

Event: Public Hearing
Review of the Roles of the Crown Officers

Date: 5th May 2010

Review Panel: Lord Carswell, Chairman
Mrs M-L Backhurst
Mr G Crill
Mr I Strang

Witnesses: Connétable K Vibert (Chairman – Comité des
Connétables)
Centenier D Scaife (Chairman – Comité des
Chefs de Police)

THE CHAIRMAN: Welcome to our review this morning and thank you for your assistance, both in the written submissions and in coming to talk to us this morning. We appreciate your help. It is essential that we get opinions from people in Jersey, both people who are concerned directly with the administration of affairs and members of the general public so we are casting our net widely.

What we are looking into, the roles of the Bailiff, Deputy Bailiff, the Law Officers, Attorney General and Solicitor General to see if the correct principles are being applied in what they do and whether any change might be recommended in the functions which they perform. We are concerned with that in principle rather than with individuals or the excellence or otherwise of the way in which each has performed his role.

When we have completed taking evidence, oral and written, we shall consider our conclusions. We will prepare a report and present it to the States which then completes our function. The proceedings are in public and the written submissions are published on our website. Today's proceedings are being recorded and will be transcribed. You will have an opportunity to check the transcript that it is accurate, accurately records what you have said and then when that has been done, it will also be published on the website and in the public domain. The whole thing is a public matter, as the States requested us to do.

We have here a written submission from each of the Comités and we are grateful to you for the trouble you have taken to present these. Is there anything that either Comité would like to add to that or present to us before we go into some of these views with you? Mr Vibert?

CONNÉTABLE VIBERT: Well, thank you. Obviously, as the report that we submitted to you rightly points out, it is not always easy to submit a report which is going to be the unanimous view of all a committee of 12, I think probably especially so with a Comité of Connétables who have always been very much individuals and people who are proven leaders of their Parish.

The thing that I think I need to probably add is that the Connétable has a unique position, as far as being a States Member is concerned, because the people who approach the Connétable on a person to person basis come from a very much wider cross-section than other political persons in the Island.

I say that because I believe that the Connétables who now sit on the committee - who have been Deputies in the past, for instance, and even one had been a Senator - will say that they have in the past been approached by people with a political view, whereas the role of Connétable you tend to meet a far wider cross-section and many people without a political view, but people who just have a worry, a personal worry or a worry about their situation within the parish.

I have to say that during my time as Connétable - and right now I have been Connétable for some 15 years - but the perceived problem of the role of the Bailiff, Deputy Bailiff and Law Officers within the Island is not a matter which has been raised with me before.

THE CHAIRMAN: We have certainly heard from sources all around that a lot of people have had a considerable regard both for the institution and the people who have successively occupied the post of Bailiff, in the way that they have carried out their duties. From your day-to-day knowledge of Jersey and the people - apart from your own Comité - to what extent do you

think people who support the institutions and very many of them would be unhappy to see them change?

CONNÉTABLE VIBERT: I think that much has been made of Jersey tradition and it is a Jersey tradition that we are looking at here, a tradition which goes back to the 1200s, 1300s, so it is a long-established tradition and, in my opinion, the roles have been held in very high esteem by Islanders over many generations. And although I accept that there is a group of people in the Island who would like to see those roles changed, I don't believe that that particular group carries a great cross-section of support.

THE CHAIRMAN: This is an important factor in any approach which one takes to constitutional matters. One must take into account the quantity of popular support for an institution. If it has to be changed nevertheless for good reasons, well, then that is something which the people have to look at very carefully, but if one starts from the situation of very considerable popular support that is a significant factor. We have got that pretty clearly all round. We certainly give it proper weight in our consideration.

CONNÉTABLE VIBERT: I don't believe that that's the case with this particular issue. I certainly don't believe that there is a very wide support. There is certainly some support and I would say that the public as a whole are probably not that interested in the subject as yet. The interest would probably arise when and if a change was to be proposed.

THE CHAIRMAN: You touched on some of the other activities and functions of the Bailiff, as well as that in the Royal Court and in the States and the formal parts of his visiting duties and so

on. Visite Royale sounds an interesting operation. Do you find that that is valuable in the parishes?

CONNÉTABLE VIBERT: I think it is. Going back, it is an established tradition in the Island. Much of the contact which the Comité des Connétables has with the Bailiff and Deputy Bailiff and the Law Officers to that extent - although the Law Officers will tend to have more contact with the Comité des Chefs - which we have is one which is very much appreciated by the public, and if I am allowed to just enlarge on that a little, it is also a position which is extremely highly regarded overseas. I've had many dealings with France, and certainly the role of Bailiff in France is very, very highly regarded.

