

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 4th April 2000
at 10.00 a.m.**

Present:

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

The Chaplain took the prayers.

Radio Transmitters – Effects of Low-Frequency Signals – Question by Mr Singer

The Speaker: Hon. members, we turn now to our order paper item 1. I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

Has your government commissioned a report into the effects of the extraneous low-frequency signals generated by long-wave transmitters?

The Speaker: I call on the Chief Minister, the hon. member Mr Gelling, to reply.

Mr Gelling: Mr Speaker, the answer to the hon. member's question is, in fact, no, sir.

Mr Singer: Mr Speaker, does the Chief Minister not believe that a full-risk assessment must be undertaken in the immediate future to alleviate the worries of health dangers from extraneous low-frequency signals and that the people living in the vicinity need this reassurance?

Mr Gelling: Mr Speaker, I do not know whether the hon. member is actually speaking about a specific planning application that is already in being, but all I can say in that direction is that the planning inquiry that has been called on that particular area has been called in, and obviously all the information and the data that they require will be to hand in them making their decision.

Mr Quine: Has the Communications Commission commissioned an inquiry into the impact of a transmitter such as this?

Mr Gelling: Again, I would refer the hon. member for Ayre to the Communications Commission, that in awarding a licence or otherwise they will obviously take all this into consideration. Now, as to whether they have instigated a commission to look at it, that is something I do not know, Mr Speaker.

Mr Singer: Mr Speaker, if I can ask the Chief Minister, setting aside planning considerations for the moment, and as the fate of 40 or more job opportunities in Ramsey

relies on the proven safety of this proposed long-wave transmitter aerial, do you not think that it would be wise to instigate an urgent investigation into the effects of the low-frequency signals on the environment by an independent body which will use scientifically accepted research methodologies?

Mr Gelling: Again I repeat, Mr Speaker, the inquiry has been called in, so the inspector will have to hand people who are well versed in this and he will have all the technical information available to him; if he requires more, he will get that information. Therefore I would suggest that all the information he or she will require will be made available to them in making their decision and also the Communication Commission in making their decision on the licence.

DHSS Adolescent Units – Directly Employed Staff – Question by Mr Houghton

The Speaker: On to item 2, hon. members. I call on the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

Will your government relax its policy of restricting new civil service posts to enable staff who operate the Department of Health and Social Security adolescent units to be directly employed?

The Speaker: I call upon the Chief Minister to reply.

Mr Gelling: Mr Speaker, whether the Department of Health and Social Security adolescent units are operated by directly employed staff or by one or more contractors, I would suggest, is a matter for the Department of Health and Social Security, although of course the department must operate within its approved staffing allocation. Now, a substantial increase in personnel has been provided in this year's budget, most of which has been allocated to the Department of Health and Social Security. An increase of 81 staff has been granted to the department. Whether a part of that number is used to staff adolescent units will be a matter for the department to determine in accordance with its own arrangements and priorities. It is, of course, always open to a department to submit a special case for additional resources, but, in the light of this particular generous treatment to the department this year already, I would not expect the department to be making application for a further increase in staff at this time.

Mr Houghton: Mr Speaker, I thank the Chief Minister for his reply, but does he not consider that direct government control of these adolescent units would prove to be value for money when one takes into account the huge sums involved in paying agencies to perform this work?

Mr Gelling: Yes, again I would suggest that that is up to the department to decide. They are the ones, they are the professionals, they know how best to use their resources, whether it be finance or personnel, and in this particular case it is up to them to make that judgement.

Crowe EPH Ltd – Liquidation – Loss to Public Purse – Question by Mr Singer

The Speaker: Item 3, hon. member for Ramsey, Mr Singer.

Mr Singer: I beg leave to ask the Minister for the Treasury:

What does the Treasury estimate to be the loss to the public purse in tax and national insurance contributions of the liquidation of Crowe EPH Ltd?

The Speaker: I call on the Minister for the Treasury, the hon. member for Onchan, Mr Corkill, to reply.

Mr Corkill: Thank you, Mr Speaker. The actual amount of the loss to the public purse in tax and national insurance contributions will only be determined on the conclusion of the investigation by the liquidator. That figure will depend on what he may ultimately recover. Mr Speaker, in respect of these taxes, members will be aware that government is classified as a preferential debtor.

Mr Singer: I thank the hon. minister for his reply, but is the minister saying that in fact there has been no investigation at all by his department into what could be the possible losses, considering that hundreds of thousands of pounds have not been collected in NI and tax paid that should have been paid by Crowe EPH from last August, and should you not now be estimating the possible loss which will be caused by the delay in the commencement of the mechanical and electrical works packages by contractors off-Island? There could possibly be penalties that the government will have to pay to them because of this delay, and should you not be anticipating this in advance?

The Speaker: Again, we should not broaden the question but stick with Crowe EPH. The hon. member for Onchan, Mr Corkill.

Mr Corkill: If I may, Mr Speaker, there are two questions, I believe, there. The second part which is to do with ongoing costs and delays that are possible from the situation with Crowe EPH - I think the Department of Health and Social Security is best placed to make those calculations and I do not wish to answer that particular part of the question. The first part of his supplementary question that the hon. member asked, 'Has the Treasury made some investigations into possible worst case scenario figures with regard to the Crowe EPH situation?' - we have done that, sir, but I would prefer publicly to deal with fact rather than worst case scenarios until the liquidation is complete, and then we will know the answers.

Commercial Vehicles – Parking in Restricted Areas – Question by Mr Houghton

The Speaker: We turn, then, to item 4 on the order paper and I call on the hon. member for Douglas East, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

What schemes does your department promote to allow commercial enterprises to park their vehicles for limited periods in restricted areas to enable them to carry out their business?

The Speaker: The hon. Minister for Transport, the hon. member for Castletown, Mr Brown, to reply.

Mr Brown: Mr Speaker, my department operates a scheme to assist building and similar operations known as tradesmen's access permits, which allow tradesmen to park their mobile workshops as close as possible to their working site with an exemption from the normal time restrictions. However, when considering the issuing of such permits my department will take

into account all circumstances relating to the area concerned, including matters relating to public safety and alternative options for access. Thank you.

Mr Houghton: Mr Speaker, I thank the hon. minister for his reply, but does the minister not agree that commercial operators need to be given every assistance to permit them to undertake their business whilst parked in restricted areas, and should he not promote initiatives which would give a greater degree of convenience to those operators without compromising safety with regard to access for emergency vehicles?

Mr Brown: Mr Speaker, as far as I am aware, my department does do that. The only times that there are problems is in fact where it might restrict access for emergency vehicles and where parking might be dangerous, and outside that, as far as I am aware, we endeavour to do that. However, I can remind the hon. member that my predecessor did in fact endeavour to introduce a scheme where a payment would be made to enable people to park in such areas, and that was rejected by . . . or there was considerable criticism, I think it was - it was not rejected - by the House to the minister and he did then not introduce the scheme.

Mr Houghton: Mr Speaker, I am very grateful to the hon. minister for his reply. There is a problem and would he encourage his department to enter into consultation and dialogue with such commercial operators to gain their proposals and opinion on this subject?

Mr Brown: Mr Speaker, I am not aware of any problem. The only problem I am aware of is a gentleman who recently was refused the issuing of such a permit because the area he wished to park on was a hatched area in Regent Street, which is a fire and emergency entrance into the heart of Douglas. That is the only one I am aware of which I know the hon. member is aware of.

Mr Cannell: Mr Speaker, would the hon. minister not agree with me that the entire subject of the parking of commercial vehicles needs re-examining, because they are becoming a nuisance with their proliferation of overnight parking in residential areas?

Mr Brown: Mr Speaker, my department endeavours to work with commercial undertakings. We have to be realistic. There is a need for commercial operators on occasions to park near the premises which does mean they require special permits, and my department will do that as long as we do not compromise safety or, if there is a problem there and we have no choice, then special measures are taken.

