

**REPORT OF PROCEEDINGS OF
TYNWALD COURT**

**Douglas, Wednesday, 29th April 1998
at 10.30 a.m.**

Present:

The President of Tynwald (the Hon Sir Charles Kerruish OBE LLD (hc) CP). In the Council: The Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett), Mr B Barton, Hon C M Christian, Messrs J R Kniveton and E G Lowey, Hon E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

In the Keys: The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran and Hon R K Corkill (Onchan); Messrs J R Houghton and E A Crowe (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Clerk of Tynwald.

The Lord Bishop took the prayers.

IRIS Master Plan - Second Review And Update Approved

The President: Hon. members, we start this morning's consideration of the order paper at item 28, and I call upon the Minister for Transport to move the resolution standing in his name.

Mr Brown: Thank you, Mr President. I beg to move:

That Tynwald approves the Second Review and Update of the IRIS Master Plan dated April 1998.

The department has undertaken a review and update of progress and the strategy for the future in relation to the IRIS master plan - that is, the policy of treating all the Island's sewage on land and ceasing to discharge such untreated effluent into the coastal waters of the Island.

The report is based on three volumes. Volume 1 contains the main report, volume 2 is a summary of the consultants' reports and volume 3 contains plans relating to the transmission main from Douglas to Santon and the sewage treatment plant at Meary Veg, copies of which have been circulated to all hon. members.

Volume 1 is the main part of our report, containing our aims, update, considerations, conclusions and recommendations. Our main considerations when dealing with this matter were: (1) whether there should be one or two treatment plants; (2) reaffirmation of the use of Meary Veg for sewage treatment; and (3) how to progress with the transmission main from Douglas to Meary Veg; (4) proposals for the sewage treatment plant at Meary Veg; and (5) continuation of support for local drainage authority schemes.

Whilst members have had the documents now for some time and have also had the opportunity for a briefing by the department, I will briefly take members through the basis of volume 1 which, as I have said, is the main part of our report. The report before hon.

members, the second review and update, explains what has been done by my department and the local drainage authorities to date to implement the strategy. It reaffirms the immediate objectives and makes recommendations to continue the implementation of the IRIS strategy.

The recommendations contained in the report are as follows: first, the Department of Transport should progress the IRIS master plan on the basis of a single sewage treatment plant located at Meary Veg; second, that the Department of Transport recommends that, working jointly with the Department of Tourism and Leisure, a risk assessment be prepared by specialist consultants on the implications of laying the transmission main under the railway, dependent upon the results of the analysis and in joint agreement with the Department of Tourism and Leisure, the transmission main be laid in the railway, a combination of the railway and the roadway or, failing this, within the roadway; thirdly, the department recommends that the first phase of the sewage treatment plant be progressed to completion using the extended aeration process for the treatment. The department recommends that the discharge from the outfall at Meary Veg is disinfected once the untreated discharges to coastal and inland waters are removed and have been taken out for treatment. The fourth and final recommendation is that the department continues to advise and support the local drainage authorities with regard to the development of the storage and pumping station facilities which contribute to improving the sewage system in the interim whilst forming part of the IRIS master plan in the longer term.

Within the report the department has endeavoured to provide as much information as possible so that members may be fully briefed on the progress relating to the IRIS master plan and what we recommend as a future strategy, and to provide a programme for the continued progression of that plan. The review considers specifically the current status of IRIS, whether there should be one or two sewage treatment plants, the feasibility of the route options between Douglas and Meary Veg, the feasibility of developing the site at Meary Veg for sewage treatment, the progress being made with local drainage authority schemes, and the capital and running costs for implementing the next stages. The review draws conclusions from the feasibility work undertaken and recommends a strategy with realistic and achievable targets for the future.

The aims of the IRIS master plan have not changed since they were first incorporated in the document 'IRIS Project - The Way Forward' which was issued to members in July 1993 and reaffirmed in the first review and update presented and approved by Tynwald in April 1995. The aims, which I believe are worth restating, are as follows: (1) to be practical and achievable; (2) to prohibit abortive work or additional expenditure; (3) to maximise the use of local resources; (4) to be phased over a realistic period; (5) to attain the government's immediate objective and the standards approved by Tynwald for the collection and disposal of sewage, ensure that any subsequent changes in the standards can be sensibly included without expensive or abortive costs; (6) to be cost-effective and consistent with the overall financial provisions contained within the department's and government's capital programme; (7) to promote established technology; and (8) to implement effective management controls to ensure compliance with the agreed financial provisions and project deadlines. So they were the aims which were agreed at that time and are still relevant today. The department is firmly of the opinion that the aims that were initially laid down are as valid today as they were then.

Hon. members will find on page 4, in section 3 of volume 1, the details of the current status of the IRIS project. Within this section the department restates the immediate objectives

of the IRIS strategy approved by Tynwald in 1995. Also, we identify what works have been undertaken, by whom and at what cost, and the status of the various contracts. Hon. members will note, in the penultimate paragraph on page 6, we have brought to their attention that presently there is a claim which has been submitted for additional costs on contract 1 of the Douglas and Onchan stage. This claim is presently being progressed and we hope that we can achieve an equitable solution in the near future.

When considering the future progress of the IRIS scheme one of the important questions to be asked was whether we should continue with the policy of having only one treatment plant or whether or not we should provide the Island with two treatment plants, one at Meary Veg and one in the north of the Island. It was clear in our considerations that both options were possible and we could develop a regional strategy - that is, to have two treatment plants. It is clearly technically acceptable to have either one or two treatment plants for the IRIS scheme. We identified that there are savings regarding revenue costs if we have two plants, the main cost saving relating to the cost of pumping the sewage. We are also very conscious that there is a problem of public perception relating to the pumping of sewage from the north of the Island to the south of the Island and, whilst this is an important factor, it is felt that whatever decision we make must be in the best overall interest of the Island, both now and in the future. I think it is fair to say that initially, in considering whether or not we have one or two treatment plants, we considered there were attractions regarding the proposal to progress two plants. However, as we continued our investigations it became clear that there were a number of factors, apart from the cost, that actually caused concern. However, based on the costs available we can identify, as is projected within the report, that the cost of developing a single treatment plant was more cost-effective than developing a regional policy - that is, two treatment plants. Whilst there were savings with regard to pumping, when you offset the cost of borrowing and the extra capital moneys and other additional operational costs, there are no advantages of having two plants as against one.

A number of other problems that were identified if we decided to implement a regional strategy with two treatment plants were that we only had land zoned for sewage treatment for the one site at Meary Veg, Santon, and it would be necessary not only to obtain a site in the north of the Island but also to seek to have the development plan amended and to subsequently obtain planning permission. All of these matters had the potential of substantially delaying progress with the IRIS scheme for the north and west of the Island. It also created uncertainty and at the end of the day success could not be guaranteed in obtaining such approvals. The department gave considerable consideration to these matters before finally determining which way to go forward. We also felt it was important to safeguard government's investment and to be able to progress the rest of the IRIS programme even if we were able to purchase suitable land in the north of the Island. It was also paramount in our considerations to ensure that the north and west of the Island are not left behind or, worse still, that we were not left with a situation where we were unable to connect the north and the west of the Island to the Meary Veg site if we were unsuccessful in obtaining land, land rezoning, and planning permission in the north of the Island. To secure that the north and west of the Island would not be left out, it was obvious that it would be necessary to provide a full-sized main along the central valley. If we were to progress in this way and provide a full-sized main in the central valley, then it really means that there is no real advantage in developing two treatment plants because of the investment costs required to secure and safeguard the interests of the north

and the west of the Island and the whole of the IRIS scheme. Potentially, if the department determine not to provide a full-sized main in the central valley and make adequate provision to enable the Island's sewage to be treated at one plant - that is, Meary Veg - then it is possible that the north and west of the Island may never be connected to the IRIS system. The department felt that this was a totally unacceptable situation to put ourselves into and therefore determined that, in the best interests of the Island overall, we should reaffirm to have one treatment plant, and that should be based at Meary Veg as previously recommended and approved by Tynwald.

The department also undertook an assessment of the route options for laying the transmission main from Douglas to Meary Veg. In undertaking this assessment we considered all of the practical routes which were: road only; rail only; road and rail; road, rail and fields; or field only, along with the costs of undertaking those options, and the details of this members will find in section 5, volume 1, of the report. The department was very conscious of the concerns of the Department of Tourism and Leisure relating to any effects the construction of a main from Douglas to Meary Veg may have with regard to the integrity of the railway system. Being a former minister of that department, I of course understood the concerns being expressed by the department. I therefore arranged for a meeting at political level between the two departments and we have subsequently agreed to recommend to Tynwald that, working jointly, we should prepare a risk assessment to be undertaken by specialist consultants on the implications of laying the transmission main in the railway and, dependent on the results of that analysis and in joint agreement with the Department of Tourism and Leisure, the route for the transmission main will be determined. That may involve the main being laid totally in the railway or a combination of railway and roadway or of course, failing all that, if the assessment clearly identifies problems that we feel cannot be overcome, then a decision will be made to lay the main totally within the roadway as recommended in our report.

One of the issues that has been raised before has been the viability of providing a sewage treatment plant in the vicinity of the White Hoe area. We therefore undertook a study of the practicalities of providing a sewage treatment works in this area. It is clear that there is likely to be some considerable concern if we were to provide the treatment plant in the White Hoe area. It is an open public site, it is easily visible, it is close to a residential area and is not shaded from a main access into Douglas, where the treatment of the Island's sewage would be on display for all to see. Initially the discharge would have to be discharged into the river and this option would require further treatment to achieve a higher discharge standard, and it is likely that there would be a detrimental effect on the environmental quality of the river, even if we achieved a higher discharge standard. It is therefore likely that the final effluent would have to be conveyed back to Douglas for discharge. This would require at least an additional 1050 millimetre gravity main and a substantially increased sea outfall into a far more sensitive area without the benefit of the strong dispersion currents available at Santon Head.

Another problem is that the land at the White Hoe is not zoned for use for sewage treatment and, based on our experience of obtaining rezoning for Meary Veg and also being conscious that this is nearer to a residential area, we believe that the delay in enabling us to continue to progress with the IRIS master plan is an unnecessary and unacceptable position to put ourselves into. Whilst some hon. members may disagree with the decision to provide a treatment plant at Meary Veg, Santon, the original decision made by the department and

approved by Tynwald in 1995 we believe continues to have merit and there are certainly no identifiable grounds, in our opinion, which warrant the government or Tynwald reversing that decision. The Meary Veg site provides an effective and acceptable location for the treatment of sewage, ideally situated for discharging the treated effluent.

Since Tynwald approved the IRIS master plan in 1995 much work has been undertaken by local drainage authorities to progress the renewal of their sewer systems and to provide storage tanks and pumping stations which will eventually enable them to link up with the IRIS system. Nearly £3 million has been spent in the Douglas and Onchan area on the refurbishment of their existing infrastructure and, whilst much has been done, a lot of work of course still remains to be done, particularly in Douglas. We have seen the implementation of contract 1 for the Douglas and Onchan area providing the construction of storage tanks and pumping stations on Loch Promenade, Douglas. Contracts 2 and 3 have similarly been progressed. The works have been completed on time with the final accounts agreed on contracts 2 and 3 within the approved budgets.

In relation to the local drainage authority schemes, the Port Erin storage tank and pumping station has recently been completed. The Ramsey storage tank and pumping station has just been commenced and is scheduled for completion within a year. A feasibility report on the works in Castletown relating to the storage tanks and pumping stations has been completed and accepted by the Castletown Town Commissioners. They have appointed their design team and it is expected that the works will be undertaken in the very near future. Likewise, the feasibility report for the Port St Mary storage tank and pumping station has been undertaken and the commissioners have accepted the report and are in the process of progressing with that project. At Peel the feasibility study on the provision of a tank and pumping station is being prepared and it is hoped that this will progress as soon as possible. It is therefore the department's view that the department should continue to advise and support local drainage authorities as they develop storage and pumping station facilities which contribute to the sewage system in the interim whilst forming part of the IRIS master plan in the longer term. As hon. members will appreciate, the costs of all these works are funded one hundred per cent by government through my department's budget.

The continuation of the works relating to the IRIS project, as proposed to be undertaken by my department, are laid out within the department's capital programme as part of the government's five-year capital programme. Provision is made for the first phase of the sewage treatment plant at £17,100,000, the transmission main, Douglas to Meary Veg, is £8,630,000, the transmission main, central valley, at £5,180,000, and the transmission main, Castletown to Meary Veg, is £6,550,000.

Volume 1 of the report also provides, in table 8.1, the annual running costs as at October 1997. Hon. members will also find in table 9.1 a detail of the programme envisaged for progressing the IRIS works from the year 1998 through to the year 2003 and onwards. Whilst hon. members may be concerned at the implications of developing the IRIS master plan to deal with the Island's sewage, I think it is worth making the point that in consideration given previously and subsequently it is clear that there is no easy or cheap option in dealing with this fundamental matter relating to public health.

One thing I think is paramount and I certainly have no hesitation in recommending is that the Isle of Man should cease pumping its sewage into and polluting our coastal waters and the

Irish Sea. I believe this view is shared by the vast majority of our population whilst, of course, it is recognised that there will be some people, including some hon. members, who may feel that the provision of a number of sea outfalls to continue pumping into the Irish Sea is an acceptable measure. However, I would refer hon. members to the part of our report which contains extracts from the reports provided by the Government Analyst's Department relating to bathing water quality standards. Hon. members will see that since these tests were undertaken, using the EU directive as a guidance, the vast majority of the beaches have continued to fail those standards. If the Isle of Man is to improve its water quality around its shores, then, in my opinion and that of my department, the only way we will ever achieve that is by ceasing to discharge raw sewage into the Irish Sea. It is my department's view that the recommendations contained in the IRIS master plan second review and update which is before hon. members is the most realistic and practical way forward. The department seeks approval from Tynwald for its recommendations as laid out in the report.

Mr President, I beg to move the motion standing in my name.

Mr Kniveton: Mr President, I beg to second and reserve my remarks.

Mr Rodan: Mr President, this report of the department is mainly about the details of whether there should be one or two secondary treatment plants and about the route to be taken by the rising main from the Conister outfall to Meary Veg. As I firmly believe that none of this work is necessary I do not intend to specifically comment on it, although there are other aspects of the report I do wish to comment on.

I remain strongly of the opinion that the Island's waste water should be given preliminary or primary treatment on land at head works as appropriate near to each of the existing sea outfalls which could then be extended well clear of the Island's beaches, where full treatment would be completed by marine action. This would adhere to the standards set by Tynwald of complying with the bathing water directive and that was the standard, that was the task, that Tynwald gave the department some years ago: to comply with the bathing water standard of the EU. This is the best possible means of disposal from an engineering, ecological and public health point of view, as well as having been argued, although this remains to be tested, that it would be half the capital cost and it would certainly be a small fraction of the running costs. That would be in accordance with the recommendation of the EU directives and the UK's Department of the Environment.

Now, IRIS was not adopted by Tynwald from any advice given by a firm of civil engineering consultants but by Dr Orme's emotive eloquence about his concept of a sewage farm in Glen Vine, where sewage from all over the Island would receive secondary treatment prior to soaking through the land on its way to the River Dhoo, providing attractive wetlands for growing irises. This is how it all started. Now as soon as civil engineers became involved, namely WRC Limited, direct disposal to the sea took over from irises and the River Dhoo, and secondary treatment, as proposed, then became completely unnecessary. The purpose of secondary treatment is to reduce the effluent's ability to deplete the oxygen content of the receiving water. Now this is essential when the receiving water is an inland lake, stream or river, but not at all necessary when the receiving water has such abundant quantities of oxygen as does the sea around the Isle of Man. To pump sewage from all over the Island to Santon Head or, as in this report, from Douglas and Onchan to Santon Head, in order to put oxygen into it, which is the purpose of secondary treatment, will have no significant effect on

the sea and is an absolute nonsense in my opinion, costing upwards of £50 million. We know it will be at least that because page 40 of the this report gives us a figure of £44 million, when you add it up.

Now, the EU directives and every chartered civil engineer with a knowledge of sewage disposal, and without a commercial interest in IRIS, will agree with this. As recently as 31st March there was a debate in the House of Commons on sewage disposal in the south coast and the Parliamentary Under-Secretary for the Environment, Angela Eagle, stated that, firstly, talking about primary treatment, it represented a considerable improvement in raw sewage being discharged from large cities into our coastal waters, as has happened until recently. Primary treatment reduces the polluting effects of sewage by removing at least 50 per cent of suspended solids and reducing biological oxygen demand by 20 per cent. It can remove up to 50 per cent of bacteria and viruses which may be harmful to human health. That level of treatment - preliminary screening and primary treatment - in the Isle of Man's situation is all that is required to comply with the EU bathing water directive, not the tertiary treatment as is proposed in this report, which I shall come on to in a moment. She went on to say that where a discharge is made through a long sea outfall in addition to this level of primary treatment, a long sea outfall often several kilometres offshore and into very deep water, the natural action of sea-borne micro-organisms is capable of performing effectively and very rapidly the same process of further breakdown of polluting matter that occurs in secondary treatment. So what she is talking about is the merits of marine treatment, which gets a passing reference in the report in the glossary. If members will note on page 45 of volume 1, we have a definition of marine treatment and we have a definition of the head works necessary to do this screening before secondary treatment by the sea.

It is by no means too late. IRIS as originally approved by Tynwald has not yet started. It starts when approval is given for the transmission mains and the treatment works at Meary Veg. That is when IRIS will start. So it is by no means too late but would certainly be important to obtain for the first time, even at this stage, a one-off report on the best strategy for the treatment and disposal of the Island's waste water from one of the few remaining professional firms of chartered civil engineers who specialise in such work.

Now, at the time when WRC Limited said that the treated sewage should be discharged into the sea and not into the Dhoo, Meary Veg happened to be for sale and, with minimal investigations, the Council of Ministers was persuaded by the department to buy it. Now, that is no way to design a sewage disposal scheme. The rocky foreshore at Santon Head is a poor choice for the outfall and the treatment works, wherever they may be, do not have to be near the outfall. It was moved from Glen Vine, as originally proposed, for political reasons, not engineering or financial reasons. There are many sites which would be better than Meary Veg, if indeed one central site is needed at all.

As to the report itself, in the middle of page 6 of volume 1 there is a statement that there will be no discharge of untreated sewage into Douglas Bay when the treatment works at Meary Veg are completed. Now, this is wrong. There will be a number of overflows carrying foul sewage into Douglas Bay. That will be a factor designed into the system there and when we are done there will be about a hundred throughout the Island discharging sewage into ditches, streams, or into the sea, one being necessary at each of the 90 pumping stations included in the overall IRIS scheme.

Now, I think it would be very enlightening to know from the department how much of the total volume of waste water discharged at present by the Island's sewers is into streams, rivers, or into the sea directly and what will be the volume of waste water to be treated at Meary Veg when completed. I believe that the percentage of waste water treated at Meary Veg will be very much less than what most members of Tynwald will expect. The percentage, on the other hand, which would receive preliminary or primary treatment followed by a long sea outfall and marine treatment would be considerably higher.

On page 21 there is reference to tertiary treatment: 'Tertiary treatment with disinfection enhances the quality of the discharge following secondary treatment, minimising the extent of dilution required in marine waters, effectively reducing the length of the outfall.' Now, the cost of this is put at £2 million to £3 million and this is put to us as a viable alternative to a long sea outfall, but whatever the level of treatment there should be a long sea outfall, not discharge of tertiary treated effluent onto the rocky foreshore at Santon Head.

There is an assumption as well that marine pollution comes almost entirely from our household sewage. Now, we are outnumbered in the Island by cattle, sheep and other animals. It is the case that the blame for beach failures in several north-west resorts was recently attributed to large quantities of sheep muck and significant pollution from urban and road run-off and drainage from agricultural areas including some contribution from sewage sludge on the land - this was in the north-west. We should note also that Jersey's beaches recently failed. Jersey's beaches, which have been held up to us as the standard to aspire to with secondary and tertiary and UV treatment, failed. They failed because of pollutants from the land, and this will be the case in the Isle of Man. Let us not kid ourselves that we will necessarily be putting an end to beach failures in the Isle of Man. In other words, it is nonsense to spend large amounts of money in trying to kill all the pathogens in the effluent from Meary Veg by tertiary treatment when it is such a small percentage of the total flow of polluted water into the sea. It would be far better to provide a long outfall once and for all and to put the preliminary treated sewage well out of reach of the Island's beaches. By doing this, the even greater problem of disposing of sewage sludge would then be avoided.

