



**TYNWALD COURT  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
QUAIYL TINVAAL**

**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**SELECT COMMITTEE ON THE  
MANX ELECTRICITY AUTHORITY**

**BING ER-LHEH TINVAAL MYCHIONE  
LUGHT-REILL LECTRAGHYS ELLAN VANNIN**

**Douglas, Monday, 16th March 2009**

**Members Present:**

Chairman: The Speaker of the House of Keys (Hon. S C Rodan)

Mr D M W Butt, MLC

Mr D Callister, MLC

Mrs C M Christian, MLC

Mr D J Quirk, MHK

*Clerk:*

Mrs M Cullen

**Business transacted**

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*The Committee sat in private at 11.37 a.m.*

## Tynwald Select Committee on the Manx Electricity Authority

*The Committee sat in public at 10.33 a.m.  
in the Millennium Room,  
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

### Procedural

**The Chairman (The Speaker of the House of Keys, the Hon. S C Rodan):** Good morning, everyone. Can I welcome you all to this meeting, which is a sitting of the Select Committee of Tynwald on the Manx Electricity Authority to take evidence in public session.

The Committee was established by Tynwald in July 2005 and, to remind you of the remit, it is:

*'To investigate the true and correct position with regard to the Manx Electricity Authority's affairs and, noting the PKF Report, to investigate the role of the Authority, the Treasury, the Department of Trade and Industry and other parties deemed appropriate, to ascertain what went wrong and to report to Tynwald with findings and recommendations.'*

Joining me on the Committee are my colleagues: Mrs Christian; Mr Butt; Mr Quirk; Mr Callister; our Clerk, Mrs Cullen; and Mr Alford is recording today's proceedings. At this point, could I ask everyone to ensure that mobile phones are turned off to avoid any interference.

As you will have gathered from our remit, the investigation is very wide ranging and we have received a considerable quantity of written evidence. The Committee has therefore decided to progress its investigation by separating the various issues, where practicable, and to investigate them in sequence. We will, therefore, be issuing a series of interim reports.

At the moment we are concentrating on the MEA's compliance with financial regulations and the provision of information by the MEA to Treasury and the Department of Trade and Industry.

We are conscious that many of the events being investigated took place some years ago and, in fairness to witnesses, we have prepared a file of the evidence which relates to the subject matter currently under investigation. All witnesses have, therefore, had the opportunity to view the documentation in order to refresh their memories and the file has been placed in the Tynwald Library and is available to members of the public.

### Administration of the Oath

**The Chairman:** I would, therefore, welcome this morning our witness, Mr Bell. Good morning, Mr Bell.

**Mr Bell:** Good morning.

**The Chairman:** Thank you for attending today. Can I ask the Clerk to invite you to take the Solemn Oath, please.

*Mr Bell took the Bible in his right hand and repeated the Oath.*

**Mr Bell:** I swear by Almighty God that the evidence I shall give to the Committee, at this and any further hearings, shall be the truth, the whole truth and nothing but the truth, so help me God.

**The Chairman:** Thank you.

### EVIDENCE OF HON. A R BELL, MHK

**The Chairman:** Could you please commence by stating your name and term of office as Treasury Minister.

**Mr Bell:** Yes. My name is Allan Bell and I have been Treasury Minister since December 2001.

**The Chairman:** I would like to give you the opportunity, if you wish, to make an opening statement before the Committee put specific questions to you. Is there anything you wish to say to the Committee at this stage?

**Mr Bell:** I do not want to make a formal statement at this stage, other than to say that, with the various pressures I have been under these last few weeks, I have had very little time to do any detailed research on this and the comments I make today are a product of my memory, rather than detailed research. I hope the Committee will recognise that.

**The Chairman:** Thank you.

Can I begin, then, by asking when did you first become aware of the difficulties between the Treasury and the MEA and, having found out, what steps did you take to remedy the situation?

**Mr Bell:** I think it first became apparent that there were strains between Treasury and the MEA shortly after I was appointed, so it would probably be in the springtime of 2002, early 2002. The Chief Financial Officer at the time, Mrs Williams, explained to me that she was concerned that we were not getting the level of co-operation from the MEA that she would have expected and she was doing her best to try and rectify that situation. That went on, I think, probably until June or July of that year.

**The Chairman:** Did you, during this period, raise Treasury's concerns with the Council of Ministers and, if you did, what was their response?

**Mr Bell:** I do not think I did during that period because it was a situation which was internal, so to speak, which we felt, given the good relationships that Treasury has, or had, with every other Department and every other Statutory Board, it was something that could be resolved through normal dialogue between the Chief Financial Officer and the Chief Executive of the MEA. So I do not think, at that

point, there was any reference to the Council of Ministers because it was deemed to be something that was resolvable within the normal process.

**The Chairman:** Mr Butt.

**Mr Butt:** Thank you, Mr Speaker.

At the time when you were first appointed, and through to the spring of 2002, we have in our files a series of e-mails, letters and reports between Clive McGreal, Ian Thompson, I think, and Alan Teare, detailing the problems they had with the MEA. Were you personally aware of those e-mails, reports and letters? Were they brought to your attention?

**Mr Bell:** Not specifically. From memory again, the only recollection I have from that period are conversations I had with Mrs Williams, who was probably reflecting the content of those e-mails to say that there were concerns about the lack of co-operation – and, I think, ‘bloody-mindedness’ was one of the phrases which was used – of the Chief Executive of the MEA in refusing normal co-operation with various officers, but I do not have any... In fact, I am sure I did not see any of those e-mails as such, no.