In relation to the question from the hon. member for Onchan, Mr Cannell, I can advise him that under the present law it is illegal for large commercial vehicles to park in residential areas. That is clearly a matter for the police, and I am afraid if they do not take any action there is nothing my department can do, as we have passed the legislation that makes it an offence for such vehicles to be in residential areas over nighttime and over weekends.

Mr Cretney: Could I ask the minister, would he agree with me that there will continue to be a problem for both commercial vehicle operators and for residents when we continue to have planning approvals which have only 40 per cent of the occupants of buildings requiring to have parking as a part of that planning permission and whilst we do not have sufficient long-term parking, particularly in Douglas?

Mr Brown: Mr Speaker, in the ideal world we would rip Douglas and all our towns to pieces to make sure there is adequate car parking. I am afraid, unfortunately, that that is not a

realistic option. I understand the point the hon. member for South Douglas is making but, in fairness, there is again a balance between the needs of people to live in areas and to park and many of the areas are old areas with no provision at all, and that is not just in Douglas; that is throughout the Island in most of the older towns, and I would say that the parking situation in Douglas - whilst it might not be absolutely ideal, we have been awaiting the Douglas Corporation, who delayed a scheme for many years for the redevelopment of Shaw's Brow for other reasons. Whilst government money was allocated for it is only just starting to progress, and I was Minister for Local Government and the Environment when that scheme was ready to go, and I left there in 1994.

Crowe EPH Ltd – Liquidation – Financial Loss re Hospital Construction – Question by Mr Singer

The Speaker: We turn now to item 5, hon. members. Again I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker, I beg leave to ask the Member for the Department of Health and Social Security:

In relation to the construction of the new hospital, what does your department estimate to be the actual and projected financial loss resulting from the liquidation of Crowe EPH Ltd?

The Speaker: I call on the member for the Department of Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, as I indicated in an answer to a similar question posed by the hon. member for East Douglas, Mrs Cannell, at last week's sitting of this hon. House, I am not in a position to give a definitive answer to the hon. member's question. Following the appointment of a replacement contractor to complete the concrete frames of zones 2 and 3 the overall programme will be reassessed by the design and construction team including the implications for the project budget, which will then be made available.

Mr Singer: As work has been stalled now on the hospital site for eight or more weeks, does your department not have any estimated costs of the possible delay and the projected completion date, which is going to be anywhere between three to six months, and is the figure that was quoted by your minister several months ago during the planning procedure of losses £¹/₂ million per month for each month of delay? Would you agree with those?

Mr Karran: Vainstyr Loayreyder, work has carried on on the site and I think it would be wrong to say that everything has stopped; that impression is a false impression. It would be wrong for me to say that it will not have any implications as far the costs are concerned; I am sure it will, but I think it is unreasonable for me to just throw out a headline as far the amount is concerned which may be wrong at a later date.

Mrs Cannell: Mr Speaker, can the hon. member for the department advise on whether or not the bonds in place for Crowe EPH have actually been paid out to the department and, if he cannot, can he advise when he will be aware of that and when members will be aware of whether or not the bonds have been paid out?

Mr Karran: Vainstyr Loayreyder, I would imagine that the bondsmen are like any insurance men - quick to take your money and poor to pay you out in a hurry if they can hold

on to it! I am aware that they have located the bondsmen. The issue that the hon. member raised of their nationality was raised, but the issue is that the bond is there but I very much doubt it has been paid out at this time, but it would be wrong to me to say that I know that answer.

Mr Quine: In relation to possible costs, has your department been advised, or does it anticipate, any claim against it by a creditor or other party arising out of the Crowe EPH saga?

Mr Karran: Vainstyr Loayreyder, I would imagine that the position would be that it would be the management contractor and the design team that I would imagine most people would be looking towards if there are any claims as far as that matter is concerned.

Mr Quine: Would the hon. member agree with me that the taxpayer can really take little comfort from the submission by the department that as they expect these works to be finished within budget, all will be well, for is it not a fact that the savings against budget would have had a greater effect had they not been confronted with this extraordinary cost arising out of the Crowe EPH saga?

Mr Karran: Vainstyr Loayreyder, I would agree with the hon. member. I think it is very wise in hindsight when you have got a design and construction team who are supposed to be looking after the interests of the people that both myself and the hon. member for Ayre represent, the taxpayer, have not managed to perceive this problem before us.

Crowe EPH Ltd – List of Selected Tenderers – Question by Mr Quine

The Speaker: Item 6, hon. members. I call on the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. I beg to leave to ask the Member for the Department of Health and Social Security:

- (1) *With regard to the new hospital work packages awarded to Crowe EPH Ltd, can you confirm that four companies were included on the list of selected tenderers of which only Crowe EPH Ltd was Island-based; and*
- (2) *What was the basis for including Crowe EPH Ltd on the list of selected tenderers, given that this firm had not at that time been incorporated, had insufficient financial backing and lacked experience of the work particular to these contracts?*

The Speaker: Again I call on the hon. member for Onchan, member for the Department of Health and Social Security, Mr Karran.

Mr Karran: Vainstyr Loayreyder, in answer to part (1) I can confirm that Crowe EPH Ltd was successful in tendering for two works packages forming part of the new hospital project, ground floor slabs and drains, zones 2 and 3; and concrete frames 2 and 3. In respect of these packages the select list of tenders comprised four companies in respect of the second package, five companies. In each case all the other companies were based off-Island.

In answer to part (2), the fundamental basis for the department's acceptance of the select list of tenderers was in each case a unanimous recommendation from the design and construction team, each member of the team comprising the management contractor, and the lead consultants in that professional team have contractual responsibilities to the department for the preparation of tender lists and to discharge these responsibilities. The procedure notes

for the capital scheme are issued by the Treasury as modified to accommodate the management contractor routine.

Mr Quine: Am I to gather from what the hon. member has said that the basis for the exclusion of these other companies in deference to Crowe EPH was that the other companies were off-Island, and that what has happened is that in order to get a company on-Island, albeit a company that has not got experience in this form of work and did not have the financial status, that company has been given priority over other companies and that this on-Island criterion has been the predominant deciding factor?

Mr Karran: Vainstyr Loayreyder, the company was the lowest tenderer and under normal procedures that is what happens with the recommendation of the design team and the management contractor, as I said in the original question.

Mrs Cannell: Mr Speaker, bearing in mind that the project director is on record as stating that Treasury procedures were substantially amended in order to ensure compatibility with the management contracting method of procurement, can he advise on behalf of his department in what way they were substantially amended?

Mr Karran: Vainstyr Loayreyder, as one of the few members in this hon. House that was against many issues as far as the hospital is concerned, I do think that the hon. member is wise with hindsight as far as this issue is concerned. The issue was that this has gone through a design team, a management team; it has been clearly looked at. This is an unfortunate situation and the important thing is to make sure that it does not happen again.

Mr Quine: Were Treasury procedures substantially amended, or were they not amended, in order to accommodate the management contracting method of procurement?

Mr Karran: Vainstyr Loayreyder, as far as I am aware I could not tell you what the procedures were, how they were amended as far as the Treasury is concerned; the hon. member should ask the question to the Treasury minister about that. What is important is to make sure that we do get this issue resolved sensibly and without being too great a detriment to the taxpayer of the Isle of Man. I do find it very difficult that I have to be very careful how I respond to questions in order to make sure that I safeguard the interest of the taxpayer.

Several Members: Hear, hear.

Mrs Cannell: Mr Speaker, does the hon. member agree with his project director who was on record as saying that everything was substantially amended? Does he agree with what his project director has stated publicly?

Mr Karran: Vainstyr Loayreyder, I do not know how far you define 'everything'. There are issues within the times I have been member for Health and taken this albatross on that one has fought many a good battle over within the department. The important thing is that we learn from the mistakes that has been done and we do not hide those mistakes and, if there are mistakes there, we must make sure that they do not happen again.