Sewage sludge is undoubtedly going to cause a problem for the Island, whether it is treated, as is being suggested, or whether it is untreated. Sewage sludge is an inevitability of full inland treatment. Production of sludge involves complex and expensive decisions into the matter of its disposal. Full treatment can be obtained easier, cheaper and better by the use of long sea outfalls and marine treatment. Sludge has been referred to in the report; page 13 and the appendix 1 refers to sludge. In appendix 1 we are told that pasteurisation in treatment will effectively destroy bacterial and viral pathogens. Well, I would dispute that because there is evidence that even after pasteurisation there can still remain in sewage sludge small numbers of E coli organisms which only require 10 to 50 cells to have a discernible effect. The report is quite right to refer to the need to be monitoring the situation in the UK because there is great concern in the UK on the effects of sewage sludge on the land. Sewage sludge can only be ploughed in - it will have to be ploughed in to the land - and there is only a two to three-month, perhaps, in the year opportunity to do this. If it is to be treated, storage for prolonged periods of time will be necessary.

Sufficient consideration has not been given to the problems, the health risks and the costs of storing sewage in the sumps or cess pits at each of the pumping stations whilst

awaiting sufficient quantity for pumping into the next one. With variable rainfall, the sumps can never be the right size: being too small will mean considerable overflows and pollution near to the pumping station and, if they are too large, sewage will be lying far too long, settling, festering and becoming septic and a public health hazard. Serious problems will arise in a drought. The pollution and health risks from damaged sewers under pressure is real and considerable and sure to happen. Sewage should be treated and disposed of as soon as possible, preferably by gravity. To pump it for up to thirty miles from one cesspit to the next is absolute folly. Now, this should be the main issue for consideration, not just the next stage from the Conister outfall to Meary Veg.

I want to turn to the matter of costs. On page 40 we can see the total for the first phase of the transmission mains and the pumping stations including the holding tanks by the respective local authorities of £44 million. Even if we were to leave out the local authority holding tank work, which is going to have to be done in any case as part of our sewerage system renewal, we are still talking about £37.5 million. Now, this is only part of the total cost of IRIS which, it is no secret, is going to end up at over £100 million. This represents, in terms of households, something like, on capital costs, £3,500 per household in the Isle of Man. The UK is planning to spend, between 1995 and 2005, a total of £8 billion on upgrading their sewerage system which has been, up to now, largely consisting either of pumping raw sewage into the sea or preliminary on-land treatment. Now, on a population basis, the Isle of Man equivalent would be of the order of £10 million. We have already spend more than that on Douglas promenade, contracts 1, 2 and 3, following which we will still be putting our unscreened, untreated sewage into the sea through a short outfall. Let us be under no illusion that this is going to continue to happen until, and if, such time as it is treated either at Meary Veg or by secondary treatment and marine treatment through an extended outfall. In the UK the substantial costs of meeting the new quality standards for sewage equate to an average increase from £63 per household in 1989-90 to £123 per household by the end of 1998. Now, our IRIS scheme, as I said, in capital costs - we are talking about £3,500 per household, and so far this report indicates something of the order of £600-£700 per household in annual running costs. Well, that is going to go up to over £1,000 per household bill by the time we are done. We really have to ask ourselves, is this level of expenditure for an Island in the middle of a turbulent sea, people outnumbered by sheep and cattle, the most cost-effective and environmentally acceptable way? Which is why I return to my call for an independent report, an outside report, as to the way we are going to determine if that is the sort of expenditure that is necessary for the Isle of Man situation.

Now, the minister will no doubt refer in his summing up to the need to be adhering to standards set by European directives, to the belt-and-braces approach which his predecessor persuaded us to adopt in 1995 so we would anticipate any standards that may be imposed on us by European directives in the future. Obviously it is a matter of our choice as to the standards we adopt. We are under no obligation to adopt EU standards; it would be a matter of good practice in many areas to do so, but I would argue in this instance, where European standards are seriously being disputed, whether we have to be dragged down this road. Until the interference by Europe in what is a purely domestic matter of sewage disposal, its treatment was dictated by the nature of the water into which the effluent was to be put, which is why preliminary and primary treatment was considered in areas of high natural dispersal, which much of the UK's coastline is, as is Portugal, and why the nature of the receiving waters

was considered sufficient. The preliminary screening of larger solids, plastics, oils and preliminary treatment for the rest by settlement and sedimentation of primary treatment, which, as I said, would remove about half the bacteria. Now, this has been considered perfectly acceptable by the UK government until now, and the fact that there has been a recent Commons select committee on the environment which has taken all sorts of evidence and which is recommending that all treatment be to secondary, tertiary and UV standards - that is the belt-and-braces approach which we seem to be following without much consideration as to whether it is necessary. These are standards to which we are not obliged to adhere, but these are standards that are being mooted in the industry and the House of Commons select committee was very much in favour of adhering to these standards, but there is a very high cost attached to them and our high cost here reflects what is going on.

This select committee recommended that by 2002 in the UK all sewage should be treated to tertiary level at all times, and it recommended abandoning the concept of high natural dispersal areas. Now, the UK government has yet to respond formally to these recommendations but it has already stated that the recommendation for universal tertiary treatment goes far beyond European requirements and exceeds the level implied by the scientific evidence or by health needs. Neither they nor water companies have costed a comprehensive programme at such a very high level, but it is likely to run into many billions of pounds, and this was a statement in the House of Commons. I have to ask, if the UK government is questioning the need to be spending billions of pounds in order to get a European standardisation for the sake of standardisation, whether we likewise should be going down this route. It has been scientifically proven, and Tynwald has instructed, that it be the European bathing water standard that the department works up its IRIS scheme for the treatment of pollution on our bathing beaches. We do not need to go down the route of tertiary treatment and £2 million to £3 million, we have been told, to achieve a standard of effluent for discharge through a short sea outfall onto the Santon foreshore. We should not be thinking of spending anything like over £3,000 per household for our sewage disposal.

I would reiterate that what we should be doing and what I am sorry the department did not take the opportunity to do with this breathing space occasioned by the production of this report into the transmission mains and one or two treatment plants, is getting an independent outside assessment of our true needs in the Isle of Man, the needs appropriate to a small isolated Island surrounded by a turbulent sea, the main factor being not necessarily cost, but having the best environmentally acceptable sewage disposal scheme which would be at a fraction of the cost and lasting well into the next century.

Mr Singer: Mr President, my original belief before the general election and before my appointment to the department was similar to that of the hon. member for Garff, in that I thought at that time that long sea outfalls were cheaper and just as efficient a way of disposing of the Island's sewage as IRIS. During that time a discussion was given, a lot of information came from people who were favouring at that time long sea outfalls. Although it is not my direct responsibility, but I have always been involved within the discussions on IRIS, the minister has always ensured that I have received all the information necessary and I have been involved in the major discussions, the first thing I did on appointment to the department was to question the costs of each system, and I have to admit, having received that information, that my views have changed and I now agree that overall IRIS is less expensive

than long sea outfalls as far as the Isle of Man is concerned. Long discussions have taken place within the department on the correct number of treatment plants with firstly one, then two, and then one favoured for reasons as outlined by the minister. Either one or two plants would work successfully and, in deciding which scheme was perhaps the favoured one, it would have been much easier to have made a decision if the costs had varied greatly between one and two plants, but in fact the costs came out almost the same.

My personal opinion is that a two-plant system is preferable for two reasons: one, the cost or the perceived cost or otherwise of pumping large volumes up and over the hills to Santon from the north is seen as perhaps expensive; and secondly, for the security reasons I felt if there was a breakdown in one system, then at least the other system would continue to work, although of course there would be fail-safe methods built into either system. However, I believe that we need to get a go-ahead quickly with this system and that there is no land immediately available in the north of the Island for purchase and which is zoned for IRIS. Secondly, any delay in implementation of the scheme I do not believe now is acceptable. The criticism is quite right that comes from the public, that pumping raw sewage onto our beaches is unacceptable and that the public are quite aware that not one of our beaches passes European standards, and that is something that we have to be aiming for as quickly as possible. I therefore support the department in progressing the plan as the minister has put forward with one treatment plant.

As far as the route of the main is concerned, I hope that it can be via the railway route because it will ensure the necessary upgrading of the railway line, which has been subject to various restrictions for various reasons over recent years, and this would be the perfect opportunity to preserve the network using modern technology which would ensure safe and strong ballasting under the track. I believe that this would be worth the minor, and I mean minor, disruption of the service in order to get the main under the railway track. So overall I would like to express my support for this scheme as it has been presented today by the minister and I do hope that members will show their support.

Mr Karran: Eaghtyrane, I personally feel that it will be a day that this hon. Court will regret, a day that our children and our grandchildren will pay dearly for. I think the hon. member for Garff is so right about so many issues concerning the shortcomings of this proposal that is in front of us today. I know that it will be a dialogue with the deaf within this hon. Court because it will get through and it will be added to the meat plant and it will be added to other failures that have been allowed because of the government system that we have got.

We talk about IRIS - IRIS died when it was taken out of the central valley. That is when IRIS died, and we are kidding ourselves that we have still got IRIS. IRIS died when that happened, and when that happened was when the then Minister of the DHPP happened to become the minister and the central valley happened to be in the middle of his constituency, and that showed volumes as far as this system is concerned.

The fact is, the reason we are not looking at the White Hoe site is not because of the problems that are associated with it, it is that we have not got the confidence that they will be made to produce a system that will be failsafe. It will fail at least two or three times a year. This is the sort of thing that will happen. The hon. member for Garff is quite right about the capacity and about the fact of the sewage going septic and how that is very difficult to deal with

because it is highly corrosive. As we saw yesterday when we were talking about cleaning storm water gulleys, we need to separate them and, because of that, we have not got the ability to be able to control this system from not overflowing and having to use the overflow into Douglas harbour two or three times a year.

But I am afraid the hon. member for Garff will have to sit here and just have to say, 'I told you so', because I am afraid today we are going to go ahead with this scheme. He is so right that there should be an independent appraisal of it, but it is not going to happen because it will not be allowed to happen, and that is what saddens me, because it is like a disease in this hon. Court: we get on to something and we get that square peg and, by God, we will make it get in to that round hole! We are going to get this thing to Meary Veg no matter what. He is so right about the costs that are involved, and that is why I had a go at the Chief Minister; I do not want to see that once this thing has handed over to a statutory board who say, 'Right, you have got to try and fund pumping excrement up mountains' when the fundamental principle is that you minimise pumping and you maximise gravity feed. That is the cardinal rule of sewerage; that is it and the truth of the matter is that is what has not been grasped in this proposal.

I am not arguing about long sea outfalls, I believe there should be a reasonable amount of treatment on the Island. I believe that that should have been done; that has to be done. The reason we are going to Meary Veg is that we are not confident in ourselves, the department, the government is not confident in themselves that the system will not fail, so if it stinks for three miles around, it will not matter because it will be out in Santon, my former constituency where we used to have a couple of dozen voters. That is the wrong criterion, for this proposal. That is one thing.

There are many other issues that concern me. Now, I have to say these are very impressive. I have had them out to certain people, and they said, 'Oh, they are lovely!' But they say there is an old saying that goes, 'bull manure baffles brains' and I just wonder whether we have a situation here today where that will be the case.

I am sure it will go through, and it will be added to the lists of the square pegs in round holes, and that is what is going to happen and it is so, so sad. We will be misquoted and people will have amnesia just as we had over Rushen Abbey where we have had to spend a few hundred thousand more, but the fact is, *Hansard* will show in this hon. House who was where when this decision was made, because the member for Garff is right, that there should be an independent. . . not on the payroll at the present time, and I have some experience of this, because after fighting the new hospital I had to try and do something with the new hospital, and what you tend to get is this sort of Mooney disease that hits you so that you become part of some sort of religious cult and you have got to justify that the earth is flat no matter how much you know the earth is round, and the fact is, there should be an independent assessment like the hon. member for Garff says, but there will not be, and on his finances he is totally right, and this is what saddens me. We will lose this today, not on reason, not on logic, not on common sense, but on the rhetoric and the sheep factor within this hon. Court, and we will see us being abused, as usual, and misquoted in and outside this House through the media as far as what one says.

Mr North: Mr President, I cannot resist! First of all, can we accept one thing which I think both speakers so far, apart from the minister, have I think accepted, I think this entire Court

accepts - that we do not want raw sewage on our beaches? Fine. So we are all agreed on that, and there are two ways of getting rid of it - we have been through this ad nauseam and, unfortunately, some people, who fortunately are in a minority, cannot see further than next month. They may see next year. This Court and the Department of Transport, with this proposal, are looking, in my opinion, 50 to 100 years ahead. Now, there are two ways of solving the problem. Yes, you can go to long sea outfalls and you can do primary treatment and, yes, it would conform to the EU directives. That is not what this Court wants. We have been through this before: 5, 10, 15, wherever, years ahead, those standards will be unacceptable and what do we have to do then? Can we then put in secondary treatment and tertiary treatment at the head of all those long sea outfalls? No, we cannot. We could, but you just try and think of achieving it in all the towns around the Island. No way, and it is almost unbelievable that the Chairman of the Water Authority (**Mr Cannan:** Hear, hear.) cannot actually see and understand what is being said in all these documents that have been presented over the last two to three years. Unbelievable! God forbid that this should ever go to a statutory board, if it was the Water Authority and we still had the same chairman! I dread to think -

Mr Karran: The personal abuse does not hide the facts, Eaghtyrane.

Mr Cannan: What personal abuse?

Mr North: Mr President, it is not personal abuse at all. I am just stating a fact that I cannot understand why he cannot see further than next month or next year.

Let us look right ahead and in terms of the Welsh Water Authority. Yes, we are quoting the House of Commons. The Welsh Water Authority were the experts on long sea outfalls years ago; they gave it up, I think it is four or five years ago, they disbanded their marine fleet, their whole contracting division, to go for primary, secondary, tertiary treatment, anywhere depending irrelevant as to what the population size was of any of their towns. Why did they do that? Because they were looking long-term and they were looking at public health; they were looking at viruses, which the hon. member for Garff touched on, and he well knows and he is absolutely right about pathogens and everything else - yes, absolutely right, nothing wrong with that side of it. But because of the cost it has been shown to this Court, that the long sea outfalls and primary, secondary, tertiary are not the way forward.

One thing I would just like to clear up, I think, for the record, because again the hon. member for Onchan and the hon. member for Garff have got it totally the wrong way round: originally, when I was the minister in the Department of Transport, or the DHPP as it was then, one day looking at all this - and this was before the independent WRC were brought in to look for where it should go out - I said, 'Well, why aren't we going to Santon area?' No particular farm or anything at that stage, 'Why aren't we going there?' (**Mr Karran:** Oh God!) I am repeating what actually happened, and I was told that technically that is what had been recommended, but a political decision had been made by the member in charge to move it to the central valley. Dr Orme - that is what I was told by the man in charge, and I said, 'Well, I can't believe that' and I actually asked the minister at the time, Mr Callin, and he said, 'I didn't know anything about that.' He had not been told. It was a political decision to move it to the central valley. So we then had the assessment of how much water and effluent was to go into the river having used the primary, secondary and tertiary treatment using the reed beds, and of course every member of this hon. Court knows, if they have actually read it - and some

obviously have not - that that report said that the water would look lovely and clear going out into the river at Glen Vine, but it would be absolutely full of nutrient and the nutrification going down the banks of the river all the way into Douglas; the river was not big enough to take the outflow. That is the reason it was moved. It was a technical decision, nothing to do with my constituency. It was highly convenient! I was delighted when that result came out, absolutely delighted, and if people thought I had moved it, so what, but it was the actual technical side that really got that.

The hon. member for Onchan said 'Our children and grandchildren will regret this.' Totally the opposite - I think they will thank us for not going on the short road which will lead to massive further expense and having to do away with a lot of what has been done and eventually end up with what is being proposed now. Now, why some members cannot see that, I do not argue that it is going to cost money, absolutely right, but should we be doing it because it is right and the way for the future for the next century, or should we be doing it to save a little bit of money now. Let our children and grandchildren find that money. That is where I am afraid I totally disagree with the Chairman of the Water Authority; it is exactly the opposite. Mr President, thank you.

Mr Downie: Mr President, hon. members, I rise in support of the motion that is before us today, but I have some reservations and I think that in fairness some of the points I want to make may be coming from a slightly different angle than from some of the previous speakers.

There is no way, in my opinion, that we can go on as a responsible government, where we have got the Department of Tourism paying for editorial in the Reader's Digest and, at the same time, the Reader's Digest tearing the back out of the Isle of Man because we cannot conform to any acceptable bathing water standards. In my opinion we are making a complete mockery of ourselves and we need to get on and get this situation addressed.

Now, I believe and I have always believed that we should have primary and secondary treatment and, if possible, in certain areas tertiary treatment as well. Where my view differs from that of the department is that I feel that in the Island perhaps there can be one major sewage treatment works possibly at Meary Veg, but I feel that other parts of the Island will indeed have to have their own stand-alone treatment works and, if you look at what is happening with technology today, some of these treatment works will provide treatment to the highest standards, but they are mainly unmanned, they are fully automated and, if you look at what is happening in the UK and elsewhere, they are springing up all over the place. In fact, quite recently I visited one just outside of Chester, which is alongside the River Dee, it is not much bigger than about three times the size of this chamber and that deals with a population of between 75,000 and 100,000 people. A man comes once a fortnight to check things over but, by and large, it is basically an automatic system developed by Welsh Water and, as the previous speaker said, they have now become specialists in this sort of field and they are providing this type of treatment in lots of areas in the United Kingdom.

The concern I have, hon. members, is the amount of time it has taken to get on with this, (**Members:** Yes.) and I am just going to paint a picture to you now. We have got virtually the entire length of the northern plain, which there is currently an embargo on for development. There are parts of Andreas which are zoned for housing, for residential; we heard from the hon. member, Mr Cannan, yesterday about wanting to get things moving at Jurby - we cannot do anything at Jurby because we have not got drainage. We have not got potential to move

more people in, because there is an antiquated sewerage system there and, to be quite honest with you, the effluent just virtually falls on to the beach. Now, that is not acceptable.

As we move further south, let us come down this eastern coast. Can anybody in this Court honestly tell me when Laxey is going to be connected up to an IRIS system? I cannot see it in the next 10 years. As far as I am concerned, Laxey has its own problems. As soon as you dig down in the road or the fields there, within 18 inches you are in solid rock. Now, wouldn't it make sense to try and look for a place in Laxey where we could have a small stand-alone treatment works and let them get on with it and, if there are areas of Laxey that can be developed and improved, we have already got an embargo in that area?

We come into Douglas now, and Onchan - fine. We have got our new system underneath Douglas promenade. We have got 60 per cent of the Island's population in this area; now, as far as I am concerned, one of the mistakes we have made at the moment - I think for a little bit extra we could have had primary treatment, and that means screening, and I think all these plastics and solids could have been quite easily screened and then, as a temporary basis, the untreated effluent in the water put out into the bay, but we could have got rid of all the plastic, and all the other bits and pieces which finish up could have quite easily gone to landfill or, in the next couple of years, incinerated.

Let us have a look at the south of the Island between Douglas and Ballasalla and Castletown; these are the areas where people want to live. This government owns over 30 acres of land which is currently zoned for residential. People want to live in that area. There are new jobs coming to that area. There are opportunities at Balthane. We have got land down there, but it is all embargoed because of drainage and sewerage. Castletown is the same. The hon. member here for Castletown - I am sure he would like to see some first-time buyers in the area, some new developments on the periphery of Castletown. What is the problem? Drainage again.

Let us go through the corridor, the Rushen Corridor - Arbory, Ballabeg and almost right through to Port Erin. The same problem again - no sewage capacity. We cannot get on with any development.