**Mr Butt:** Thank you.

**The Chairman:** Mrs Christian, at this point?

**Mrs Christian:** Can we move on to the next question?

**The Chairman:** We will move on, yes.

**Mrs Christian:** There was a Treasury meeting in June – 12th June 2002 – and at that meeting it was decided that a letter should be sent to remind the Department of Trade and Industry that the MEA has a duty to comply with financial regulations. Do you know whether a letter was actually sent and, if so, what response was received from the DTI?

**Mr Bell:** I cannot recall whether the letter was sent or not. I know there was, not a concern, but a feeling that the DTI should know that the MEA, who normally reported, as we understood at the time, through the DTI, because of that close relationship the DTI should be aware of this lack of co-operation.

I have to say I cannot recall now whether a letter was sent or not, but I think there was at least one conversation with the Minister for the DTI – possibly more – at that time, just expressing a general concern about the lack of co-operation that appeared to be coming from the MEA.

**Mrs Christian:** Did you feel that the DTI had any function or specific responsibility in requiring the MEA to comply?

**Mr Bell:** I think the view at the time was that the DTI had... The MEA was outside of the normal Government structure, but the link in to Government was through the DTI and, therefore, there was an understanding that the DTI should be aware of any difficulties that cropped up with Statutory Boards, not just the MEA, but the Post Office or the Water Board as well, if it came to it at the time.

Bearing in mind that this was an important issue, it was felt that, at least verbally, the Minister should be aware of our

concerns, just to put him on alert at that stage. But we still felt, I think, at that point – I think in the early days – that the whole spat was silly when every other Department complied fully with it, that it was something which was resolvable through the normal channels and I think that is probably about as far as it went at that time.

**Mrs Christian:** Just following on from that, and in the wider context, do you think there is a clarity about the DTI’s relationship with the Statutory Boards and the basis on which they are to represent them through the Council of Ministers?

**Mr Bell:** Yes. I think at the time there was probably an unwritten understanding of the link that the DTI had with the MEA.

With hindsight, and certainly with the experience of the MEA, which I have to say, in my seven-odd years now as Treasury Minister, was unique, there has never been a problem with any other Department or Statutory Board at all, I would think, with the benefit of that experience, there is a need to redefine that relationship, or to clarify the relationship once and for all, so that everybody knows exactly the lines of responsibility and the lines of communication. So I do think that is an area that... not that there is any problem today, I would hasten to add. This was a one-off, focused round one set of circumstances.

The Treasury has an excellent relationship with the MEA at the moment, but I do think perhaps to avoid any further confusion in the future, a clarification of that role is probably helpful, not just to Treasury but actually to the MEA and probably to the Water Authority and the Post Office as well.

**The Chairman:** Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.

Mr Bell, can I just ask you, once the DTI Minister was aware of the issue, were you expecting him to actually make contact and try to resolve the issue on a one-to-one basis?

**Mr Bell:** I do not recall having a conversation asking him to resolve it. It was really just to put him on alert that we were having problems with it.

As I said, we still felt confident, at that point, that common sense would have prevailed and we could have rectified the situation quite easily ourselves. It was simply to put him on notice that we were having some difficulty.

**The Chairman:** Thank you.

Mr Callister.

**Mr Callister:** Just prior to this, when you became Treasury Minister, at round about that time, did you notice that there was a great pressure to get this contract running and going fast, because people were throwing expressions around like, ‘The lights are going to go out,’ and so on?

**Mr Bell:** Yes. I think that is a fair comment, Mr Callister. The pressure built up over some considerable time – probably anything up to 12 months – in advance of me taking over at Treasury.

It was quite clear that the economy was really very, very buoyant at that time. It was growing fast. We were getting

comments made with increasing regularity, I think – not just from the MEA but by the previous DTI Minister – that the capacity was struggling to keep up. I think there had been even one or two outages in Douglas during that preceding period, which highlighted the urgent need to rebuild and expand the capacity at that time.

So, to answer your question, yes, I think there was, politically and through the business community, an increasing demand for urgent action to try and resolve this issue as quickly as we possibly could.

**Mr Callister:** So that would, in a sense, override the importance of complying with regulations, then?

**Mr Bell:** No, nothing overrides the compliance with financial regulations.

We were, as a Government, aware that this was a major project – I think it is probably the biggest single capital project Government has ever entered into – but there are financial guidelines. They are not put there by Treasury to trip anyone up or slow the process down, but it is to protect the developing Department or Statutory Board, so in that sense we would have still expected the financial guidelines to be adhered to.

There are times, I think, when, if a particular issue crops up, there can be a waiving of certain requirements periodically to try and help facilitate that, but in a general sense all schemes have to comply to financial regulations. It is the only way we can keep control of the Government finances.

**The Chairman:** Thank you.

So, in this period that we are talking about – 2001-02 – we have, of course, a lot of evidence of the non compliance by the MEA with the Capital Projects Unit, in particular of Treasury, and the degree of frustration being felt within Treasury.

In June 2002, of course, a direction was issued by Mrs Williams, who was then Chief Financial Officer. A letter, dated 25th June 2002, to Mr Proffitt, giving a direction to the MEA that they ‘shall comply in full with the procedure notes for capital schemes issued by Treasury via Financial Direction entitled “FD17 Capital Projects”’ and this followed the taking of legal advice by Mrs Williams. Can I ask you, did you see the Treasury direction to the MEA prior to its dispatch on 25th June? Did you actually see the direction?

**Mr Bell:** I am certainly aware of the direction. I cannot recall now whether I actually read the letter before it went or not, but certainly it was discussed with Mrs Williams.

