



**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, Wednesday, 29th October 2008

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

	<i>Page</i>
Procedural□	143
Administration of the Oath□	143
Evidence of Mr A F Downie, MLC ..□	143

The Committee sat in private at 4.11 p.m.

Tynwald Select Committee on the Manx Electricity Authority

*The Committee sat in public at 2.30 p.m.
in the Millennium Conference 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 afternoon, everyone, and may I welcome you all to this meeting, which is a sitting of the Select Committee of Tynwald on the Manx Electricity Authority, to hear evidence in public session.

This Committee was established by Tynwald in July 2005 and it may be helpful for you to know the remit, which 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.'

I would introduce my colleagues on the Committee: Mrs Christian, MLC; Mr Butt, MLC; Mr Quirk, MHK; Mr Callister, MLC; our Clerk, Mrs Cullen; and *Hansard* Editor, Mr Alford, who is responsible for recording today's proceedings. At this point, I would ask anyone who has a mobile phone to ensure that they are switched off to avoid any interference with the recording.

As you will have gathered from our remit, our 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 to do so, and to investigate them in sequence and issue a series of interim reports.

At the moment, we are currently investigating the MEA's compliance with financial regulations and the provision of information by them to Treasury and to the Department of Trade and Industry. We are conscious that many of the events being investigated took place some years ago and therefore, in fairness to witnesses, we have prepared a file of evidence which relates to the subject matter currently under investigation. The witnesses have had full opportunity to view this documentation in order to refresh memories and the file has been placed in the Tynwald Library and is available to members of the public. In addition, the transcripts of our evidence sessions to date are on the Tynwald website.

At this point, therefore, I call forward Mr Downie, please.

Mr Downie: Thank you, Mr Speaker.

Administration of the Oath

The Chairman: Thank you, Mr Downie, for attending, and may I ask our Clerk to invite you to take the Solemn Oath.

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

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

EVIDENCE OF MR A F DOWNIE, MLC

The Chairman: Thank you, Mr Downie.

Could we start by... if I simply ask you to state your name and your role and responsibilities in Government over the time in question.

Mr Downie: If it is helpful here, Mr Chairman, I have done that in my opening remarks. So, if you wish, I will set the scene for you.

The Chairman: Yes, I would like to give you the opportunity now then to make an opening statement. Thank you.

Mr Downie: My name is Alexander Frank Downie. I was elected to the House of Keys as a Member for West Douglas in November 1991. I am currently a Member of the Legislative Council and a Member of the Treasury. I have held several positions of responsibility within Government, including: Chairman of a Statutory Board; Minister for Agriculture, Fisheries and Forestry; and in December 2001, I was appointed Minister for the Department of Trade and Industry.

At the commencement of my office, the major project for the construction of the new power station and gas pipeline infrastructure was under way. At my first meeting with Ken Bawden, the then Chief Executive of the Department of Trade and Industry, I was provided with a full and detailed update of the Department of Trade and Industry's objectives, business plans and responsibilities, including a legal definition of our relationships with all of the Statutory Boards and, in particular, our relationship with the Manx Electricity Authority and the power station and gas line project.

The DTI is an economic and income-generating Department and is the smallest Department within Government, with less than 90 staff, and we had one qualified finance officer.

That is my opening statement.

The Chairman: Thank you, Mr Downie.

Can I ask when you first became aware of any difficulties between the Treasury and the MEA, and if and when you did, what steps you took to remedy that situation.

Mr Downie: I first became aware of difficulties between the MEA and Treasury when my Chief Executive Officer

advised me that there was an issue over the provision of information regarding the capital project for the power station and the gas pipeline. I was advised that this issue was to do with the following of the capital project procedures, rather than anything else.

I was also aware that the Capital Projects Unit was working with the MEA to come to an agreement as to the best compromise they could attain that would both provide Capital Projects with the information they required and allow the MEA to complete the project.

As we were advised, both by the Capital Projects Unit and the MEA, that this was purely a case of the manner of provision, rather than the failure to provide information, and that both parties were working to a conclusion, there was no apparent need for the DTI to do anything to remedy a situation which we were advised at the time was being managed.

The Chairman: When was that? You took office in December 2001 as DTI Minister, so when would you have become aware of those difficulties?

Mr Downie: There was discussion about this, and I think during Mr Bawden's evidence – and I did make a note of it – he actually said that he reported from Mr Thompson that the matter had been resolved. I think I have got the... Yes, it is number 88, Mr Bawden, 1st July: Mr Bawden reported that the Treasury had reported that the reporting mechanism now was satisfactory.

The Chairman: So that was at a DTI Department meeting on 1st July, did you say?

Mr Downie: No, it was in the evidence that Mr Bawden gave on 1st July.

If you look at the history of the evidence that has been given to date, there has always been this confusion about a reporting mechanism and whether or not the projects that the MEA undertook required the full provision of the capital projects guidance notes. My understanding is that there was an agreement between the two parties that on some projects it did not apply and others it did.

The Chairman: In your opening statement, you said that the difficulties that you became aware of related to the manner of the provision of the information, rather than an unwillingness by the MEA to provide that information.

Mr Downie: I know during my time in the Department, when we had been asked to provide information, there were always people there whom we could talk to. For example, quite early on in the project, I think in 2000-01, Mr Ashton Lewis headed up a project team – he was the project manager – and there were eight or nine different people on that team who were there to provide financial information, project management and advice, procurement advice and, of course, I was very fortunate in that having an officer in my Department, Mr Morter... He had that sort of a background and he could get information that I would require, but I am not sure whether we could get the right level of the financial information, because that project had not developed to that state at that time. Technical information, yes, and...

The Chairman: So when you took office, the way the Department was working was on the basis of an

understanding that capital procedures, the requirement to meet these by Treasury, was not being strictly adhered to, in terms of process, by the MEA, but your understanding was that there had been agreement that that should carry on in that manner without formal adherence to the procedures. Is that right?

Mr Downie: That was my understanding: there was some flexibility given. Given the nature of the contract, and as those of you on the Committee know, who have been involved in capital projects, there are 10 varying points in capital procedures. It is a huge and complex business. If we had to adhere to the capital projects notes, I think, from day one, we would still have been building the power station. That was always the view that the MEA had.

My own view, for what it is worth, is that there was ample opportunity, in my opinion, to come up with a hybrid to make sure that, from day one, there was somebody in there who actually understood where the money was going to and at what cost.

The Chairman: Was there a period you can point to where your understanding of the concerns had progressed from simply being the manner of providing the information by the MEA to Treasury to in fact being unwilling to provide that information? Was there a point that you can identify that the situation deteriorated from your initial understanding?

Mr Downie: The DTI held regular meetings with the MEA and, at that time, somebody from the Treasury would come along. It was not always Ian Thompson, the capital projects co-ordinator; quite often it was Alan Teare, who was in that division.

Most of the reporting that was done to us was about the project itself and the effect it was having on the infrastructure, on the future price of electricity and so on. That was our remit. We had a specific remit to monitor what they were doing, but we had nothing to do with their finances.

The Chairman: My question was simply to ask whether there was a particular time or period of time in which your concern had moved from noting the manner of providing the information to Treasury to a more serious situation, where the MEA were positively unwilling to provide that information. When did that happen? When did you become aware of that?

Mr Downie: I think that happened much later on in the project, when the MEA had a letter from Mrs Williams and it was really telling them that they were going to receive a direction from the Treasury.

The Chairman: So that would be about June 2002.

Mr Downie: Yes.

The Chairman: We will come on to those issues.

If I could ask you now – and you have started to touch on them – what responsibilities did the DTI have in overseeing activities of the MEA?