THE CHAIRMAN: What sort of things are raised on the Visite Royale?

CONNÉTABLE VIBERT: Well, the Visite Royale is actually the sitting of the Court and the tradition is that the Court visits the Parish: (a) to ensure that the Parish is being properly run, to check that the books are being properly audited and accounted for and also to give the opportunity to parishioners to actually raise a matter with the Court, which they would not normally have the ability to do so.

THE CHAIRMAN: Does that happen?

CONNÉTABLE VIBERT: And it happens. Yes, we look at all sorts of things. The last Visite Royale at St Ouen raised the matter of danger to the public from the danger of a rockfall, and that's now been going for the last four years and only now we seem to have found a conclusion and a result.

THE CHAIRMAN: When the Court receives these complaints, the Court has a rather limited ability to do anything about it. How does it actually deal with them when it receives these matters from the parishioners?

CONNÉTABLE VIBERT: Well, as I say, it's a full sitting of the Court so usually one of the junior lawyers is charged with defending the case and the Court has, at the sitting, elected 12 persons from the parish jury, if you like, called voyeurs who are responsible for putting these matters before the Court.

Looking back at our last session, there was a tree root which had protruded into the public highway and they brought that to the attention of the Court and asked the Court to decide who was responsible, whether it was the owner of the tree or the highway authority. I have to say that in most cases the Court will reserve its judgment and talk about it before making a judgment, but on that occasion they were fairly instant in saying that the owner of the tree was responsible. That's the sort of thing which is brought up.

THE CHAIRMAN: Yes, that is very helpful, thank you. In the Licensing Assembly, again this is the Connétable bringing the Assembly up to date on matters to do with licensing he himself --

CONNÉTABLE VIBERT: All licensing applications will come before a Parish Assembly prior to it being forwarded on to the Licensing Assembly and the Licensing Assembly is not always chaired by the Bailiff - it may be one of the Commissioners - but any person who has raised a complaint or an issue with the licence at Parish Hall Assembly level has had their name submitted to the Court and is then allowed to address the Court.

THE CHAIRMAN: You mentioned that there is a body of thought that this is an administrative role, but in fact, in an awful lot of places, it is done as a judicial role and sometimes quite hard-fought matters in courts and other jurisdictions, so I do not know that it is universally considered to be something other than a judicial matter. Public entertainment, a slightly different type of thing; this I suppose descends from the original jurisdiction of the Bailiff over practically everything rather than a judicial role --

CONNÉTABLE VIBERT: I think, as I point out in my response, that the role is done on the Bailiff's behalf and by a panel which usually consists of most of the service officers, and the Bailiff's role is merely to ensure that that panel makes that decision. I don't believe that the Bailiff gets personally involved in that position.

THE CHAIRMAN: Coming to the States Assembly, is there a common view among the Connétables whether the Bailiff should remain as the regular presiding officer over the States?

CONNÉTABLE VIBERT: I'm not convinced there's a common view. There may be one or two Connétables who might not be totally in support of that, but certainly the view of the majority of the Connétables is that we don't actually see a problem with the Bailiff presiding. Obviously the President of the Assembly needs to have sufficient legal background to be able to direct the Assembly in the right direction and the Bailiff is never asked any legal opinion which the Assembly wishes to receive and is normally referred to one of the Law Officers.

So the position of the Connétables is that we don't actually see a problem with the Bailiff presiding because the Bailiff's role is merely to preside and to guide the Assembly, not to actually get involved in any decision-making.

THE CHAIRMAN: The Bailiff no longer has the casting vote since the 2005 law, so that equality of votes is provided for by statute now so that it cannot really be said to influence the outcome of legislation in that way. From your experience, do you find that a Bailiff can steer matters in any direction by virtue of his powers as a presiding officer?

CONNÉTABLE VIBERT: That's certainly not my experience. It seems to me that the States members who wish to go in a different direction seem quite capable to do that, even sometimes against the direction of the Bailiff.

THE CHAIRMAN: His powers of allowing propositions and questions, the extent of which are laid down in Standing Orders, does that seem to have much of an effect in determining the outcome of proceedings?

CONNÉTABLE VIBERT: I'm not sure if it has any effect on the outcome of proceedings. It certainly has an effect on the length of proceedings. I personally - and this is just a personal view - believe that the Bailiff should be much stronger in what he allows as a question and what he doesn't. The situation at the moment is that we appear to get the same question on a number of occasions at the same sitting and I think there should be an ability for the Bailiff or the presiding officer to actually bring that to the attention of the questioners and say, "Look, the three of you can't ask the same question. We need to come to a consensus of what this question is going to be".