Prior to that, as I have alluded to, we had tried every possible other way to cajole the Chief Executive of the MEA to co-operate with us. It was quite clear that he had no intention whatsoever to co-operate with what we were expecting, and this seemed to be the only route left for Treasury. Mrs Williams and I did discuss it. As I say, I cannot recall whether I actually read the letter or not before it went, but I was certainly aware of it.

**The Chairman:** As we know, afterwards, in July – towards the end of July – the direction was withdrawn on further legal advice. Did you discuss the proposed withdrawal of the direction with the Chief Financial Officer before it took place?

**Mr Bell:** Yes. A lot happened during that period. We wrote

to the MEA, as you rightly say, with the direction, as a last resort because we could not get any progress anywhere else, and again, as you rightly say, on the basis of the legal advice that we received from the Attorney General’s office. Not surprisingly, the Chief Executive of the MEA and, I assume, the MEA board itself were not happy with that and there was a strong reaction to the letter that they received.

We subsequently had further legal advice which completely contradicted the first advice we had, which then put the legal basis of that letter in question. It was a bizarre situation getting such contradictory advice from the same division at that time, but nevertheless Treasury had to be very careful about how far we trod on that. So we were obviously on difficult grounds and, during that period, I think I am right in saying that it was Mr Gelling, who – because he knew the Chairman, I think, quite well – went to see the Chairman and the Chief Executive to discuss the issue. It was decided at that point that we would try and draw a line in the sand on everything that had gone on, to try and have a fresh start on the relationship between Treasury... based in large part on the advice that we had had from the Attorney General’s office – the second advice we had from the Attorney General’s office.

As a result of Mr Gelling’s meeting and the agreement he reached with the MEA at that time, we decided to withdraw it and there was a mutual withdrawing of correspondence, I think. The MEA had written to us two or three letters, we had written a couple further to them, and the agreement was not just to withdraw that first one but, in effect, to draw a line in the sand under all that correspondence, in the hope that we could actually then put the relationship back on a firm footing again.

**The Chairman:** So you are referring to your letter of 31st July 2002 to the Chairman, Mr McCallion –

**Mr Bell:** I cannot remember the dates now.

**The Chairman:** – and in it you stated that the correspondence should be retracted by both sides, including the direction.

Can I ask, did you consult with the Attorney General’s Chambers before taking this action?

**Mr Bell:** I cannot remember now whether we did. I probably suspect not, because we had only fairly recently got that second letter of advice from the Attorney General that contradicted the first advice and we felt that was sufficient guidance to us, I think, to take that action at that point.

**The Chairman:** Do you recall if any consideration was given to reissuing the direction? Of course, the subsequent legal advice was that the wrong section of the Treasury Act had been quoted in issuing the direction, so my question is: was any thought given to carrying on to pursue the issue of a direction with the correct part of the Treasury Act?

**Mr Bell:** I think that probably was discussed in passing, but bearing in mind that Mr Gelling had what we thought was a very constructive and productive meeting with the MEA, we felt that, rather than revert back to the fairly draconian steps of issuing a directive to the MEA, on the basis of what Mr Gelling had agreed, we could actually work forward and achieve the same end without actually having to issue a

further directive. So I think, from memory, it was discussed but, put in the context of everything else that was happening, it was decided not to go ahead with it at that time.

**The Chairman:** Mr Butt.

**Mr Butt:** Thank you, Chairman.

Concerning the legal advice, at this time, the MEA was a Government Department, in effect. They would be receiving their advice legally from the Attorney General's Chambers, is that right?

**Mr Bell:** Yes.

**Mr Butt:** And the Treasury would be doing similar – advice from the same area.

**Mr Bell:** Yes.

**Mr Butt:** In view of the fact you had this conflicting advice within days from the Attorney General's office and they were working both for you and the MEA, what consideration did you give to getting independent advice to confirm the difference between the two letters you received?

**Mr Bell:** I do not think we did. We took the Attorney General's advice at face value, I think, at the time.

**Mr Butt:** Thank you.

**The Chairman:** Thank you.

If I could ask you, Mr Bell, you have said to us that, following the meeting with Mr Gelling and Mr McCallion, the troubled waters were smoothed over and it was an opportunity, to use your words, 'for a fresh start'. In your letter of 31st July, you proposed that a working party be established, once the current holiday season was over, comprising officers of Treasury and officers of the MEA, to find a constructive way forward, and certain officers were suggested.

Are you aware of whether that working party, which you referred to, was ever set up and set to work? You had envisaged at the time that the party would meet that September to establish a way forward and have an interim report produced for both bodies by early October. Can you recall whether that working party got off the ground?

**Mr Bell:** I cannot remember all the details of it now, but certainly my concern at the time was to get that group working as quickly as possible to try and get a swift conclusion to it. I know the initial steps were taken, I think, in September, possibly even October of that year, to try and get the group off the ground. From memory, I think there were several attempts at meetings between the various officers, but each time it was blocked by Mr Proffitt.

Obviously, you cannot get a working group going if you have only got one side turning up to the meetings. So it was quite clear that, in spite of the assurances Mr Proffitt and Mr McCallion, the Chairman, gave to Mr Gelling in June or July – whenever that first meeting took place – Mr Proffitt had no intention of honouring that understanding and those meetings never took place.