Mr Downie: That is a very good question and I think it is a very important question, Mr Speaker. I have answered this question a multitude of times in various places to various

people, so I will do it again.

You ask what responsibilities did the DTI have in overseeing the MEA. The easiest place to start this is with the legal responsibilities and powers as laid out in the relevant legislation, including the Statutory Boards Act 1987, the Electricity Act 1996, the Gas Regulation Act 1995 and the Gas and Electricity Act 2003.

The Electricity Act, as the primary Act, sets out the MEA's principal functions, which relate to generation and supply of electricity and the supply of electrical appliances and apparatus. The Department's powers relate to the exercise of those functions by the MEA.

There is also a limited power of direction within the Act. Again, this was in regard to those areas which related to standards of service, customer service and customer complaints. The Department had received legal advice from the Attorney General in 1999 – and when I joined the Department, Mr Bawden gave me a copy of that advice in with the papers that were given to me at the time – to the effect that these were general powers of direction and could only be used in general terms and could not be used in such a way to leave the MEA with little or no discretion as to the exercise of its statutory function. In addition to this, there is power to make regulations for certain specific areas. The Department's responsibilities also include relevant policy on legislative matters.

The only issues raised during my tenure would be the Gas and Electricity Act 2003 and the bringing in of the 1995 Gas Regulation Act. Other than that, I was never made aware of any other responsibilities, other than the submission for candidates for the board to the Council of Ministers for approval, the representation of the MEA in Keys and Tynwald, as there was no political Member on the board, and to act as a conduit into the Council of Ministers for matters requiring political attention, such as tariff issues.

What we did not – and, to the best of my knowledge, still do not – have, was any responsibilities in regard to the finances of the MEA. The Electricity Act sets out, in sections 3 and 4, the specific responsibilities the MEA had to the Treasury in regard to its finances. It also sets out the powers of direction that the Treasury has under that Act.

I believe the Treasury also has powers of direction under its own Act. In fact, upon taking office, I can recall a conversation with the then Chief Executive, Mr Bawden, where he advised that the DTI had been told, in no uncertain terms by Treasury, that funding and finance was the responsibility of the Treasury.

In addition to this, the Statutory Boards Act provides the Council of Ministers with certain powers of direction. Thus, as you can see, it is not really the best possible position to be in, as we have the Treasury, the Council of Ministers and the Department all having varying and, in some cases overlapping, powers in respect, and this is particularly difficult for some Tynwald Members to understand. I would suggest that there is a misconception in most areas as to what powers and responsibilities sit with whom and, as I have tried on many occasions to make this clear, it would appear that this is still an area that is not clear, nor has been made any clearer.

Thank you.

The Chairman: Thank you. You have just –

Mr Downie: I have actually brought the document

that Mr Bawden gave me. I note it is in the file. It is the definition that Mr Gumbley produced for the Department back in 1999.

The Chairman: That will be helpful to have these – to the Clerk, thank you.

So, in describing the DTI's relationship with the MEA, you have set that out very clearly just now. You naturally had to conduct that relationship, whatever areas it covered, and you did so. You made reference earlier to the liaison meetings between the DTI and the MEA, and your officers attended those.

Did you receive copies of the notes taken of those meetings, and were you overall satisfied with the level of information being provided by the MEA to your officers at those meetings?

Mr Downie: First of all, I did not receive copies of the notes directly. However, they were kept on file and I was kept apprised of issues both positive and negative as were raised at the liaison meetings. There was also a regular MEA update given when we had our monthly departmental meetings.

As I said earlier on, we were fortunate to have a very good technical officer in the Department, Mr Morter, who had actually been involved in the construction of gas-fired power stations and it was normal for me, after there had been a meeting of the liaison group, just to ask him to give me an update, and I was always content with that.

The Chairman: So you were satisfied with the level of information your officer was giving to you and the scrutiny of the MEA that was being carried out by the Department.

Mr Downie: Yes.

The Chairman: Thank you very much. Mr Butt, do you have anything?

Mr Butt: Yes, thank you.

Mr Downie, you have said in your earlier statement that Treasury were responsible for the financing and funding of the MEA – that was not the DTI's responsibility – but when you had your quarterly meetings, or you saw the DTI-MEA liaison notes, did you get any financial information for your own interest, or for your own benefit, so you could see how the money was being spent?

Mr Downie: My understanding is that these liaison meetings were put on... We had always had them traditionally because, as part of the Department's quarterly review, they spoke to the Statutory Boards. It could be the electricity department this month, it could be the Water Authority the following month, the Post Office, so it was part of the rounds of discussions.

When the project got under way, that was the time then that Treasury were asked to come along. If they wanted to have their input, it was their opportunity to get an update, as I understand it, but my understanding was that Treasury, or the Treasury officers, had some access with the project management group that was headed up by Mr Ashton Lewis. There was a team of... it must have been a dozen or more people, including Mr Gibson, Mr Dobbins. There were the financial people on that group, and Mr Kelly, who left the MEA and went to Skandia. There was quite a group of people

there who, on a day-to-day basis, I would have thought had given the whole area that we work in within Government... They are all well known to people in the Treasury and it is a case of lifting the phone up and asking for information.

Mr Butt: At this time, Mr Downie, you were aware – and for several years afterwards, perhaps – that the Treasury were not happy with the financial information they were getting. So in view of that, did you take any steps, as the Minister for DTI, to try to find out for yourself what information was available?

Mr Downie: Up until us finding that there was something going wrong with the project, I had no concerns with the project myself. I was not aware that there was a financial problem.

I had issues, and for example, when I was Agriculture Minister, I raised an issue with the MEA itself and with some of my colleagues in the Council of Ministers about the wayleaves. It may sound a strange thing now to raise, but at the time, the standard rate for a wayleave in the Isle of Man was 50 pence a metre. The MEA were paying £20 a metre. That was very welcome to the agricultural community and people who had vast areas of land that the pipeline was coming over, and sadly that has set the standard now. So, at the time, I asked why, and the answer I was given was, 'Well, this is what the norm has been in the UK and other places and we want to get on and get the project done.'

So it would be interesting, at the end of your deliberations, to actually find out what sort of money has been spent on wayleaves and things like that, even before the project started.

Mr Butt: Just going back to when you actually took over as the Minister, you said you were thoroughly briefed by Mr Bawden (**Mr Downie:** Yes.) and others, given a pack and given the information. Did you speak to the MEA themselves at that time, the board, and were you given any financial information and progress information, as to where they were up to with their spending?

Mr Downie: The only information I was ever given by the board, and by Mr Proffitt, was verbally, and on one occasion, actually when the group were meeting, I raised the issue about finance. Mr Proffitt said to me, 'The project's on time and it's on budget, and by the by, the budget's nothing to do with you.'

Mr Butt: You said you were Chairman of a Statutory Board at one point.

Mr Downie: Yes, I was the Chairman of the Isle of Man Post Office.

Mr Butt: When you were Chairman there, did you keep a tight control of the finances?

Mr Downie: I did keep a tight control of the finances. In fact, in the years I was the Chairman of the Post Office, we were returning a profit of between £3 million and £4 million a year.

Mr Butt: And when you were Minister for Agriculture, I presume you had capital projects to deal with.

Mr Downie: No, we never had a capital project to deal with.

Mr Butt: The point I am trying to make is that when you went to DTI, you must have seen a big difference in the way the MEA were being treated, compared with another Statutory Board.