MR STRANG: Do you think the reason for that is so he is not seen to be too political? Do you think if he says --

CONNÉTABLE VIBERT: I believe that's possibly the situation, wanting to give everybody an equal opportunity here.

MR CRILL: As far as the Bailiff's position as civic head is concerned, how important is that to you as a Connétable?

CONNÉTABLE VIBERT: It's very important to me. I think that the --

MR CRILL: Sorry, how does it sit in relation to your position as head of the Parish?

CONNÉTABLE VIBERT: I think that the Bailiff's role is extremely important for the Island, not merely to me as a Connétable, and I am fairly confident that I can say that the majority of my parishioners feel the same.

MR CRILL: Do you have any thought of where that position comes from? In other words, is it because he is the head of the Court, is it because he is the head of the States Assembly or would the removal of either of those make his position as civic head impossible?

CONNÉTABLE VIBERT: I don't think I can voice an opinion on that. I refer back to my original comments that I don't think that the question has been asked. The review is to look at the role,

but I don't think that anybody's been given an option of what the alternative is and I think it's only when that option becomes apparent that the public will actually take an active interest in it.

MR CRILL: Can I just ask about the position of the Connétable vis-à-vis the Honorary Police in the parish? The Attorney General is the titular head of the Honorary Police; where does the Connétable fit in with that and what is the relationship of the Connétable to the AG as far as the Honorary Police is concerned?

CONNÉTABLE VIBERT: Well, following the Clothier Review of 1998 or 1999, the Connétables made a decision to step back from active policing and, to that end, actually undertook the suggestions made in that report, and in 2005 brought forward a proposition to establish the Comité des Chefs who are made up of senior Centeniers from each of the 12 parishes, who undertake the responsibility for the active policing of the Island. So the Connétable retains the role of ensuring that public peace is kept in their Parish but the active policing role which that leaves is taken over by the Comité des Chefs and certainly the States.

MR CRILL: What about matters of discipline or that sort of thing?

CONNÉTABLE VIBERT: Well, matters of discipline still come through the Connétable, but the Connétable invariably take advice from the Attorney General as to how that matter should be proceeded with. There is a set procedure set down which the Connétables will follow.

THE CHAIRMAN: As titular head of the Honorary Police, the Attorney General has the final responsibility for matters of discipline, is that correct?

CONNÉTABLE VIBERT: Yes, although not necessarily to make the final decision. The Attorney General, having received a complaint through the Connétable, will then decide how that complaint should be dealt with, and in a serious case that matter will be conveyed to the States of Jersey Police who will undertake the investigation.

THE CHAIRMAN: If it is what I call a middling case, not one which is likely to require prosecution of a member of the Honorary Police, but one that is more than something that a mere warning or advice would deal with, what is the procedure? A member of the public, say, makes a complaint ... are you going to deal with this, Mr Scaife?

CENTENIER SCAIFE: I think perhaps if the Connétable is happy, I can.

CONNÉTABLE VIBERT: Yes, yes, go on.

THE CHAIRMAN: Yes, yes, please. Well, perhaps we could switch for the moment.

CONNÉTABLE VIBERT: He's closer to it than I am.

CENTENIER SCAIFE: Invariably a member of the public will make a complaint to a Connétable and it could be a fellow officer. It could be a States police officer, it could be a fellow officer in rural police being in that Parish, it could be a member of the public. After that complaint is put into writing the procedure is that it's recorded in a complaints book which each Parish, by law, has to hold. From there on in, once it's recorded, the complaint must be forwarded to the Attorney General.

Now, the Attorney General at that stage will review the complaint and decide whether the matter can be resolved informally, in which case he'll write back to the Connétable and say, "Look, I think this is suitable for an informal resolution. Could you try and get the complainant and the officer that's being complained about to come to an agreement and try and resolve it that way?"

If the matter is of a more serious nature, which would result in a serious disciplinary charge of a criminal nature, it will be referred to the Deputy Chief Officer and the route that takes is that the Attorney General will write back to the Connétable of the Parish and direct the Connétable to then write to the Deputy Chief Officer of the States of Jersey Police to carry out an investigation. That is normally conducted under the umbrella of the Professional Standards Department at police headquarters.

After that, what will happen is a report is then compiled by the investigating officer and he will always be overseen by somebody of the rank of inspector. Once that's done his report will be sent to the Deputy Chief Officer of the States Police and it will then be forwarded on to the Attorney General, the Jersey Police Complaints Authority - if they are supervising the investigation - and to the Connétable of the Parish. The Attorney then normally has to decide whether there is no case to answer and no further action needs to be taken or whether indeed he needs to hold a disciplinary hearing in which the officer will have to attend.