I think, again from memory, one of the... It is not a

complication necessarily, but one of the issues which cropped up round about that time, too, was that there was a change of Chief Financial Officer. I think it was November or December of that year – I cannot just remember the date now – when Mrs Williams went on to be Chief Secretary and Mr Shimmin came in as Chief Financial Officer. I think, as a result of that changeover, there was a degree of momentum that went out of that whole exercise as well. I know there were several attempts to get this group under way and the scheme in the end, the proposal in the end, was blocked entirely because of the reluctance or refusal of Mr Proffitt to actually join in.

**The Chairman:** Yes, because we see from 6th November of that year, a minute of a Treasury meeting you and Mr Gelling were at, the importance was stressed of meetings being set up between the MEA and the Treasury, Operation Fresh Start. Also, Treasury felt any investigations to be carried out should be done under the auspices of the Public Accounts Committee.

So you are confirming that, after the summer and this statement of good intention in November, Operation Fresh Start was still yet to produce any of the desired results?

**Mr Bell:** It was still on the starting line, I am afraid. Yes.

**The Chairman:** Mrs Christian.

**Mrs Christian:** Thank you.

Can I just revert to the situation where Mr Gelling spoke to Mr McCallion about the direction. Mr Gelling was there in his capacity as a member of Treasury at that time?

**Mr Bell:** Yes. Sorry, I should have said that.

**Mrs Christian:** Yes, okay.

The discussion then focused on the retraction of the direction. What were the main drivers for that? Was it a concern about the board going, or was a reassurance from Mr McCallion that things would change? What prompted you to change your mind?

**Mr Bell:** On the margins, I suppose you could say, there were certainly lots of threats abroad that the board would go if Treasury continued with its line of approach to this. We never actually had a direct threat from the board; it was just comments we were hearing from various sources.

But the main reason for the retraction was, as I said earlier, a result of Mr Gelling's discussions. We felt we could actually just draw a line under what happened, have a fresh start and we could get the level of co-operation that we required. I do not think we really took any notice of the threats to resign and the comments which were made down that particular avenue.

**Mrs Christian:** So you were satisfied, then, that Mr McCallion could influence Mr Proffitt to change his attitude?

**Mr Bell:** I had no reason to believe otherwise.

I have to say I did not know Mr McCallion. I had not met him. He came highly recommended as Chairman of the Authority and I suppose, particularly again as a result of Mr Gelling's own experience of Mr McCallion, we believed

that a new beginning and a new understanding could be achieved without the necessity of the threat of a direction coming from Treasury.

**Mrs Christian:** You asked, when it was retracted, that the documentation should be destroyed. Was there a particular reason for that?

**Mr Bell:** No. I have to say I cannot remember the destruction. What we were trying to do was simply to end that line of correspondence.

I do not know whether the letter was destroyed or not. That was almost –

**Mrs Christian:** You requested that it be destroyed.

**Mr Bell:** Then the only thing I can suggest on that is that that came out of the meeting that Mr Gelling had with Mr McCallion, that there was a request there that the correspondence should be destroyed, but I honestly cannot remember now whether it was. To be honest, it was irrelevant. The fact that it was withdrawn was the act that was the important bit.

**Mrs Christian:** Thank you.

**The Chairman:** Thank you.  
Mr Butt.

**Mr Butt:** Going on from those questions and what the Chairman said earlier about reissuing a new directive, when Operation Fresh Start obviously had not worked through late 2002, and even through 2003, when there is ample evidence that there had been no progress, what consideration was given by Treasury or by yourself to actually reissue the directive to make things work properly?

**Mr Bell:** I know there was a concern going on. There was a period, I think, where, whilst we did not get all the co-operation that we wanted, it did appear that the relationship was slowly improving, that there were better communications between Treasury and the MEA.

There was a liaison group, equally, that was meeting, I think, on a monthly basis, between Treasury, DTI and the MEA, to monitor the... This was not to deal with the MEA generally; it was specifically to deal with the power station project. The feedback there was that, certainly in terms of the costs of the scheme, everything was in order. It was on time, within budget, and again I am only speaking from memory so I could be wrong on this, but I think the feeling was, during those early months of 2003, that things were slowly improving. There were no causes for alarm being presented to us and, therefore, I think the feeling was, 'Well, let's just leave it a bit longer to see if things do now sort themselves out.'

**Mr Butt:** Just going back to before the directive was issued, you said you had made every attempt to cajole the Chief Executive of the MEA to comply. Did you personally take part in any of that?

**Mr Bell:** No, this was between the Chief Financial Officer and the Chief Executive.

**Mr Butt:** And when the directive was issued, who

approved that? Was that down to the Chief Financial Officer, or was that your responsibility?

**Mr Bell:** The Chief Financial Officer wrote it. It was agreed with me, as Treasury Minister. Obviously, I endorsed it and off it went.

**The Chairman:** Mr Callister.

**Mr Callister:** Thank you, Mr Chairman.

When the situation came about that the direction was being sent, should it not at that stage have been checked by the Attorney General's office that it was, in fact, correct because, if it had been, presumably the detail into which they went over how this should be forwarded would have been recognised immediately and, as a consequence, it would not have been a failed directive?

**Mr Bell:** It is easy to argue that. The letter itself was drawn up directly on the advice of the Attorney General, using the language, I understand, that the Attorney General applied when discussing it with Mrs Williams. I suspect that was deemed enough at the time to put the letter together, rather than...

The actual failure of the directive, I think, was a very minor point of law within it. I think, again from memory, Mrs Williams referred to a particular clause but referred to the wrong paragraph in the clause. I cannot just remember now the detail. There was some legal argument over it, I think, as to whether it was a major point of law or not.