New General Hospital – Apprentices – Engagement of and Opportunities for – Question by Mrs Cannell

The Speaker: Item 7. The hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

- (1) *How many apprentices, including those from the Isle of Man College, have been engaged on the construction of the new hospital; and*
- (2) *do you intend to ensure that opportunities for apprenticeship training are to be made available within the mechanical and electrical packages of the construction?*

The Speaker: Again, it is for the hon. member Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I preface the answers to the hon. member's questions by noting that the criteria laid down by her department, in which she is a member with delegated authority on matters for approved contractor status contain no requirement for a company to undertake to provide apprenticeship training opportunities either in liaison with the college or with her department's Training Centre or otherwise.

In answer to part (1) of the question, it is my understanding that the duration and size of these contracts to date have not been such as to specifically promote apprentices. However, I further understand that the company undertaking the brickwork/blockwork contract on zones 2 and 3 are, following liaison with the Training Centre and the management contractor, engaging three apprentices on 10th April. In addition, I can confirm that one student from the Isle of Man College is gaining work experience with the management contractor, attending site on average one day per week.

In answer to part (2) of the question I understand that it is the intention of the mechanical and electrical work package contractor, Rotary Services Ltd to afford opportunities to apprentices if suitable candidates come forward. In this respect it is also my understanding that the management contractor has been liaising with the training division as far as this issue is concerned.

Mrs Cannell: Mr Speaker, would he not agree with me that as far back as 1997 agreement was reached between the Department of Trade and Industry, Bovis and his department to encourage as many apprentices on site as possible, and would he further agree that with regard to the mechanical and the electrical work packages, the M & E, that in itself provides the most valuable work experience for postgraduates or apprentices?

Mr Karran: Vainstyr Loayreyder, I do agree with that and I do want to try and be very reasonable within this hon. House, but I do find it is a bit of a loss when the member is a member of that department and could quite easily have enquired of the other department members as far as this issue is concerned in order to make sure that this issue is resolved. I personally hold very dear, as a joiner by trade, the issue of apprentices and I think it should be something that should be put down as part of the contractual agreement as far as all government work is concerned, just like other issues that I would like, but it has to come from her department.

Mrs Cannell: Mr Speaker, will the hon. member not accept that 'my department', as he refers to it, have done all that they possibly can in relation to encouraging his department to engage and provide opportunities for apprentices in relation to this big capital project which will run for years? Will he further accept that the subject matter of apprentices is of great public interest, particularly to young people leaving school?

The Speaker: I am sure he will agree to both. Hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, as far as I am concerned, if the hon. member wants to make representation to my department, we would like to see - I would like to see, I cannot talk for the minister - more apprenticeship opportunities. I personally feel that it is something that needs to be addressed within her own department.

The Speaker: Hon. member for Rushen, did you wish to ask a supplementary?

Mrs Crowe: I did, thank you, Mr Speaker. I would just ask the hon. member for Health if he would agree with me that whilst the problem is not with the amount of placements that we have for apprenticeships, it is with the encouragement for youngsters to become apprentices?

Mr Karran: Vainstyr Loayreyder, I think the hon. member is quite right to say that we are very fortunate these days in that our children have a choice nowadays when leaving school. The choices were very limited as far as employment is concerned, and the economy and the low amount of unemployment at the present time is something that we should all take pride in. I would just like to say that I do feel that this issue should be addressed not just regarding the hospital, but all government contracts should be made to be more apprentice-friendly, and I do welcome any moves from the Department of Trade and Industry as far as that is concerned.

Incinerator – Incinerators Built by Tenderers – Emission Standards – Question by Mr Karran

The Speaker: This time we will turn to item 8 and I call on the hon. member for Onchan now to ask the question.

Mr Cretney: Get your own back, Peter!

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Local Government and the Environment:

- (1) *In respect of the three remaining tenderers for the integrated incinerator facility, how many domestic waste incinerators has each built and operated in Europe in the last five years which are currently operating; and*
- (2) *in respect of these incinerators -*
 - (a) *have any reported emissions in excess of the current EU emission standards within the past 24 months; and*
 - (b) *how many are operating to the intended EU 2001 standards?*

The Speaker: I call on the Minister for Local Government and the Environment, the hon. member for Glenfaba, Mr Gilbey, to reply.

Mr Gilbey: Mr Speaker, any details of the firms tendering for the integrated incinerator (energy from waste facility) contract is commercially sensitive and the department is bound by confidentiality requirements. Consequently, it would not only be inappropriate to comment on these matters at this stage but the department is also unable to do so. Hon. members can, however, be assured that the department intends to make the very fullest information available to them in relation to the successful tenderer at the appropriate time.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that it sounds a bit like a Hobson's choice scenario as far as we are going to be concerned when it comes to this large

amount of public expenditure if we do not know what the track record of all the tenderers is going to be?

Mr Gilbey: The track record of the successful tenderer will be made more than clear and, I hope, will be demonstrated in many different ways, but the hon. member himself has considerable knowledge of contracts being placed and he will be well aware that, whereas the fullest explanation is given about the successful tenderer for contracts in terms of the contract, it is quite unusual - and I can not think of a case - for all the other tenderers to be subject to public examination.

Mr Singer: Mr Speaker, could the hon. minister assure me and the hon. questioner that amongst the three remaining tenderers there is no Manx subsidiary of Crowe (Stockport) Limited?

Mr Gilbey: I think it is very easy to ask that rather frivolous question. Certainly there is not.

Mr Karran: Vainstyr Loayreyder, would the minister give an assurance to this hon. House that before any contracts are signed for anybody to run this project, their track record will be made available so that this House is not put into a corner as far having a bum's rush that we end up being told that we will end up spending millions of pounds if we do not support this contract after he has signed it?

Mr Gilbey: Mr Speaker, again I can confirm that the very fullest information will be made available in all kinds of ways, but when we talk about the signing of the contract I should make it perfectly clear that the contract, when signed, will make it absolutely abundantly clear that there is no commitment unless the contract is approved by Tynwald, as is normal. There is absolutely no question of signing and I am very glad that the hon. member has given me the opportunity to explain this very clearly, that signing of the contract is that the contract is subject to coming into force only if it is approved by Tynwald, and of course before it is even recommended to Tynwald it not only needs to be approved by the department, it needs to be approved by the Treasury and the Council of Ministers, so therefore there are about four different bodies who would be approving any contract before it became legally binding.

Mrs Cannell: Mr Speaker, accepting the explanation from the hon. minister this morning in relation to commercially sensitive issues in relation to the tenderers, can he explain why he will not answer part (b) of the question in relation to how many of the incinerators presently operating, in relation to the three tenderers that he has received, are operating to the intended EU 2001 standards? This is a very important issue and I think members would appreciate an honest answer, please.

Mr Gilbey: Perfectly simple, Mr Speaker, as I thought I had already explained. You do not give details about all the firms that tender for a contract, only the successful tenderer when it is decided to award the contract to that tenderer. I cannot think of a single occasion over more than 15 years when detailed information has been given in public about a whole mass of tenderers. It just does not happen - with schools, with other public buildings, with the Courthouse. One can think of all kinds of things: think of the harbour, think of the power station; there were not questions that were answered on all the tenderers, but, when a tenderer was chosen, that tenderer and his tender were subject to the fullest investigation and explanation.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that this hon. House agrees with him as far as not giving away commercial confidentiality on issues, but surely he could answer the question: do these tenderers operate plants to the intended EU 2001 standard? Surely the hon. member can tell us that.

Mr Gilbey: Well, the plant that we are going to have will certainly come up to that standard. We have not even asked them about the other plants to give answers to this hon. House because, as I have said, it is not the normal commercial method of dealing with tenderers to give public information about them and their operations unless they are the successful tenderer, and we have no intention of starting doing this. I think it could put the Isle of Man in a very poor light in respect of tenderers of all kinds who thought that they were going to be subject to a public inquisition just for tendering. We shall supply all the information that the hon. member wants in respect of the tenderer that is recommended to Tynwald.