The Attorney General then has a range of options and then he can decide to dismiss the officer, the officer can be asked to resign, the officer can be given a reprimand or a censure or suspended temporarily from duty. It has to be said that it's very rarely -- it's normally a reprimand for most low-level things. Clearly if it's of a criminal nature charges may well be

preferred through the criminal route and not the disciplinary route. That's the broad structure of how the complaints normally work.

THE CHAIRMAN: That is entirely clear. Thank you very much. Of course, Mr Vibert.

CONNÉTABLE VIBERT: If I could just maybe point out that the role of the Attorney General in the whole of that process is not dissimilar to the role which the Attorney General does with a civil case.

THE CHAIRMAN: Yes, also it reinforces this sort of path. Complaints authorities do not if determining jurisdiction, they look at things, have investigations made and make recommendations, but that is as far as they go. If a police authority were established it would not have disciplinary functions and that, I believe, would be most unusual for a police authority to have disciplinary functions.

Again, there must be always a disciplinary authority within the particular force: States of Jersey Police, the Chief Officer; the Honorary Police, it is the Attorney General. If it were not the Attorney General, who would it be?

CENTENIER SCAIFE: I think it has to be the Attorney General. Certainly from our perspective the Attorney General has always been fair-minded. The thing is he's not elected and he's a Crown appointee so he doesn't have any particular ties or loyalties to a Parish. So he can oversee the investigation and the conclusion impartially and we should be able to do that.

If the Constable has to deal with a disciplinary matter and it fell to him or her, it would be difficult. Other than informal resolution, if they had to discipline an officer - as the Chief Officer of the States of Jersey Police has to - I think it would be a very difficult role for the Connétable to carry out, other than basic, informal resolution.

Because of Parish loyalties and because of the small communities that we have on the Island, it's far better that the Attorney General does this. He can oversee it from a distance and he's not directly connected with any of the operational policing of the Island police. Of course he is the final authority on charging and we are responsible to him for that role, but he only issues directives regarding operational policing. He legally and does not take any active part whatsoever. So from that point of view, you can have an independent mind perhaps on what's going on and make recommendations.

THE CHAIRMAN: The preference of your Comité would be that he remain in role. How does that chime with the Connétables' view, Connétable Vibert?

CONNÉTABLE VIBERT: I'm sorry, I didn't quite understand that.

THE CHAIRMAN: How does that accord with the view of the Connétables that the Attorney General should remain as the titular head of the Honorary Police?

CONNÉTABLE VIBERT: Yes, we entirely agree with that situation, yes. Obviously the title, titular head itself, is a little bit difficult to actually lay down in law, if you like, but I think that it's a traditional relationship which the Parishes have had with the Attorney General which has not so far produced any adverse effects, in fact has added to the strength of the whole system.

THE CHAIRMAN: Can I possibly get on to the question of charging of offences, which I think is the accepted police end? We have received some material from the Attorney General about how the system works and from the Deputy Chief Officer of Police and the way that matters come through: investigation of an alleged offence, ascertainment of the facts, reports being prepared and then going further up via, in many cases, advice to the police before it comes to the Centeniers, because the police may have received advice from the Attorney General staff who are working in liaison. Once that is complete then it must under Jersey law go to a Centenier to determine whether to charge or not. Now, I can see how that has developed historically, it is an off-shoot of the Honorary Police system, which was just about the whole system at one time. How useful a function do you feel it has now?

CENTENIER SCAIFE: It is an extremely useful function to have. Effectively you have a small community and you have elected officers who hold that rank and their job is effectively to charge people and to prosecute people in the Court. They also have a degree of discretion. They're independent. They do not work for any arm of the government or the State, so they are answerable to their Connétable in their Parish and to the Attorney General for charging purposes.

So they are not effectively in any way, shape or form an arm of government, so when they go in to look at any evidence that is presented to them by the States of Jersey Police, indeed by any government, it could be Customs, it could be fisheries, it could be Social Security, they have an independent mind when they look at it. They have to review the evidence and weigh up the evidential test and the public interest factor.

Now, the legal advisors who work in the Law Officers' Department and are based at the police station do have a very, very close working relationship with the Centeniers. It is almost a daily basis. We may speak to them on the phone 10 to 15 times a day sometimes. We work with them very closely in the courts. Where there may well be legal argument, it could be a fraud, it could be a complex drug case, it could be a complex child abuse case, they probably will be reviewed by one of the legal advisors. The legal advisors may then put their advice in writing to the officer in charge of the case or they may speak to the Centenier directly.