Again, I know I am repeating myself but I really must emphasise that the whole aim of this was not to beat up the MEA; it was just to try and put the relations between Treasury and the MEA on a sensible footing and one which mirrors every other Department and every other Statutory Board. It was not to cause difficulty or problems in that sense.

**Mr Callister:** To revert to the documentation that was destroyed, or, on your instruction, to be destroyed, this was correspondence that was in circulation. It was not public knowledge, of course, but it had been exchanged between the MEA and the Treasury. Is it common practice in the Treasury to destroy documents of that kind?

**Mr Bell:** No, not at all. This, I am sure, would have only come as a request from the MEA to Mr Gelling – when he had that discussion as part of the new beginning that they were hoping to achieve – that there would be a withdrawal of all the various correspondence and that would be an end to it.

I have to say – again, I am repeating myself – I cannot recall whether it was destroyed or not. It is, in fact, irrelevant. It was the withdrawing of the issue that we were more concerned with.

**Mr Callister:** Well, it may be considered by you, Mr Bell, to be irrelevant, but in certain circumstances, destroyed documents could be extremely relevant, couldn't they?

**Mr Bell:** Absolutely. I would agree with that.

**The Chairman:** Mr Quirk.

**Mr Quirk:** Could I just ask, Mr Bell, when this scenario was unfolding was this actually a particular agenda item on

the Council of Ministers' papers, or was it just seen as another 'We're dealing with it'? When the Council of Ministers met, there would be yourself, the DTI Minister and the Attorney General there.

**Mr Bell:** I cannot recall now whether it was on the Council of Ministers' agenda. Certainly the Chief Minister at the time knew about it and it may well have... I am sure if Treasury had issued a direction to one of the Statutory Boards it is something that probably would have been told to the Council of Ministers, because it is actually quite an important step, although, as I say, I cannot just remember in detail what happened at that time.

I would be very surprised if I had not told the Council, or the Chief Financial Officer had not told the Council, what was going on.

**Mr Quirk:** Could I just ask, regarding that then, if there was a better relationship with the DTI and the MEA, would you expect the Minister for the DTI at the time to make more of an in-road into making this marriage come together?

**Mr Bell:** The DTI – both Mr North and Mr Downie – were very enthusiastic supporters of the new power station, and rightly so because that helped to underpin the development of business and maintenance of new business on the Island, and so they were very supportive and, in some cases, very defensive of the MEA.

What steps were taken by the DTI Minister to try and encourage the Chief Executive? I have to say I do not know, but certainly they were aware of what our position was.

**The Chairman:** Just sticking with this particular period, the meeting, of course, with Mr Gelling we have referred to – Mr Gelling and Mr McCallion – but there was another meeting, wasn't there? The Attorney General himself had a lengthy meeting with Mr Proffitt and Mr Bawden – this was within the two days after the issue of the letter of direction – and it was following that meeting, according to Mrs Williams, that there was a complete about-face in the advice she had received two days earlier from Mr Harding, which was the basis of the direction.

Were you aware, through discussion with Mrs Williams, of this very, apparently, important and significant meeting by the Attorney General with Mr Proffitt?

**Mr Bell:** I was not aware of it at all. I have obviously learned about it subsequently, but when it took place I was not aware that that meeting was taking place.

**The Chairman:** Because it was as a result of that meeting – or it certainly followed that meeting – that the legal advice and the legal soundness of the original letter of direction was retracted and prompted your issue of the letter withdrawing the correspondence.

**Mr Bell:** I was not aware of that meeting at the time, no.

**The Chairman:** We also heard from Mrs Williams, in questioning from this Committee, that the Attorney General had advised negotiation as the preferred way forward, rather than the legal direction, and Mrs Williams said, yes, that was one of the reasons.

She also said that the Treasury Minister, and I quote, 'was being put under vast amounts of political pressure, in particular from the Minister for the DTI,' and she had been aware of notes being passed in Council effectively saying – these were notes from the DTI Minister to yourself – 'If you do not back off, the board are going to walk. We cannot afford to lose good people like this. They are the A-Team.' Can you confirm that you had notes to that effect from the DTI Minister?

**Mr Bell:** I cannot recall whether I actually got notes from him, but certainly he made representations along those lines to me. He was very concerned that, I think, what many people saw as the A-Team, the MEA board, who were obviously upset about the need to comply with financial regulations, would stand down and deprive the Island of the services of some very able gentlemen.

**The Chairman:** Yes. So through a combination of changing the legal advice and the assurances that the Chairman had been given to Mr Gelling, representing Treasury, it was decided to go ahead with Operation Fresh Start and, of course, as we have found, that did not work.

When it became clear, in this period after the withdrawal of the original direction, did you give any consideration as to whether amendments were required to clarify the relationship between the MEA and Isle of Man Government, in terms of the DTI link in particular?

**Mr Bell:** I did say previously, Chairman, that I do think now it would be appropriate to revise those links so there is absolute clarity. I have to say I cannot recall whether a specific debate in Treasury took place on revising them at the time. No, I really have to pass on that one. I really cannot recall.

**The Chairman:** Just moving on, we heard from Mr Corkill in evidence, when he was being asked about the levels of spending at the MEA in the financial year 2002-03, what was being communicated or not being communicated to Treasury in terms of the financial reporting, and in his oral evidence, Mr Corkill stated:

'Did the notes on the accounts in the MEA annual report laid before Tynwald in November 2003 for the financial year 2002-03 not give an indication of the level of spending at the MEA? Surely, to a trained eye, it should have.'

Do you agree with that comment?