Mr Downie: I think you have to put things in perspective, Mr Butt. The MEA had over 300 staff. They had some very technical people. They had people who were involved in procurement and project management. It was their job. That is what they did on a day-to-day basis, and I think one of the interesting things about the MEA is that they were so well organised that when Enron collapsed, within a relatively very short time they were able to come in and actually pick up that project themselves. I know they brought people in from the UK and they brought expertise and they got people together to do that, but I thought that was a great credit to them, because it looked at one stage as if the whole thing was just going to fall apart.

So there is a lot of talent there and, as I say, anybody seeking information could find it quite easily if they really wanted to. I do not accept that the MEA middle tier of staff, or senior management staff, did not know what was going on.

Mr Butt: Did you read the evidence of Mr Dewar, the internal auditor at the MEA, where he stated he was kept out of the loop of what the finances were?

Mr Downie: I am surprised at that, because I am aware that the MEA had two internal committees – an internal audit committee and an external audit committee. My knowledge of them was that they were on top of things. When I came into the DTI it was a very well run organisation and a very efficient and effective organisation, and I had no qualms about the past history of it.

Alright, they had had the doldrum years, years ago, when it was part of Douglas Corporation, the amalgamation, but in the mid to late 1990s, and then with the introduction of the cable to the UK, I think they were running a very slick and effective operation and coping with the demands.

Mr Butt: Thank you.

The Chairman: Thank you.
Mrs Christian.

Mrs Christian: Yes, thank you.

Mr Downie, you have said that there is a confusion about the role or the relationship between the DTI and the Statutory Boards in some circumstances, and that you have outlined the responsibilities of the DTI in relation to the MEA, primarily to do with tariffs, I think you indicated. I am just trying to get... and you said that there were liaison meetings prior to your becoming the Minister, and I can see why there would be a liaison... the purpose of a liaison meeting to oversee those elements which your Department had responsibility for. If it had no responsibility for the capital programme of the MEA, why were the liaison committee working on that? What did you see as the function of the liaison committee?

Mr Downie: There was a forum there for the Treasury to come along and seek information. As far as I knew, the

Treasury could have been seeking information somewhere else.

My own view is that, with a capital project of that size and that cost, there was every opportunity to put people in a long time before the end of 2001, working up, as it were. In fact, there was an appraisal and a business case put together, I think, by one of the accountants. I would assume Treasury would be involved in all of that.

Mrs Christian: Given that you did have liaison meetings, were you satisfied that your officers were getting all the information they wanted?

Mr Downie: What was the responsibility of the DTI, yes. We were provided with everything that we asked for, provided it met with the statutory regulations and what was our entitlement to know.

Mrs Christian: But your involvement, your information about this capital programme, did you think you were getting enough information about that, although it is outside your responsibility?

Mr Downie: Officers were there from the Treasury, and my understanding was that they did not raise it at the time, and that is minuted in the Department. I used to say to Mr Morter, 'How did you get on today? How are things?' and he would say, 'Fine, they reported on time, on budget.' That was the usual.

The Chairman: Did your Department request any documentary evidence to confirm the MEA's reports that the power station project was on budget and on time?

Mr Downie: I understand that the project manager used to produce a report – it was either monthly or three-monthly – and that report went direct to Colin Kniveton. In the Treasury, they have a running total of all the moneys required for the various capital projects, and of course then, you will be aware, Mr Speaker, the information in that report went to the Council of Ministers on a quarterly basis in the form of a quarterly report to the Council of Ministers. So there was all of that, but that did not come through the DTI.

The Chairman: No. So when you got reports of the MEA saying the project was on budget and on time, you did not independently verify that; you had the knowledge that the required information, you presumed, was going through the correct channels of Treasury and being verified there.

Mr Downie: I think that was the Department's assumption. Most of the people whom we were dealing with at the MEA, we had worked with them for probably 20-odd years plus, so we had no reason to think that they were telling us something that was not right. I would have thought if somebody in the MEA thought that things were awry, or not quite right, we would have been the first to hear about it.

The Chairman: But you were aware that Treasury were dissatisfied with the amount of information that was being given to them? Or were you aware?

Mr Downie: We were never really aware. We knew that there had been an issue about the reporting mechanism and

what information they had been asked to provide in a specific form. I knew there was a problem there, but my information was that that had been resolved and Treasury were happy. That was actually confirmed when Mr Bawden gave his evidence, when Mr Thompson said to him, 'We have got over this impasse now; we are talking again.'

The Chairman: Thank you.
Mrs Christian, any questions?

Mrs Christian: Not on that one, thank you.

The Chairman: Mr Callister.

Mr Callister: Thank you, Mr Chairman, yes.

Mr Downie, I know that you are a person who likes to know what is going on in the Isle of Man in various areas, and you often do, and you can often tell us a lot of things that are going on before we even find out. However, this was a major civil engineering project; there was a £185 million bond. Surely, as a Minister in the Government, with the protection of the taxpayer in mind, wouldn't it have been likely, in your pursuit of knowledge, that you would want to know from time to time what the real financial situation was with this project, because it *was* a major project?

Mr Downie: Yes, I agree with you, Mr Callister, but the only way that most Ministers knew what the situation was with the MEA was contained in the Council of Ministers' quarterly report. There, all the spending of Government is profiled in that report. It gives an indication of where all the capital schemes are, whether they are up to date, whether they are late, how much has actually been paid out, and that was the vehicle, really, to supply the information to the Council of Ministers.

Mr Callister: You said also that you had confidence in the board and the staff of the MEA and that you had been working for 20 years with them. That is not true in the case of the Chief Executive. Did you have complete confidence, then, in the board and the Chief Executive?

Mr Downie: When I came into the Department, the Chief Executive was in post, the board was there. It was the only board really, to my knowledge, that did not have any political steer. It was set up, as I understand it, in such a way that they were to be more commercial, and if you actually looked at the board, reference was made in Mrs Williams' evidence to you about the A-Team.

On paper, that was an absolutely superb board. You had some of the leading businessmen in the Isle of Man, very successful. You had a very good chartered accountant, who was picked for the job because when the board was being set up you had to meet certain criteria so that there was a level of expertise right across the board. So we had to have industry knowledge, experience, a financial person, and that was the profile of the board. I honestly believe, even to this day, some members of the board do not fully understand what has happened.

Mr Callister: So that board had been put in position by the previous Minister.

Mr Downie: Yes.

Mr Callister: You were happy with all the members of that board when you took over, then, and would you agree with Mrs Williams that it was the A-Team, then? Is that something you would have supported?

Mr Downie: When you looked at the personal profiles of the people and the successes in business, and the way they have operated within the economy of the Isle of Man, it was a very strong team.

The Chairman: Thank you.
Mrs Christian.

Mrs Christian: As you have indicated, you felt that they were a strong team. The evidence given to us also was – or the implication was – that, because they were the A-Team, they were to be left to get on with it. Is that the view taken by the DTI?

Mr Downie: No, I do not think that is the case. Probably we will get on to the issue of Treasury serving the direction, and we can probably go into that in a little bit more depth, unless you want me to deal with it now.

The Chairman: We will come on to that just in a second; we will just clear this.

Mr Downie: I know at least three of the board personally. I have the highest regard for them. Their business achievements in the Isle of Man have been outstanding, and the person who is on there as the accountant is a director of a number of Isle of Man companies. The man's record speaks for itself: he has an impeccable character, and I do not think you could have got better people.

The Chairman: Mr Quirk.

Mr Quirk: Could I ask you, Mr Downie: you mentioned earlier about you were more consumer-based or businesslike – was that a concern to you? Was there anything stressed to you – when you met as a Council of Ministers – from the Treasury Minister at the time, to say that Treasury were unhappy? Was there any communication between you and the Treasury Minister at the time?