In St Helier it is probably quite likely they will speak to the Centenier directly and say, "Look, we've reviewed the case. We're happy with the evidence here". So you have had advice from a professional lawyer, which is very common. It is an important role because they can look at things independently. They are not pressure-bound to make a decision for any political or any reason that may be politically correct; they can look at it in an independent light.

THE CHAIRMAN: I understand there are a considerable number of Centeniers in Jersey in total.

CENTENIER SCAIFE: Fifty-six.

THE CHAIRMAN: Some would be more experienced than others and some would have more background enabling them to do this type of work than others. Is there any system of training, education of new Centeniers to ensure that they are as knowledgeable as may be about their role and the work?

CENTENIER SCAIFE: Yes, there is. The two professional legal advisors who work at the

police station do provide training courses for Centeniers, either when they first are elected - and they are now elected in each parish on a nine-month basis - they will receive training then. Then as they progress through their period in office they can receive further training. That is normally court-based. It revolves around presentation in court, evidential issues, presentation regarding jurisdiction of cases - whether they can be dealt with in the Magistrate's Court or the Royal Court - bail applications and review of evidence.

It is very important and these will always take place in court. They are quite extensive. I found them always very beneficial. A good majority of Centeniers do attend. It is not mandatory. It should be mandatory, as far as I am concerned. There should be a law in place that they do attend the training, but the majority do. There have never been any complaints about it. It works very well.

The legal advisors that we have, without speaking too much on their behalf, do have a very close working relationship with us. One of them is actually from the UK. He has a UK background, but there've never been any issues. It's worked very well.

THE CHAIRMAN: What's the present position about Centeniers appearing in the Magistrate's Court? I am a little unclear about what actually they do now. I know they used to do quite a bit.

CENTENIER SCAIFE: They do exactly what they always did. They present cases, they effectively take the individuals to court. The individual may be charged at the police station or they may be charged at what is known as a Parish Hall Inquiry. Each Parish has a Parish Hall Inquiry. If a person is stopped by the police and reported for an offence of a low-level nature, they will be requested to attend a Parish Hall Inquiry. So they could be charged at one of a

number of routes.

The Parish then draws up all the charge sheets. Centenier goes to court and effectively he has control of that case. He must read the charge and then if there's a guilty plea he must present the facts and the evidence to the court and anything the court needs to know. If there is a reserve plea, the case will be adjourned for the defendant to get legal aid. If there is a not guilty plea then the case will be passed to the legal advisors to review. If they're satisfied with that it would then be taken to trial.

All trials as from 2007 are now conducted by the legal advisors. Prior to that the Centeniers would conduct them or arrange for them to be done.

THE CHAIRMAN: There was a recommendation in the Rutherford Report that the role of the Centenier in the Magistrate's Court should cease. Has the role changed in consequence of that report in any respect?

CENTENIER SCAIFE: Yes, it has. In 2007 it became apparent that there was some political roles here and there were, I think, some hearings in the States regarding this. It was felt that the Magistrate who would cross-examine in a trial was not independent enough. He would cross-examine for the prosecution, so he was wearing two hats. He was deciding the person was guilty and he was also cross-examining him. It was felt that was totally inappropriate. Centeniers agreed with that, by and large, it was inappropriate, so from that date onwards, all not guilty pleading trials were presented by a legal advisor, who can cross-examine. Now, there is probably some argument to say that some Centeniers could be trained in that role. Indeed, I think, there is some opinion that that would be beneficial for low-level matters. It is quite clear

that the Magistrate should not be cross-examining the prosecution. That is accepted across the board completely.

THE CHAIRMAN: Can you assist me with something about the mechanics of the Parish Hall Inquiry? We have heard something about this and a lot of people value the institution as having a very good function in squashing low-level crime before it gets into the criminal process. How exactly does it happen at that stage and how does it get into being? I would be grateful if you could help me on that.

CENTENIER SCAIFE: Effectively it can happen a number of ways. If a person is, say, stopped on the road for a motoring offence, say for holding a mobile phone or driving through a traffic light or speeding, whereas in the United Kingdom they would probably be given a fixed penalty ticket, over here they would be asked to attend a Parish Hall Inquiry, in whichever Parish the offence took place in.

St Helier holds Parish Hall Inquiries generally four or five evenings a week, most Parishes one evening a week or less as the case may be. It could also be that a person has been arrested for a low-level public order offence and the police decide that rather than call the Centenier in to charge them, because the person is a first offender, they're very young, it's fairly low level, they will be sent to the Parish Hall.

Those sorts of offences would be like obstruction, refusing to obey, drunk and disorderly, minor matters; sometimes more serious matters can go as well. The defendant would then voluntarily be asked to attend at the Parish Hall Inquiry. They would attend and the Centenier would explain the proceedings to the person that's attending, that they are there voluntary and what his

or her role is.