Now, what I want to see the Department of Transport doing is seeing if they can address the specific problems of these areas and, if we are committed to this, let us get a sewage treatment works going now and at least service the parts of the area that we know we are going to have a problem with, areas that are zoned for development and, if our economy lifts. . . and it looks like it is lifting, and I was talking to somebody last night who said there is another 150, 200 jobs in their company but one of the problems that they have got is that they are now starting to face a housing crisis, because although there is land zoned it is not possible to drain it and develop it because the DoT are objecting to development on the grounds that there is no sewerage connection. We are getting into a crazy situation, and when I looked at the IRIS master plan, I visited the department, I am told it is somewhere between 2004 and 2005 before some of these areas can come on stream. Now, hon. members, that is not good enough. We cannot afford to turn business away. We need to get on with this, and I would rather see progression in the eastern part of the Island and, if there is development coming into the north, what is wrong with them having a small, unmanned sewage treatment works which can deal with about 40,000 or 50,000 people? No problem with that as far as I am

concerned; in fact, I would not mind betting it is more cost-effective to do it when you look at the equation with the pumping and the infrastructure and all the rest of it.

Since Tynwald gave a tentative approval to IRIS back in 1995, really, when you look at it, all we have done is the works in Douglas. We have virtually completed a tank in Port Erin and there is now work started on the south side of the river in Ramsey to build a tank up there. Now, we have not really got on and pushed on with any sort of treatment yet, and I think what we really should be doing is to try and get treatment up and running and to get areas of land properly drained so that we can develop in a much more go-ahead manner.

I was very interested in what the hon. member for Garff, Mr Rodan, said, my friend and colleague in the Department of Local Government and the Environment: no matter what we do with regard to our sewage treatment we will have and we will continue to have a massive problem in the Isle of Man caused by pollution by animals which is very difficult to control. We know now the problems that the agricultural community are facing because for years we have been putting 20-10-10 on the land and the phosphates have been leaching into the ground, and of course, when you get all these E coli and different organisms, they react with each other and they produce lots of this green algae and slime and the E coli tend to do exceptionally well in those sorts of circumstances. All I can suggest is that in some countries what they have tried to do now is, where they have water courses they have tried to put areas in which some of these elements can settle out and they have tried to improve the environment that way, but I think we should go for the best system that we can. I am not convinced that one sewage treatment works is right and proper. I think there is still enough time to look at other areas in the Island and really see if we should have all our eggs in one basket. I think we should try and get a system in place, fully integrated, where all the development is likely to be in the next 10 years and see where we go from there. We can always have the areas which are currently serviced with septic tanks and Klargesters; there is enough scope in the system to empty people's personal sewage systems and bring them to a central place for disposal. I think that presents us with no problems at all. If you look at what is happening in the UK and in Europe, they have a far greater number of people on private sewage systems - and most of them are quite modern now - than we actually do in the Isle of Man, and there is no problem with their environment.

So just to round off, I support the IRIS master plan as it appears before us, but I hope that the minister will take on board some of the reservations I have and give some thought to trying to accelerate the programme, particularly in this eastern sector between Castletown and Douglas and Onchan, and see if we can get something moving before the year 2005, 2006. Thank you.

Mr Gilbey: Mr President, the hon. member for Garff wants long sea outfalls rather than fully treated sewage on the land. In this, of course, he is singing from the same hymn sheet as his constituent, Mr Whipp, who has fought a non-stop battle against insular sewage treatment. I also have a constituent who sings from that hymn sheet, but I am certainly not joining in because I agree with the hon. member for Middle, Mr North, that it is to me quite amazing that as we enter the 21st century people should seriously want to go on polluting the sea by tipping only partly treated sewage into it. I find it all the more startling when we already have laws that stop even the smallest ship or boat or little yacht tipping sewage into the sea.

Then it is said there will be problems with holding tanks and pumping. Again, I find this an extraordinary argument. There must be thousands if not millions of miles and thousands of pumping stations in the adjacent isles. If you take Greater London alone, it covers 20 miles by 20 miles, 20 miles square. All their sewage has to be moved around. It is not level there; some has to go up, some has to come down, and they have various sewerage works. Again if you think of places like Holland where they are below the water level, they clearly have to use tanks and pump their sewage.

Then the hon. member for Garff talked about the comparison of costs and how much more what we are doing in proportion is going to cost than what they are going to do in the adjacent isles. That does not surprise me at all, because they are much more advanced than us in many ways. They have many sewage works that completely treat the sewage. There is one just by the M4 at Slough which deals with sewage from, I think, 100,000 or more people and completely treats it. It is not near the sea so it cannot put any effluent into the sea. Its nearest river is the Thames and it certainly puts nothing that is not completely treated into that. Indeed, all the way up the Thames Valley there are sewage works and they are not polluting that river in any way at all, and the level of the river purity has improved enormously over recent years. Indeed, some of the sewage works are of such a high standard that it is said you could drink the water coming out of them, and I believe people have done that without any adverse effects.

Now, the hon. member for Onchan, Mr Karran, says the whole thing will be a failure. I see no reason to suppose this at all, because, as I have said, throughout the world similar systems are working and I have got greater confidence in the Island and the people in it to think that the rest of the world can work a sewage system, which is not particularly complicated when you come to think of it; there is nothing very startling in pumping sewage round and pumping it up hill and down hill if you want to. I also support the concept of one sewage works. I will not repeat the reasons; I think the minister and the hon. member of the department, Mr Singer, made the reasons very clear, and certainly, when you look at just one reason, and that is the problem of getting land designated for a sewage works, when you think of the problems there have been with Meary Veg, when you think of the problems there have been with a site for an incinerator, I certainly think the department are wise not to try to get a further area designated if they can avoid it, and I am glad a member for the north agrees with that, which is very pleasing.

Mr Kniveton: Mr President, little did I think, sir, that when I was elected to this hon. Court I would become the member responsible for not only drainage but the IRIS subject also. I am very proud to be associated with that strategy and I remain one of its strongest supporters.

The IRIS strategy has gone a good way since it was reaffirmed in the first review and update presented and approved by this hon. Court in April 1995, but not far or quick enough as many of us would like. We all know that Onchan and Douglas, tank-wise and transmission-wise, is virtually complete and ready to progress to the proposed sewage treatment works at Meary Veg. Similarly good progress is being made in one way or another at all the major points or towns around the Island, and that is very important and it is a demonstration to all of us that IRIS is for the whole of the Island and not for Douglas and Onchan. I believe that IRIS is forging on, and my concern today is that if we should refuse this motion we will be undoing

all the dedicated work that has been carried out over the past few years and possibly, probably, waste a lot of money which has already been spent.

I know that there are those members amongst us, and I believe but few in number, who still support and prefer the long sea outfalls around the Island. They have expressed themselves this morning. I would beseech those members that sooner rather than later they have to accept the will of Tynwald, that of April 1995, just as I accept the will of Tynwald in another instance, which obviously I am not going to start onto now. But that form of disposal of sewage that they are proposing is just not acceptable in today's times within the EU directives, and we have previously, of course, agreed to accept those standards.

My only regret today is, as I have said, that we have not progressed even quicker. IRIS is a stage-by-stage development, unlike other capital projects, and I regret that so much time has elapsed already, and it is my earnest hope that Treasury and indeed this government will acknowledge that we should advance the programme as quickly as possible, especially after hearing within the last two days the results of the bathing water standards or qualities of our beaches. They all failed the test. Such news is appalling for our tourist industry, let alone the health of our own children and families.

I believe that the minister has quite clearly set out why there should only be one sewage treatment works. If there are those hon. members who insist on two such treatment works - none have come to light so far - then I can only say to them that they would be attempting to place obstacles in the way of the fulfilment of the IRIS strategy. To attempt to apply a brake in this way to this crucial subject would seem to be foolish indeed.

Hon. members, I do not wish to repeat all that the minister has said; I think he has made a very fair presentation to you, accepting that the route to Meary Veg is not yet quite clear, but the right course will be taken; of that I am perfectly sure.

One subject which Mr Rodan, hon. member for Garff, brought up - and I am on the subject of sludge. I am sure the minister will respond to all the other subjects, but on the subject of sludge and, quite briefly, sludges or bio-solids, which is the posh name for them, are currently treated from approximately 20,000 of the Island's population. All bio-solids are processed at the Glen Vine sewage treatment works where in addition to conventional sewage treatment bio-solids are consolidated and de-watered. After de-watering the cake is removed from storage to the Creggans Quarry with a minimum of three months to comply with standards requirements.

Mr Downie: Without planning permission.

Mr Kniveton: After three months storage the bio-solids become available for full-scale trials into the benefits and implications of utilising such material on agricultural land. Currently the demand from the farming community exceeds the volume of material available. Now, under the IRIS master plan proposals, once the treatment plant at Meary Veg becomes available, the bio-solids processing plant at Glen Vine and the storage at Creggans Quarry will be phased out. All bio-solids will then be processed at Meary Veg.

Mr President, hon. members, I urge you to support the motion as I am going to do, obviously. I do so with full confidence and I hope you similarly treat the subject likewise. Thank you.

Mr Shimmin: Mr President, I have always been cynical of this scheme. It seems an absolute nonsense when you are surrounded by water, as this Island is, to then pump your sewage miles around the Island, and I believe that the member for Garff spoke very well today and introduced some areas to the argument that I had never really been fully aware of. We then heard from colleague for Onchan, Mr Karran, talking about how *Hansard* will reflect the truth of the decisions taken today and that we like sheep will follow, once again without having given any thought. Well, I have given a great deal of thought to this. I have, I would not say enjoyed reading the manuscripts that we have received, I have been to meetings at the Department of Transport and, having started from a very cynical position, similar, I believe, to probably my colleague, Mr Singer, for Ramsey, I thought his contribution this morning reflected mine. It is one where from the outside you can have a gut instinct that it does not make sense to pump sewage that distance up hills; it cannot be sensible. I do not think that many members of the public at face value would say that was a sensible way forward, but on further investigation - and those members of the department, I am sure, have investigated far further than I have - it becomes apparent that the alternatives are not as simple as they are portrayed.

I do not have a position of bias on this, I have looked at it and, when I went to one of the meetings at the Department of Transport, we heard talk of civil servants bloody-mindedly going down the same path without changing direction, and I have criticised officers for doing the same approach. Yet, when I went, they were a little indiscreet and they portrayed quite clearly and firmly that it was their belief that two plants would be their preferred option. That is some time ago, and on reflection they have analysed it, looked at it and they have come back with the proposals before us today where they have changed their view. They did think, as many of us do in the first instance of what is a gut instinct, it seems to make sense, but having looked at all of the documentation, having listened prior to this discussion today, I believe that there has got to be a statement of where we stand for the future. I believe for *Hansard* and for the future generations this has to be the only way forward. Yes, it is expensive and, yes, there are problems, but there would be in any alternative scheme that would be put forward.

You then look at the mechanisms or the route for this and I at this stage would commend the Minister for Tourism and Leisure and the Minister for Transport. Once again, it does not make sense to even consider uplifting one of the national heritages of this Island and raising the track, relaying a substantial pipe underneath and then trying to reaccommodate the track. It would be an easy option to turn round and say 'No that is a nonsense, we cannot risk it,' but it is right that it is investigated, because for any form of engineering it would appear to be the sensible route.

So I recommend both ministers in that case to look at these options. I believe the department will look at them critically, will look at them objectively, and I believe that the sooner that we move forward with this project, the better the people of the Island will feel. I do not think they will ever understand it. I think it will take many generations before they acknowledge that it was the right decision but they do want us to move. Thank you, Mr President.

Mrs Crowe: Mr President, I rise not only to support the minister and his department on the IRIS programme - and I support all the comments that other members have made in support - but I would like to congratulate the minister and his department and his contractors on the vast IRIS project recently carried out in Port Erin - not without any problems in its

progression. I am sure the contractors still have fears of me chaining myself to a digger, (*Laughter and interjections*) but it is now almost completed. We have the most beautifully renovated centre of our village, complete with a clock tower, and it is worthy of a visit by all the members of this Court. I just want to congratulate his department and wish him success with the progression of the rest of the IRIS developments.

Mr Downie: We cannot afford the petrol from Douglas! (*Laughter*)

Mr Lowey: Again, I think I am driven to my feet. First of all I would like to apologise to the minister for not being here when he made his opening address. I was in Castletown, getting my teeth seen to, and I will leave that and tell him later.

Mr Cretney: Nice smile on you! (*Laughter*)

Mr Lowey: I wish I could smile! I just want to stand up for the record too to say that, long before many in this Court, when sewerage was not fashionable, I can remember the late Howard Simcocks and I getting ourselves into trouble for actually being the only two to object to extensions of pumping raw sewage. I have not changed my views. I do not believe we should pump sewage into the sea; it has got to be treated on land and to that extent, the costs and the route are, you know - at the end of the day, I believe that is the system.

I am on my feet, really, to say that far from being reassured that one plant is adequate for the Isle of Man, I have to say to the minister, like the hon. member for West Douglas, I am not convinced still that one plant will do. I understand the arguments that are being put forward. The lack of zoning for land is the least of the problems, in my view. That can be addressed; difficult though it may be, that is not a reason for not at the end of the day discussing a second plant, and I want that on the record - that I still am not convinced that one plant will suffice for the Isle of Man, for a variety of reasons, topography and all the rest of it. So I want that to be quite clear.

I support the modernisation and the investment that is going in. I think we have to develop at Meary Veg at this particular moment this particular scheme and I wonder why this motion is before the Court. I thought we had already given the green light for this scheme to go ahead and the funding is in place. I cannot see any reason - logical, legal - why this motion should be put on the agenda. The department is charged to do the job. Tynwald has said, 'Get ahead and do it', and here we are - it is almost like a comfort note for the department: 'Please, will you say that we are doing all right, boys? We are not going any further.' So I wonder why, and perhaps the minister could tell us why, this particular motion is on the agenda.

As I said, I am prepared at this stage to support the minister. I am prepared to support the minister today but I do have reservations regarding the one site. I am in favour, as I said, of the treatment of sewage on land before the effluent is transmitted into the sea.

I am also on my feet to say that I deplore what I would call almost the loutish behaviour of the hon. member for Middle. I can tell him that I sat round a table when IRIS was introduced and at no time did I ever hear the reason why it was put in the central valley in the first place. I mean I sit and I listen and I am open to persuasion, but this morning I was not persuaded. It was almost like a fairy tale. I sat there for many years and never heard that until this morning. That is the first time I have heard it, and, sir, there is nothing up with my memory, nothing at all. So I want to get that out of the way.

I do not believe that those people like the hon. member for Garff and the hon. member for Middle who have a strong opinion on this matter should be rubbished because they have the nerve to get up and repeat it in this Court, and repeat it, and repeat it. The idea of a parliamentary democracy is to hear opposing points of view, and they should not be rubbished like they were this morning or attempted to be rubbished. I think that is a flaw in our system that I thought we were getting rid of, but it does seem that the disease is still around.

I will be supporting it but I would hope the minister would take note, because although my hon. friend in the Council who is in charge of it has said there is only one reason why there is only one site. Notwithstanding the reasoned comments from my friend from West Douglas who thinks there should be one, there should be more than one; I still feel that there should be more than one. I understand, I follow the logic, I understand the speed that is required, but I still am not convinced that you have come up with the correct total answer. We are developing very nicely and the next stage is to get the routes mapped out and I am in favour of that. So I am giving you the green light so far, but please do not close your mind to the alternatives.

Mr Braidwood: Mr President, I will be very brief. I will be supporting because we have to look to the future. At the moment we are talking about bathing water standards for EU directives. Those directives could change. There might be directives which stop effluent being discharged into the sea. We are looking to the future. It has been mentioned, long sea outfalls by Mr Rodan halve the capital costs. We can look at Welsh Water. They had long sea outfalls. They are changing their whole strategy. They are changing now for primary, secondary and tertiary treatment because they are looking to the future. It was mentioned by Mr Downie, it would have been nice to have some sort of preliminary treatment on the promenade. I have seen it with Welsh Water when they do this screening, and it is unbelievable what is taken out. You want to disguise that, you do not want macerators chewing up plastic, condoms - whatever - disposable nappies. At least at Meary Veg that would be out of the way.

We have to look at other areas. We have competition in our finance centres from Jersey. They have primary, secondary and tertiary treatment. Their outfall finishes halfway down the beach, not into the water, and at times it is discharged onto the beach because it has had the tertiary treatment and they have clean water - no problem at all in Jersey, or their bathing waters. And I can understand this technology as it advances. As Mr Downie, I probably agree with him, there are going to be a lot of pumping stations round the Laxey area. There might be call for having, with the new technology coming in, one treatment works for Laxey. We would look at the hon. member of the Council, Mr Lowey, about an additional. . . I am myself wondering, we are relying on one treatment works. About Jurby, I can see the arguments and the disadvantages for Jurby. As has been mentioned, we need to have the land, it has to be zoned for sewage works but we do not want to put all our eggs in one basket. But apart from that, Mr President, I will be supporting the minister.

Mr Cannan: Mr President, I shall be very brief. (**Members:** Hear, hear.) I am fully supporting the minister. I think that the plan should go ahead as quickly as possible and I want to clarify a statement by the hon. member for West Douglas which is totally misinformed. The sewage works at Jurby are functioning. There is not sewage disposed on the beach. When the sewage works are properly and regularly emptied by the Department of Transport, all that goes out to sea on a long fall pipe is the residual water, and it is wrong to make statements in this Court which are factually incorrect, Mr President.

The President: Reply, minister?

Mr Brown: Thank you, Mr President, and may I thank hon. members for taking part in this debate, and could I maybe answer what I thought was going to be the last contributor, but we have had a few since then. He asked the question, 'Why is this motion before the Court today?' I think the simple answer to that has to be that I felt that as this was a major investment by the Isle of Man Government - and we are talking of being in excess of £100 million over a period of years - and also a major matter of public health, and the last debate on this subject where it was approved to progress the IRIS scheme on the basis we are was 1995, then I felt it was appropriate that Tynwald Court should have a review and an update, and clearly my department could have done that by producing these documents, handing them out and saying to members, 'There you are. That is what it is.' But clearly from our point of view the department welcomed the opportunity for a further debate on this very important issue, and I think that the debate this morning has shown that it was a worthwhile matter to bring before the Court. It is a matter of considerable public interest and it is a matter of considerable interest to hon. members, because every member in their constituency in some way is affected by this programme. So I hope that answers the basis of why we felt it was one we would like to bring back to the Court. It would have been easy not to, but we felt it was one we would wish to.

I think, just to try and go through generally without necessarily mentioning every member except to thank those who have given support to it and also to thank members who in fact have expressed a different view, because I do not have a problem with a different view being expressed - that is clearly what this Court is about - and clearly it is important that those views are put to us as a department in an endeavour to keep us on our toes but also maybe to respond to those points which may well be causing members concern and maybe their constituents. I see nothing at all wrong with that.

There is no short-term solution to this problem, and also I think it is worth saying we are not alone with this problem. In fact most of the western world have this problem and we are dealing with it. I would also make the point, which was made by the hon. member for Glenfaba, Mr Gilbey, when he said we are doing this and it is not new technology; it is technology that is used elsewhere. We are not alone in this. We are not just doing something because it seems like a good idea to us. In fact the department, prior to my time and prior to the 1995 debate, undertook a considerable amount of work with independent advisers on the way forward - and we know what happened there from the original proposal which Dr Orme and the then minister brought to this hon. Court based on the bathing water standards which Tynwald had adopted - and came forward with the central valley proposal. But that was also with advice from independent consultants. It was not just their own mad idea. I think it is fair to say, that Dr Orme, who I think has qualifications in that sort of area in terms of university qualifications, in fact came up with the basic principle, but it was not just that he came forward then with that. The minister of the day -

Mr Downie: A Doctor of Philosophy, like you.

Mrs Hannan: Engineering.

Mr Brown: Well, he knew a lot. He came forward with the minister that day and the minister said, 'If we are going to put this to Tynwald, rightly we have to provide Tynwald with

the fullest information and we cannot go on the whim of a member on such an important issue.' So I think you have to look back at all the things that went on really from 1989 or 1990 right through to today. So a lot has been done and it is easy for us to forget over a period of time the amount of work that was actually undertaken.