Mr Downie: The first indication I had that anything was not going well within the MEA was when the DTI had a telephone call from Colin Kniveton, saying that there was a problem with their accounts, and then after that, that is when things started coming to light.

Mr Quirk: One other point you made, too: you mentioned when the Enron collapse took place... What was the situation at the time? Was it a concern from all Departments? How do you see that the value is when it was actually picked up and resolved?

Mr Downie: There was a huge concern when Enron collapsed, because Enron were the people who were going to be project-managing the whole situation. We virtually had ships off the Isle of Man. There was a whole programme there costing millions and millions of pounds: were we going to get caught up in contractual arguments, time delays, delayed payments and so on?

In fairness to the board, with the blessing, I think, of Treasury and the Council of Ministers, they took on the project themselves and they formed themselves into PGT Ltd. What they were very successful in doing was actually going off to court, and I think they are one of the few people, few organisations, who managed to salvage something out of Enron, and then they got organised again and got on with the contract and got on with the project.

Mr Quirk: I do not suppose, to your knowledge anyway, anybody has actually done an exercise on how much that saved us, or potentially saved us?

Mr Downie: To my knowledge, no, but knowing what these contracts are like when they go into a delay mode, there will be penalty clauses and all sorts, and at that time we were either due, or there was in position the pipe-laying vessel in the Irish Sea; the pipe was being laid down through our coast. There were all sorts of things about to take place.

The Chairman: Moving matters on, can I turn to the Treasury meeting on 12th June 2002. The Chief Financial Officer at the time reported to Treasury, and in the minute of that meeting, I quote, said:

'It is apparent that the MEA has deliberately avoided or flouted the Capital Projects Unit and Treasury requirements with regard to concurrence in many instances. The MEA belief that the Capital Projects Unit and capital procedure notes manifest layers of bureaucracy and inherent delays, which their project can ill afford or withstand, is a basis for their stance.'

The Treasury agreed that a letter should be sent to remind the Department of Trade and Industry that the Manx Electricity Authority 'has a duty to comply with financial regulations.' Did your Department receive a letter to that effect, and if so, what action did you take?

Mr Downie: To the best of my knowledge, Mr Chairman, the DTI did not receive a letter to that effect. In fact, the first letter that the DTI received would have been a copy of the letter dated 25th June 2002 from Mrs Williams to Mr Proffitt. It is about the compliance with the financial regulations and procedure notes, and I have actually brought along a copy of that today.

The Chairman: So you were first aware – the Department was first aware – that Treasury had issued a direction to the MEA to comply with capital procedures following that meeting on 12th June... was when the direction was actually issued on 25th June. You were copied into that letter, into that direction?

Mr Downie: We were not copied into the original letter, no, and in fact I had no need to contact the MEA because I received some telephone calls from them, on the receipt of this letter, asking me to come to a meeting.

Mrs Christian: The letter of the 25th, Mr Downie, you are copied into that.

Mr Downie: That is the one I am copied into, but I understand there was one before then that we never got.

The Chairman: Yes. What I was quoting from was

the decision of Treasury at their meeting on 12th June where it had been agreed that a letter should also be sent to remind the DTI that the MEA had a duty to comply with the regulations.

Mr Downie: No. My understanding is that is the only letter that was ever received, and I think you have actually looked... I actually wanted to find that letter in the correspondence in the file, and I could not find it.

The Chairman: So you are confirming that you did not get a letter, specifically as a Department, to that effect?

Mr Downie: And, if I am not mistaken, I think Mr Morter confirmed that as well: we did not get a letter.

Mrs Christian: Could I just clarify a point there? If you had received such a letter, what role do you think your Department would have had in relation to the MEA and their compliance with Treasury regulations?

Mr Downie: The first thing I would have done is I would have called for a meeting with the board and Mr Proffitt, and got Treasury there and probably the Chief Minister, to try and get it resolved.

The Chairman: In his evidence which he gave on 29th May, Mr Mark Shimmin, regarding the issue of the direction, said that, quote:

'I am satisfied that, at officer level, the DTI was well aware of the issues and frictions between the Treasury at that time. I am not aware of any specific action taken by the DTI and I think it is fair to say I never detected any strong support for the Treasury's position in relation to this matter from the DTI.'

This was the matter of the issue of the direction.

Mr Downie: I can answer that by saying again I would refer to the previous answers I have given, as well as those answers given by the two Department officers – both Mr Bawden and Mr Morter – who have subsequently given evidence.

The DTI was fully aware that there was a problem between the MEA and the Treasury with regard to the requirements of the capital procedures. We were told that this was to do with the manner in which the various items of information required needed to be provided and at what part of the project they would need to be provided at; for example, the 10 stages, the stages procedure. We were also informed that the Treasury and the MEA were working together to come up with a method of providing this information that both ensured the Treasury got what they needed and that the MEA could continue to complete the project in a commercial manner without any delay.

We were *not* told – I repeat again, we were *not* told – that the discussions had broken down to such an extent that the Treasury would issue a direction. If we had been aware of this, we would have done something to try and help the situation by supporting the Treasury. Mr Shimmin seems to allude to the fact that the DTI sat back and ignored the situation. This is not correct, and if they had made us aware of the problems at the time, I would have insisted that we do something to rectify the situation.

The Chairman: Did you have sympathy with the MEA in their belief that the complying with the Treasury procedures and the capital procedure notes represented manifest layers of bureaucracy and inherent delays in the project? That was the MEA view. Was that a view the Department had sympathy with?

Mr Downie: The Department was not in a position to give an opinion; it was not our call to make. But with the benefit of hindsight, as all of us know who have been involved in capital projects, if you have not got them nailed down before you start and a proper reporting procedure and a proper financial appraisal on a regular basis, you have no chance once the project starts.

To be doubly protected, I think, when the motion came to Tynwald for the borrowing and for permission to get on with the project, wouldn't it have been very easy to add another clause there to indicate what the reporting process was going to be and how the project was going to be managed?

The Chairman: But the reporting process was... There was a tried and trusted process: the capital procedure notes.

Mr Downie: I am talking about, maybe, somebody being appointed to go in there and monitor the project and keep an eye on it.

The Chairman: Why would Treasury's tried-and-trusted procedures not be suitable for the MEA? Why should they be excused from complying?

Mr Downie: Because I think things moved at such a speed. When you are laying pipelines, you have got huge numbers of contractors, there are some very complicated contractual issues and so on. Really, for what was involved in the costs, there could have easily been somebody independent in there keeping an eye on all these things and reporting directly to Treasury.

The Chairman: So, given that there was not, your Department would then be sympathetic to the MEA view that there is –

Mr Downie: No, I would not say I was sympathetic. I know the rules of the game, and the rules of the game are there to be observed for the benefit and interest and protection of the taxpayer, but sometimes the rules of the game have to be altered in a certain way because, if they had been implemented fully, half of the projects would have taken forever to complete. It is such an onerous process. It is a process that fits well if you are building half a dozen local authority houses or a small primary school, or something like that, but when you are building a huge gas infrastructure, a pipeline and a power station, and there are all sorts of other elements involved, there are 10 clear phases which have to be gone through, 10 reporting mechanisms, and all kinds of other people involved in the decision. It would just be so complex.

The Chairman: So, because of that then, the MEA could be forgiven for not complying with what were seen as being unnecessarily cumbersome and onerous procedures that stopped them acting quickly and in a commercial manner.

Mr Downie: I could not say they could be forgiven, but I think before the project started there should have been some sort of a hybrid developed that everybody could sign up to, because, historically, if you go back before 1999, there was an issue about the capital project procedure notes and the MEA, and as I said earlier on, sometimes they were allowed to do work without adhering to those.