**Mr Bell:** My officers are highly trained officers in Treasury and they will automatically go over any Government accounts that come out with a fine toothcomb. At no point was any concern raised with me, or with the Treasury board of the day, that those accounts showed anything other than normal trading practices.

**The Chairman:** In his oral evidence to us, Mr Colin Kniveton – who by that time had taken over from Mrs Williams – referred to a meeting between yourself and Mr McCallion, the Chairman, in March 2004, which was held in response to a Treasury paper of 15th February 2004. Mr Kniveton said:

'I was not instructed to take any further actions after that meeting took place. All I was aware of was that the Chairman of the MEA was able to convince the Treasury Minister that the concerns that had been raised were unfounded.'

Can you advise us what was discussed at that meeting that you had, and whether you were satisfied by Mr McCallion's responses to Treasury's concerns?

**Mr Bell:** It was an informal meeting between the Chairman and myself just to try and give both parties, I suppose, a chance to raise any concerns there might have been about that relationship. I again expressed my concerns that we were still only getting patchy co-operation from his Chief Executive.

I also pushed him, of course, on the performance of the MEA contract, whether it was on budget, whether it was on time and on any other problems that he foresaw. I thought at the time, anyway, it was a very open and constructive conversation that I had with Mr McCallion. He expressed his concern that these communications were not as good as they could have been. I think he was under the impression that things had improved considerably and had promised then to do his best to improve the situation.

I was given an absolute assurance again that the contract for the power station was on time, within budget, there were no areas of concern whatsoever, and I think I went away at the end of that meeting feeling it was a positive meeting. I thought we had got a better understanding of where we were going.

However, what was not said at that meeting was in the same month the MEA had concluded an agreement to borrow another £50 million. That was not raised with me. Neither, in fact, was the fact that the previous year, in July 2003, the MEA had agreed a further £70 million loan from Barclays. Neither of those points were raised with me at this meeting, so I was still left in the dark, even at that point, about the extra borrowing, which had clearly taken place at that time.

**The Chairman:** Yes, and at the meeting, was it verbal assurances that the Chairman had given you that the concerns were unfounded, or were figures produced, budget and compliance statements or anything like that?

**Mr Bell:** No, we did not go through detail. It was not that sort of meeting. It was a general higher level discussion about relationships, how to improve them and the need for better communications. It was not on specific issues of non-compliance on one point or another; it was a general discussion on how we can improve relationships and how we can move things forward.

The only concern that he raised was that he felt he had not had the opportunity to speak to the Chief Minister of the day and regretted that and welcomed the opportunity to speak to me and put his case over what he saw was for the first time.

**The Chairman:** So even though Operation Fresh Start had not got off the ground and there was still evidence of lack of compliance and provision of information during this period, through 2003, you were satisfied, by your discussions with the Chairman, that everything was on target and within budget.

**Mr Bell:** Yes. You have to take the word of someone in that position. That was the strong message I was given. I might be wrong on timing on this but I am sure round about that same period Mr Proffitt was making public statements through the media, through the press, about the progress of

the scheme, exactly the same line – 'It's on target, it's on budget'.

The MEA, I think, over that period as well, had dramatically reduced tariffs which is something, obviously, that the Island welcomed; a very substantial decrease in tariffs which helped business and helped the private consumer. It was all being presented as a raft of good news through the media. What Mr McCallion told me confirmed what I had been hearing from other sources, so I had no reason to think otherwise, frankly, at that point.

**The Chairman:** Thank you.  
Mrs Christian.

**Mrs Christian:** Thank you, Chairman.

Can I just revert again to the issue of the direction. We have moved on a bit from that but there are issues I would just like to clarify.

Treasury's frustration was such that it issued a direction and then it withdrew that direction. The Attorney General's Chambers had given advice that it had a legal glitch in it, and the advice was also that negotiation was a preferred route. To what extent do you think it was appropriate that the Attorney General's Chambers should be expressing any view about the way in which Treasury conducted itself? If there had been no legal... With hindsight... It is perhaps not helpful to ask this, but would Treasury have pursued its direction if it had been issued properly in the first instance, in the view of the Attorney General's Chambers?

**Mr Bell:** Obviously, if we had not had that conflicting advice, if we had not had the second advice contradicting the initial basis for the direction, the direction would have stayed. Whether, in fact, then we would have continued with the negotiation, as the Attorney said, to get a better understanding around that direction...

As you say, hindsight is a great thing. It is hypothetical. I cannot say. I can only add or explain what actually happened.

**Mrs Christian:** Was it then the intention of the Treasury simply to use this to bring the MEA to heel?

**Mr Bell:** That, essentially, was it. Perhaps I am not explaining myself very clearly. My officers went to great lengths to try and improve the relationship. There was no attempt to inhibit the development of the power station or inhibit the considerable abilities of the board of the MEA itself. We wanted them to succeed, we wanted the power station, we knew how important the power station was to the Isle of Man economy. In no way did we want to take action which would inhibit that.

So my officers really went out of their way to try and improve that relationship just to the level that we could get a proper understanding of what was happening and the information that we needed to have was flowing freely to the Department. That was our only agenda in this. There was no other ulterior motive, and if there was a way of achieving that without the draconian steps of issuing directives, then we would have done it without question.

**Mrs Christian:** Thank you.

**The Chairman:** Mr Butt.

**Mr Butt:** Thank you.

You mentioned on the meeting in March 2004 that there was an informal meeting because of concerns that you had with non-compliance. This was the first time you had met Mr McCallion, I presume?

**Mr Bell:** I think it was, yes.

**Mr Butt:** So it was quite a high-level meeting for the first time for some years. These concerns, where did they come from?