I was quite interested in the views of the member for West Douglas, Mr Shimmin, who said he was a cynic. I think it is fair to say that when the DHPP, as it was then - the former name of my department - came forward with these initial proposals, we were all cynics - I think it is fair to say we all thought they were mad - 'How on earth are we going to do it?' But when you look at the alternatives and how we can deal with it and you look at the options available, it soon became obvious, for the very reasons that my hon. colleague, the member for Ramsey, Mr Singer, and Mr Shimmin said, that when you go through all this, you actually get to the stage where you say it does make sense. It seems a big issue to us. It is a big issue to us. There is a public concern out there at the scale of what we are doing, the scale that we are spending somewhere in the region of £100 million over a period of time. They find it hard to grasp. It is a massive expenditure. It is massive to us and therefore, when you look at it in that term, yes, we can all be cynics. But the alternative is not cheaper. I remember my time on the Local Government Board, as it was called in those days; we first started looking at this with Douglas Corporation and we had some people in with a computer exercise - and I am sure the hon. member for South Douglas, Mr Duggan, remembers; he was a member on the board with us at the time - and we were trying to find out how to deal with the problem of pollution of Douglas Bay at that time with the sea outfall, and they said, 'Well, to cure the problem, the way the Victorians did it is no longer acceptable.' You cannot take a sea outfall just out into the middle of the bay and leave it. You have actually got to get out past the currents so that the effluent is actually taken away from the Island. Once you talk about that, I think in Douglas we were talking about a sea outfall of 2¹/₂ miles long, and when you went round the Island, the sea outfalls that we have accepted for years - because it was a major improvement in the 1800s - those ideas now are not acceptable and, if we were to go to sea outfalls, regardless of treatment, we would have to go way out in terms of the investment, and we are talking of quite a considerable investment in that way. In fairness, the department did look at that and I think it is fair to say - I am going on memory now - that the then minister in 1995 actually put that point to Tynwald Court because of the points that were being made, 'Why not just do long sea outfalls?' So those things have been looked at.

A number of the concerns that have been raised have been about 'why one treatment plant?' I went into the department with a new responsibility last year with my colleagues, and we started from the difference of a member who had been there before who was satisfied that this was the way forward, from myself, who had supported it but was still one who questioned certain factors, to my hon. colleague Mr Singer, who came in saying, 'I do not agree with the whole idea of doing this' and the member is under no obligation and has not been under any pressure to come along with the department. The view was taken that he had a stance before the election. I have no problem with that, and it was a matter for the department to give the fullest information and briefing to my colleague to say, 'This is what the options are and this is what the proposal is about'. And when you spend a lot of time at this issue and work it through, you always get back to the stage it can be achieved.

And why one? Well, the logic, I hope I explained, is that in fact there is no real benefit to the Island to have more than one. Whether or not it would speed up the issue I do not know, but one of the biggest problems in delaying progress of the IRIS system has actually been our difficulty in planning terms, and members know about that. Contract 1 was held up for nearly a year because a number of people in the area objected to the planning proposal, and under the Manx law they have rights and they exercise those rights. Whether the department liked it or not, whether we like it or not, people have rights, and if we give them those rights, they have the right to exercise them. If you do not want them to have those rights, that is a different question. If you want to speed up the progression of this, then you could exempt the whole of the IRIS system from requiring planning permission. But then is that in the best interests of the Isle of Man? I certainly believe - and my department has been making representation for a period of time now to DoLGE - that the laying of sewers under the ground on the public highways should not require planning permission, and I know that department is looking at that issue, and whilst there are still some issues being looked at, I hope that that will be forthcoming soon, because it is illogical that you need planning permission to dig up a road, put a pipe under the ground and put the road back as it was, because you do not see anything. But we need planning permission, so that is something my department is keen to overcome. Clearly, if that happens, that will assist us in progression of the IRIS system.

I have to say that, on the point of delays, there is also a problem of physically carrying out the IRIS scheme at a faster pace than we have. We are talking of major disruptions. Port Erin has seen it. Who would ever have thought the whole of the centre of Strand Road would be dug up in the way it was? I used to play there as a young fellow. I used to cycle from Castletown to go and play under that little watercourse under there when I was young, as did most people. It was great fun down in the glen, getting our feet wet and getting told off when we went home! But who would have thought one day they would dig out this massive area. If you told most people, they would have said, 'The Isle of Man cannot do that, it is too big.' It is not. We can do it. We have the expertise and what is really pleasing is that these schemes have been undertaken by local companies with many local people employed to do the work, because nowadays with technology, with machinery, these jobs are not too big for us. Look at contract 1. Just try and recall two years ago, the state of the Loch Promenade. It was absolutely horrific in terms of the state of it. Look at it now. It has happened, it has been done. And when we talk about speed, that contract was finished, I think, two years earlier than was anticipated. So there is no problem on speed, but there is a physical problem on us trying to do it any faster maybe than we are.

Finance is not a problem. We have had tremendous support by Treasury in terms of making the capital funds available, when you take into account all the other pressures on government - how do we fund the hospital? How do we fund the incinerator? How do we fund IRIS? Major capital investments, and Treasury, because luckily we are in a position, have been very supportive of my department in making the funds available. Why? Because I think everybody acknowledges it is a priority issue. This matter needs sorting, and taking the point the hon. member for West Douglas said about development and progressing development, that is why we are trying to move as fast as we can. He mentioned about a single unit for a population of 70,000 plus, but that is what we are trying to achieve. It will be a stand-alone unit in theory. It will need minimal maintenance. It will work, but it is going to take time to get from A to B. Our time scale is about eight years, but it does not mean not much is going on. There

is work going on all over the Island to move this thing at all different levels: completion in Port Erin, starting in Castletown, starting in Ramsey, drawing up the next phase for Peel - major works. So there is no lack of commitment from my department to get this thing done and I think that we should be proud as an Island that we are actually able to undertake such major works using our own expertise and, where necessary, using expertise from consultants et cetera.

Now, the hon. member for Garff made a number of points and I acknowledge his point of view, and he has been straightforward. That is his point of view; he feels there is another way to deal with this issue. Screening was mentioned, but the problem with screening, which has partly been projected by the hon. member for East Douglas, Mr Braidwood, is that it is noisy, you have large buildings in most cases and it is relative to the scale, of course, of the population where you put it. But you would have these screening things all over the Island. You would still have outlets. You then have the potential problem of odour problems which would be far greater a potential problem than under the system we are talking about and you are going to have them in each community, and I do not think that people will accept that. We have people who express concern when we want a pump house, because we need pump stations and storage tanks and some of them require a building above ground and there are concerns about that in some areas, because naturally these buildings are close to where people live. So anything we can do to reduce the mechanical noise issue is also an important factor in the development of the IRIS scheme.

The hon. member also said that we would have overflows out onto the beaches. Well, that is right. Whether we like it or not, we have to have an emergency provision because if something breaks down - and anything mechanical breaks down, and mechanical is anything that moves, whether it be by gravity or by pump, anything that breaks down where the tanks could get full - you have got to have somewhere for whatever it is to go, and in an emergency situation it is much better being dumped on the beach than going back up into the properties and the houses having sewage all in their properties, which is the other alternative. They are exceptions and hopefully it will never be needed and on occasions it might, but we have got to make that provision for that, and I have no problem in the department making that point and making provision for that emergency.

The hon. member also mentioned about pumping 30 miles, but that is ignoring that there will be places where gravity will take over. We are not pumping every stage of the way. My understanding is where appropriate we will use gravity. But there are places naturally, and Laxey is a classic, where you have to pump to get out of Laxey, to then get it running downhill on the way to the link-up with the IRIS system and into Douglas. So there will be a mixture of gravity and pumping. The hon. member mentioned about £3,500 per household, but we are not just talking about households, we are talking about every business in the Island that uses the sewer system, so our spread of costs, if we want to argue that case, goes far outside the households. It is about the whole system for the Isle of Man, so we need to keep that in mind.

The hon. member said, is it the most cost-effective and environmentally acceptable way to deal with our sewage? This report would not be here if we did not believe that. We believe it is the most cost-effective way and it is the best environmental way of dealing with it. There are going to be problems in terms of managing it, but that would be with any system because at the end of the day there is a product. We are trying to treat the product and it creates a waste,

and what we are saying is that to keep pumping that into the bays of the Isle of Man is not a way forward for the next century and therefore this is the way we believe we should carry on. What we are saying is the way we have started - we have looked at it again, we have reassessed again and I have to say, politically, the officers of my department and the consultants have been under a lot of pressure and questioning from myself and my colleagues on this whole issue, because we wanted to be absolutely convinced that what we were going to tell you to support and to re-affirm was in the best long-term interests of this Island, and I would not be here if I did not believe that. I have no doubt at all.

As far as the overall issues of development, I do not think there is much point in just going on and on - most of the points have been made by members. I thank them for what they said. I would say that zoning and re-zoning are not the only reasons we did not have more than one. We genuinely believe that the Island can cope with one. Yes, we have the public perception problem. We all have that. 'What on earth are you pumping from there to there for, when you can put a plant here?' But the more plants you have, the dearer it is, the more maintenance required and there are other costs that go on there. Our point of view is we can do it with one. If we can do it with one and it works and it is more cost-effective and it will do the same job, then why not do it?

As far as stand-alone units go, I have been in discussions with the Minister for Local Government and Environment on that issue, but there is a problem because a developer, if he puts in a stand-alone unit, walks away from the problem, because by law we have to take over that stand-alone unit and, if and when IRIS comes along, we would be responsible at this moment in time for the decommissioning of that unit, and that cost has to fall on the taxpayer and our question is, is that the right thing to do? But I would like to clarify that in the areas where we are talking about where there is potential for development, the problem is not only sewage. Many of the problems, in fact most of the problems, are with storm water drainage, and there are areas of land within the development plan which quite honestly need to be taken out. They are not suitable for development - not visually, it is impractical, because of the problems that there are in actually dealing with storm water and dealing with sewage. We have recommended recently to the department that the land at Surby that is in there should be taken out. It is already causing flooding problems in Surby; why add to it? Because we think that trying to deal with that issue of dealing with the storm water in that area would be so expensive that it is not practical to go on with the development. So look for other land where you can get the drainage system in without great cost and in fact it will not cause a problem. There is no point designating land that is not going to be able to be serviced without major cost, when you might have other land which that will have a minimal cost to service and is just as acceptable, and we have made that point to the department.

Mr President, again I just thank my departmental colleagues for their support and also may I just thank my chief executive and his team for their work in this issue. It is a major amount of work for them. It would be enough just to have to deal with the IRIS project, never mind all the other matters that my chief executive is responsible for within the department, and he and his team, I believe, work very hard and I hope members will support the motion before them.

The President: Hon. members, I will now put the resolution set out at item 28 on the order paper. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Messrs Gilbey, Cannan, North, Mrs Crowe, Messrs Brown, Houghton, Crowe, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Gelling and the Speaker - 17

Against: Messrs Rodan, Duggan, Mrs Cannell and Mr Karran - 4

The Speaker: Mr President, the motion carries in the House with 17 votes being cast for and 4 against, sir.

In the Council -

For: The Lord Bishop, Messrs Lowey, Waft, Dr Mann, Messrs Kniveton, Radcliffe and Mrs Christian - 7

Against: None.

The President: In the Council, hon. members, 7 votes have been cast in favour of the motion, no votes against; I declare the resolution carried.

Isle Of Man Arts Council - Mr Lowey Appointed Chairman

The President: Item 29. I call upon the hon. Chief Minister.

Mr Gelling: Mr President, I beg to move:

That Mr E G Lowey MLC be appointed as Chairman of the Isle of Man Arts Council.

Following the retirement of His Honour Arthur Luft from the Legislative Council the chairmanship of the Isle of Man Arts Council has become vacant and it would, I believe, be appropriate at this time to pay tribute to the skill and dedication which His Honour gave to the Arts Council during his period of chairmanship, and I am sure that this Court would wish to join me in expressing our thanks to him for his work in this field.

To fill the position of chairman of the Isle of Man Arts Council requires an experienced person with the skill and dedication to continue the good work of the Arts Council, and to this end I would commend to this Court the hon. member of Council, Mr Lowey MLC. Mr Lowey has been a member of this Court since 1975 and was of course a member of the Arts Council prior to its reorganisation in 1992. So therefore, Mr President, I would beg to move that Mr Lowey MLC be appointed as Chairman of the Isle of Man Arts Council.

Mr Cretney: Mr President, I wish to second the nomination of Mr Lowey and in so doing place on record my thanks for the work Mr Lowey has already undertaken since becoming a member of the Department of Tourism and Leisure again and having renewed his associations with the Gaiety Theatre through his chairmanship of the leisure division of my department, to which he has dedicated much time, and I think his work in terms of bringing the Gaiety Theatre open and inviting people in could be usefully extended if he were to be successful as being appointed Chairman of the Isle of Man Arts Council, where I believe his philosophy would be 'art for all'.

The President: Hon. members, I will put the resolution set out at item 29 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Financial Supervision Commission - Members Elected

The President: Item 30, the Minister for the Treasury.

Mr Corkill: Thank you, Mr President. I beg to move:

That Mr A E Barber and Mr J H Webster be elected members of the Financial Supervision Commission.

Hon. members, I am pleased today to put forward to this hon. Court the names of John Hamilton Webster and Anthony Elliott Barber. CVs have been circulated to members but of course they are people who are well known within our community. Membership of the Financial Supervision Commission requires understanding of complex issues, integrity, and I believe also a working knowledge of the industry. By broadening the membership of the commission I believe it will be beneficial to all parties regarding the job of effective and fair regulation of the financial services industry. I am pleased that both individuals have expressed to me a commitment to the commission if elected, and a considerable effort has gone into finding the right people, bearing in mind the importance of financial services to this Island. Having researched other jurisdictions including the United Kingdom, it is quite apparent that most regulatory bodies equivalent to our FSC have members with a current working knowledge of the financial services sector. I am sure that Mr Webster and Mr Barber qualify in this respect, and that they are people of integrity and I ask hon. members for their support. I beg to move, Mr President.

Mr Gilbey: Mr President, I beg to second and reserve my remarks.

Mr Cannan: Mr President, a point of order. I beg to move under standing order 3.12(1)(b) that the propositions that Mr Barber and Mr Webster be elected members of the Financial Supervision Commission be debated as one but voted upon separately, sir.

Mr Houghton: I beg to second that motion, sir.

The President: Is the Court agreed?

Members: Agreed.

The President: Thank you, hon. members. Proceed, hon. member for Michael.

Mr Cannan: Mr President, the Financial Supervision Commission, of which I previously had the privilege of being chairman, is a very prestigious appointment and that is why the membership has to come to this Court for approval. It also comes with their CVs, and I think that it would not be the wish of the Treasury minister that they be merely rubber-stamped, otherwise there would be no point in presenting the names to Tynwald.

The importance, as I have already said, of a Financial Supervision Commission cannot be overstressed. I have no problem with the appointment of Mr Barber who has retired very recently from the Royal Bank of Scotland International. He was the Island director. He is fully au fait with all the banking procedures but above all he has, by his retirement, distanced himself from the day-to-day business and the competitive business - and this is the word I emphasise, the *competitive* business - of the finance sector, a very appropriate appointment.

As regards Mr Webster, disquiet has been expressed to me that the gentleman is very active in day-to-day business in the competitive business of this Island, and I find it difficult,

but wish in a public forum, to express some of the comments of disquiet that have been expressed to me but it is based on the issue that here is a gentleman deeply involved in promoting his own business, a chairman of a software company which provides software to the finance sector, becoming a member of the Financial Supervision Commission while he is still very active in his own business. It has generally been customary for previous members of the Financial Supervision Commission to be 'semi-retired' or 'fully retired' - perhaps in inverted commas because by being members of the Financial Supervision Commission they are obviously not retired, but they have not been in active day-to-day business.

I do not think I will say any more. I think I am making the point and I think that it should also be said that those who are expressing disquiet would not wish themselves to be disclosed for the very obvious reason that then their disquiet will be known to the members of the commission. I will say no more but I think I made the case that members for the commission - and in my time I appointed members to the commission and brought them here - were never actually in the forefront of the day-to-day commercial business.

The President: Does any other hon. member wish to speak to this resolution? If not, reply sir?

Mr Corkill: Thank you, Mr President. The hon. member for Michael, Mr Cannan, has said that people have expressed disquiet in private, and that is the nature of the job that we do. We all get comments confidentially from a number of areas. One of the areas of disquiet that I have received over a period of time is that there has been comment to me that the Financial Supervision Commission is not as up to the minute as it could be, (**A Member:** Hear, hear.) and that retirement has been the driving force there and that members of the commission, once retired, soon lose touch with what is a very rapidly moving market situation. Therefore that area of disquiet is one that I have sought to address with these nominations with people who I think are able to redress the balance.

Having said that, that does not in my mind in any way preclude people who are retired from contributing to this very important area, and it is striking that balance. By nominating the two names before us today I have been seeking to address that balance and, as one can see, one of the members is active - very active, I think the hon. member for Michael said - in the business community and a number of people warm to that, but of course there are those who see the dangers of it as well, and I see the dangers as well. Having said that, I believe the membership of the commission is well balanced by people who have little or no connection with licence-holders, but I would also like to point out to hon. members that in every other jurisdiction that we have looked at there is considerable interface between the market and the business that is being regulated and the actual regulation itself, and on the broader political front I am sure that, with regard to regulation of the financial services for the future, it may well be that it is the political involvement that will receive more scrutiny than actual participation of the industry itself and members who are connected with it. And when one looks at the membership of the new Financial Services Authority in the UK, you see directors of some of the household names of the financial world. If you go to Bermuda they see it as a positive attribute, and we have had comment from the Bermuda Financial Services Commission equivalent there that they are able to actually deliver the message of good regulation directly into the boardroom of a number of financial institutions because of that interface.

Therefore Treasury has given us considerable thought over a period of time, but I obviously leave it to hon. members. That is the purpose of the vote today. We have two names and we can vote upon them separately as standing order 3.12(1)(b) has now been accepted, and I leave it up to hon. members to decide, but I hope hon. members do realise the balance that we are trying to construct in the Financial Supervision Commission and that this is so important to our economy.

The President: Hon. members, in keeping with the Court's decision I would put the resolution set out at item 30 on the order paper in two parts. The first resolution is that Mr A E Barber be elected a member of the Financial Supervision Commission. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

The second is that Mr J H Webster be elected a member of the Financial Supervision Commission. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Messrs Gilbey, Rodan, North, Mrs Crowe, Brown, Crowe, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill, Gelling and the Speaker - 16

Against: Messrs Cannan, Houghton, Duggan, Mrs Cannell and Mr Singer - 5

The Speaker: Mr President, the motion carries in the House, with 16 votes being cast for and 5 against.

In the Council -

For: The Lord Bishop, Messrs Lowey, Waft, Radcliffe and Mrs Christian - 5

Against: Mr Kniveton - 1

The President: In the Council, 5 votes have been cast in favour of the resolution, hon. members, and 1 vote against. I declare the resolution carried and Mr Webster duly elected.

Petition For Redress Of Grievance Of Jean Noreen Thompson - Select Committee Report - Debate Commenced

The President: Item 31, the hon. Mr Braidwood.

Mr Braidwood: Thank you, Mr President. I beg to move:

That the Report of the Select Committee on the Petition for Redress of Grievance of Jean Noreen Thompson be received and its recommendations adopted.

This is one occasion when I sincerely wish I did not have to report to this hon. Court. This petition would not have had to be presented on Tynwald Day 1996 had it not been for the incompetence of the Coroner of Middle, Mr Kelly, in the selling of two flats in the petitioner's block at 10 Derby Road, which also included the freehold to the buyer, Mr David Bellamy. If I may, I would like to concentrate on the Thompsons' problems since the auction and then elaborate on the other recommendations in the report.