A lot of the projects that the MEA do, do not even come to Tynwald. They utilise their own budget. They have this special relationship with Treasury. Mr Bawden, in his evidence, reported that any problems that they had had prior to the start had been successfully resolved, and that was in the evidence that he and Mr Thompson provided.

The Chairman: Mrs Christian.

Mrs Christian: I am just trying to get clear in my mind, if I may... You suggested that a hybrid would have helped, and the evidence that we have had indicates that the Treasury were willing to create that hybrid, but that the MEA were not willing to co-operate.

Mr Downie: No.

Mrs Christian: The other point that you make... Just please respond to it... You have indicated that, in your knowledge, the MEA had project committees which were overseeing all of this. Why do you feel that, if that information was available on their budgets, it could not simply have been given to the Treasury in whatever format they had it in?

Mr Downie: That is quite right. Unfortunately, we were not brought into this until the situation deteriorated to such an extent that the Treasury issued this direction, and then there was such an almighty row after that, between the Chief Financial Officer and Mr Proffitt. The whole thing just deteriorated from there.

The Chairman: At any point before the issue of the direction, did the Treasury Minister... or are you aware of senior officers of Treasury raising with your senior officers... Did the Treasury Minister, though, specifically with you, ever raise the difficulty that his Department of Treasury was encountering severe problems with getting the MEA – the biggest capital project the Island had ever seen – to comply with capital procedures? Was this not raised with you?

Mr Downie: It had not been brought to my attention as such that there was a problem, and if you actually look at the minutes of all the various liaison committees that sat within the DTI, you will not find anything noted in there that said there was a problem getting financial information. I think you will find that when Mr Morter took his notes at the meeting, he was specific in asking had anybody any issues to raise about finance or whatever.

The Chairman: If we can refer you to one of these liaison meetings... It was the one in September 2003. Admittedly, it was a year after the issue of the direction, but were you aware of a statement made by Mr Proffitt at that meeting that he – Mr Proffitt – had no intention of providing financial information to Treasury?

Mr Downie: I do, yes.

The Chairman: What action did you take when you heard that?

Mr Downie: There are two ways of looking at that. There seems to be some confusion about this, because at that particular time Government was reviewing its strategy and we were setting up these task teams. One of the questions that was put to Mr Proffitt, as I understand it, at the meeting, was would he either be prepared to go and chair a task team, or we would allow a task team from Education, or some other Government office, to come in and go through the MEA's budget. My understanding is that was what that was about. I think you will be aware that we do not have the task teams any more.

The Chairman: I understand your reply, because yes, Treasury was implementing at that time a system of scrutinising Departments across the board through external task teams, and you are correct that it was the Department of Education, or their chief officer, who was on the task team that was looking at the MEA, but really the comment I just quoted... We have evidence it was not relating to that process, but following the meeting, there was an e-mail –

Mr Downie: That is not something that I have seen.

The Clerk: It is on the file.

Mr Downie: Yes, well, I did not read other Departments'...

The Chairman: Mr Teare from the MEA had contacted the Chairman of the Capital Projects Unit and said to the effect, and this is on the file:

'10th September 03: Mike Proffitt has agreed to send the latest financial position on the power station as the Scheme is just about complete. He did admit that it was him that stopped the monthly reports containing any financial advice and that the MEA would not provide monthly finance reports to Treasury on any capital scheme while he was chief executive. His view is that the MEA constitution does not require them to comply with the capital procedures and he is not willing to have Treasury manage, quote, "his jobs".'

Mr Downie: Now you have elaborated on that, I was aware of that statement. However, I think you will find that my Department received the information requested and passed it to the Treasury, and on its receipt I must admit I was taken aback by the comment, but this was tempered by the fact that my officers would be able to get the information and I think they got the information and supplied it to Treasury.

The Chairman: Was that the first time then, September 2003, where you were concerned from the outset about the manner of providing information? Was that the first time you became aware that Mike Proffitt had actually stopped the system of monthly reporting on the financial progress of the Scheme?

Mr Downie: My understanding was that the procurement group, the project management group, was still reporting. They must have been reporting to somewhere because they had piles and piles of material and reports. Where was all that going?

The Chairman: We have from Mr Corlett, on 23rd

September 2003, an e-mail to Ian Thompson, copied to David Morter of your Department, to say that he had met Mike Proffitt the previous day, who had confirmed that he had just signed off a detailed financial report regarding the power station build:

‘He mentioned that the MEA has a claim for £8 million against J P Morgan, which they are quite confident of recovering. If so, they will be comfortably under budget.’

That was a statement that was made by Chris Corlett –

Mr Downie: That was reported to me.

The Chairman: – reporting that meeting: ‘comfortably under budget’. So that was your understanding?

Mr Downie: Yes.

The Chairman: Thank you.
Mr Butt, you had a question.

Mr Butt: Yes, it is connected with this. You said when you first took over Mr Bawden was the Chief Executive, and he told you that there were problems with the Treasury but they were being resolved.

Mr Downie: Yes. We discussed the reporting procedures, how the board was set up, what happened. I think I raised with him issues about the reporting procedures and I knew that there had been one or two words said. But the last time I raised it with Mr Bawden he had said that he had had a conversation with Mr Thompson and Mr Thompson was content. On looking at the evidence on file, Mr Bawden did say that, on 1st July.

Mr Butt: Okay. As time went on, though, as problems persisted in some way or other, Treasury still had concerns, as we have seen in our evidence. Mr Bawden’s successor, Mr Chris Corlett, in his evidence, was asked a question by Mr Quirk and he said:

‘The one and only concern was Treasury’s concern about full compliance with capital projects procedures.’

Mr Quirk asked:

‘Were the political Members aware of that?’

Mr Corlett, your Chief Executive, said:

‘Certainly the Minister was, yes, and that, I understood, had been discussed, and the DTI Minister and Treasury Minister and, I understood, the Council of Ministers, were aware of that position.’

So that is his view of what is going on. Then we get the directive from the Treasury, which is a quite a major thing, and then we have the e-mail mentioned by the Chairman, from Mr Teare to Chris Corlett, which came to you eventually, saying that Mr Proffitt is not going to respond with financial information as long as he is Chief Executive.

Now, as Mr Callister said, you are an inquisitive person. What alarm bells did that ring and what – ?

Mr Downie: It did but, knowing Mr Proffitt as I did, he said a lot of things. He would say one thing one minute and

do another thing a different... When you were dealing with Mr Proffitt, you had to take into account the personality of the man that you were dealing with. He was totally committed to that scheme and, rightly or wrongly, his job was to get that scheme done, come hell or high water, and, probably, no matter what it cost. That was his job.

The Chairman: Come hell or high water, whatever coach and horses had to be driven through regulations?

Mr Downie: I would not go as far as to say that. I am sure he will be here to give evidence himself at some stage, but he saw his main role as delivering that project and, as far as he was concerned, his report to us was it was going to be on time and on budget. That was his pet phrase.

Mr Butt: When Mr Corlett gave evidence... He was actually asked the question, ‘were you led by the nose and was the Department led by the nose?’ Mr Corlett shrugged and nodded. His view was that DTI had been led by the nose. Is that the man or the person that Mr Proffitt was?

Mr Downie: I do not think they were led by the nose but, just to go a little step further on this, when Treasury issued the direction, it was like world war three had started between the MEA and the Treasury. Whatever goodwill or relationship existed previously had gone then. In fact, at some stage, Mr Gelling was brought in to try and bring the two sides together, but they were firmly entrenched.