**Mr Bell:** They were background concerns, again from officers that they were not getting the information on time or there were deficiencies in the information they were getting. There was not one specific issue that grew up; it was just a general background noise, frankly, and an opportunity to try and, once again, clear the air and get things put on a firm footing.

Again, I am going on memory here. I think it was also to remind him that the initial agreement he made with Mr Gelling, which would have led to the fresh relationship starting, had failed and to remind him how disappointed we were on that and to see if he could do anything to follow up on his initial commitment to Mr Gelling to reinstate the spirit of what was originally agreed.

**Mr Butt:** So we have got evidence again in those e-mails and reports from your officers – Mr McGreal and Mr Thompson etc – that they still had concerns, as they had prior to the directive being issued. Were you directly aware of those e-mails and reports again in that area?

**Mr Bell:** Not the specific e-mails and reports. I would not normally see them, but it was verbal comment I had from officers that they were still only getting sketchy information. We were not getting the full picture.

**Mr Butt:** What concerns were there to the Treasury from outside of the Treasury?

**Mr Bell:** What do you mean?

**Mr Butt:** In terms of the way the project was going, or non-compliance, or financial problems.

**Mr Bell:** My concern, obviously, was only the information I was getting from within Treasury. My concern was to ensure that the MEA complied with financial regulations. I heard no other concerns outside of that.

I do not think that there was a concern that there was extra borrowing or extra expenditure, or anything like that. I cannot recall at that time any particular information coming to me from that source.

**Mr Butt:** So it was all internal within your Department.

**Mr Bell:** I think it was pretty well all internal at that time, yes.

**Mr Butt:** Thank you.

**The Chairman:** Mr Callister.

**Mr Callister:** Mr Bell, you had the verbal assurances, as you say, from Mr McCallion. Mr Proffitt was proclaiming in the media that everything was fine, but there does not seem to have been, at this stage, anything backing that up in the way of figures. Is this an issue that you should have brought, or did in fact bring, to the Council of Ministers, the concern over non-compliance?

**Mr Bell:** As I said, I am sure I did, in the early days, certainly in relation to the issue of the direction.

I am sure the Council of Ministers were aware of that and the Chief Minister was certainly aware of the situation at the time.

**Mr Callister:** It was not a matter of great concern within the Council of Ministers as a body, then?

**Mr Bell:** I do not think so, no. Again, all the information that was coming out of the MEA... we had to rely on that information. They are a statutory body, they have responsibilities for managing this capital scheme. All the messages that were coming out through the DTI, as well, was that the scheme was on time, it was on budget, there was nothing to worry about. As I said, there were deep cuts in the electricity tariff, which made the whole scheme very popular.

We had four very able, very successful businessmen on the MEA board, who I think at the time people had great confidence in. Mr Proffitt himself was a qualified accountant and had been on the board for some period prior to that. I think the general feeling was that the messages we got were accurate.

**Mr Callister:** The Council of Ministers, I think I am right in saying, received regular reports from the MEA with information as to the progress. Is that correct?

**Mr Bell:** No, there was a co-ordinating committee which was set up between – this was at officer level – the DTI, Treasury and the MEA. I cannot remember now but they were monthly or quarterly meetings, where there was an exchange of information and update on the progress of the scheme and various elements of it. Again, all the information that had come out through that was uniformly positive. There were no alarm bells ringing anywhere at that point.

**Mr Callister:** Was that information that you would be scrutinising yourself?

**Mr Bell:** No, this was at officer level. It was just an everyday management process that we had and ordinarily it would not come to Treasury.

**Mr Callister:** Thank you.

**The Chairman:** At the 6th December 2004 meeting – this was the meeting between Treasury and the MEA, when things had really gone public over the additional loans – you stated that it might be helpful to have a political Member on the MEA board. Had you or Treasury previously considered that option?

**Mr Bell:** No. There was a decision taken by Tynwald. I forget just when it was now. Was it 2000 or 2001... when

the new board was appointed? Prior to that, there had been political representation, I think, on the MEA. It was Tynwald's decision at that point, especially bearing in mind the very impressive qualifications of the appointees to the board, that a private sector board would do a good job. After all, the MEA was a commercial arm of Government; it needed commercial expertise.

So I think the feeling at the time, politically, through Tynwald, was that we did not need political Members. That view held in Treasury as well. We were happy to go along with Tynwald's policy on that, but clearly, with hindsight and with what we discovered in November 2004, my own view is that we would have benefited from having a politician on that board.

It is worth reflecting that the MEA met the Council of Ministers in July 2003 and again in July 2004. In July 2003 in particular we had a meeting with the MEA and we were told again on that day that everything was fine, within budget, everything was okay. The same day, the MEA signed – I think it was the same day – to borrow £70 million and the Council of Ministers were not told at the meeting on the very same day that this had happened. Had there been a politician on the board at that time, it may well have been a different outcome and we may have been told at a much earlier point that this borrowing was taking place.

**The Chairman:** That is fine, Mr Bell.

That particular issue is one that this Committee will be exploring in some depth at a different stage of our investigation and it will be the case, I am certain, that we would wish to speak to you and other witnesses on other aspects of the investigation.

Certainly, as far as the compliance issue, or lack of compliance with Treasury and adherence to capital procedures is concerned, that is the issue we are focusing on with you this morning. I would just like to ask my colleagues if they have any further questions.

Mr Quirk?

**Mr Quirk:** No, thank you.

**The Chairman:** Mr Butt?

**Mr Butt:** Yes. Could I go back in history, Mr Bell. When you took over as Treasury Minister, your predecessor was Richard Corkill, is that correct?