Mrs Cannell: Mr Speaker, will the hon. minister accept that we are not asking for information in relation to the particular firms, e.g. their names? What we are seeking from him - will he accept this? - is assurance that those tenderers that he is considering do have good track records, and will he further accept, when he talks about making information public, that the financing of this great capital scheme is public money?

The Speaker: I think the minister will agree to all that. The hon. minister to reply.

Mr Gilbey: As Mr Speaker says, I agree to it all. *(Laughter)*

Procedural

The Speaker: Hon. members, I am aware that the clock here may be standing still, but I think we have gone past our 10.30 time. I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, I would like to move:

That standing order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.

Mr Cretney: I would like to second, sir.

The Speaker: Are we agreed, hon. members?

Members: Agreed.

Incinerator – Estimate of Waste Arisings – Question by Mr Karran

The Speaker: We turn then to item 9 on the order paper. Again, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Local Government and the Environment:

Given that the Government of Gibraltar has recently reached a £21 million settlement with the operator of the Gibraltarian domestic waste incinerator as a direct consequence of underestimating their waste arisings by 16 per cent, are you entirely satisfied with the accuracy of the estimate of waste arisings presented to the hon. Court in respect of the proposed Manx domestic waste incinerator?

The Speaker: The Minister for Local Government and the Environment, the hon. member for Glenfaba, to reply.

Mr Gilbey: Mr Speaker, with regard to the waste arising figures which I gave in another place previously, I am satisfied with their accuracy as estimates of the present incinerable waste being generated within the Island. Reduced amounts of waste arisings near to or below 55,000 tonnes can be accommodated by increasing the down time of the plant, which is initially expected to be four times a year. The bunker size is large enough to enable down times to be used for this purpose. If there should be substantial increases in waste arisings over future years, it is anticipated that this will be compensated by ever-increasing recycling.

As regards the Gibraltar situation, I would advise hon. members that just as important as steps to deal with low or high volumes of waste are the terms of the commercial contract which will be entered into with the operator. These terms will be such that the problems experienced in Gibraltar will not arise.

DAFF – Resources for Regulatory Functions – Question by Mrs Cannell

The Speaker: Item 10, hon. members, and I call on the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker, I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

Does your department have sufficient resources to carry out its regulatory functions?

The Speaker: The Minister for Agriculture, Fisheries and Forestry, the hon. member for Douglas West, to reply.

Mr Downie: Thank you, Mr Speaker. The question as put down by the hon. member is very wide and general, and I could give a broad and non-specific answer. This is because my department has a wide range of regulatory functions, including animal disease control, animal welfare, dog and cat breeding and boarding, riding establishments, fisheries legislation enforcement both freshwater and sea, animal health, plant health, preservation of trees, regulation of agricultural marketing organisations, Weeds Act, Wildlife Act 1990, Endangered Species (Import and Export) Act 1981, Game Acts, et cetera, et cetera.

However, I am given to understand that the particular interest is with respect to enforcement of welfare standards as regards battery systems of egg production and broiler systems. I assume this recurrent interest has been stimulated by the recent clandestine visit by representatives of an organisation called Animal Watch to farms in the Island. Whilst deploring the manner in which the visits were carried out - for example, without the permission of the farmers concerned and in the dead of night, as I understand it - I can confirm that the department was able to respond positively and immediately to this incident by paying unannounced visits to the premises concerned within 24 hours of it being provided with information by Animal Watch. Whilst I have no personal sympathy for battery or intensive systems, it has to be said that within the law as it stands my officers found no grounds for undue concern. Such points as did arise were taken up with the farmers in question and I am sure will be positively addressed.

It may well be that this response is unacceptable to the persons involved, but the department can only enforce the law as it stands and acknowledge that broiler and battery systems are still permitted throughout Europe, including the United Kingdom. It is the intention, however, to phase such production systems out in Europe, but this is over the next period of years.

I have to say that, harrowing as parts of the video taken by the individuals concerned may seem to the general public, it has to be appreciated that as part of animal husbandry animals unfortunately do die of natural causes. The department has to be aware of whether unnecessary suffering or cruelty is caused to such animals. My department has been unable to find any offences against current legislation. However, it is always open to the individuals concerned, if they consider that cruelty is being practised to animals within these intensive systems, to report the matter to the police for investigation under the cruelty to animals legislation. Thank you, Mr Speaker.

Mrs Cannell: Mr Speaker, would the minister agree with me that his department has sought additional staff to fulfil its responsibilities for the last few years and its bid has been refused by the Personnel Committee? Would he agree with that?

Mr Downie: I cannot agree with the hon. member. I think the veterinary staff that the department employs is adequate, and I would also like to inform the member that the veterinary officers employed by the department are also required to give sound, impartial and professional advice. They are not subject to the direction of the minister in exercising their professional judgement, but are answerable to their professional body, who are the Royal College of Veterinary Surgeons.

Mrs Cannell: Mr Speaker, in view of the many hours of veterinary attendance at the meat plant, surely the minister must agree with me there are many days on which the other responsibilities of these professionals receive less than the required attention?

Mr Downie: As well as veterinary officers the member should be aware that the department also employs a number of field officers and agricultural advisers, and these people visit farms and smallholdings on the Isle of Man as part of their regular course of events. If they are visiting dairy farms they are there to take samples and to give advice, and we have a whole range of expertise available in the department to the agricultural industry, so if an incident arose where it was suggested that there was cruelty or malpractice, the department is in a very good and adequate position to deal with an incident quite quickly, and if the people in the animal rights organisations feel they have no confidence in the department, there is an option available for them to make a complaint to the police under the Cruelty to Animals Act, or indeed they have the ability to inform the Manx Society for the Prevention of Cruelty to Animals, who are a responsible body and who in my opinion do a fine job in caring for distressed animals and in pursuing cases of cruelty.

Mr Karran: Vainstyr Loayreyder, could the minister give an assurance that it is not a matter of 'being all friends together' and that 'there is none so blind as those that do not look' as far as his staff is concerned? Are we looking and should we be more vigorous as far as making sure that this sort of abuse does not happen in the Isle of Man?

Mr Downie: The member mentioned abuse and could I say that, if he is referring by 'abuse' to intensive production methods in agriculture, which I think is what he is referring to, I

think the writing is on the wall for the battery egg and I think that as far as we are concerned in the Isle of Man we are openly promoting and encouraging farmers to move away to less intensive systems. We are trying to encourage more free-range eggs on the Isle of Man; a lot of the feedstuffs are grown locally for them, and as far as I am concerned a very open system of farming exists on this Island. If there are cases of cruelty they can be identified very, very quickly and dealt with in a number of ways which I have just outlined.

The Speaker: I think a final supplementary. The hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Would the minister not agree with me that in view of the recent events which he referred to in his opening remarks to my first question, it appears obvious that additional resources are urgently required by his department to ensure that he undertakes proactive policies in relation to animal welfare and not reactive policies, as we have seen of late?

Mr Downie: Yes, I cannot agree with the hon. member. It is quite obvious that the hon. member has her own particular views about certain aspects of farming. I must say, as far as battery poultry is concerned, I do have some sympathy with her views, but I would also put on record again that this government's policy, as indeed is the policy of the European Union and the UK, is to move away from the battery system and go for a less intensive form of egg production. We fully support that. We are not going to bring it about overnight. We could close all these units down tomorrow and all these farmers would be liable for compensation. That is not what we are trying to do. We are trying to encourage the farmer to move, government are trying to assist him financially to be able to do that and, as a further measure, earlier this year new egg boxes were introduced, which gives the consumer now the option where all Manx eggs are sold in the shops in egg boxes; the option is clearly available and the boxes are marked where they are produced in a free-range situation, so at the end of the day it is consumer choice.