What did not help was that when the legal judgment was made regarding the direction that was served by the Treasury, it was found to be incorrect. That led to another row, because one thing about Mr Proffitt: he thrived on confrontation. He loved it. He loved the challenge and if somebody had come along and tried to get him on information that was not correct, that was meat and drink to him and that was what made him very difficult to work with. I can understand officers, perhaps, being in a position where they were afraid of a confrontation.

Now, I will openly admit, I had my cross words with him, my particular rows with him, but that –

The Chairman: What did they tend to be about?

Mr Downie: Members’ Questions: he did not hold Members of Tynwald in very high regard, sadly.

Mr Butt: Just on that view, there were a couple of occasions in October 2004, I think concerning Questions, where you had to go – I think that is in the evidence of Mr Morter – and have a ‘clear the air’ meeting with Mr Proffitt, over a letter which had been sent to him. We do not know what that was about. Mr Morter then had to bear the brunt of a telephone conversation from Mr Proffitt.

Mr Downie: Was this to do with Mr Karran?

Mr Butt: It possibly was, yes. I just want to ask the question: do you know what that was about?

Mr Downie: Mr Karran used to write to me on numerous occasions. We would get several some weeks. The letters are all there on file. Quite often it was about Questions he had asked two or three weeks previously. I did not have the

answers. I forwarded the questions to the MEA. They put a considerable amount of time in, answering all these questions, researching them, and then when I had replied to Mr Karran, it only attracted an even larger number of questions to deal with the answers he had been given in the previous letter.

What did disappoint me and did cause some problem, at one stage, Mr Proffitt said, 'I am not going to be dealing with this any more.'

I said to him, 'Well, you must deal with it, because if you do not deal with it, I am going to stand up in Tynwald and report that you have not been giving me the information I require. However you may feel about a specific Member of Tynwald, he is still entitled to the answers and, while I am a Member of Tynwald, they are the rules that I work by.'

What did sadden me, though, was that I made arrangements for Mr Karran to go and visit the MEA. He had the project team available for him, he had all the information that Mr Karran was requiring and he turned up with a gentleman called John Bannister. Mr Proffitt said, 'I will talk to you, but I am not going to talk to this man.' To this day, I do not think the meeting took place. I think they walked away.

I honestly think that would have been beneficial for both parties to have got together and maybe taken some of the steam out of this, but the letters just continued. Mr Karran wanted his adviser.

The Chairman: Mr Quirk.

Mr Quirk: May I just ask you, Mr Downie, regarding your position as DTI Minister at the time, were you aware of this 'Fresh Start' initiative and whether the Department engaged in it or tried to facilitate anything with Treasury and the MEA?

Mr Downie: The Council of Ministers had the board in, on two or three occasions, and I understood that things had got a little bit better. But there was still this friction, sadly, between the Chief Financial Officer and Mr Proffitt. I think that has been alluded to in some of the evidence you got from Mr Gelling.

The Chairman: I think when Mr Quirk says 'the Fresh Start initiative', this was following the nature of the direction in the summer of 2002. The Fresh Start related to the fresh start between Treasury, the Capital Projects Unit and the MEA. There were no meetings of the Council of Ministers in terms of a fresh start, were there? For example, you were not aware until September of the following year, 2003, that there had even been any difficulties.

Mr Downie: I think, hand on heart, we knew that the relationship was a bit rough and ready but, at the end of the day, they are professionals. The Capital Projects Unit and the Treasury need to know what was going on in the MEA. They, really, in my view, needed to get themselves sorted out. If we had known what we know now, we would have probably put a lot more emphasis on bringing them together and making sure there was good lines of communication, but we were actually left out of the loop, I feel.

Mr Quirk: Can I just ask, there were no thoughts or idea to put a political Member in there and say jump somebody in to plug up the gap and act as a mediator, conciliator or whatever?

Mr Downie: With respect, I do not think things had deteriorated to that level. Of course, the logic behind having this board was to have a commercial board. The Manx Electricity Authority are not part of Government. One of the things that I think the Council of Ministers was trying to do was to give them a much more outward looking approach. They were talking about telecoms and cables and all sorts of other things.

The Chairman: Mr Callister.

Mr Callister: Thank you, Mr Chairman.

I just want to go back to something we touched on briefly a bit earlier and that is reports of the progress of the power station to the Council of Ministers. Just remind me how frequently they would have come. Were they monthly reports?

Mr Downie: My information is that the MEA provided information to Colin Kniveton in the Treasury. Colin Kniveton's job was to collate all that information with not just the MEA, all of the other activities within Government, all the other capital expenditure, all the other capital schemes and they would come together in a quarterly report that was available to the Council of Ministers.

Mr Callister: What kind of financial information would be within that report?

Mr Downie: Off the top of my head... I would have to get a report and physically show you what was in it. But there would be a report to the Council, there would be a report to Treasury on what was happening with the Government's expenditure.

Mr Callister: Not sufficiently detailed to be able to understand that there had been more money expended than inside budget. The figures would not be detailed, presumably?

Mr Downie: With respect, I do not think you would understand whether the project had gone over budget or not, until you had had all the figures in, really. They do have a spend forecast and a running spend forecast, but it is very difficult until you know... There must have been a team within the MEA available to do that, because we are not aware of anybody who was not paid.

The Chairman: Can I just take you to a meeting held on 13th October 2004. This meeting was called after the MEA Chairman had spoken to yourself, with regard to a letter sent by David Morter, requesting further information in order to write a paper to the Council of Ministers, which had the effect of recommending Mike Proffitt be made a member of the board. You were at that meeting with your Chief Executive and Mike Proffitt, the Chairman, Mr McCallion and Mr Terry Mackay.

Just coming back again to what you said, a few moments ago, about letters from Peter Karran, you indicated that you had pointed out the need for such letters to be dealt with, whether they were welcome or not, to which the MEA Chairman put forward the opinion – and I am just quoting from the file note –

'The MEA had provided all the information to the Department that

they were going to and that was the end of the issue as far as they were concerned.'

Were you satisfied with that response by Mr McCallion?

Mr Downie: I have just made some notes on this meeting, Mr Chairman.

This meeting was, if I recall correctly, between the board and myself and my senior officers and was called due to a misunderstanding between Mr Morter and the Chairman, over details of the new board members. At the meeting, discussions were held around the make-up of the board, the fibre optic cable, the tariffs, letters and questions from Peter Karran and the future of Mr Proffitt, and it was at this time that the MEA advised that they had used the £10 million ear-marked for the wind project.

I can recall being quite shocked at this and all the information we had been provided was that the project was on track, but was held up with planning and environmental issues. This was the first point we were aware that they had used the money for the gas project.

I referred this information to the Chief Minister and the Treasury Minister. I cannot recall how and when, but this was further discussed at the meeting on 11th November 2004 between the Chief Minister, Treasury Minister and myself and officers to discuss various MEA issues such as tariffs and the fibre optic cable. I also remarked on this, in a letter to the Chairman on 9th December 2004. After this date the whole of this issue was enveloped in the larger finance issue surrounding the MEA which became apparent at that time.

Now, if you want me to just to elaborate on the Mr Karran...?

The Chairman: My question was about Mr Karran. How did you respond to the Chairman's view that that was the end of the matter: all the information you were going to get given and that was it?

Mr Downie: Well, I told both the Chairman and Mr Proffitt that I found that totally unacceptable. The letters were sent to me. I had an obligation to answer Mr Karran's letters or to deal with his questions in Tynwald – we were dealing with two lots of questions, it was not just his written mail – and, at the end of the day, they agreed that I should have the information that I required.