The petitioners' problems had its origins in the auction which took place at 11 a.m. on Monday, 3rd November 1986. The advertisement for the coroner's auction only mentioned flats 3 and 5 at 10 Derby Road; no mention of the freehold. The petitioner in her evidence

stated quite categorically that she inquired of the coroner after flat 3 was sold, was the freehold involved? and was told quite abruptly that it was not an issue here today. Mr Kelly in his oral evidence maintained the freehold had no value whatsoever but admitted during the inquiry that in hindsight it had great value to the other tenants and was the cause of all the problems since experienced by the leaseholders. The fact that the coroner failed to notify the leaseholders that the freehold of the property was to be sold deprived them of the opportunity of buying the freehold to protect their leasehold interests. We consider this a serious procedural failure by the coroner and one which proved to be extremely prejudicial to the petitioners. In fact, this incompetence by a Crown appointee has cost the petitioners a great amount of money, virtually equivalent to what the two flats were sold for over the subsequent years in the dispute with the holder of the freehold, Mr David Bellamy. Furthermore, this is not taking into account the great stress and the deterioration in the health of Mr Thompson, who had to retire on health grounds after suffering three heart attacks since the commencement of this dispute. In hindsight the coroner should have sold the flats and the freehold should have been transferred from W K Ltd to a management company controlled by the leaseholders.

Since that day there has been a continuous dispute with Mr Bellamy and the leaseholders. Each member of the committee has copies of correspondence running into over 140 pages between advocates, leaseholders and Mr Bellamy over maintenance costs of the building and short-term tenancies in Mr Bellamy's flats at 10 Derby Road. Evidence was also obtained that Mr Bellamy, together with associates had intimidated the leaseholders when initially introducing himself as their new landlord and in asking for money to maintain the building in later visits. The leaseholders in desperation sought the advice of the Department of Local Government and the Environment in March 1993, who suggested that the leaseholders should form a management association. Thus was born the Caldervale Tenants Association, which was recognised by the department on 24th March 1994 as a majority of three leaseholders from the five in the property who were participating in its creation. The formation of a tenants association was of little assistance to the leaseholders, as the Property Services Charges Act 1989 does not address a failure by the landlord to undertake repairs and maintenance to the property which the leasehold tenants alleged were required.

The committee doubted whether it was desirable for a government department to offer this form of advice to private citizens, but if the advice is to be offered there should be careful consideration, before doing so, of the advantages which will accrue to a citizen acting on such advice. The delay in the department recognising the association was attributed to Mr Bellamy informing the department that the rights to 10 Derby Road have been assigned to Hibland Properties. No such assignment had been registered and the committee consider that in such circumstances a government department should not rely on the assertions of the landlord but should make an independent property search of the register.

On the various proposals to resolve the disputes the leaseholders have in the main employed an advocate to conduct their affairs. This evidence suggests the leaseholders have experienced in their representation lengthy, desultory, ineffective and expensive correspondence. It was also felt from the evidence that the advocate advising the petitioners and their fellow leaseholders over the establishment of the Caldervale Tenants Association made little attempt to give an independent evaluation of this utility for his clients of proceeding in this way, or if he had, this does not appear to have been communicated to his clients. It is

concluded that the petitioners and their fellow leaseholders have been poorly served by their legal advisers.

The Property Services Charges Act of 1989 has the principal purpose of protecting tenants, including leasehold tenants, from landlords who overcharge for services, repairs, maintenance, insurance or the landlord's expenses of management of the property. The Act does not, however, provide remedies for a tenant where a landlord fails to repair or manage the property - for example, in breach of a covenant in a lease. We have received evidence that there may be value in amending this Act to allow tenants or a recognised tenants' association to proceed against a landlord who is in breach of covenants to maintain the property or, in the absence of such an agreement, to employ an architect or chartered surveyor to arbitrate on such repairs and maintenance. The Minister for Local Government and the Environment, in a letter to the committee on 28th February 1997, stated his department would be pleased to address any shortcomings in the legislation, and I know if he was in attendance today he would take these matters on board.

From our inquiry it became evident that an increasing amount of Victorian property over the past 20 to 30 years has been converted to provide individual flats, generally on long leases, and the freehold property held by a registered company in which the leaseholders are the shareholders. If such property has been superficially upgraded by a developer and basic building defects have not been addressed and these defects become apparent or even where routine repair and maintenance of common areas is required, these may be beyond the resources of the leaseholders. We recommend, therefore, that the stricter monitoring of the conversion of Victorian property to provide individual flats should be examined. It may be that mandatory inspections at various stages of the conversion should be carried out by a building inspector to ensure that the best practice has been followed. Furthermore, in the case of a development for the conversion of an existing property into flats, habitation certificates and flat registration should only be provided when the development is completed, and not for individual units as a development proceeds. In the case of newly built flats and apartments completion of individual phases would be an appropriate time for the issuing of habitation certificates and flat registration. As an alternative to the transfer of freehold in such conversions to a registered company we recommend that as a matter of priority consideration be given to create a commonhold right to facilitate the conversion of existing freehold property into flats. Although the present and past Her Majesty's Attorney-Generals have stated they would not recommend the introduction of commonhold system until it has been tried and tested in the United Kingdom, it has become apparent that the revised Bill establishing such a system may be deferred in the United Kingdom Parliament. However, this committee, although recognising the cogency of some of these considerations, still feel that as the legislation has been drafted we recommend that consideration be given to creating a commonhold right in the Isle of Man as a matter of priority.

I would like to thank my colleagues on the committee, Mrs Cannell and Mr Corkill, and also Mr Groves, the former member for Ramsey, for his contribution up to November 1996. I would also like to thank Professor St John Bates for his help and guidance in the protracted inquiry. In conclusion, I feel I must reiterate the huge problems caused to and the unhappiness suffered by Mr and Mrs Thompson over the past 11 years. My sincere hope, together with

theirs, is that no-one else in the future is put into the dreadful position they have found themselves in due to no fault of their own.

Mr President, I beg to move that the Report of the Select Committee on the Petition for Redress of Grievance of Jean Noreen Thompson be received and its recommendations adopted.

Mrs Cannell: Mr President, I beg to second and I reserve my remarks.

The President: Hon. members, I think this is an appropriate time at which to adjourn. I have three tabled amendments in respect of this resolution and I think it is inappropriate to continue with this resolution at this stage. It will take a little time. So, hon. members, the adjournment will be until 2.30.

The Court adjourned at 1.03 p.m.

**Petition For Redress Of Grievance Of Jean Noreen Thompson -
Select Committee Report - Debate Concluded - Motion Carried**

The President: Resuming the debate on item 31, I call on the Chief Minister.

Mr Gelling: Mr President, the select committee has without doubt endeavoured to grapple with a very difficult position in relation to property law and as their report makes clear, the problem is not unique to the Isle of Man and new measures are already under consideration in the United Kingdom and it is clear from the report that no absolute answers have been found and there is some uncertainty as to how the problems might best be resolved.

Now, faced with this report and when considering how best the issue might be moved forward, it was the view of myself and the Council of Ministers that the best course would be to refer the report and its recommendations for further work by the appropriate department of government, that department being the Department of Local Government and the Environment.

Now, if we do not allocate this responsibility the danger, I would suggest, is that the matter will continue to lie unresolved. Now, it may well prove difficult for the Department of Local Government and the Environment to arrive at a solution to the problem. No doubt if it was easy the select committee would have found the answer, but realistically the best hope that we can offer those who are faced with the difficulties described by the select committee is that the department, with its experience of property matters and no doubt drawing on the expertise of the Attorney-General's Chambers, can identify a way forward, and I repeat that is what I am suggesting: a way forward.

So therefore I would like to move the amendment that has been circulated which would amend the resolution for the word 'adopted' substitute 'be referred to the Department of Local Government and the Environment for consideration and report' and therefore it would move it into that department where the minister has already indicated that he will give this matter due consideration and therefore I so move the amendment which has been circulated in my name:

For the word 'adopted' substitute 'be referred to the Department of Local Government and the Environment for consideration and report.'

The President: Seconder? Does the hon. member for Onchan wish to second?

Mr Corkill: No, I just indicated I wish to speak, Mr President.

Mr Downie: I am prepared to second it, Mr President.

The President: Thank you, sir.

Mr Downie: Mr President, hon. members, I rise to speak on this resolution on behalf of the Department of Local Government and the Environment, which has been criticised for its role in relation to this matter. However, I have to say that the department acted in good faith throughout. The purpose of the Property Service Charges Act 1989 was to give landlords and tenants a proper framework for fair and open dealings between themselves, with government only becoming involved as a last resort, but as the hon. member of the Council, Mr Dominic Delaney, a former minister of the department and the mover of the Property Service Charges Bill indicated in his evidence before the select committee on 24th May 1996, and here I quote, 'The unfortunate local government department did everything right only to find at the final stage they could not actually do anything.' The fact of the matter was that the department believed the Act contained the necessary powers, but when it was put to the test it was found to be seriously wanting. The department advised the Thompsons and the other residents of flats 1 and 3 to form themselves into an association, which the department subsequently registered, in the belief that this would assist, but sadly this was proved not to be the case.

It is clear that there are serious limitations with the present Act and the department intends to examine the Act in collaboration with the learned Attorney-General in the light of the difficulties Mr and Mrs Thompson have faced and will bear in mind the recommendations in the report of the select committee. Therefore I both welcome and fully support the amendment which has been moved by the Chief Minister and I am prepared to give the Court some assurance that the matter will be addressed as quickly and as practically as possible and I therefore second the amendment moved in the name of the Chief Minister. Thank you, Mr President.

Mr Karran: Eaghtyrane, I wish to move this amendment because I believe that the Chief Minister's amendment is fundamentally flawed. I believe these people have waited long enough in order to see some resolve to their legitimate grievances as far as this is concerned and I believe that it is important that we have a date there to concentrate the mind of the DLGE as far as this is concerned. I want to see this amendment go through because I think it is important that there is a time period put on it and also I believe that there is no excuse then: it is in the government's camp to do something by October, to report back with some way of making sure that the many other people who are affected by this loophole that is in the present law can see some light at the end of the tunnel.

So all my amendment does is say that the department should report back to this hon. Court by October 1998. I do hope that the hon. members in this hon. Court will support that proposal, as I believe that that is the most fair and equitable proposal if we are to ask the DLGE. It should not be open-ended; these people have waited long enough. I beg to move:

For the word 'adopted' substitute 'be referred to the Department of Local Government and Environment for consideration and report no later than the October 1998 sitting.'

Mr Kniveton: Mr President, I rise to second, sir, and reserve my remarks.

Mr Singer: Mr President, I understand the previous two amendments put forward are indeed trying to speed this matter up, but I believe that under the circumstances we need to go a little further than this, because as far as Mr and Mrs Thompson are concerned I think that the problem arises around paragraphs 5.3.1 and 5.3.2 and there are three points that are quite clearly made in the report. The first one is that the coroner incorrectly disposed of the freehold; secondly, that DOLGE - and I accept what the hon. member for West Douglas says - acted in good faith, but they did, for whatever reason, give weak advice on the formation of a tenants' association which incurred considerable expense to the complainants; and thirdly, there was a clear neglect on the advocates' advice to the purchasers in that the advocates never stated that the Property Service Charges Act or the Housing Flats Regulation Acts of 1982 contained no enforcement provisions when a landlord fails or refuses to honour his responsibility for repairs et cetera and meanwhile large fees were paid to the advocate who apparently failed in his duty and responsibility to his client.

There are two points that I would like to raise with the chairman of the select committee, which perhaps he could consider in his reply. The first one is, is it practical to introduce as recommended a commonhold right to the Isle of Man against the recommendation of the Attorney-General and the fact that there is no experience of this in the UK and they have no intention of introducing it yet in the UK? And secondly, do you not feel that a landlord's failure to enact the necessary repairs and maintenance on a building should be brought, as has been suggested, under criminal law, which may well focus the mind of the particular landlord?

I believe that the Department of Local Government should review their procedures and accept some responsibility for the problem and consider compensation as described in my amendment. I will therefore read out my amendment which says:

For the word 'adopted' substitute 'be referred to the Department of Local Government and the Environment for consideration and report, including consideration and report on appropriate compensation to the petitioner for expenditure and legal fees, no later than the October 1998 sitting.'

I know that members have expressed the view that they sympathise very much with the position that the Thompsons were put in and I hope you will support this amendment in accepting that position.

Mr Duggan: I beg to second the amendment, sir.

The President: Now, hon. members, we have a resolution and three amendments before the House and I call on the hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr President. The issue is, I believe, extremely clear and certainly the three amendments now before us I think focus on the fact that this hon. Court regards the situation as a serious one. Apart from perhaps one other petition that I can recall, I have never come across a more deserving case than that of Mr and Mrs Thompson. I am sure that all hon. members are sympathetic towards the plight that they find themselves in.

It has been one of the more difficult committees to serve on because the injustice is there, it is clear to see, but it has been very, I believe, difficult to actually find a constructive way forward that actually satisfies the feelings of natural justice.

I wish to make it clear that I simply do not favour long leasehold as a reasonable vehicle for people to utilise when procuring a home for themselves and in this instance we are talking about a proud home which, metaphorically speaking, has had its very foundations pulled away. I have dossiers at home on leasehold issues - Mr and Mrs Thompson, there is Royal Court in Onchan, there is King Edward Bay Apartments, they are beginning to spring up around this Island, these issues, and in all cases the freehold is elusive and the management structures fail, they fail to operate, and therefore the tenants begin to suffer over a period of time, and yet this report clearly states a criticism of the legal profession because it seems that the legal profession - and my comments are not just specific to the incident here in this report but also to other areas - seem unable or are not willing to warn clients sufficiently that their assets are in the short, medium or even longer term possibly at risk, because of the failures in these types of situations, the failing of freehold and the management structures.

Now, in the case of Mr and Mrs Thompson they have soldiered on over a long period of time to highlight the particular case that they are involved in, and I would congratulate them for that. They have been very tenacious and I think in the long term this will be an advantage to the community of the Isle of Man as a whole because hopefully we can learn from their situation.

Now, with regard to the amendments before us, I believe they are all constructive. The one that concerns me is the issue of compensation because I am still not sure whose fault it is and therefore I can go along with the amendment in the name of Mr Singer, the member for Ramsey, because it does say that the Department of Local Government should consider and report on appropriate compensation. There will be a number of legal issues to consider around that compensation issue and I think it would be wrong in this Court today to perhaps give false hope on the compensation issue, but justice should be done at the end of the day and in effect what we are doing today is delaying that perhaps once more by moving amendments and referring it to the Department of Local Government.

Quite understandably, Mr and Mrs Thompson are feeling let down by the whole system - the failing of the coroners procedure, quite clearly seen; the failing in their legal advice, the failing in the Property Service Charges Act law - and I am encouraged by Mr Downie's comments from the Department of Local Government and the Environment that they are willing to take this issue on, but I am a little bit concerned that there is a preconceived idea within the department there that in fact they did everything according to the letter of the law and that everything was fine from their point of view. The reality is the system is lacking and even although they did perhaps act in good faith, and I am not really querying that, it was clear then to a number of people that it would not have made any difference, the actions that were going on to try and sort this problem out. So it is not a situation for any of us to relish.

I apologise that the committee has deliberated for so long, but there were reasons for this: there was a general election, there were procedural delays in collection of evidence, and a number of issues have dragged on.

But the best recommendation that this committee could come up with is the issue of commonhold. It is an issue that is being discussed in the United Kingdom and we are advised that it is going to be a long way off. But I believe the situation here on the Island is not the same as the United Kingdom and although there may be a draft Bill there which is a blueprint and it may well be causing problems within the United Kingdom in terms of progressing that

legislation, here on the Island leasehold is not so entrenched as it is in the UK and it has been happening for a shorter period of time and therefore I think we need to act before we reach the UK's scale of problem and we should be learning from their mistakes and not following on their coat-tails, to quote a colleague of mine; perhaps I agree with him on that issue. The report says that the issue of commonhold should be a priority, not waiting for the UK, but should be a priority now. I hope members will support the report.

I understand the feeling for the amendments. I am going to listen to the debate to see which amendments I wish to support. But one thing is for sure: as a community we need to learn from the experience of Mr and Mrs Thompson and to try and minimise that risk for people in future. Thank you, Mr President.

Mrs Cannell: Mr President, I would concur with many of the views submitted by the previous speaker, although I have spend a relatively short time on this particular committee but indeed my eyes have been opened with respect to the findings and the things that we have uncovered with regard to the situation that Mr and Mrs Thompson have been faced with but also, as I understand, many other Island residents are faced with who perhaps have not come out in quite the same way and admitted that they too are having exactly the same problems as Mr and Mrs Thompson have had. Indeed I believe also that the relevant legislation that we have in place at the moment is seriously flawed in that it does lack the necessary sanctions which are necessary to enable a landlord to comply with his or her responsibilities and equally I was very surprised also to learn that in the United Kingdom they have some 750,000 leasehold flats throughout Great Britain and so there is a very, very big problem over there and yet it is surprising, in view of that, that there is such a delay in bringing forward the commonhold legislation.

We have no idea of the extent of the problem here on the Island. Indeed, as I have said before, I understand that there are many other people who are suffering, many elderly retired people who are suffering because of a similar situation, and I welcome the comments from the member for the Department of Local Government and the Environment and I am sincere in the belief that they will look at it.

However, when looking at the amendments, and all three have merit, personally speaking I rather favour the last one which has been proposed to us because it does embrace the other two. To my mind mind it is neater because it does include that the Department of Local Government and the Environment consider and report, it does set a date for coming back with that report and it also suggests that they should look into and consider some form of appropriate compensation for the petitioners, and I feel that has much merit and I feel that that is the very least that we can do to support the grievance bestowed within this petition which we are reporting on, and so I do not have a problem at all in supporting the amendment which has been moved by the hon. member for Ramsey and I have no problem with the other two, but I think in order to keep things neat and tidy the last one is probably the most appropriate because it embraces the sentiment expressed in the other two.

But I would hope that hon. members will share along with the committee our concerns with regard to this issue and that we do get to the bottom of it and we do put in place proper legislation that has proper sanctions in the future to prevent this type of situation from every occurring on the Isle of Man again. I believe we can do that, we are small enough to do that

and I think we are deft enough to be able to do that quickly, perhaps more quickly than the United Kingdom has shown willing to do. Thank you, Mr President.

Mrs Hannan: Eaghtyrane, I am concerned that this report on this petition should go somewhere, so I accept either the amendment of Mr Karran or the Chief Minister for a report back, but what does concern me is that there has now been an amendment which goes much further than the select committee were to look at. Tynwald had been petitioned by this petitioner on Tynwald Day and the petitioner sought the appointment of a select committee of Tynwald to review the operation of the Property Services Charges Act 1989 with particular regard to the powers of recognised tenants' associations and the Department of Local Government and the Environment to take action where a landlord fails or declines to co-operate. Now, that is what the petition said, that is why the petitioner was so aggrieved to move this petition, and it seems to me that what the select committee are saying is that, yes, there is a problem with the Property Services Charges Act and that we should look at commonhold, which is fine if that is what the committee is saying, but that report has to then go somewhere, and the two amendments, one moved by the Chief Minister and one moved by Mr Karran, are actually saying that and that there should be some reporting back. The area that concerns me is the compensation, because this is not what the petitioner was petitioning for. The petitioner was petitioning for a review of the operation of this particular Act, which failed and does not have sanctions. So I would have thought that if that principle has been recognised by the select committee, then the amendments moved by either the Chief Minister or the member for Onchan, Mr Karran will actually fulfil the petitioner's wish that some action is going to be taken in the long term by government to improve the situation that the petitioner found themselves in.

The petitioner sought the appointment of a select committee, so that was applied, to review the operation of this Act so that the landlord should be forced either by sanction or because of a restrengthening of the Act to do something and co-operate with the people living in this particular property or any property in a similar situation, and it concerns us that we are now looking at appropriate compensation.

I can understand many of the members and I can see the mover of it in their constituency supporting that particular principle, but it concerns me not that the department would be looking at it but that there would be then pressure on the department and on government to comply when that was not the reason for the petition in the first place. The petitioner was aggrieved because of this particular Property Service Charges Act, and I am concerned that we are opening up the situation whereby every time there is a petition presented, compensation will be looked for because we have set a precedent by this particular petition.