Mrs Cannell: Not more battery then?

The Speaker: Now, the subsequent items on the order paper, 11, 12, 13 and 14 are for written response, and I understand that the answers have been circulated to hon. members and are on your desks.

Douglas Marina – Provision of Services and Berthing – Question by Mr Henderson for Written Answer

Question 11

The hon. member for Douglas North, Mr Henderson, to ask the Minister for Transport:

What plans are publicly available in respect of -

- (a) the provision of services, and*
- (b) berthing*

for small boats within the new Douglas marina?

Answer

My department submitted a planning application in April 1999 for the installation of pontoons in the inner harbour at Douglas. The submission contained a plan showing the proposed pontoon layout and other information which is still valid and can be viewed at the department's offices on request.

The installation of pontoons and associated services will be divided into two phases. The first phase will provide approximately 70 new berths will be in the area of the harbour seaward of the Tongue and will not cause any disruption to existing craft. The second phase will be commissioned in response to demand.

It is anticipated that the first phase of new berths will be available from 1st April 2001.

Douglas Marina – Charges for Use – Question by Mr Henderson for Written Answer

Question 12

The hon. member for Douglas North, Mr Henderson, to ask the Minister for Transport:

(1) *What are -*

(a) *the present charges at Douglas, and (b) the projected charges within the new Douglas marina for -*

(i) *berthing for small boats;*

(ii) *hard standing for small boats to make use of out of water facilities; and*

(iii) *electricity;*

(2) *will you give sympathetic consideration to offering a discount on these charges to small boat owners who are beyond retirement age; and*

(3) *what are the projected charges to park a car in the new Tongue car park within the Douglas marina?*

Answer

In answer to part 1(a) of the question the present charges at Douglas Harbour are as follows -

1(a) (i) Pleasure craft are charged at £9.78 (inc VAT) per metre, per annum. Therefore, for example, as from 1st April 2000 a seven metre boat would pay harbour dues of £68.43 (inc VAT) per annum, this equates to £1.32 per week inclusive of VAT. This charge enables a boat owner to utilise any of the Island's harbours at any time throughout the year.

1(a) (ii) If a boat owner decides to utilise the hardstanding area, that is 'The Tongue,' there are four options available for which charges are made, they are as follows:-

(1) An annual charge of £705 (inc VAT) that is £13.56 per week inclusive of VAT.

(2) A winter period (1st September to 30th April) charge of £352.50 inclusive of VAT.

- (3) A monthly charge of £88.13 inclusive of VAT, this monthly facility is available from 1st May to 31st August.
 - (4) A weekly charge (for a period of up to four weeks) of £21.15 inclusive of VAT which applies throughout the year.
- 1(a)(iii) The charge for the use of electricity is set at 50p per unit. This charge is set at a level to cover the cost of the electricity purchased and also includes a contribution towards maintenance of the electrical system and a contribution towards the administration of the service.

The charge of 50p per unit has remained unchanged since 1992.

In answer to part 1(b) of the question I can confirm that to date the department has not yet determined any changes for pleasure craft which may decide to utilise the facilities to be contained within the water retention area of Douglas Harbour. However, as is our normal policy, we will undertake consultation at the relevant time with appropriate bodies who represent boat owners.

In answer to part 2 of the question, my department's view is that, owning a pleasure craft is not an essential requirement, although we recognise like many matters in life it brings much pleasure to those who enjoy such a facility. My department has no plans to introduce a concessionary rate to owners of pleasure craft in relation to the charges we make, as we believe that our harbour charges and charges for associated facilities are set at very reasonable levels.

In answer to part 3 of the question, the proposal to build a new car parking facility over the river between the South Quay and the 'The Tongue' will provide much needed additional public car parking within the town of Douglas. No charges have yet been determined for use of this new public car park.

National Insurance Fund – Actuarial Report – Question by Mr Quine for Written Answer

Question 13

The hon. member for Ayre, Mr Quine, to ask the Member for the Department of Health and Social security:

With regard to Table 9.2 to Chapter 9 of the latest Actuarial Report on the Isle of Man National Insurance Fund -

- (1) *what would be the impact on the excess of incomings over outgoings figures of the inclusion of investment income calculated on the basis of paragraph 8.4 of the report; and*
- (2) *what would have been that impact, had £44 million not been transferred to the hospital estate fund in April 1995?*

Answer

- (1) Table 9.2 in fact comprises four tables demonstrating projected benefit outgo (including administration) and contribution income on varying assumptions about uprating policy and migration.

Each table also projects an average value of the fund balances in the years specified. These values reflect both the excess/shortfall between income and outgo in the years embraced by the review and the reinvestment of investment income earned by the fund balances.

The investment income is thus already reflected in those tables although it is accepted that the projected income earned from investment of the fund balances in the years in question is not separately shown. Showing those figures separately would not change the overall projected position of the fund balances revealed in the tables.

- (2) With prices uprating and no migration the balances of the fund are projected to be extinguished in the year 2036.

With prices uprating and net immigration of 500 a year the balances of the fund are projected to be extinguished in the year 2048.

If the £44 million transferred to the hospitals estate development fund in April 1995 had remained in the national insurance fund with income reinvested then those projected years of extinguishment would be 2040 and 2052 respectively.

With earnings uprating and no migration the balances of the fund are projected to equate to about six times projected annual expenditure at the end of the projection period.

With earnings uprating and net immigration 500 a year the balances of the fund are projected to equate to nearly 18 times projected annual expenditure at the end of the projection period.

If the £44 million transferred to the hospitals estate development fund in April 1995 had remained in the national insurance fund with income reinvested then the projected balances would have been about nine and 20 times, respectively, the projected annual expenditure.

If the £44 million had not been transferred financing of the loan debt on the new hospital development would have had a significant impact on day-to-day service provision within the health services or, alternatively, a bigger call upon the revenues than will now be the case.

**DHSS – Responsibility for Children and Young Persons Units –
Question by Mr Houghton for Written Answer**

Question 14

The hon. member for Douglas North, Mr Houghton, to ask the Member for the Department of Health and Social Security:

Who is to be responsible for the day-to-day operation of -

- (1) Cummal Shee adolescent unit in future;*
- (2) the new adolescent unit at White Hoe; and*
- (3) the planned secure unit at White Hoe?*

Answer

My department via the social services division has responsibility for the operation of all facilities for children and young people. The department has run some services directly and has contracted out the provision of other services where this has been seen as the most effective way to deliver the services.

The adolescent unit at Cummal Shee is presently operated by National Children's Home - Action for Children (NCH) on behalf of the department. The unit currently comprises two five bed units. One of those five bed units will transfer to the new unit that has been constructed at the White Hoe site, leaving one five bed unit at Cummal Shee. The unit at Cummal Shee will continue to be operated by NCH for the time being. NCH have given notice that they intend to withdraw from operating the services and the department is currently considering options for the future operation of this provision.

The operation of the new adolescent unit at White Hoe and the proposed secure unit have been put out for tender and the department is currently in negotiation with a new service provider.

Body-Piercing of Minors Bill – Third Reading Approved

The Speaker: We therefore turn to item 15 on the order paper, which is the Body-Piercing of Minors Bill for third reading, and I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. This Bill will make it an offence to perform body-piercing on a minor - that is, a person under 18 years of age. The Bill inserts a new section in part III of the Local Government (Miscellaneous Provisions) Act 1984 which deals with tattooing and piercing.

There are exceptions which allow body-piercing on a minor if written parental consent is given, and I was pleased to support the amendment at clauses stage proposed by the hon. member for Castletown which permits the parental permission only being legal on a prescribed form. There are exceptions for medical treatment and for a person who is under 18 but is married, as a parent no longer holds legal responsibility for that married person. Any parent under 18 cannot give permission for body-piercing to be performed on their child.