I said, categorically, however you feel about Mr Karran and his line of questioning, he is entitled to answers, as any other Tynwald Member who raises an issue about the MEA.

The Chairman: When he gave that response – you said it was unacceptable – was that indicative of the mindset of the MEA in providing financial information when they were requested it? Were such requests seen as an irritation and a distraction?

Mr Downie: I do not think so. I think when you got the board together, you got a different perspective from when you got Mr Proffitt on his own. I think the board understood what our relationship was and when we asked a specific question we needed an answer. I am not convinced that the board knew exactly the state of the finances or whether, like us, they had been told one thing and another thing was actually happening. I am absolutely convinced of that.

The Chairman: So, you think the MEA board were, to use a phrase that was alleged against your Department, led by the nose by Mr Proffitt?

Mr Downie: Well, I would not use the terminology, 'led by the nose' but they were probably not given sufficient or correct information. As I said early on, I know some of the members of this board personally: I know their business background; I know their bearing in the community and I would stake my reputation on some of them.

The Chairman: Just coming back to that meeting where you raised the issue of the £10 million that had been allocated within the bond for the wind farm, was your understanding, when the bond was approved by Tynwald in July 2001 – £185 million bond – that that was the maximum financial provision made available to the MEA and included £10 million for the wind farm?

Mr Downie: My understanding was the two items were separate. There was money there to develop the wind farm, to get on with the planning process, develop the strategy. In fact, I think they spent nearly £1 million on feasibility studies and, of course, Government were very keen at that time to be more involved in energy based... or environmental energy – wind farms and other things. It came as a complete shock to me and it came as a complete shock when I told the Chief Minister and the Treasury Minister.

The Chairman: Because, of course, the Chairman, Mr McCallion, at that meeting noted that the £10 million had already been spent on the provision of gas infrastructure but, moreover, the Chief Executive noted that the £185 million, according to the notes of this meeting, was 'purely an indicative sum' and this had been outlined in a letter to the Chief Minister and, unfortunately, the £10 million was required to complete the gas project.

So, £185 million was purely an indicative sum. What did you understand that to mean? The maximum expenditure in total would not, necessarily, be £185 million or the way the £185 million was broken down – £10 million for the wind farm and so much for other things – that was what was indicative? Which was it?

Mr Downie: My understanding, all along, was that the items were separate. There was £10 million set aside for the wind farm.

The Chairman: Out of the £185 million?

Mr Downie: Out of the £185 million, but then, if you listened to what Mr Proffitt was saying, there was supposed to be money coming back from the collapse of Enron. There was another £8 million or £10 million there. Then, his reports to our Department would be that the power station had come in on budget. So, we never saw any running accounts, but they must have been available somewhere in the system, I would have thought.

The Chairman: You would not necessarily be expected to get running accounts. We have been over this ground.

Mr Downie: It was not our responsibility. Treasury had indicated to Mr Bawden and Mr Bawden had indicated to me

that the financial side of this project had nothing to do with our Department. I am not passing the buck but they were the ground rules laid down.

The Chairman: To the best of your belief, the MEA were getting on with the project, despite the onerous need to comply with financial regulations?

Mr Downie: I think, myself, along with other Tynwald Members... we went out and we looked at the various sites round the Island, we looked at the gas coming ashore in Kirk Michael, the huge tract across the countryside and we followed the link of the gas pipeline. It was a huge, huge project in Isle of Man terms and, of course, the building of the power station itself and the importation of the gas turbines. It was a very major event in the history of the Isle of Man, I think, and to all intents and purposes, if everything had gone to plan and within budget, we would have had a superb... well, we have a superb electricity infrastructure today, which is actually standing us in very good stead, at this moment.

The Chairman: Okay. Thank you. Mr Butt.

Mr Butt: I have three specific questions on different topics.

The Chairman: We finish with noticed questions of a more general nature. Mr Butt.

Mr Butt: Okay. Can I just say, first of all, you say you trusted the board, they were respectable people. You presumed they would do the job properly and you and the previous Minister, as well, had confidence in them, I understand.

Mr Downie: They had been appointed by Mr North. I just came in and took over where he left off.

Mr Butt: It is fair to say, then, during the project, the DTI always had more of a light touch, as to what was happening with the MEA and their project?

Mr Downie: I would say it was even less than that, because we were fulfilling our statutory obligation. Our obligation was to liaise with the DTI. While the power station and the gas pipeline were being built, life had to go on. There were still tariffs, there were all the other issues that we got involved with, about the continuity of supply, health and safety issues. That was the normal meat and drink for the Department to consider.

At those meetings, there was a technical update given to Mr Morter: where we are, what is likely to happen in the next few weeks, how we were handling our PR and, in fairness to the MEA board, they did a superb job with the PR and people were fully briefed about what was going on. There were very few people inconvenienced by all the work.

Mr Butt: So, that was a light touch – in fact, you say less than a light touch. It is a contrast, then, when it comes to the lighting of the cable, when the MEA put the case through for the interconnector cable to be progressed forward, with their business plan for that. You got quite involved there. I think when the financial case came through to start the cable going, it was probably your intervention that stopped it actually

happening at that stage, because the financial model did not stack up? Would that be fair?

Mr Downie: That is the Skyward...?

Mr Butt: Yes.

Mr Downie: Yes.

Mr Butt: There is a contrast there. In one, you took a light touch and in this, you actually got closely involved.

Mr Downie: Well, under the Gas and Electricity Act, we were not even advised that the MEA had formed a subsidiary company.

Mr Butt: Did you get closely involved because you thought there were some problems on the horizon or you were not happy with their progress by that stage?

Mr Downie: No. I was not happy that the Skyward Project even stacked up. We were being pushed into that and I am afraid I was not going to be pushed. I wanted proper time to look at it. I even wanted it independently assessed, because in my own mind, I did not think they had done their homework properly and, in the present climate, there was no way they were ever going to get that through Tynwald, until they had sorted their affairs of the main project out.

Mr Butt: Okay. Thank you. Two other separate points. I think it is fair to ask you about the comments of Mrs Williams, when she gave evidence here. It is page 63 of her *Hansard* note. She was asked about what were the reasons for the withdrawal of the direction and she said that one of the reasons was that:

‘The Treasury Minister was being put under vast amounts of political pressure, in particular from the Minister of the DTI. I was certainly aware of notes being passed in Council, saying – and I am paraphrasing, so please do not take this as literal – “If you do not back off, the board are going to walk. We cannot afford to lose good people like this. These are the A-Team: let them get on with the job, they know what they are about.”’

Now, I think it was accepted, at that time, believed to be a very good team. I just wondered what your view is of what Mrs Williams said.

Mr Downie: When the direction was improperly served – I will say ‘improperly served’, because that is the legal definition that the Attorney General gave and, in fact, the Attorney General instructed that the direction be rased or released, as it were and, then, for some reason, all of these papers were mysteriously destroyed.

I knew at that particular time that the board had gone out and got independent legal advice and their legal advice was the same as the Attorney General’s. So, what had actually happened was, for a lot of very professional people involved in the board, their credibility had been questioned by this and they were not very happy.

Mr Butt: Was it said that they would walk, then?

Mr Downie: I was asked in the Council of Ministers what my view was and I said that it would be very sad if they

decided to resign and leave us in a terrible situation, right at the very critical part of this contract – ‘however you feel about this, that is something you must take into consideration’.

Now, it was following that that Mrs Williams then took the decision to withdraw the notice that she gave the MEA, but it was not said as ‘this is what is going to happen.’ We were talking about what could happen and what was likely to happen, and it was part of the comment that was made in Council of Ministers at the time.