So I do feel that members should be extremely careful when we are looking to fulfil the wish of a petitioner, which if you look at the petition which is in the report, is exactly what I have covered.

Yes, these people have had problems and they continue to experience them and until this is improved by some department of government, in this instance the Department of Local Government looking at it, things will not change for people in this situation in this particular property or others which have been mentioned to us by the member for Onchan who was a member of the committee.

I think someone said about the expenditure on legal fees, but if someone was not satisfied with the legal advice that they were getting, surely they should not have continued to pay legal fees, and this is an area which I would be extremely concerned about.

So I am happy to support Mr Karran's amendment and the Chief Minister's amendment because then it does go on, it is looked at. If we accept the report of the select committee, that is fine, it does not go anywhere else, but the amendments that are on the table from Mr Karran and the Chief Minister do take it further.

Mr Gilbey: Mr President, could I just follow up what the hon. member for Peel has said? This is a most unfortunate case, to put it mildly, but as one hon. member, I cannot remember which one, said, the problem has been caused by three things: an error by the coroner, possibly mistaken advice by the Department of Local Government, poor help and overcharging by advocates, and I would add another which that hon. member did not add and that is a bad landlord. Now, these are all most regrettable, but I do not think that any of them or all of them combined produce a case as to why government should pay compensation.

If you take an error by a coroner first, coroners are not officials fully paid by the government, they act as individuals. Now, you can say their position is not what it should be, but we are considering a Coroners Act to put that right.

Now, a mistake by the department – that is by no means proven and I think everyone would admit that if it was a mistake it was given in good faith. I do not think government can in principle accept the position where every time one of our thousand-plus civil servants makes a mistake in advice the government can be called on to pay compensation.

Then you come to the question of poor help and overcharging by advocates. Sadly, I think this does happen far too often, but it is not a situation in which the government should in any way pay compensation. Again we have tried to address this through the Advocates Bill, which we hoped would go some way to doing so.

Finally the question of bad landlords - well, it is unfortunate when there are such people, but again I do not think government can say it is responsible and it should pay compensation.

So frankly if you look at all these four headings for compensation the only possible one is that of the advice by the Department of Local Government. I do not think that is a ground for compensation, but in fact it is only a tiny part of the total fault, and therefore I certainly cannot support the hon. member for Ramsey's amendment because I think it lays us open to the expectation of a very, very dangerous principle which to my mind would be quite unacceptable.

There is one other thing regarding this commonhold. I think we should very much heed the advice of the learned Attorney on this. I do not always agree with the learned Attorney or his department and am quite happy to disagree with them, but I think on this matter you do not have to be a lawyer to understand the enormous complexity of putting into law what is suggested in the summary of recommendations. One can see that this would be a thing of immense complication. It would need, as has been said somewhere, an enormous Bill, which would take a tremendous time to draft, would be very difficult to understand and I suspect then would just be a lawyers' paradise, leading to more and more litigation and argument, and

therefore I would urge the Department of Local Government to be very, very cautious before they agree to embark on the proposals for such legislation.

Mr Waft: Mr President, it concerns me a little that this case ever got as far as it got and it had to go through this route. The concerns that were expressed in the past by the Thompson family should have been adequately seen to by the department in my view.

As it has gone to a select committee of Tynwald I do not feel that in black and white a select committee report actually can represent the anguish that the Thompsons have undergone after buying a flat in good faith, only to find that the freehold has been sold beneath their feet, without their knowledge, even asking the question, 'Is the freehold for sale at this sale?', and they got a negative answer or it was not to be considered.

However, the coroner states, 'If I made an error and' - and I quote - 'I honestly do not know whether I did or not, but if I did, it would not in itself have annulled the legality of it.' So the question of compensation is rather tenuous and I would not like to build up any false hopes for anyone at all. The error obviously lies in the legislation and we have to ask ourselves did the coroner actually act according to his remit and according to the law? The Property Service Charges Act obviously failed the Thompsons, as it has failed so many people in the past, and it will fail people in the future unless something is done very quickly and a great deal of consideration needs to be given to it.

With regard to the action of the department, I am sure that a search was done by the department in the past with regard to this property and with regard to this freeholding. There quite obviously should be stricter monitoring of the conversion of flats and their subsequent sale.

I do think there are a lot of negatives within this report and it is quite a minefield of legislation that we need to be concerning ourselves with, as to which route we should go down. Therefore I wonder if the Attorney-General might like to make a comment on a few of the facts that have been established up to now. Thank you, Mr President.

The Attorney-General: Mr President, hon. members, I do not think it is appropriate that I should give specific advice on this specific question which is before the Court today. What I hope I might be able to do for the benefit of members is to give some general observations on the relevant factors which I feel are appropriate.

I think that it would be as well to reflect on the nature of a lease. Essentially it is a matter of contract, a matter of an agreement between the property owner - the landlord - and the tenant. Now, invariably residential leases which are for a long period of time are reduced into writing. This is for the protection both of the landlord and of the tenant and if a tenant has a complaint that his landlord has not, for example, repaired the roof or has been guilty of harassment or some such complaint, the obvious remedy which should be pursued by the tenant - and I would expect any competent advocate to give him this advice - is to sue the landlord for breach of the covenant in the lease. If the lease is not in writing, that does not matter because again we have legislation which sets out precisely what the implied terms are in a lease. A landlord is not entitled to allow his property to come into disrepair. A landlord is not entitled to intimidate his tenant.

Now, much criticism has been made about the Property Service Charges Act, this I think, was a rather specific type of legislation. It was designed to ensure that when tenants of multiple occupancies, such as, for example, a flat with 20 or 30 rented units, if we had a situation like that, the landlord often is called upon to carry out certain services such as repairing common areas, the staircases, the lifts and so on and so forth, and invariably again in these sorts of tenancies at the end of each year the landlord gives a bill to the tenants, often based upon the square footage of the unit which is being leased out to the particular tenant.

Now, one can readily appreciate that it would be very easy for an unscrupulous landlord to give a bill at the end of the year, saying that the proportion of the community charge, the service charge, was £x, whereas in fact the real charge would be £x minus £500. And so the object of the legislation which has been criticised in this case really had no relevance whatsoever, as I see it, to this particular case. It was designed, as I say, to protect tenants who were faced with a bill from landlords who had assessed a bill which was put to the tenant for community charges.

Now, I cannot comment on whether or not there has been overcharging by an advocate or advocates in this particular case. It is of course of great concern to me that there might have been overcharging, but perhaps I might just say that if there is a complaint of overcharging, then again an advocate would be able to advise or indeed my chambers would be able to advise that you simply make a complaint to the Law Society (**Mr Downie:** Hear, hear.) and/or the Chief Registrar and the fee can be assessed - or, as it is called, taxed - and a fair remuneration should be paid and no more than a fair remuneration, and I am very concerned that in his case there may well have been overcharging, but I do not want to give any definite view as to that.

The other matter of general concern which I might comment on is this. It may well have been that the department gave some advice to Mr and Mrs Thompson, but I think that very often departments of this government are asked to give advice and they give it in the best possible and genuine way, but whether there should be liability for compensation is a quite different matter because the question is was that advice given with the intention of creating a legal relationship between the person who is giving the advice and the person who is receiving the advice? I would hesitate to say that in every such situation where a civil servant gives advice to a member of the public in good faith that exposes the civil servant to a claim for damages. One can very readily appreciate that in those circumstances it would be extremely difficult to get any advice at all, and I do feel that caution ought to be exercised in relation to that matter.

The other thing I would say, if I may, is this. In so far as the commonhold situation is concerned, I really have not had an opportunity to look into this in any great detail. What I have done is I have looked at the summary of recommendations as to commonhold, which is in appendix 3, and it strikes me that the concept of a commonhold association really is not a great deal different from the management company situation which we so often find on the Isle of Man. Again criticism has been made that long leaseholds might not be a safe basis on which to found your home. Again long leaseholds have been in existence in this Island certainly since the mid-1970s and have operated very successfully. Much depends of course on the identity of the landlord, how responsible the landlord is. Often, in so far as tenants'

companies are concerned, it depends on the interest that the tenants are prepared to show in looking after their flats and so on.

So without giving any final view as to the commonhold situation it strikes me that perhaps the reason why it has not been introduced in England is because there are some real difficulties in introducing it and implementing it in practice. One should also remember that it seems that in order that there should be a commonhold it seems - paragraph 18.3 of the appendix - that the whole development or, as the case may be, the whole phase must be structurally complete before any unit in it is transferred to its owner. So it seems likely that commonhold is only going to apply to new developments or at least those developments where there are not any existing tenants in at the minute, and that obviously is going to be a severe restriction to a common application of that principle on the Isle of Man.

So, Mr President, I hope that those general comments will be of some assistance to members in deciding this difficult case.

Mr Brown: Hear, hear.

Mr Rodan: Mr President, as a member of the department I am aware that the department has given some consideration to how the report could be properly carried forward and I think it would be correct to say that there are four specific areas which have been concluded should be looked at, and this confirms what my hon. colleague Mr Downie said in seconding the Chief Minister's amendment.

The first of these would be the actual purpose of establishing tenants' associations, having regard to the department's own suggestion that the tenants should form themselves into a management association and having regard to the fact that that was at best of only marginal utility in resolving disputes with the landlord.

The second area is the shortcomings of the 1989 Property Service Charges Act. As the select committee's report has said in several places, it was of little assistance to the petitioners and in particular did not provide remedies for a tenant where a landlord fails to repair or manage the property. The department would certainly wish to look at that, and also the need to monitor the conversions of such properties into flats and the effect thereby on the tenants concerned.

Also, and fourthly, the subject of commonhold right, as the learned Attorney-General has referred to, is not necessarily a straightforward matter.

But all these four areas are areas in which the department should and ought to be legitimately involved and the department would have no difficulty whatsoever in having these areas and the report itself referred to it to carry matters forward.

What I would, however, question is the extent to which the department would be the appropriate vehicle to carry forward the wider issue of compensation and the determination or by whom it should be properly paid, if at all it should be paid. I do not think the department would be the correct vehicle to carry forward this. However, the issue of compensation may well be a legitimate issue and I happen to believe it is an issue that should be carried forward somehow, but it is not properly within the remit of the Department of Local Government to do so.

The President: May I call on the mover to reply? The hon. Mr Braidwood.

Mr Braidwood: Thank you, Mr President. First of all I would like to thank everybody who has contributed to the debate. I do believe that everybody basically is in support of the report.

Now, on the amendments that have been moved, I have no problems at all. I am a member of the Department of Local Government and the Environment, so I hope I will be participating in it.

I think regarding the one from Mr Singer he mentions the compensation and it says, 'including consideration and report on appropriate compensation', and I know Mr Rodan has just mentioned that he does not think that the department is the appropriate vehicle to look at the compensation, but as far as I am concerned I have no problem with that amendment from Mr Singer for it to be referred to the department and for them to look at it.

Now, on the people who have commented, on the Chief Minister, I would like to thank him for his remarks. He did agree that it has been a difficult report. Now, when Mr Downie seconded the Chief Minister's amendment he mentioned about the Property Service Charges Act. The department did everything right as far as they were concerned when the Bill was brought forward, but I know from being on the committee, and we have contacted the learned Attorney-General's Chambers, there have been no prosecutions under this Act whatsoever since it was introduced.

Now, Mr Karran moved his amendment and he was in support of the report.

Now, Mr Singer, in moving his amendment, mentioned the coroner, the Department of Local Government and the Environment and the lawyers. Now, there were two points he did raise: a commonhold right and that for landlords who did not maintain property it should be a criminal offence. Now, I have a copy of the *Observer* of 26th April: "FLAT-OWNERS PROMISED A NEW LEASE OF LIFE. The leasehold system is being shaken up again, following claims that recent reforms have failed to stop rogue landlords and managing agents ripping off residents. Campaigners also argue that leasehold law remains inherently unjust, with the odds stacked against owners who want to enfranchise, or buy the freehold. Next month, the Government is due to release a consultation document on leasehold reform, addressing the issue of management, and calling for the introduction of 'commonhold', a new structure of ownership giving residents the freehold of the land on which their flat stands." And it was mentioned by Mrs Cannell in her submission that there are now 750,000 leasehold flats in Britain.

Now, on the question of criminal law for landlords, I think that would be a matter for the department to look at. At the present time, under the Property Service Charges Act, it is only for tenants to take landlords to court if they think the maintenance costs and repairs are excessive. In the case of Mr and Mrs Thompson, when Mr Bellamy put a claim forward, they asked for the invoices, the estimates. None were forthcoming. When they had to maintain their own property, through the Caldervale Tenants' Association they sent three invoices and estimates to Mr Bellamy and they had to pay for the work and three of the leaseholders had to pay. They did ask Mr Bellamy for a contribution. Unfortunately that was not forthcoming either.

Now, I thank Mr Corkill for his contribution and I also thank him once again for being a member of the committee which was formed in November 1995. It is a serious problem. It was a deserving case, he said, and it has been their plight over 11 years. He mentioned Royal Court who are having problems, the leaseholders there with their management company. They

are in more of an unfortunate position because the leaseholders there do not have a majority so they have no input.

Mr Corkill again criticised the legal profession who do not warn clients over leasehold and management structures and he said commonhold was the way forward, and this was the main priority recommendation of the committee, that commonhold should be the way forward. I know the learned Attorney-General has reservations, but again the department, if the amendments go through, will look at the whole situation of commonhold and, as the learned Attorney-General knows, it was the Law Commission who were proposing and the administration.

I also thank Mrs Cannell who concurred with most of the sentiments expressed by Mr Corkill but did express her concern over the lack of sanctions in the Property Service Charges Act.

Now, Mrs Hannan supported the main report but questioned compensation because she had looked at the prayer and she was quite right: the prayer was for the select committee to look at the Property Service Charges Act of 1989. But I say that we did go out of our remit slightly over the coroner and we were very pleased when in February 1998 Mr Corkill moved the Report into the Method of Appointment, Powers, Duties and Remuneration of Coroners.

Now, I have to say to Mrs Hannan it will be up to this hon. Court to decide on the amendment and if the department looks at the question of compensation. I know she has her reservations about that and the expenditure on the legal fees. There were two advocates involved. One of the advocates in the end was asking for money up front, £3,000 in one case, before he would continue with the legal advice.

Mr Gilbey - again he was concerned and he mentioned again, another one, about the bad landlords and he was wary of the compensation.

The coroner, if I can remember, is paid on the fourth scale for civil servants and I think it is £11,000 and then he enhances his salary by fees.

He also mentioned that he would rather heed the advice of the Attorney-General and that the Bill of Commonhold was too large to initiate in the Isle of Man. I know there are about 57 clauses and so many schedules, but again let me go back to the main priority recommendation of the committee, that we would look at the commonhold right.

I thank Mr Waft for his contribution and I also thank the Attorney-General for his advice. He was a little bit concerned that there could have been the overcharging by the advocate. I do know that the legal fees can be taxed by his department.

He also mentioned about, again, the multi-occupancy and services of the Property Service Charges Act 1989 and it should have been, again he was saying, a competent advocate should have set the tenants down, the advice should have been a proper solution. Unfortunately, going down the path of forming, as the advice was given by DoLGE to form, a tenants' association, probably the advocate should have said it was not the proper, as we said, utility to go down, the path to go down, the vehicle for the Thompsons to try to prosecute the landlord who owns the freehold.

I also thank Mr Rodan for his contribution. He is again, as he said, a member of the Department of Local Government and the Environment and I know no matter which one of

these amendments goes through, the Department of Local Government and the Environment will look at the whole aspect of this report and I beg to move, Mr President.

The President: Hon. members, the resolution is set out at item 31 on the order paper and to that resolution I have three tabled amendments. Those have all been circulated to you and they are in your possession. The order in which I propose to place those amendments before the Court will be three, one and two, in other words Mr Singer's, the Chief Minister's and Mr Karran's. That will be the order.

So dealing first with the amendment in the name of the hon. member for Ramsey, Mr Singer, will those in favour of that amendment standing part of the resolution please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Messrs Cannan, Houghton, Duggan, Braidwood, Mrs Cannell, Messrs Singer, Karran and Corkill - 8

Against: Messrs Gilbey, Rodan, North, Mrs Crowe, Messrs Brown, Crowe, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Bell, Gelling and the Speaker - 13

The Speaker: Mr President, the amendment fails to carry in the House with 13 votes cast against, sir, and 8 for.

In the Council -

For: The Lord Bishop, Mr Waft, Dr Mann and Mr Kniveton - 4

Against: Messrs Lowey, Radcliffe and Mrs Christian - 3

The President: In the Council the amendment carries by 4 votes against 3, but having fallen in the House of Keys, of course, the amendment fails to carry.

Now, having disposed of the amendment in the name of the hon. member for Ramsey, let us turn next to the amendment in the name of the hon. member the Chief Minister. Will those in favour of that amendment standing part of the resolution please say aye; against, no. The ayes have it. The ayes have it.

Mr Cannan: Divide.

The President: Too late. Hon. members, we now have a situation where the resolution as amended becomes the substantive motion and against that substantive motion I will now put the amendment in the name of the hon. member for Onchan, Mr Karran. Will those in favour of the amendment in the name of the hon. member Mr Karran standing part of the resolution please say aye; against, no. The ayes have it. The ayes have it.

So the resolution in its final amended form will be that of the earlier resolution as now finalised with the amendment in the name of the hon. Mr Karran and I will now put that to the Court for endorsement. Will those in favour of endorsing the position please say aye; against, no. The ayes have it. The ayes have it. Thank you, hon. members.

**Non-Resident Companies - Repeal Of Legislation -
Amended Motion Carried**

The President: We move onto item 32, the hon. Mr Karran, the hon. member for Onchan.

Mr Karran: Eaghtyrane, I beg to move:

That Tynwald is of the opinion that the legislation providing for non-resident companies should be repealed.

It is not without some apprehension and concern that I bring this motion before this hon. Court today, concern and trepidation for the future economic well-being of this Island. This Island along with certain other offshore centres is being scrutinised and examined as it has never been scrutinised and examined before. Our laws and our regulatory systems, particularly those relating to the finance sector, are being put under the microscope and carefully dissected.

The claims by ministers that the Island is a responsible and well-regulated international finance centre is being subject to the most intense scrutiny. No member of this hon. Court would wish the Island to be found wanting in this regard. The consequences for the Island do not bear contemplating but contemplated they must be. Indeed it is the duty of members of this hon. Court. It is not a matter that can or should be left to the Treasury or the Council of Ministers, particularly if these bodies seem unable or incapable to address the important indeed critical issue in a timely and effective manner.

The Minister for the Treasury hoisted up the warning flags in the recent budget speech. He talks of the threats posed to offshore centres by the review being undertaken by the OECD and the recent code adopted by the European Union Council of Finance Ministers and of course he talked about the Edwards review currently under way, as well as the UK Chancellor's anti-avoidance proposals which have turned out to be as bad as they were feared to be. The Treasury Minister was right to flag up the concerns, for their importance in terms of the Island's future economic well-being cannot be overstated.

To protect the Island's reputation as a responsible and well-regulated offshore centre members of this hon. Court in recent months have been urged by ministers to push through legislation updating the Island's banking laws as well as strengthening our anti-money laundering legislation. I think it is fair to say that members of this hon. Court recognise how important indeed vital these matters are and have tried to be as helpful as possible in supporting the government in these areas. Indeed with the recent Banking Bill I successfully moved amendments to increase the penalties for breaching the Island's banking laws in order to send out the message that this Island will be extremely tough on those who seek to break our banking laws.

However, I have a deep concern, one that I know is shared by other members, a deep concern that our claim to be a responsible and well-regulated offshore centre is vulnerable to attack. We have an exposed flank, an Achilles heel, whatever you may want to call it. We are exposed in a way to criticism at a time which could be extremely harmful to us, if not disastrous. I refer of course to the issue of non-resident companies and let me be clear as to what I mean by the term 'non-resident companies'. I mean of course companies which are incorporated in the Isle of Man which file a declaration of non-residency and what the Treasury Minister and others refer to as non-resident duty companies which are the companies which yield the Treasury some £5 million revenue each year.