The Centenier is always accompanied by another person, another officer in the room. The person will then be given an outline from the police report of the evidence against them and told exactly why they're there and the alleged offence they've committed. After this is done the person will then be cautioned and then asked to give a reply as to what their view is or if they wish to add anything further.

Based on what the Centenier has heard, he will have to come to a decision whether the matter should be dealt with by the ultimate option of charging the individual and taking them to court or summarily by way of a fine or by way of a written caution or no further action. So they are the four actions that would probably have to be considered.

Now, the Centeniers can fine under a good number of statute laws. Those fines have just been recently increased and in some cases a Centenier could fine up to £200 for an offence. Invariably they don't. It would normally be considerably lower. That would be the maximum. There are guidelines in place, agreed by the Comité des Chefs and the Attorney General and the Constables know about this, as to what should be an acceptable fine. For instance, a mobile phone may be £75 and that would be something that would generally be adopted across all 12 Parishes.

If the Centenier asks the person if they accept the report as being correct and then decided to levy a fine, the person has the option if they don't like that decision to go to the Magistrate's Court, if they so wish. They are always advised that they can do that.

THE CHAIRMAN: So this is occurring at the stage when there has not been a final decision as to whether there should be a criminal charge or not?

CENTENIER SCAIFE: It could be. When they come to Parish Hall, most offences in Jersey are criminal. They nearly all are actually. We have a peculiar situation over here, so even very minor traffic offences are technically criminal offences over here. So when they appear at Parish Hall the Centenier has to weigh up a number of options, whether the person's a first offender, the weight of the evidence, the public interest factor and whether it's worth taking it to court. Particularly with juveniles it's a good route to keeping them out of the court system.

THE CHAIRMAN: Yes, we've been told about that and its advantages. I am just looking at it in terms of the structure within the system. When the potential defendant has been asked to attend a Parish Hall Inquiry, the final decision has not yet been made whether that person will be prosecuted or not.

CENTENIER SCAIFE: That's correct.

THE CHAIRMAN: And if so, for what charge.

CENTENIER SCAIFE: Yes.

THE CHAIRMAN: So that the question of charge or no charge will be deferred until the Inquiry has taken place.

CENTENIER SCAIFE: That's right.

THE CHAIRMAN: And the Centenier has weighed the matter up, decided which course to take, which could be any of the four options: charge, written caution, fine or no further action. Then and then only is the process complete, shall we say. It either goes to charge or it has been disposed of by Parish Hall Inquiry.

CENTENIER SCAIFE: That's correct, yes.

THE CHAIRMAN: That's very clear. I've been trying to get this straight in my mind and I'm grateful to you. This is why the Deputy Bailiff, former Attorney General, was maintaining to us that it is part of the charging function and not a part of the judicial function.

CENTENIER SCAIFE: That is correct. That has caused a little bit of controversy on a number of occasions.

THE CHAIRMAN: There is a hearing and deciding element in it as well. But it's deciding whether to charge or not is the large part of it, put it that way.

CENTENIER SCAIFE: It's an extremely large part of it, yes. You have to have the public interest factor very much at heart here. Many people who do go to Parish Hall are charged and many people are not and they are disposed of as a small sanction. It is not a judicial role, but the option at the end of the day if the person is not happy with the Centenier's decision they can always elect to have the matter heard in the Magistrate's Court. They are always told that. They know they can do that. Very rarely does it happen.

In my experience of all the thousands of people I have probably dealt with at Parish Hall, I have only known that happen on two occasions, probably might well be the same with the Constable and his experience. It's very rare they want to go to court.

CONNÉTABLE VIBERT: I think the great strength of the Parish Hall Inquiry system is the fact that it has the ability to keep people, especially youngsters, out of the criminal justice system.

THE CHAIRMAN: Yes, we've certainly had that made clear to us by a number of people. What I am wondering is assuming - I am just thinking on my feet or backside here - that one took the view that charging should all be done by a professional lawyer in the Attorney's department and not by Centeniers, is there room still to hold a Parish Hall Inquiry by means of going as far as deciding charge or no charge and at that stage then referring it to the Attorney General's department?

If it's a serious case, if it's a very serious case of grievous bodily harm, Parish Hall Inquiry is obviously not in point. So it goes straight to charge wherever. If it's a minor thing Parish Hall Inquiry with all its benefits you've described, could take place. Is it necessary then that the Centeniers should remain as the charging people or could it then be handed over to the Attorney General's department?