I hope this Bill will considerably reduce, if not halt, the body-piercing that is taking place on young persons, this piercing of an intimate nature and which could constitute an assault. However, parents are reluctant to take action and drag their children, often as young as 11, through the courts. Hon. members will remember the case I described at the second reading, where the Attorney-General had decided that he did not have a strong enough case to prosecute a person who had nose-pierced two young girls of 11, and I believe this Bill will give considerable help to the police.

Other matters have arisen during my consultations, and the offer by the education department to include the dangers of body-piercing in their life education classes will be a step forward in informing the young people of the risks involved and hopefully make them think the subject through properly.

The Bill will also, I hope, give comfort to parents, who will have to give permission for their child to be body-pierced. Linking this with the declared support of the body-piercing establishments that there should be control will help ensure that those who are over 18 and

have all the facts before them will then be able to make a rational decision as to whether to have their bodies pierced or not.

I would like to thank the parents who initially brought this matter to my attention, as they have been through the traumas of their children coming home with various parts of their bodies pierced. I would like to thank the hon. minister for DoLGE and the Attorney-General for their support in my bringing forward this private member's Bill, and also the hon. member in the department, Mr Houghton. The medical officer of health put a great deal of effort into researching this matter before making his recommendation and I thank him and the hon. member Mrs Crowe for her support in seconding at the second reading and the clauses stage. I am grateful to all the government departments consulted who, without exception, expressed their support. I also thank the members of the medical profession and many members of the general public who wrote in support and expressed their concerns at the need to control this unacceptable practice of body-piercing children, young persons and minors, without parental permission, although there were some who felt that the practice should be legal under 18, as is tattooing.

I hope hon. members will agree that this Bill before you at present is a step forward in protecting the young people in our community. By ensuring they have the information to make a reasoned judgement and the courts have the legal powers to protect them from the unscrupulous we are taking a step forward, but I think that we have to accept that, with body-piercing, beauty is in the eye of the beholder and I suppose we all behold differently. Mr Speaker, I ask for hon. members' support as I move this third reading of the Body-Piercing of Minors Bill 2000.

Mrs Crowe: Mr Speaker, I am very pleased to second the third reading of this Bill. Thank you.

The Speaker: Hon. members, if no hon. member wishes to speak to the motion, the motion is that printed at item 15 on your order paper, that the Body-Piercing of Minors Bill be read for a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Joint Committee on the Emoluments of Certain Public Servants — Second Report for 1999-2000 Received

The Speaker: We turn, then, to item 16 on the order paper, hon. members, the Joint Committee on the Emoluments of Certain Public Servants, and I call on the hon. Treasury minister, the hon. member for Onchan, Mr Corkill.

Mr Corkill: Mr Speaker, I beg to move:

That the Second Report for 1999-2000 of the Joint Committee on the Emoluments of Certain Public Servants be received and its recommendations approved.

This is a short report and, as the motion says, it deals with one particular issue, which is the judge of appeal, and as far long ago as August of last year we were asked as a committee to review the remuneration and the expenses of this position, and the recommendation is clearly laid out in the report. A number of circumstances have changed, not least being the workload which is tabulated within the report. Therefore if there are questions I am more than

happy to answer them if I am able to do so, Mr Speaker. The recommendation is quite straightforward and I beg to move the motion in my name.

Mr Rodan: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Again, hon. members, the motion is that as printed at item 16 on your order paper, that the Second Report for 1999-2000 of the Joint Committee on the Emoluments of Certain Public Servants be received and its recommendations approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Supplementary Agenda – Standing Order Suspended

The Speaker: Now, hon. members, in relation to the item raised and referred to the branch by Mr President at our last Tynwald sitting I have had prepared a supplementary agenda paper and I call upon the hon. member for Rushen, Sir Miles.

Sir Miles Walker: Thank you, Mr Speaker, I beg to move:

That under standing order 37(4) the following business be considered.

I am sure it is the wish of this hon. House that the issue be dealt with as speedily (**A Member:** Hear, hear.) as possible. I do appreciate, though, that the report has only been tabled this morning, but if it is the will of the House, Mr Speaker, that this matter be considered I propose to go through the comparatively short report in some detail, sir. I beg to move.

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

Mr Downie: Mr Speaker, I rise, really, to congratulate the committee on dealing with this matter in the way that they have. As far as I am concerned, the hon. member for Onchan made his apologies -

The Speaker: Hon. member, we are dealing with whether or not we will discuss it at the present time under standing order 37(4).

Mr Downie: I would think it should be discussed and I think that the matter should be dealt with by this House as quickly and efficiently as possible.

The Speaker: Hon. members, the motion is that under standing order 37(4) we do consider the First Report of the Standing Orders Committee for 1999-2000. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Standing Orders Committee – First Report for 1999-2000 Received

The Speaker: In that case, item 2 on the supplementary order paper and again I call on the hon. member for Rushen, Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker, I beg to move:

That the First Report of the Standing Orders Committee for 1999-2000 be received and its recommendation approved.

In moving the resolution that stands in my name on this order paper can I ask members to turn to the report that has been tabled. Hon. members will find that paragraph 1, parts 1, 2 and 3 simply recite the situation as raised by the President of Tynwald and responded to by yourself at the Tynwald sitting.

Paragraph 2 of the report outlines the scope of the inquiry. We consider the most appropriate and helpful way to address the matter referred to us by the House would be to examine the situation in two parts: firstly, in general terms, the circumstances in which the public disclosure for discussion of parliamentary business might as a general principle be considered a prima facie breach of parliamentary privilege and, more specifically, whether in that context the hon. member for Onchan, Mr Cannell, had by his actions referred to us, transgressed that privilege. And so in paragraph 3 we turn to the principle of the matter that was before the Standing Orders Committee; that was public disclosure or discussion of parliamentary business and breach of privilege. These are important matters and I think, if only for the record, it is worth going through the remainder of the report as it is written.

So in paragraph 3.1 a number of important considerations required to be balanced in determining the appropriate regulation of public disclosure or discussion of parliamentary business. It is an important adjunct to the efficiency and dignity of the legislature that its members are informed of parliamentary business and the deliberations of individuals and bodies which the legislature has resolved should report to them before such business and deliberations are made public. Indeed, apart from considerations of efficiency and dignity of the legislature, this would be no more than a simple courtesy to its members. It is also true, however, that a legislature must be as open and transparent in its deliberations as efficiency permits. A parliament elected by the people to represent them should obviously strive to achieve this. Equally, although they may reasonably expect to be able to exercise a degree of discretion, individual members of a legislature would obviously find it helpful to have a clear statement of principle of when and in what circumstances they may disclose or discuss parliamentary business publicly.

So with these considerations in mind, the Standing Orders Committee believe that, as a general principle, the public disclosure or discussion of parliamentary business prior to that business being placed in the public domain in accordance with standing orders is a prima facie breach of parliamentary privilege.

We thought it would be of assistance to hon. members to indicate how in a Manx context we perceive the general principle would apply in some of the parliamentary circumstances which are commonly encountered. On the basis of the general principle it would, in our view, be a prima facie breach of privilege for a member to make public reference to, firstly, a motion tabled for sitting before the order paper for the sitting was publicly available, but not thereafter; secondly, that a question tabled for either oral or written answer before the question is publicly available on the question or order paper, but not thereafter; thirdly the proposed answer to a tabled question before the answer has been given or circulated in the chamber; and fourthly, the substance of deliberations of a parliamentary committee while sitting in private, before it has reported on the matter to Tynwald Court or the branch which appointed it, but not the terms of reference or membership of the committee, nor its proposed schedules of meetings, and whether or not it proposed to take written or oral evidence, where such reference is intended to stimulate public interest in the work of the committee with a view to that interest being reflected in the submission of the evidence. We thought it would be of use to hon. members to outline those situations.