I acknowledge that the resolution as it appears on the order paper needs clarification on that point and I will be happy to accept an amendment which makes that clear, that this resolution applies only to non-resident companies incorporated in the Isle of Man. My resolution was never intended to apply to companies which are incorporated outside the Isle of Man but which trade through a branch of the Isle of Man and which pay non-resident tax on the profits of that branch, Marks & Spencer for example. Such companies are not incorporated in the Isle of Man and are not therefore our responsibility.

But what we do have a clear and unmistakeable responsibility for is non-resident companies incorporated in the Isle of Man. It is these companies that make us vulnerable, that pose the greatest threat to our reputation, which have the potential to do untold damage to the Island's hard-won credibility as a responsible and well-regulated offshore financial centre.

The threat posed by these non-resident companies is nothing new. I and many other members of this hon. Court have expressed our concerns on many occasions over the years, most recently in the case of Mil-Tec in 1996 when members of the Council, Mr Lowey and Mr Delaney, both raised questions. Many other wise and learned authorities outside this Court also warned of the dangers posed by non-resident companies.

What, you may ask, has the Treasury as a responsible government department done as a result of these various scandals over the years and in the face of warnings they have received from members of this Court, other government departments including their own Financial Supervision Commission, as well as members of the public? The answer is almost nothing. Of course they will repeatedly promise to address the issue and they have even set up committees and working parties and no doubt we will hear references to the recent consultative document on corporate services providers, which I shall return to later. However, what is patently obvious is that the Treasury has failed to grasp the nettle as far as non-resident companies are concerned and furthermore show no sign of doing so. In these circumstances I believe it is the responsibility and duty of this hon. Court, Tynwald, to assert its authority and direct the government to take the required action.

Now let me turn to the crux of the problem as far as non-resident companies are concerned and that is there is no requirement for an Isle of Man incorporated non-resident company to have any person resident on the Isle of Man to be held responsible to the Manx authorities for the activities of the company. Typically a non-resident company will be incorporated with a couple of directors based in Sark. The beneficial owners will be hidden away behind nominee companies and all its business activities will take place outside the Isle of Man and the real business activities of the company may not be known to anyone other than the real owners, wherever they may be. It is also unlikely that the company will have any bank account or any assets in the Isle of Man.

Now, how can you imagine what happens when something goes wrong with one of these Isle of Man incorporated non-resident companies? The first thing a creditor, a foreign government, a regulatory agency or law enforcement agency will do is go to the place of incorporation. So they contact our fraud squad, our Financial Supervision Commission and what can they say to help? Well, they can say they do not know who the real beneficial owners are, that the directors are a couple of stooges from Sark, that there are no assets in the Isle of Man which can be seized, that there is no person in the Isle of Man who can be held responsible. You can imagine the embarrassment this causes to our fraud squad, our

Attorney-General's Chambers, our Financial Supervision Commission. It hardly portrays an image of a reputable, responsible, well-regulated jurisdiction, does it? Quite the opposite. It slowly but surely erodes our credibility and not just in the area of companies but in general. Outside authorities whose opinions and judgements about the Isle of Man are important to us tend to form the general views based on their experiences and if their experience is involved in the Isle of Man with non-resident companies, then their view of the Island as a whole is generally tainted. People tend to remember the bad experiences, not the good ones. It would be foolish to underestimate the damaging effect that the build-up of prejudices can have over a period of time: a classic case of how not to win friends and influence people.

I would hope that most members would accept that there are certain situations regarding these non-resident companies that are unacceptable. They must either be made accountable or abolished. Now, the Treasury put forward proposals a couple of years ago which would have required each non-resident company to appoint a corporate agent on the Isle of Man. As we know, the proposals were firmly rebuked by the private sector as unworkable and the Treasury withdrew to lick their wounds. No other acceptable proposal has since been put forward which would make these companies accountable in the Isle of Man. It therefore seems to me that there is no alternative but to abolish the Isle of Man non-resident companies. Such companies will then have to have the alternative of converting to Isle of Man resident companies or Isle of Man exempt companies or Isle of Man international companies, in which case they will all become accountable in the Isle of Man because such companies have to have an Isle of Man resident director and company secretary. The other alternative is of course that they pack up and go somewhere else, and I have to say if a company is afraid to have some measure of accountability in the country of its incorporation, then I am of the view that the Island should have nothing to do with such companies.

I am pleased to say that I am not alone in this view. As far back as 1991 in the report of the Council of Ministers the former First Deemster, Deemster Corrin, questioned whether it was possible to extend any effective control over non-resident companies and if not, whether one should permit such companies to exist at all. In the subsequent Cashen Committee report in the Second Deemster's report it stated that the damage caused to the Island's reputation and possible loss of legitimate and reputable business which resulted from the activities of such companies is quite disproportionate to the benefits they bring to the Island and therefore there was a need for the Island to consider how the risks of such damage might be minimised. That was in April 1992.

More recently the former Assessor of Income Tax and Director of the Financial Supervision Commission said that the time had come to do away with non-resident companies. In a recent publication he stated that non-resident companies have been at the heart of unsavoury if not unlawful or fraudulent activities that have been carried out outside the Isle of Man by people who have no other connection with the Isle of Man. He added that it is unlikely that the authorities in the Isle of Man could have devised the corporate entity that was better suited to misuse by people outside the Isle of Man even if they had tried.

Another former FSC official and Chairman of the Fund Managers Association described non-resident companies as the Island's Achilles heel which should be abolished as soon as possible.

The former head of the Island's fraud squad described the regulation of non-resident companies as a gaping hole in the Island's legislation.

It also seems that the government in Dublin have recognised the dangers associated with non-resident companies and they are concerned about the effect that the activities of Irish non-resident companies may have on their reputation as an international financial services centre. It appears that last summer the office of the Taoiseach set up a working party to examine the administrative and legislative changes needed to remove the Irish non-resident companies from the statute book.

Members may be forgiven for wondering why in the light of all this evidence the Treasury minister did not take the opportunity in his recent budget to announce the abolishment of non-resident companies. If ever there was a time when we could afford to take this somewhat painful but necessary action surely it is now. And yet why did the Treasury minister say in his budget speech that he would prefer to see more non-resident companies move to exempt company status? Why you may ask. Why does he prefer this to happen?

Now, I know the Treasury minister will say that there are only a minority of non-resident companies that cause the problems. However, in the words of the former Director of the Financial Supervision Commission it only takes one or two rogue non-resident companies to blacken the Island's reputation as a financial centre as a whole, and I do not need to spell out the consequences of that.

No doubt the Treasury minister will point out there are other types of companies that also get into trouble. The fundamental difference is that with these other Isle of Man companies there is always someone on the Island who can be held accountable. We can be seen by others outside the Island to be capable of holding someone accountable and applying the criminal and the civil law with some effect.

I am also sure that the Treasury minister will refer to the second consultative document proposing a system of regulation for the corporate services providers or the corporate formation agents, as they are often referred to. However, the proposals contained in the document, whilst worthy in themselves, do not address the real issue of the lack of accountability of non-resident companies. The document is about a licence system for corporate service providers. It is not about making the existing 10,000 resident companies accountable in the Island. It is not about stopping individuals setting up their own non-resident companies unless they are in the business of forming companies themselves. It is not about preventing reputable owners of non-resident companies selling their companies to people less reputable than themselves. In short the consultative proposals were never designed to solve the problem of non-resident companies. In fact I suspect that the FSC who prepared these proposals understand well that, as I say, there is only one solution to the problem of non-resident companies and that is for them to be abolished.

I could stop at this point (**Several Members:** Hear, hear.) and say to hon. members I believe that I have made the case for the abolishment of non-resident companies clear and unambiguous. However, it would be wrong of me to ignore a potential important constitutional dimension to the debate which I think hon. members should take into account. To be brief, I refer to the Edwards review that is currently under way. I understand that the position of Mr Edwards is to present a report to the imperial government, the Home Secretary of that

government, in July. It is a fairly open secret, especially as Mr Edwards referred to the issue in his Manx Radio interview, that the problems associated with non-resident companies will feature in his report and in fact those who met Mr Edwards when he visited the Island will know that the issue of non-resident companies will be high on his agenda even before he arrives on the shores of our country.

Therefore I think that we must anticipate as a result of Mr Edwards' report that pressure is likely to be applied by the imperial government, known to you as the UK, for us to do something about the non-resident companies. The question I would therefore pose to hon. members today is a simple one. Do we await instructions from the imperial government via Whitehall in July or do we demonstrate that we are masters in our own house, capable of making these difficult decisions by our own volition? Furthermore I would urge hon. members to resist the attempt to dodge this issue by passing this issue to a committee of this Court or to a sub-committee of the Council of Ministers. If I quote from the words of an authority more ancient than this hon. Court, Confucius said, 'To see what is right and to do nothing about it is a want of courage.' I beg to move the resolution standing in my name.

Mr Lowey: I beg to second, sir, and reserve my remarks.

Mr Corkill: Mr President, I think this morning, when nominating members for the FSC, I might well have considered my colleague for Onchan to have perhaps been eligible for membership of the commission.

(Members: Hear, hear.)

Mr Houghton: He obviously knows more than we think!

Mr Brown: Certainly for Treasury!

Mr Cannan: Well, he can read!

Mr Houghton: The next Treasury minister!

Mr Corkill: Mr President, I do not generally disagree with the sentiments behind what the hon. member is moving here today but I would ask members to be extremely cautious about the way that the actual motion on the paper is printed and I think the hon. member, obviously since tabling the motion, has realised that it is a blanket motion which would have far-reaching implications, and I am quite certain the hon. member did not wish to close down half of Strand Street and that is not what he is attempting to do and that has been clear from his presentation today, but that would be the effect of this motion and therefore it does need some amendment, I believe.

Now, I believe he has got sympathy on his side. I would be the first to say that this area, the non-resident company side, does from time to time bring the Island into disrepute because there is that media campaign at times and whenever there is a problem there seems to be a non-resident company in the story. But really the issue is one of supervision of companies, not just the non-resident company, and reference has been made to Mr Edwards and his review of the financial regulations and he has identified this whole area as a weak spot.

Now, at the end of last November, and the hon. mover has made reference to this, there was the consultative paper on the corporate services providers and during my budget speech - and the hon. member has said that I did not take the opportunity to act then - we were still in

the consultative phase at that time or the consultation had just not long ended and really that would be quite wrong for the Treasury minister to take unilateral action in his budget when in fact a properly constructed consultation exercise was under way.

Now, under the proposals in the corporate service providers licences will be required by all those involved in providing corporate services. This includes all those who by way of business form or sell companies, provide a registered office or accommodation address for companies, whether Manx or otherwise, provide directors, and it is proposed that only Manx resident companies, partnerships or individuals may apply for a licence as a Manx corporate service provider, and under the document there is a code of conduct, there is the fit and proper test, there is a whole host of regulatory issues that I do believe will improve the situation.

Now, I do believe that the Isle of Man is one of the better regulated offshore centres.

Members: Hear, hear.

Mr Brown: Better than the UK.

Mr Corkill: And comment has been made, 'Better than the UK.' It has been made clear also that it is going to be expected that we have to be better than the UK.

Now, regulation has to offer protection for the consumer also and I believe that in general the regulation of the Isle of Man is good, but we are aware of this issue regarding companies and this is why we have this consultative process, which has finished now, on corporate service providers, and during the budget speech I did make reference to it.

Now, it would seem that there is widespread support for the proposals. All the comments made on the draft are now being examined by the FSC and Treasury and there will be some minor amendments to what has been submitted. Whilst the current corporate service providers' proposals are not just a panacea - I take the point from the hon. member, they are not the whole answer - they do go part of the way to addressing the problem, but it can well be argued that there are going to be additional requirements and that existing company law should be more rigorously enforced, and there is reference to that in the corporate service providers document.

The Island has a substantial volume of companies legislation with which the majority of fair-minded and legitimate organisations voluntarily comply. There are those, as have been alluded to, who, undoubtedly though, are less lawfully minded and they do flout the requirements, and some of these are non-resident duty-paying companies. This results in the very persons the legislation seeks to protect being left vulnerable.

The Financial Supervision Commission's enforcement division, during the course of its work, has been coming across companies which are being used to perpetrate frauds and whose activities do bring the Island into disrepute. There are a number of aspects of existing company law which are regularly flouted. However, there are within the Companies Acts a number of powers which, if enhanced and exercised vigilantly, may go some way to alleviating the difficulties. In addition, with the introduction of additional types of corporate vehicle to the Island it is becoming increasingly important for resources to be dedicated to the effective control of all companies.

What is needed is better control and management of existing companies and here I mean Manx resident, Manx non-resident and companies from other jurisdictions operating here. Better management may require additional legislation and enforcement, and improved supervision will require additional resources but a properly resourced company supervision commission could act not only as the regulator for corporate service providers but it could also investigate and exercise those functions I have outlined. It could also proactively encourage compliance.

Another area it could act as is an official receiver's office when one is established as recommended by the report by the Council of Ministers on the method of appointment, powers and duties and remuneration of coroners which Tynwald Court approved last month. It could take on the administration of the Companies Registry, although obviously not the whole of the General Registry, or have a direct link with the registry.

It is widely claimed that efficient regulation of the finance sector is a significant reason for licence holders to be attracted to the Island and for customers to deal with the Island. If we can extend that quality of control to the operation of all Manx companies there is an argument that the same logic and the same enhancement of the Isle of Man economy could take place.

Now, that is some of the problem and part of a suggested solution but I would like to inform hon. members as to what is happening.

To advance the process the Treasury has agreed a working party to look at the various aspects of existing company law: general issues of enforcing existing and future company law, insolvency law, investigation of companies in the Island and powers to deal with that. There are representatives at this moment from all areas of the Island's financial industry included in this working party and they include people from Treasury, the FSC, from the registry, from the Law Society, the Chamber of Commerce, chartered accountants, certified accountants, the Institute of Insurers: a host of people are involved looking at all these issues.

I would not wish hon. members to have the view that we are currently not doing anything about this issue. As I said, the corporate service providers consultation is coming to an end and, true, there are a small number of companies that cause problems. One third of those problems are non-resident duty-paying companies. Another third are by resident companies, whilst companies from other jurisdictions who operate in the Isle of Man are responsible for the final third.

The problem with non-resident duty-paying companies is, I submit, one of difficulty with those who have no operation or allegiance to the Island and whose main connection is one of payment of the annual duty. This duty brings in £6 million a year. However, the time may have come to discontinue the incorporation of these non-resident duty companies but not the non-resident tax paying companies who last year contributed £23 million.

The working party is addressing the thing with some urgency, but we cannot close down at a stroke existing operations and especially those conducting perfectly legitimate international business and managed by professionals of the highest integrity and to do so may lead us into considerable litigation and we could be sued for millions, and this advice I have had from the Attorney-General and it is advice we should heed.

Bearing in mind the present situation, I would wish to move the amendment that has been circulated to the motion that existing legislation for companies and their supervision be reviewed. The exercise has already commenced with the corporate service providers. The working party is established to examine ways and means for better management and control and I am optimistic that we will have a full report later this year. After that I envisage that legislation can be drafted for consideration in due course by the branches.

I urge members to be cautious, support my amendment, and to support the general tenor of concern that the mover of this motion has put forward but to do it in the amended form. Thank you, Mr President. I beg to move:

For the words after 'opinion' substitute 'that the legislation relating to companies should be reviewed to ensure that companies incorporated in the Island or incorporated elsewhere and registered under Part XI of the Companies Act 1931 are controlled and managed in compliance with principles and procedures which are consistent with the best interests of the Island's economy and its reputation'.

Mr Gilbey: I beg to second and reserve my remarks.

The President: I would like to ask the hon. mover of the resolution a question at this stage. Am I right in my belief that in the course of your opening remarks you indicated that you were prepared to accept the amendment when it was tabled and before the Court?

Mr Karran: Eaghtyrane, I would have accepted an amendment to make it even clearer than it actually is as far as it being non-resident duty companies. I have a little bit of a problem that we need to know from the Attorney-General. I would be interested to know how he comes up with the idea that we would be open to millions in litigation if companies are done on an annual basis. Our contract is only on an annual basis. So I would be -

The President: The answer at this stage is no.

Mr Karran: No.

The President: Thank you.

Mr Rodan: Mr President, the hon. member for Onchan, Mr Karran, has done a service, I believe, in bringing this motion to this hon. Court and I believe he is motivated purely to protect the Isle of Man's financial reputation in doing so. So I applaud him for that and also the content and the manner of his presentation.

Now, quite early on in Mr Karran's speech he pointed out the deep concern that has been expressed and is held by members of this Court that our claim to be a responsible and well regulated offshore centre is vulnerable to attack. He mentioned, I think, an exposed flank and Achilles heel and the cause of that Achilles heel he has described as being the non-resident company.

Now, the expression 'non-resident company' serves well to describe the main area of abuse of companies incorporated in the Isle of Man, but the non-resident company is not uniquely unaccountable to authorities in the Island. There is no provision under company law that requires a company incorporated in the Isle of Man to have a director, a secretary, or any other officer in the Island. A company incorporated in the Isle of Man is only required to have a registered office in the Island. So that would be the first point I would make.

He went on to say that we have a clear responsibility for non-resident companies incorporated in the Isle of Man, that it was those companies that make us vulnerable and which pose the greatest threat to our reputation and have the potential to do untold damage. I would say that we have a clear and unmistakable responsibility to ensure that all companies incorporated in the Isle of Man are accountable, whether to a greater or a lesser degree, to the authorities in the Island. Companies incorporated in the Island, including non-resident companies which have no individual person in the Island who is accountable to the authorities in the Island, it is that fact that poses the greatest threat to our reputation and has the potential to do the damage.

You see, we could abolish non-resident companies, as Mr Karran has argued, by repealing the Non-Resident Company Duty Act 1986, but this would not on its own solve the problem of lack of accountability. It is not that non-resident companies need to be made accountable, it is all Isle of Man companies incorporated here which need to be made accountable. If non-resident companies were abolished, all companies would by definition then be resident in the Isle of Man but there would still be no necessity for them to have directors or officers in the Isle of Man accountable to anyone. So one could argue let us keep the non-resident companies but make sure they are accountable. No-one is accountable either for them or for the resident companies and it is this fact of life that exposes us and has the potential to make us look bad in the media when there is no local representative of an Isle of Man company, non-resident or not, available for interview by law enforcement officers if the occasion requires it, and that is where the trouble lies, and from what we have heard so far, I think we have to make this clear distinction between tax law and company law. Tax law recognises two classes of company, resident or non-resident, but company law does not recognise this, it only recognises companies as being incorporated in the Isle of Man, born here, and thus, by definition, resident here in legal terms. Obviously any company incorporated here can and does file for non-resident status for tax purposes.

So I would say that the basic problem is not about non-resident companies but the way we incorporate companies in the Isle of Man and hold them accountable, and tax designations such as 'non-resident' really are irrelevant to that argument because if one is a genuine fraudster, why should one bother to deliver a non-resident declaration in the prescribed form, together with the prescribed duty of £750 to the Registrar of Companies in accordance with the Non-Resident Company Duty Act? He might as well save money and simply have the company incorporated in the Isle of Man with directors living in Sark, as we have heard, or indeed fictitious directors and by the time the authorities have caught up with him for the non-filing of his company returns or the non-payment of income tax he will be long gone because, unless there is a local person accountable for that company, that is what indeed will happen.

So I could make a case that the risk to our international reputation lies not necessarily with the non-resident status of companies for taxation purposes but with a deficiency in company law in that, while there is a requirement for a registered company address, if it is incorporated in the Isle of Man, there is no statutory requirement to have a director or officer accountable to the authorities in the Isle of Man for at least some of the activities of that company.

Companies incorporated in the Isle of Man are at liberty to appoint whomever they wish as directors or officers, open bank accounts wherever in the world they wish, of course

provided that a bank will accept their custom. So there is little or no accountability for companies who choose to go their own way.

The Companies Acts of 1931 and onwards and the memorandum and articles of association of each company provide the framework within which the directors, the shareholders, the officers, customers and so on all relate to each other, but there are no requirements, as I say, for any residence in the Isle of Man of that director.