CENTENIER SCAIFE: No, I think it's necessary that the Centenier does remain as a charging person. From experience, of all the people I've charged their ability to look at the evidence and take an independent viewpoint and weigh it up - bearing in mind they are answerable to the Attorney General and they know that and he's quite important - if you were to go to the UK, you'd have a professional police officer charging and have probably a Crown Prosecution

Service, a mini-Crown Prosecution Service, which I don't think will work. It works well in the UK and maybe in certain areas, but it wouldn't work here.

It's quite important the Centenier has that role, because he's answerable not to - this is very important - a State arm. He can look at it with an independent set of eyes. It's not perfect and of course mistakes will be made. There again the CPS makes some huge mistakes as well in the UK, so it's far from infallible. But by and large you have enough built in systems with the Attorney General's department and the legal advice department for checks to be made and for the Centenier to take advice if he needs it and that's available 24 hours a day.

THE CHAIRMAN: But the limitation of the charging process, if I can call it that, must create disadvantages as well. Where, for example, the Centenier has not been involved in the inquiry process at all and is simply brought in to administer the charge, there could be delays, there could be perhaps unnecessary incarceration pending charge before there is the opportunity to --

CENTENIER SCAIFE: No, that shouldn't happen over here, because invariably I think if investigations had been completed that person would be released. The Centenier will come in and have a look at it. He will have a completely dispassionate view. He will have no connection with the investigation, but he will gather all the information and have a look at it.

If he is part of the investigation, this is an important point, then he has that kind of attachment to it and he is bound to be - it's human nature - biased. If he's not part of the investigation and he's independent then he can look at it independently without having any attachment to the investigation and what's happened.

The charging process over here is not particularly lengthy. I mean, cases sometimes have to be reviewed, but I don't know of any situations where people should spend excessive time in custody because of a charging decision. The Centenier is called in to review that evidence. If he is not happy with it the person will be released. They won't be kept in custody. If they're charged then they'll either be kept in custody and taken to court or released on bail.

CONNÉTABLE VIBERT: There is no time delay because the Centenier is available at all times. So even if it's 3.00am in the morning on a Sunday morning, the Centenier will attend to deal with the matter at police headquarters if that's where it needs to be dealt with.

Whilst I'm here I would like to also point out that the Parish Hall Inquiry and the ability of the Centenier to actually decide on whether an offence has been committed and then to charge is very much strengthened by the fact that he's not an individual just looking at the paper evidence put before him. He actually has the ability to ask the people involved on both sides to come in and air their view to him before he makes that decision. I think that adds to the strength of it, as against someone in an office just receiving the paperwork and deciding if a charge should be made.

THE CHAIRMAN: Who actually decides that an individual should go to a Parish Hall Inquiry or be asked to come to a Parish Hall Inquiry rather than the matter should be charged? Say you have a traffic accident and it is debateable whether it should be regarded as a fairly minor piece of bad driving or a serious piece of bad driving which must come to court, who decides and when that is a Parish Hall matter or not?

CENTENIER SCAIFE: The officer in charge. If it's on the road then the officer in charge will

decide that there is perhaps a case to answer and refer it to Parish Hall with a view to the Centenier to look at it. Of course it will be reviewed after that. His sergeant will then review it to make a recommendation. So they always make recommendations.

If it's from the police station and a criminal investigation then the custody sergeant will decide. He will look at it and decide, "Yes, this should go to Parish Hall". He will make a recommendation and it will go the Parish Hall route. Very occasionally they'll ring up and they'll say, "We're not too sure whether we should recommend charge on this one or send it to Parish Hall". So there's quite close liaison between States of Jersey police and the Centeniers.

MRS BACKHURST: Could you just confirm for me that the Centeniers are not paid?

CENTENIER SCAIFE: Yes, that's correct.

MRS BACKHURST: But sometimes there's an honorary in cases?

CENTENIER SCAIFE: Yes, they do receive an honorary. It varies in each Parish. Each Parish has a different way of doing it. But it's not and never has been a salaried position.

MRS BACKHURST: Any honorary would come out of the Parish expenses?

CENTENIER SCAIFE: It would do. Normally perhaps the police budget in the parish, I'd imagine.

THE CHAIRMAN: They are elected. Is that right?

CENTENIER SCAIFE: Elected, yes, for three years.

THE CHAIRMAN: How many people do you normally find are standing for election at any given time?

CENTENIER SCAIFE: It's not often we have a contested election for Centenier. It does occasionally happen, but it's rare, because this is an old position. There's a high degree of responsibility. There is a large amount of time taken up with prosecuting. So it's only occasionally we'd get a contested election. It has to be said that most Parishes will probably try and find a candidate they think suitable, is of the right calibre and can give the time and would know what they're doing; maybe somebody internally who's held a lower rank or it could be somebody from outside of the Honorary Police who may well be suitable. I wouldn't quite like to put it as strong as head hunting, but certainly we will go and try and locate people who we think -
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THE CHAIRMAN: I am familiar with all this. Did most of them serve in the Honorary Police?