Mr Butt: One more different question. There were directives issued by the Department: one to give Mr Proffitt the right to negotiate with the Bord Gáis Éireann contract over prices. Was that in your time or before your time?

I just wondered, were there any other directives issued which the Committee should know about?

Mr Downie: I have brought along with me a directive. I have it here somewhere, if you just bear with me for a minute.

Right, it is a delegation of function under the Government Departments Act 1987:

‘In exercise of the powers conferred on me by section 3 of the Government Departments Act 1987’ –

This was made by the previous Minister, Mr David North. He authorised Michael Proffitt, the Chief Executive of the Isle of Man Electricity Authority:

‘to act on behalf of the Department until further notice in relation to negotiations with appropriate parties concerning terms for access to the proposed second gas interconnector between Scotland and Ireland. Any agreements entered into under this authority will be subject to the approval, where appropriate, of the Treasury and Tynwald and a copy of the record of any discussions undertaken in accordance with this authority must be passed to the officer of the Chief Executive of the Department.’

The delegation of function ceased on 9th August 2001. If you have not got that – I did not notice it in your files – I will leave that today, if you want it.

Mr Butt: The follow up to that question is: it says there they should report back to the Chief Executive with his findings. Was that ever done, do you know?

Mr Downie: I am not sure of that, but on reading that delegation, I did think it was an awful lot of responsibility to give to one person. I would have thought that, given the sensitivity of negotiations with Bord Gáis Éireann, and we know that there have been subsequent problems regarding the negotiations for capacity and the pipeline and so on – they have been raised in Tynwald, they are in the public forum – that was an ideal opportunity for Treasury or Capital Projects or somebody to get involved with that. To my knowledge, it never happened. I think Mr Proffitt went on his own.

The Chairman: In granting that delegation, was there an accompanying reporting mechanism and procedure in place between him and the Department? After all, he was acting in the Department’s name.

Mr Downie: I do not know. You would have ask Mr Bawden that. Mr Bawden was Chief Executive at the time, but I was aware that Mr Proffitt did report to the Minister on

occasion before I joined the Department. Whenever I spoke to Mr Proffitt, I always had one of the officers with me.

The Chairman: I have just had pointed out to me by the Clerk that part of the delegation requires a copy of the record of any discussions undertaken in accordance with the Authority to be passed to the office of the Chief Executive. Thank you very much.

Mr Callister?

Mr Callister: No, thank you.

The Chairman: Mrs Christian.

Mrs Christian: Just one final question. In the light of these events, do you think that there is any need for a strengthening of the legal position vis-à-vis the MEA and their requirement to comply with financial regulations? Do you think there is any need for any change in the statutory provision vis-à-vis MEA and DTI?

Mr Downie: As I said in my opening remarks, the legislation under which the DTI operates does not really deal with finances in any way. I think, in the long term, there are two things we are going to have to consider: whether the MEA, as it stands at the moment, is going to become a commercial entity and stand on its own two feet, like lots of authorities have done in the UK; or, if it is going to be part of Government and be funded by Government and so on. There really have to be some proper guidelines drawn up.

I think that it is highly unlikely we are going to be building a power station or a huge gas infrastructure to the same extent that we have with the present system, so there may not be a requirement for years and years for anything like this to be dealt with again, but I do agree there needs to be a proper set of guidance notes and regulations drawn up about Statutory Boards and how they gain their finance and how they deal with capital projects.

The Chairman: I understood you to say that one of the matters that would have to be decided was whether the MEA set up as an independent commercial operation.

Mr Downie: That is only –

The Chairman: Is that under consideration at the moment?

Mr Downie: I do not think so. It is not under consideration, as far as I am aware, but if you look at the various models in the UK, they are private companies. Scottish Power is a private company. There are dozens of them in the UK. Whereas in the old days we had the old British Generating Board – GBG, or whatever it was, BGB – and, of course, that was funded by the state, and there was state money and so on put in there, not dissimilar from the MEA, but if you are going to have a situation which is using taxpayers’ money, I think there has to be a proper framework and a proper system of accountability in place.

The Chairman: Is that a lesson you have drawn since the events of the MEA, since 2004, or is it a point of principle you have held before that, because you put that scenario in contrast to the privatisation scenario of utilities, which would,

of course, require a regulator to act in the public interest? It is not a new debate just since the troubles with the MEA. Are you saying that the need for proper interaction of the finances with Government is a longstanding issue?

Mr Downie: I think there has been confusion; there is no doubt about it. There is no doubt in my mind that what has happened at the MEA and the way there has been this unaccountability, there has to be something done to address that, and I think a new regime needs to be worked up and introduced which everybody who works in that industry fully understands. I do not, for one moment, think that any money has been misappropriated or there is anything dishonest taken place, but I think, at the end of the day, we want to know how much that has cost, whether it has been value for money, and we want to know that if there are projects taking place in the future we have a very clear audit trail and people who are spending the money are responsible.

The Chairman: You made clear, when you described the functions of the DTI, that there was no responsibility for the finances of the MEA. In retrospect, do you now think if there had been a mechanism for more closer management or control or insight into the MEA's activities, then certain things might not have happened?

Mr Downie: I do not think so, because if you look at the scenario, the MEA employed – and still does, I think – over 300 people. They probably have several qualified accountants. They have a procurement team, they have a project team. They have an internal, an external audit.

The DTI had less than 90 staff when I worked in there, and they had one qualified accountant, and that person dealt with a whole raft of issues, with the marine administration, the Ship Register, the various projects that were coming into the Department which were seeking financial support from the various Industry Board grants and so on. If you are going to bring in a regime like that, you would want at least a dozen people if you had another project like the MEA.

The Chairman: So if the DTI had been adequately resourced for the task at the time, would it have been appropriate to have a more intimate oversight of their activities, and would all the problems not have arisen?

Mr Downie: You could argue it both ways. Should the DTI, who are a commercial income-generating Department, have to sit and wet-nurse the MEA, the Water Authority, the

Post Office? I would suggest not. They acted as a conduit. That was their role. They were their voice in Tynwald or their representative at the Council of Ministers. They were not there to hold their hand all the time.

Part of the logic behind setting up the MEA in such a way as it was to give it more commercial freedom, give it an opportunity to develop itself and act more like a business. Perhaps, with hindsight, that model was wrong. Maybe there should have been more political involvement at board level – it is great with the benefit of hindsight – but a much more interactive relationship with the Treasury, so people knew what was going on.

The Chairman: The relationship with the Treasury was a very troubled one, wasn't it, though? What more could Treasury have done?

Mr Downie: I think it was fraught, but I think in there there is an element of personalities involved too. I am not suggesting for one minute that Mike Proffitt was the easiest person in the world to get on with; he was not, and he could be very difficult at times. I was fortunate in that, whenever I had dealings with him, I always wanted to see him and the board together, and it was a different environment then, because the board could understand the difficulties I was having and I did not have to take a glib answer from Mr Proffitt.

The Chairman: Thank you very much, Mr Downie. I think that concludes all the Committee's questions. Unless you have anything further you want to add –

Mr Downie: No, nothing further to add, Mr Chairman.

The Chairman: Thank you for your assistance to the Committee.

There will be further evidence sessions with other witnesses, of course, and these may raise further points that we require clarification on. If we need to contact you, we will do so.

So, ladies and gentlemen, that concludes today's evidence session. Our next public session will be held at 10.30 a.m. on Friday, 7th November, when the witnesses will be Mr Stephen Harding, Government Advocate, and Mr John Corlett, Her Majesty's Attorney General.

Thank you very much.

The Committee adjourned at 4.11 p.m.