**Mr Bell:** Yes.

**Mr Butt:** Was there any handover to you from him about the MEA issues and the problems that may have existed then?

**Mr Bell:** No.

**Mr Butt:** There was a minute in the Treasury minutes in, I think, June 2001 – I think the day that it was decided to go ahead with the vote for the money, the £185 million – from Treasury saying they were not happy with the compliance procedures and the capital procedures. Was that information passed on to you?

**Mr Bell:** No, not at that time.

**Mr Butt:** How aware were you when you first took over,

then, that there were problems of which you should have been aware to keep an eye on what the MEA were doing?

**Mr Bell:** Certainly, Mr Corkill, himself, moved on to be Chief Minister and I took over the job.

As a rule, I do not think Ministers sit down and give a précis of all the outstanding issues. The new Minister simply picks up. I have no recollection at all of being told of those previous concerns with the MEA at that time. It certainly did not come from Mr Corkill, which is not unsurprising. It would not normally happen, I suppose.

I think it probably did evolve over the time ahead, when we were having fresh problems with the MEA, but it was not, certainly, when I took over.

**Mr Butt:** Just one further final point, Chairman. This may be an unfair question, but the legal advice that changed within days from the Attorney General's Chambers, can you give your opinion of why that happened? By this time, Mr Gelling had not become involved to mediate. This was a change of advice within days.

**Mr Bell:** The only reason I can think is that the MEA certainly were very, very hostile to the actions we had taken. I believe they did contact the Attorney General and, although obviously I am not privy to what was spoken between them, clearly there was either pressure or extra information given to the Attorney General at the time which made him change his mind.

It was extremely unfortunate, because Departments have to rely on the consistency of legal advice that they get and it leaves any Department very exposed and in a very difficult position when that advice is contradictory, which is what happened to us.

**Mr Butt:** Thank you.

**The Chairman:** Just on that point, the then Chief Financial Officer was completely taken aback by the sudden about-turn; that is what she told us. Were you taken aback similarly?

**Mr Bell:** Totally. Again, once we get what we believe to be considered legal opinion on an issue of law – whether it is the Attorney General or, indeed, private sector legal advice – we expect that to be consistent and steady. To overturn what actually is quite an important piece of advice – issuing a Treasury direction – to overturn that within a couple of days is probably almost unprecedented.

**The Chairman:** Did you, therefore, issue your letter with reluctance to retract the direction?

**Mr Bell:** It clearly left Treasury in a very difficult position. We, with the best of intentions, issued that to the MEA, based on the legal advice. It is somewhat embarrassing to be told afterwards that actually that legal advice is wrong and it would be inappropriate to issue the direction. So yes, clearly the decision was not made with great relish and enthusiasm.

**The Chairman:** But the prospects of a working party were like the safety net, were they?

**Mr Bell:** Yes. I can only repeat again: all I wanted to

achieve there, and all Treasury wanted to achieve, was a consistent working relationship with the MEA which matched the relationship we had with every other Department and Statutory Board. We were not there to beat up the MEA and by holding out the prospect of a working group between MEA officers and Treasury officers, which was endorsed to Mr Gelling by both the Chairman and the Chief Executive of the MEA, we felt that was sufficient grounds then for re-establishment of a working relationship into the future.

**The Chairman:** Thank you.  
Mrs Christian?

**Mrs Christian:** Nothing, thank you, Chairman.

**The Chairman:** Mr Callister?

**Mr Callister:** Yes, just finally, Mr Bell, Operation Fresh Start never started, we presume. As a result of that, there was no further...

**Mr Bell:** 'Operation False Start', I think was more appropriate!

**Mr Callister:** There was no progress, then, to negotiate at all after 2002 until the end of this whole project?

You say that you had no intention to beat up the MEA. Do you think now that the MEA beat up the Treasury?

**Mr Bell:** That is a good point. I do not believe the relationship problems that we had with the MEA revolved round the problems between the Treasury and the MEA board. I think the difficulties were entirely focused around one individual, and that is the Chief Executive of the MEA. He was determined from the absolute outset not to co-operate. He had come from the private sector, where I guess he was used to having his own way and doing things in a speedier

fashion, perhaps.

I do acknowledge that he himself must have been under huge pressure to get such a major project delivered for the Island. I think he was strongly opposed to any interference from Government, not just Treasury. I think he felt that he was autonomous and he had to do things his own way.

I think Treasury did as much as we could have been asked to do to try and smooth that relationship, to improve it, to get a better understanding. We had, from day one, no co-operation whatsoever from Mr Proffitt, and that is what brought the situation about that we find today. Whether he beat up Treasury... It is not Treasury that is getting beaten up; frankly, it is the consumers and the people of the Isle of Man who find themselves in the situation they are.

**The Chairman:** Thank you.  
Finally, Mrs Cullen, are you okay?

**The Clerk:** Fine, thank you, yes.

**The Chairman:** Mr Bell, that concludes the Committee's questions. Is there anything you would wish to add further at this stage?

**Mr Bell:** No, I do not think so, Mr Chairman.

**The Chairman:** I would like to thank you very much for your assistance to the Committee. We shall be taking further evidence in public and those sessions may well raise further points requiring clarification. If we require that, we will contact you or ultimately may be obliged to recall you for further evidence, if that is necessary. So thank you very much for coming today.

Ladies and gentlemen, that brings today's session to a close. Thank you very much for your attendance.

*The Committee sat in private at 11.37 a.m.*