CENTENIER SCAIFE: That's very difficult. I don't know if we've got any stats on that, but a fair few have. Not all of them though, but a good fair few.

THE CHAIRMAN: That was the impression I had.

CONNÉTABLE VIBERT: How many Centeniers had served in the Honorary Police that are currently --

THE CHAIRMAN: Before they were elected Centeniers.

CONNÉTABLE VIBERT: Yes.

THE CHAIRMAN: I'm not sure. I haven't any idea, but certainly in the Parish of St Ouen all of them have served in the Honorary Police before being elected Centenier.

CONNÉTABLE VIBERT: One thing I'd just like to add about the election of Centeniers, and you pointed out about the need for training, and Danny pointed out that we now elect our Centeniers on a nine-month rolling system, so that you don't get a group of Centeniers in a Parish all elected at the same time. So you've always got somebody there with sufficient experience to help a new Centenier through.

THE CHAIRMAN: That is very helpful, thank you. That has made it much clearer for me.

CENTENIER SCAIFE: Thank you.

MR CRILL: Can I ask if there is ever an eventuality where the Centeniers investigate a case involving the police advisors but not the States police?

CENTENIER SCAIFE: No. The rule of thumb now is that we recognise there could be a conflict here and Centeniers should not really be investigating a case and then dealing with it as a Centenier. A Centenier wears a number of hats. Now, if a Centenier is doing a road check and he stops somebody for using a mobile phone, he may report that person and that paperwork will

be submitted to the police station and go the normal route to the Criminal Justice Department. He will not deal with that person at Parish Hall or take any part in the charging process.

There's a strict dividing line now. If the Centenier's involved in any type of investigation he cannot be the charging officer or the presenting officer in court. There must be a dividing line. If he does carry out an investigation then the paperwork must be submitted to the States of Jersey police through their Criminal Justice Unit. It doesn't have to be by law, but that's how it's done; best practice. It shouldn't be independent. It goes to the States Police.

There is one other thing that's quite important, I think, that's connected with this is that the Attorney General does also issue directives from time to time on various operational matters. That does help. He may consider it not appropriate for Honorary Police to be doing high-speed chases in police cars and things like that. Well, it's clearly not. So he'll issue a directive to that effect.

These do help. So if we need advice on a particular issue we can go to him and we can ask him to consider issuing a directive. The Comité des Chefs issue directives as well. But if we feel the need of a more authoritarian or stronger approach we'll go to the Attorney General.

THE CHAIRMAN: There's also a document containing guidance for Centeniers on prosecution, isn't there?

CENTENIER SCAIFE: There's a very large manual which has just been updated. It's a very thick manual. It contains all the procedures for charging and bailing in a Magistrate's Court or at a police station and all the relevant laws that they need to know about. It's a fairly

comprehensive document.

THE CHAIRMAN: It has pretty fundamentally changed in what, ten years?

CENTENIER SCAIFE: Yes, there are a number of things that have changed. You've had the human rights law that's come in over here. You've had PACE that's come in, which has been adopted for Jersey, which has changed things considerably. We've had cross border powers. Our own powers have changed somewhat. When part 5 of PACE - and part of that's coming in in June of this year, concerning police bail - comes in that will be another change. So the changes, I would say, in the last ten years have been fairly dramatic, yes.

THE CHAIRMAN: Has that enhanced the popularity, shall we say, of the Honorary Police, both in finding candidates and in terms of, shall I say, your customers?

CENTENIER SCAIFE: I would say not. I would say by and large the public may not be aware of the changes that have affected the Honorary Police. I think probably where it has the biggest impact - and I'm sure that Mr Vibert won't mind me saying this - but amongst people who have been a fairly long time in the Honorary Police, who have had a long connection with it, I think some of the new laws, particularly regarding PACE, they regard it as a different type of policing. It can be perhaps difficult to adapt to. Invariably people do adapt to it, but it has changed the Honorary Police slightly. Yes, it has.

It's given them greater powers in many respects as well. If you study the PACE law we are built into it under quite a number of laws.

THE CHAIRMAN: That has been a very helpful session. Thank you very much. I certainly have found it enlightening myself. Connétable and Centenier, thank you so much for your help. We will put this all into our consideration along with a mass of other stuff and I hope we will be able to reach useful conclusions at the end of it. Thank you very much, very good of you.

CENTENIER SCAIFE: Thank you.