So having said that, Mr Karran is quite right to bring to our attention the abuses on the part of non-resident companies. A company incorporated in the Isle of Man which is non-resident and may not have a single individual on the Island, whether a director or other officer against whom redress may be sought in the event of something going wrong, this is the same problem as may apply to a resident company.

Now, Mr Corkill, the hon. member for Onchan, says that there are existing powers under present company legislation which will deal with this problem of lack of accountability for companies which go wrong and backfire on the Isle of Man, but I would ask him how many applications for a disqualification order has the Treasury actually made to the High Court since section 26 of the Companies Act 1992 came into operation? There may well be, and if there have been, then indeed company law is being made to operate to address some of these concerns, but I do not believe that the concerns will be fully addressed simply by additional regulation. I think we need to go a good deal further than the issue of regulation, as the hon. minister has told us, under the corporate providers proposals.

If we were to propose instead that all companies incorporated here had at least one Manx resident director and specified that certain other things had to happen by way of specifying the sort of records that were to be maintained at the registered office and that that director had to, say, lodge a certificate confirming the audited accounts had been laid before a general meeting of the company and that the records were actually held in the registered office, then we, I believe, would have advanced the aim of accountability.

Now, whether or not the working party is actually looking at these matters I do not know but I would strongly support that it does do so and contemplates an actual change to company law and that resident companies, in the case of them if we were to enact such changes, the already existing practice would become a statutory requirement and for the non-resident companies these new statutory requirements would introduce for them an increased measure of accountability to the Island's authorities, and complainants would be able to obtain explanations and redress for any wrongdoing and indeed this would deter the potential for abuse because, as Mr Karran has correctly said, when a company gets into difficulties it is the place where the company is born that creditors and investigative journalists look for answers and look for redress.

The amendment by the hon. minister, I believe, is worthy of consideration provided that it goes further than simply corporate service providers because I do not see that as being the answer. One could have, as an analogy of a corporate service provider, an MHK being held responsible for the actions of his constituents. I believe that system would need to evolve further. In any case, to actually have somebody appointed to look after the companies recognises that in legal terms the companies are Manx persons and ought to be accountable for their actions.

I would be interested to hear a little bit more of what lies behind the assertion of the minister that there will be severe legal consequences, running into millions, if we were to simply repeal the Non-Resident Companies Act and abolish companies. I believe the Court should be very interested to know a bit more about this.

But I would conclude by making the point that the motion as it stands and, to a degree only, the extent to which the minister has responded to the motion, the argument appears to be whether or not the non-resident company should be abolished. This actually misses the point. The real arguments are whether or not and by how much all companies incorporated in the Isle of Man should be made accountable to the authorities in the Isle of Man.

Mr Crowe: Mr President, first of all I would declare an interest here because as a chartered company secretary I have been involved with companies for the greater part of my career, extending back over 30 years, so I am familiar with company management. But the problem that I see, and I know that Mr Karran's resolution is well intended, is that if we do approve Mr Karran's motion we are likely to throw the baby out with the bath water. What we have to do is to put the responsibility for corporate governing onto Isle of Man corporate service providers, and that will involve new legislation. Before exploring that objective I would just like to give you some information by comparing the position of resident and non-resident directors on this Island with other international or offshore jurisdictions.

Very few jurisdictions have a legal requirement to have resident directors. For example, in a recent international survey ranging from Alderney to Vanuatu, 40 jurisdictions in total, only six required a resident director. A further four of those countries require a resident secretary. If we take a further example, in England where many thousands of companies a year are incorporated there is no requirement to have resident directors or secretary or shareholders.

If we make a comparison of the Isle of Man requirements to the British Virgin Islands' requirements we come up with some interesting statistics. In the BVI last year 49,000 companies were incorporated and for the Isle of Man there were about 6,500 companies incorporated. The BVI incorporated eight times as many companies as the Isle of Man did, so how have the BVI authorities tackled accountability? As a way of policing companies in the British Virgin Islands they have licensed corporate agents and the law states, and I quote from it, 'A company incorporated under the BVI law shall at all times have a registered agent in the British Virgin Islands', and this puts a high level of responsibility on the practitioners, on those corporate agents. In the Isle of Man we are proposing to license corporate service providers through the legislation, so it would be new legislation, and I believe that we should fully explore that route.

Full consultation is taking place within the industry and licensing systems and in view of this I would caution members, when voting for Mr Karran's resolution, not to make a knee-jerk reaction about non-resident duty companies, on the basis that we must do something before Mr Edwards reports on our legislation and regulations. I am sure Mr Edwards has been fully briefed on the new corporate service providers legislation and I believe that we should pursue that course of action.

I believe that a properly structured law to regulate corporate service providers, as is proposed in the Isle of Man, is the best course of action and, if I may quote from the consultative paper, and there are some very interesting insights in this, the basis really of the

new law would be in particular, 'It is now proposed to regulate the service provider rather than impose requirements on Manx companies themselves. It is felt that this change of approach deals with the issue in a way which does not infringe upon the vast legitimate use of Manx companies and therefore is more likely to be successful in achieving its aims.' It further goes on to say in the summary, 'After a thorough review of the responses to the initial consultative paper and further discussions with various parts of the local industry, as well as a review of practices in other jurisdictions, it is proposed that the focus of legislation be switched from Manx companies themselves to the providers of services on the Island to those companies. The second consultative paper therefore proposes that all persons, including bodies corporate on the Isle of Man who form or sell companies by way of business or provide a registered office or accommodation address for companies, whether Manx or otherwise, by way of business, or provide directors either through themselves or through an associate for companies by way of business, will require to be licensed. These persons will be known as "corporate service providers" and it is intended that the list of licensable activities should be able to be amended by order. It remains the proposal that, subject to this exercise, there should be introduced to Tynwald a new piece of legislation to be called the Corporate Services Bill', and then it goes on to say that CSPs would be required to be licensed by an appropriate regulatory body, and I was intrigued by Mr Corkill's comment that it would be a separate supervision commission which would be a company supervision commission and this would be totally separate from the Financial Supervision Commission or the Insurance Authority. The corporate service providers would be required to be licensed and the regulator would license an applicant only if it could be satisfied that it is a fit and proper person embodying the concept of integrity, solvency and competence. The regulator may revoke the licence if it believes that the corporate service provider is no longer fit and proper. So they will have very severe powers to control CSPs.

The other interesting point that arises from this is that the proposed legislation would also prohibit the incorporation of a Manx company by someone who is not resident on the Isle of Man. Furthermore non-resident companies, exempt companies and international business companies may only be incorporated by a CSP.

To sum up then, I would just like to say that I believe that the licensing route for corporate service providers is the better course of action rather than repealing the legislation for non-resident companies. I will therefore be supporting Mr Corkill's amendment to this and I trust other members will consider that also.

Just on the question of liability that was mentioned, and I think that probably the Attorney-General might answer it, but a company will continue in existence as long as it complies with the law and is solvent, and I think if we were to take steps to abolish the existing non-resident duty companies, then this might lead to action in the courts.

Mr Lowey: I rise to support the resolution, and this is not an attack on the financial services of the Isle of Man. I think we are well regulated. I think that has been explained. We were the first to be licensed by the European Union for our services to be exported into the European Union. That speaks volumes. So it is not meant as a general criticism. However, you have to realise that this particular form of business has been recognised as a weakness in the system of the Isle of Man for a very, very, very long time. Deemster Corrin, when he dealt with the SIB, gave us chapter and verse. There is not a shadow of doubt, there are no grey areas:

he is explicit and says, 'You should deal with this matter and now.' The present Treasury minister says, 'Hang on, boys, we're consulting.' Now, consulting seems to me to have been going on for a very, very, very long time. We have come to a solution. We gave it to the industry, our solution, and then it was not acceptable to them and the consultation has now led, I believe, to what the minister has said, and I am paraphrasing, 'Look, we are going to license our thing and this should happen.' Now, I hope it is right and I hope it works, but the legal requirement on the government of the Isle of Man is if you accept that there is a weakness, we could get away with it with the SIB because we were not aware of it. We are aware of it now and so that defence has gone.

Now, I do not believe that you can go on consulting for ever. Sometimes you have got to blow the whistle. If I can use the analogy of a referee, he does occasionally consult his linesmen, but he has got to make decisions, and I think we have got to make decisions and this one is a particularly difficult one for the Treasury, and I accept that, because it is a lot of money, no matter how much, we would say it is a lot of money and whether we want that particular type of business or not. That is the simple uncomfortable truth that we have got to accept: do we want that business? Because if we accept their licence fees, then ultimately we are responsible for what goes on. I do not think we can wash our hands of that, and so it is as bald and as simple as that, and I have come to the conclusion that we have to bite the bullet and we have to say, as the hon. member for Garff said, I do not think it is the total answer, and as the Minister for the Treasury has already said, I think if we split it roughly into thirds we can say a third of it is dealt with here, and we have got two thirds of other problems which we want to deal with, and I think that was the message that was coming out of Mr Rodan, the member for Garff.

I think Mr Karran is putting us on the spot and if we do not get put on the spot this afternoon we will certainly be put on the spot later on in the year, and I think that is recognised, too.

My own view is that I think I would be prepared to accept the amendment of the Treasury minister because I think it goes a long way to clarifying the original one which was too wide and would affect the legitimate business. But can I just say to the Treasury minister when he says he has been advised that perhaps if we can stop them tomorrow we will be liable for millions in damages. Well, I wonder really at times about the legal advice. Yesterday we were talking, for example, that we were going ban the width of the lorries and the weight of the lorries on our country roads. Now, we take road licence fees off the lorries and they have the freedom on the roads that are capable of taking their weights, but if we ban them tomorrow does that mean that every lorry owner is able to sue the government? I doubt it.

Now, it suddenly occurs to me, who are the people who are objecting to regulation? That is a question we ought to ask ourselves. Who are objecting? Now, we are a small jurisdiction. We know who the people are that are objecting to it and they are engaged in the business.

Now, somebody this afternoon has complained about the press blackening the finance sector, and I will use the one that I was mentioned in in the mover's which is the arms to Africa. Quite honestly, do not blame the press for that. It was a scandal that we were used. We did all feel guilty. But the reality is the system allowed that to happen. It is still there: it could happen tomorrow. Now, I do not think that is acceptable and it is no use saying, 'Ah, but 99 per cent of them are all right and therefore we do not need it.' Well, if 99 per cent are

pursuing legitimate business, then I do not think they have got any queries at all about dealing with it in a variety of intuitive ways which the Isle of Man finance industry is very capable of producing and offering clients. So I believe myself that today we will have to say we do not want this type of business. I am prepared to say we do not want that type of business and I will be supporting the amended resolution because I do believe the Treasury minister. We brag about we want quality business, no matter what it is. That has been our watchword for years. We have to mean what we say, and I believe the Treasury minister means what he says, so I will be supporting it.

Mr Cretney: Hear, hear.

Mr North: Mr President, if I just might have a few words, totally agreeing with the principle of discouraging non-resident companies, but I would like to say that I support strongly the amendment from the Treasury minister and I really would like the mover of the motion to explain, if he could, just his thinking as to why we shouldn't not do away with non-resident companies but offer a transfer from non-resident companies, a free transfer, to exempt companies? Exempt companies are accountable here and if we said, 'Right, we're going to give you two years just to transfer any non-resident company', because anybody legitimate, why shouldn't they be an exempt company which is managed here? No problem at all with that and if they are legitimate, give them a free transfer but say the fees will be going up to the non-resident level and then after you have had that free transfer there are some legitimate uses for non-resident companies. There are, very seldom during the year, but there are some, and then charge £10,000, £15,000 per year for those non-resident companies. That would be absolutely nothing to those legitimate companies using that form of company.

The exempt company legislation is some of the best legislation we passed in this hon. Court and in the branches in I think it was 1991. It was very simple legislation, but it is recognised throughout the world as being very, very useful, good legislation. Why shouldn't we just offer that transfer? I totally agree, and I have been a supporter for a long time, with getting rid of non-resident companies, but there is more to it than just doing away with non-resident companies.

The President: Reply.

Mr Karran: Eaghtrane, I raised this issue some time ago in questions, so this is not a new issue, as I have said in my speech.

I am a little bit concerned again when we seem to have these red herrings as far as we have had the situation as far as my motion is concerned, that somehow I have explained that it is to do with duty companies and they are trying to still make out that if they pass this it will be all non-resident companies. Once again we are having the red herrings, and I do not know whether the hon. minister is saying that maybe I should be a member of the Treasury but with his red herrings and some of the red herrings in here some should be members and ministers of the Department and Agriculture, Fisheries and Forestry.

The President: Hon. member, would you excuse the intrusion into your concluding speech, but the learned Attorney-General has expressed a wish to address the Court, if you would be agreeable?

Mr Karran: Certainly. Yes, sir.

The Attorney-General: Mr President, thank you, and I do apologise to the hon. member for intervening in his address. I think that I would like to just clarify, if I may, one or two points.

In so far as the suggestion is concerned that if there is a change of law there may be liability in damages, this is a matter that does concern me. What I was anxious about here was that if there were to be a change in the legislation by way of some Treasury order rather than by an amending Act it may possibly be the case that the Treasury would expose itself to some claim for damages. There could be some claim for a judicial review of the Treasury's powers, particularly by a company or its directors which would say that the change in the legislation had caused it to suffer loss because, for example, insufficient notice had been given of the change in the law.

I think also the hon. member Mr Crowe raised a point about exposure to damages if the companies were abolished. I do not think that the object is that the companies be abolished but rather that the legislation which governs non-resident companies should be amended. But I felt it appropriate to make that point clear, if I might, and I am sorry to have intervened in that way.

The President: Thank you, Mr Attorney. That was most helpful.

Mr Karran: Eaghtryane, I thank the Attorney-General for his intervention as far as this is concerned and I appreciate his concern. The last thing I want, as a person who wants good, sound financial control in government, is to open us up to large amounts of litigation. But what I would say is maybe the Attorney-General would agree that obviously if this legislative process had to go through the three readings in both Houses and get Royal Assent, then that would give sufficient time. Because my motion is there to abolish them, it will take legislation, primary legislation, to do so and that would give quite a bit of time as far as reasonable notice was concerned.

Regarding the situation that the hon. Treasury minister raised with us and some of the points, I have to be fair and I think it was a fair point, as he said, to do it at the drop of a hat over his budget speech, and I could sympathise with his concerns as far as this is concerned, but there needs to be some action on this front.

It is my frustration that we are facing a problem in the near future where we are going to be exposed and once again those in the adjacent island who try to highlight the liabilities and blacken the good name of this country will have an opportunity again to do so. It is all right the Treasury minister saying there is only one or two companies that cause the problems as far as these 10,000 companies are concerned. All we need is one or two of these companies and they bring dishonour and disrespect on this Island and our whole legitimate business here, and the point that really rubs salt in the wounds with the difference between these companies and other companies is the fact that instead of the salt being in the wounds of the beneficial owners, the salt is in the wounds of us and our agencies because no-one can find the beneficial owners, no-one is liable, there are no assets in the Isle of Man, and it really gives the critics of the Isle of Man the excuse to belittle us and try to make out that we as a nation give the image of some sort of Mickey Mouse operation, and that is what I am concerned about and that is why I feel that we need to sort this out.

I feel as far as the Attorney-General's input is concerned it does concern me, but I feel that there is a little bit of over-anxiousness as far as this is concerned, from what research I

have done as far as this is concerned, because at the end of the day it is an annual fee and an annual fee is an annual contract as far I have seen.

I would support the hon. member for Garff and thank him for his support and I think he highlights the point that I am actually not the extremist but there are people who think that I am too lily-livered to address the real issues that need to be addressed in order to protect the integrity of the finance sector, the most important sector in the Manx economy.

The fact of the matter is, as the hon. member said in his input, that these incorporated non-resident companies have no accountability. When they come and they bang on the doors of our respectable FSC, our respectable fraud squad, our respectable Attorney-General's department there is no-one that can be made accountable as far as these companies are concerned. That is the problem we have got with these companies. That is our Achilles heel. That is the problem.

Now, as far as the hon. member for North Douglas is concerned, I am horrified that he is trying to portray the British Virgin Islands with the Isle of Man. I mean, I have seen some of these people, these parliamentarians from some of these countries and I think that we should not be even considering that there could be any association with places like the British Virgin Islands. That is absolutely horrifying to me and I would hope so to the vast majority in this hon. Court because the fact of the matter is that we want quality, not quantity, and it is going to be a policy of quality and not quantity that is going to make our finance sector and our offshore finance sector survive I do not want to see it. It is all right the hon. member for North Douglas saying that, and I bow to his experience, he has got more experience on these issues than myself, but at the end of the day the fact of the matter is that these companies lead us to ridiculed, and I believe we do not need that sort of ridicule of ourselves. I know that other company formations in this Island cause problems and cause big problems as well, but at the end of the day there is somebody in the Isle of Man that is accountable, and that is the important fact and that is the thing that people talk about. It is like in shipping about flags of convenience, and I believe that if we do not support doing something strong about this particular formation of companies, we are allowing ourselves to sell this Island short, sell it cheap. The good name is up for sale for a few hundred quid, and do what you like, boys, because there will be nobody over here who will be accountable. But when the trouble comes to the front door, it will not be them; we have got a few hundred quid out of it and we have got the bad name.

Mr Lowey - I thank him for giving me the opportunity to have this debate today because I think it is important, but I would say to Mr Lowey that we will never get the company formation agents to do the work that the Treasury minister wants, or the member in North Douglas talks about. They are never going to do it because they know it is like an open cheque book, and the fact of the matter is here they are, they are in the Isle of Man, somebody is out in Rwanda selling arms. They are the ones that get the chop, not the person who gets the money in his hip pocket from the arms sale or from whatever sale it is. That is the problem, and they have tried it once and what happened? The Treasury licked its wounds and went away for a couple of years. There is a storm on the horizon as far as this is concerned. I believe that we should be well equipped as far as that storm is concerned. I do not believe we should be leaving the portholes open and leaving everything untied and loose so that we can actually damage the ship, and the ship is the financial sector of this Island.

I hope that members of this hon. House will support my proposal because at the end of the day Mr North has the wonderful suggestion. That is what I hope will happen. If we did away with this type of company formation, the vast majority of these companies would change to the other types of company. That is the fact and the ones that would not do that are the ones we do not want. They are the ones we do not want. Why wait until we are shot in the feet and then complain because of our inability? We want quality. We are sick to death of seeing this Island being sold short. We want quality, not quantity, and we must protect the Island's good name.

I hope that you will support my proposal because at the end of the day Mr North and his hon. colleagues in the Council of Ministers will be in the driving seat. This is a declaratory resolution. They will have to come up with primary legislation, they will have to think out that primary legislation, and his proposal for a two-year waiving of the fees to get them to transfer is a wonderful idea. That is the sort of thing that they can do, and I hope hon. members will stay with the original proposal because at the end of the day the hon. member for Middle will be, with the Council of Ministers, in the driving seat and that is the way forward. We will regret the day if we do not follow my proposal. I beg to move.

The President: Hon. members, the resolution is set out at item 32 on the order paper and to that resolution we have an amendment in the name of the hon. member for Onchan, Mr Corkill, which has been circulated to you on a white paper which I assume is in your possession. If everybody is clear as to the amendment, I will put the amendment and the resolution that the amendment do stand part of the resolution. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

I will now put the resolution as amended as the substantive motion. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Messrs Gilbey, Cannan, Rodan, North, Brown, Houghton, Crowe, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Gelling and the Speaker - 19

Against: Mr Karran

The Speaker: Mr President, the motion carries in the House with 19 votes cast for and 1 against.

In the Council -

For: The Lord Bishop, Messrs Lowey, Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian and Mr Delaney - 7

Against: None

The President: In the Council, hon. members, 7 votes have been cast in favour of the resolution, no votes against. I declare the resolution carried.

Now, hon. members, that concludes the business before the Court. The Council will now withdraw and leave the House of Keys to transact such business as Mr Speaker may place before them. Thank you very much.

The Council withdrew.

House Of Keys

The Speaker: Hon. members, I would remind hon. members that in fact the nominations for the remaining place on the Legislative Council are due by 5.00 p.m. on Friday 1st. The House will now stand adjourned until 10.30 in our own chamber on the 5th May.

The House adjourned at 4.52 p.m.