there where you are sitting and having a row, several rows, of people in front of you with many cases in the list, it is very difficult to know where your focus should be at any time. You have dealt with one case; you move on to another case; you move on to another case. You have got centeniers popping up all over the place and a legal adviser here. Sometimes when you are sitting there you forget who it is that is presenting a particular case because there is no focus for the prosecution. If you were to go, for example, to a court in the United Kingdom there would always be one prosecutor or another one stepping away before another one came in. In our court you have to be aware that there are a number of people on the benches in front of you who may be presenting different cases and that is sometimes a little bit confusing.

Deputy D.W. Mezbourian:

Would it not be possible to have the presenting centenier sitting in one row with all the others well behind to alleviate that problem for you?

Mr. I. Christmas:

Yes, although it possibly would not address the question made by one of your colleagues as to duplication.

Deputy D.W. Mezbourian:

I do not see that. There is duplication anyway. I think you were referring to the legal advisers earlier when you spoke about duplication.

Mr. I. Christmas:

Well, yes, there is duplication there but there is multiple duplication if you have legal advisers, centeniers, centeniers, centeniers. On some occasions in certain courts there can be anything up to 7, 8,

9 centeniers sitting in court.

Deputy J.A. Martin:

Can I just come in there? You agreed earlier the idea of a pool of centeniers. So, expanding on that argument, what you could be basically saying is on Monday there are 2 centeniers presenting, they are qualified to present cases, whatever parish. They are from the pool, they have been trained and they are the prosecuting centeniers for Monday or Tuesday court, or whatever, so that would cut down the duplication.

Mr. I. Christmas:

Absolutely, but if that system were to operate I would not see any need for 2 centeniers.

Deputy J.A. Martin:

No, one then, yes. One on a Monday or Tuesday. Thank you.

The Deputy of St. Martin:

Would you then see, though, on the down side, one of the reasons why Home Affairs decided not to pursue the *Rutherford Report* was that it would affect the traditional role of the centenier. In other words, if indeed you had then a pool, those centeniers who are not part of the pool might feel they are losing their traditional role as a centenier by not presenting their case.

Mr. I. Christmas:

I do not know whether I can comment on that. That is, in a sense, a political comment. All that I can comment on is the effectiveness of the system within the court, and there is no doubt about it in my mind that whether it be a centenier or a legal adviser, it is more beneficial to the court system if there is a focus on the prosecution of one or the other.

The Deputy of St. Martin:

I do not know if I am treading on water which I should not, but you will not answer if you do not need to. One of the recommendations from *Rutherford*, and I will read it in full: "It is recommended that public prosecutions should be created under a director responsible to the Attorney General and that the role of the centenier in the Magistrates Court should cease and that a decision as to whether or not to charge an individual with an offence should reside with the public prosecutor and not with a centenier."

As a general run of things, are you getting a lot of cases coming to court which are then dismissed because of lack of evidence, et cetera, or the wrong decision? Or do you think in general that you are getting a fair proportion of convictions as a result that probably the charges were the correct ones initially?

Mr. I. Christmas:

I think we are getting a fair proportion of convictions. I would guess now that the systems are in place

which, from the moment of charge to the point of presentation in court, are such that the charges themselves can be monitored, the basis upon which they are brought can be monitored. Yes, I am satisfied. I think that the conviction rate is appropriate to the number of charges brought before the court.

The Deputy of St. Martin:

Again, are we looking at possibly it might help if we had a director of public prosecutions in maybe the current situation where the Attorney General may be too distant or having too much on his plate?

Mr. I. Christmas:

I think it might be impertinent of me to comment.

The Deputy of St. Martin:

That is fine.

Deputy D.W. Mezbourian:

What are your thoughts on *Rutherford's* recommendations?

Mr. I. Christmas:

Generally?

Deputy D.W. Mezbourian:

The recommendation that Deputy Hill just read to you.

Mr. I. Christmas:

Once again, I think that I should and will restrict my remarks to the basis of this Scrutiny Committee's questions.

The Deputy of St. Martin:

Fine, thank you. Are there any other questions?

Deputy D.W. Mezbourian:

Mr. Le Marquand commented that the *Rutherford Report* lacked credibility with the judiciary generally. Are you able to comment on that?

Mr. I. Christmas:

No. I simply do not know.

Deputy D.W. Mezbourian:

I have got some more. Do you think the centeniers should continue to present cases in court?

Mr. I. Christmas:

They are presenting cases in court. There is no reason why they should not continue to present cases in court. I think if some of the safeguards that we have discussed this afternoon with regard to training and selection were adopted the current system could be improved enormously.

Deputy D.W. Mezbourian:

Mr. Le Marquand suggested that he sets you the task of solving the problems of the running order of the court because he believes that there are some. How would you do that?

Mr. I. Christmas:

The running order of the court?

Deputy D.W. Mezbourian:

Yes.

Mr. I. Christmas:

The listing of cases is problematic and the reason that it is problematic is that it is not conducted from a central point exclusively at the moment. By that I mean that the court has a listing officer but until such time as the listing officer has full control of the cases that are included in the list then the court will not have control of the numbers that come into a list on any given day. We try, and I think relatively successfully in recent times, to prevail upon the centeniers to use a particular system. We have discussed it with them; certain cases are introduced on certain days for certain types of offences and so forth and so on. But at the end of the day when there are 12 parishes producing their charges and their defendants independently, it is a difficult system to operate without a central control.

The Deputy of St. Martin:

How do you think that central control could be implemented?

Mr. I. Christmas:

I think it is probably evolving very slowly, if the truth be known, now. But I think there has to be an acceptance in due course that the person who is going to say whether a case can or should go in on a particular day is the listing officer of the court.

The Deputy of St. Martin:

Would that be the normal practice in the UK?

Mr. I. Christmas:

Yes.

The Deputy of St. Martin:

Have you expressed those views across to your user group and has it been falling on deaf ears?

Mr. I. Christmas:

Yes. [Laughter]

Deputy D.W. Mezbourian:

I think I have got one final question which may or may not be answered by the Magistrate. If centeniers were no longer to present cases in court then someone else would have to make the early decision about charging and perhaps in relation to bail. If the system did change, who do you think would or should do that?

Mr. I. Christmas:

This is a much wider question because if the centeniers were not presenting cases in court then -- the whole system is predicated currently on the centeniers presenting cases at court. If they were not presenting cases in court, then both the root and branch of the system would have to be looked at and that would involve the manner in which cases were charged, went to Parish Hall Inquiries, came directly to a court and so forth. As to what should happen in that direction, I do not think it is appropriate for me to comment here today.

The Deputy of St. Martin:

We have asked you a number of questions. I am sorry if there have been some that we asked Mr. Le Marquand but we were looking for consistency as well. Are there any questions at all we have not asked that you thought we ought to have and you would like us to?

Mr. I. Christmas:

No.

The Deputy of St. Martin:

I also ask the esteemed members here of our audience, are there any questions anyone would like me to ask that have not been asked that you might like me to consider? I throw that out just as a challenge. I had one last time but we will not ask that one this time because it was not relevant. [Pause] Well, if that is the case can I thank you for the time you have given us? I am sorry some have been repeated; you may want to discuss them with Mr. Le Marquand, I do not know. But anyway, I thank you for your attendance and, as I said earlier, what will happen is this will be transcribed and you will have an opportunity of having a look before it goes out on the website.

Mr. I. Christmas:

Thank you all very much.

The Deputy of St. Martin:

I thank my fellow colleagues. Thank you very much.