In paragraph 4 we come to the specifics of the question that was in front of the Standing Orders Committee - that is, the actions of Mr G T Cannell, Member of the House of Keys. In

4.1 we say that the prima facie breach of privilege referred to the House by the President of Tynwald and by the House to this committee relates to an interview given by Mr Cannell which was broadcast on Manx Radio on Friday, 10th March, and the transcript is annexed to the report. Having examined the transcript of the Manx Radio interview, we consider that Mr Cannell, while technically in breach of privilege, was no more than indiscreet in some of his observations on the preliminary deliberations of the Select Committee of Tynwald on the Reform of Local Government while it is sitting in private.

In addition to the transcript of the radio interview we have also considered the unedited transcript of official proceedings of the sitting of Tynwald Court on 21st March, which includes not only the reference to the House by Mr President but also the oral answer by Mr Cannell to a tabled question relating to the radio interview. In his answer to the tabled question, Mr Cannell observed, 'It is often said that hon. members feel puzzled that the public take insufficient interest in their workings. We are public servants here solely to act on their behalf. I mistakenly believed that part of that responsibility included telling what the select committee was going to outline its business to be.' We also note that both before and after making this observation Mr Cannell unreservedly apologised to the Court for his actions. (**A Member:** Hear, hear.) Given the substance of his radio interview, his misunderstanding of the public role of a chairman of a parliamentary select committee and the unqualified apology made by the hon. member for Onchan, Mr Cannell, on the floor of Tynwald Court, we recommend that no further action be taken on this matter. (**Members:** Hear, hear.)

So Mr Speaker, I move that the First Report of the Standing Orders Committee for 1999/2000 be received and its recommendation be approved. I beg to move, sir.

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

Mr Cretney: I just have a couple of questions if I could, please, Mr Speaker. In relation to 3.3(iii) if I take it as the report reads, it says it would be wrong, it would be a prima facie breach of privilege for a member to make public reference to the proposed answer to a tabled question before the answer has been given or circulated in the chamber. Wouldn't the mover of the report agree with me that on occasions there could be so much damage done by a vexatious or other question that may have been placed down in the interim that it would be right that an answer should be given to correct such misunderstanding or to correct any damage that may come about as a result of the time period in between when the question was placed and when it is going to be answered in the parliamentary branch? And the second part is 3.3(iv), where it says it is not wrong to make reference to the membership of the committee nor its proposed schedule of meetings and whether or not it proposes to take written or oral evidence, and the committee suggests that that may attract public interest. I have to say that is so dry and so uninteresting that it is probably part of the reason why we do not get public interest, as the hon. member, Mr Cannell, said in Tynwald. I accept that this is how it stands at the moment, but what I am saying for the future is, it might be helpful in my opinion if we were to consider a more flexible approach whereby, from time to time - and I know this is allowed in standing orders - a chairman of the select committee could report back to the branches, and there, in my opinion, during the interim while things are proceeding, it could maintain some interest from the public in the work of that particular standing committee.

The final question I have got is one which the hon. member for Onchan tried to ask in another place, but it was not answered and it is not answered in this report, and it just seems

to me that if somebody does make a complaint about somebody, it would be fair if that person were named. And again the President of Tynwald here refers to a complaint he received, but no name is mentioned, and I just think that if somebody is concerned they should have the guts to stand up.

A Member: Hear, hear.

Mr Cannan: Regarding, Mr President, partly in support of the comments of the hon. member for South Douglas, I would like to concur with his final remark, that if people have a complaint they should have the courage of their conviction and the complaint be public when the person complained about has their name brought before the Standing Orders Committee. However, having said that, the basis of this report is on that letter, about which we know nothing, and all I would say is that I hope members of this House will fully support the recommendations in 4.5, that the comments of the hon. member for Onchan, Mr Cannell, were wholly unintentional, a very small indiscretion and Mr Cannell has unreservedly apologised, and I think the sooner this matter is closed the better, sir.

Mr Singer: Could I just also take up that last point, because when Mr President referred the complaint, the hon. Mr Cannell did stand up at that time and ask if he could be given the information as to who had made the complaint, and I seem to remember Mr President saying no, not at that time, but that when the complaint was considered Mr Cannell would be made aware of the complainant. I would ask the hon. member for Rushen, has Mr Cannell been made aware of the complainant and, if not, will he be made aware?

Mr Corkill: I fully support the recommendations in this report, Mr Speaker, but I just wanted to draw one conclusion to add to the deliberations of the committee, and that is that this in my opinion demonstrates the situation of the relationship between the media, broadcasting in this particular situation, and the workings of the parliament. I do believe that there is a need to further examine that relationship in the future because I do believe that we have a concentration of media attention into Question Time, there is a misunderstanding about the workings of parliament within the general public because of that dominant impact of Question Time, and of course there is much more, as we all know, to the workings of parliament, and I do feel that there is a certain amount of frustration building up in other parts of our workings with regard to the relationship between the media and the parliamentary process, and I think that does require further examination in the future.

Mr Quine: Mr Speaker, I have no problem with this report; perhaps that is to be expected as I signed it. But the point I want to make is that I think that the fact that we have entered into an exercise such as this is a complete over-reaction to the situation. My own view is that this is a matter which, having been brought to the attention of a presiding officer, could have warranted either a quiet word with the individual who had transgressed or perhaps, more to the point, a general reminder in terms of how a particular standing order should apply. But that we should have entered into this exercise on a matter of this, I think, is a bit of an overkill.

Mrs Crowe: I totally agree with the last hon. member to speak. I agree with the conclusions of the report, but I would have thought that, rather than entering into a public flogging of a relatively new member of this House, the complainant, presumably a senior member of this House, could have taken Mr Cannell to one side to have explained that perhaps at some times he should be a little more cautious with the press. However, reading

the full report of the interview I really cannot see any points in there that would point to the fact that he had mentioned any deliberations of the committee; they seem to be personal views that he has made to the interviewer, and I support the conclusions of the report.

Mr Brown: Mr Speaker, I am really brought to my feet by the remarks from the hon. member for Ayre, because I think it is important to be clear on why we are here. Whether or not we like it, we have standing orders and, if a complaint, or what may be deemed a complaint is made to the President of Tynwald, under standing orders he has no choice but to refer it to the Standing Orders Committee of the House of Keys. It is then a matter for the Standing Orders Committee of the House of Keys to report on a public matter to this House, and that is the procedure that has been undertaken. These matters are of importance to the public. Whether or not we all agree or disagree with the lines where they are drawn is a matter that is in the control of this House anyway. I would say, for any member who is a Member of the House of Keys or a member of Tynwald, a matter of privilege is a very important issue for this House and its members individually, and we all individually play a role in that in terms of what we may perceive as being a concern over an issue that has been raised.

I think the report has been quite specific; I hope it has been fair. It said to the hon. member and it said to the House quite clearly in the issue that was raised and read out by the mover of this, in 4.2; it is quite clear, the report that has come back from the House of Keys committee. It has recognised, because we are all politicians, that there are occasions where we need to promote the work of the parliament, and I think the terminology in there, where the committee - and I am a member of the Standing Orders Committee - has made it clear that we feel it was indiscreet. I think that is making it clear that this issue was very narrow in terms of where you draw the line. And all the time, unless there is a blatant disregard for the privileges that members have - because the privileges we have are considerable in terms of our positions - it is important that the Standing Orders Committee clearly identifies for members through a report what has gone on, and, as I say, the reason I came to my feet was quite clear: because whilst members may feel the issue seems to have been highlighted too greatly, there is likely to be public interest anyway in the issue because it is about a member who has said something and therefore the public is saying, 'Well, why can't he say it?' and I hope the report has now clarified that for members; I think the other thing is that Mr President had no option but to refer the matter, under our standing orders, to the Standing Orders Committee of the House of Keys who themselves then have no option but to report to this House as is their duty, and it is then a matter for the House whether or not it accepts the report of the House which is before it. I hope they do, because I think the report is fair and reasonable, identifies the issue and then says no further action should be taken.

Mr Rodan: Mr Speaker, I think it has been quite a useful exercise having this report. What is said in it, I think, is of some value to all of us as politicians because all of us manage in our own way our relationships with the media and try, I know, to do so within the bounds of the roles and the bounds of convention. I think the point that is made in here is that it is striking that balance between the public interest and the right of the public to know what is going on and what we do in their name on the one hand, and on the other hand the conventions and the formalities that should be observed in order to respect the traditions, indeed the privileges, of this House.

I wish just to clarify the basis for my own concern about what led up to producing this report, which prompted me to table a question in Tynwald Court to the chairman of the select committee, the subject of this inquiry. My concern was the fact that, as far as I am aware, a select committee of Tynwald is an important process for carrying out an impartial inquiry into a situation. That committee conducts its work as an unbiased examination of a situation by taking evidence both written and oral and forming a view of that evidence, then coming forward with recommendations for something to happen, or indeed something not to happen. My concern with this particular committee and what was said on the radio was the fact that I was aware that no evidence had been invited from the public or from myself as a member of Tynwald, and I was therefore very surprised to hear the chairman of the committee on radio acknowledge that a consensus of view was emerging on the part of the committee, this before evidence had been given in public. This, to me, was quite surprising and warranted the question to the chairman, really to clarify that situation and the form the question took as to whether it was appropriate to comment in public.

I have to say my concern was less with the comment in public than the fact that what was said, which this Standing Orders Committee considers to be an indiscretion - the way I heard it and interpreted it was rather more than that; I felt that the process of that select committee's impartial inquiry was actually prejudiced about what was said. Now, that might be an over-reaction on my part but, nonetheless, it was a reaction which prompted me to table the question. The Standing Orders Committee considers it no more than indiscreet in the observations and I am quite happy to accept that. I am quite happy to acknowledge that the Standing Orders Committee of five persons, I think, has considered the matter fully and I am quite willing to abide by their judgement.

I would say that, knowing the hon. member for Onchan as I do, I have no doubt at all that his motivation was born purely out of enthusiasm for his politics, born out of great energy which actually I admire to that which he has brought to political issues, and I am quite content that there was no malice intended or deliberate breach. I am quite happy to accept that, and what resulted was in fact a very enthusiastic approach to a subject over which he feels strongly and over which I feel strongly, so on that basis I am quite content that the hon. member for Onchan, while he has been through an unpleasant experience which could easily have happened to any one of us. . . I am surprised I have not breached the rules - maybe I have, but I certainly have not been criticised as publicly. I realise I played a part in that criticism by tabling a question, but I felt that was a fair question to ask, but I certainly will be supporting the Standing Orders Committee report and welcome the reasonable way in which they have addressed this particular subject.

The Speaker: I call upon Sir Miles to reply. One moment - the hon. member Mr Henderson.

Mr Henderson: Sorry, Mr Speaker, yes, I was indicating. I just have a few short words in this debate. I too feel quite strongly about this. If there have been transgressions, then yes, they need to be examined in some form or another. If there was ever a case of cracking a nut with a sledgehammer this surely has got to be it, and in my opinion it is launching a battleship to sink a rowing boat. I am astonished, really, in some ways because if whoever made the complaint was that concerned, I feel a quiet word or a briefing in a private room (**Mr**

Houghton: Hear, hear.) would have had the proper effect and guidance that is required for new members.

What concerns me here too is that in going down this process, if we have new members who are enthusiastic, motivated and willing to put the hours in et cetera, to me this would seem one of the most demotivating ways in undermining a new member's energies and causing him to be super-cautious in the future and very reflective upon any actions in some ways, so I think maybe it has gone a little bit too far the other way in those respects, and I feel I have to concur with the comments earlier, that a quiet word would have been all that would have been necessary rather than now have our public debate.

I feel also that perhaps it does beg an examination of the systems that we do have in place at the minute for a variety of things, including the induction of new members to this hon. House and another place. I know we receive our standing orders and get some guidance, but one does feel at times set loose in a boat and you can either sink or swim some days depending on what information you can pick up. So I see it is important maybe that we look at those parts of the systems for information to members as well, and if there are things that are important, perhaps they need to be better highlighted to help assist this situation in the future or other situations that the Standing Orders Committee or other committees feel that members ought to be aware of and in the forefront of their files of work. Thank you, Mr Speaker.

Mr Braidwood: Mr Speaker, just being drawn to my feet. Hindsight is a wonderful thing. Yes, it might have been an alternative to have a quiet word but, as the hon. member for Castletown has said, the President had no alternative. Once he received a complaint, procedures had to be put in place. I can go along with the recommendations of the Standing Orders Committee and I think two points which have been raised in 3.3 give some of the members clarification, because some members have been criticised previously for going on the radio, for saying we are putting this question down to a particular minister, and I think 3.3(i) and (ii) clarifies the position that once the question paper is out in the public domain, then they can speak on the radio. I think that is a very important point and is a clear clarification to the members in this hon. House and also in the other place.

The Speaker: Sir Miles to reply.

Sir Miles Walker: Thank you, Mr Speaker, and perhaps I could start by thanking those members who have made a contribution. In fact, it has been quite an interesting debate and I guess it underlines the fact that we are all learning all the time. As I say, I found the debate interesting and I thank members for their contribution. Perhaps the best way for me to respond is in fact to go through the comments of the hon. members and try and pick out some of the points that have been made.

The hon. member for South Douglas, Mr Cretney was first on his feet and he made comment on paragraph 3.3 in the report which we put some detail into, thinking it would be helpful, and I am sure it will be now a fact of reference for hon. members, or at least I hope that will be the case. The hon. member, quite rightly, I think, pointed out the damage that could be done by a question being asked, and that publicity be given to the asking of that question, in some circumstances and the respondent not having an opportunity to reply. I have to say that is a matter for, I think, the individual and the circumstances of the time. Now, there is no doubt at all under the guidelines and under what we have discovered during the course of this

issue that it would prima face a breach of privilege. Nevertheless, if damage is being caused and it is important to an individual hon. member, then that is the balance that he has to come to in considering whether he should respond or, probably more important, how he should respond and in what way, because we all know, don't we, there are more ways of skinning a cat than one. So very often it is possible to clarify issues in another way - and that would probably bring the inspector of the Department of Agriculture down on me! (*Laughter and interjections*)

The hon. member for South Douglas also brought attention to paragraph 3.3 (iv) and said, and again quite rightly, that if these are all the matters that the chairman of the committee can be referred to in the public domain before report, it is all pretty dry stuff. Well, he may be right, but so be it. I think, taking the point made by the hon. member a little bit further, if members of a select committee wish a certain emphasis to be put on part of their proceedings or wish to have some of that discussion brought out into the public, the way to do it is in fact to present an interim report either to this House or to Tynwald and allow an organised discussion of issues that might be of interest.

He also asked - I think it was the hon. member who asked first - who made the complaint, and that was followed up, I think, by Mr Cannan and by Mr Singer and a number of members. I can say to hon. members from a personal point of view that when I read the letter I did not read it as a complaint. It simply asked for observations on the situation that was happening. Now, it was the hon. member for Peel, Mrs Hannan, that wrote the letter to Mr President, and Mr President, I think, like all presiding officers, from time to time has to exercise his discretion in how to deal with an issue, and I have to say I did not read it as a complaint; I do not think other members of the committee read it as a complaint. Mr President obviously did and responded in that way. I think he would have been just as correct in responding privately to the hon. member and giving his observations or in fact suggestion that she speak to the mover of the resolution. That would have been just as in order if Mr Speaker had responded in that way. However, Mr President did not do that; he did as standing orders suggest he should do with a complaint, and that is not to put it to the Standing Orders Committee but to put it to the branch, to the House of Keys. That he did. I think that also responds to the point made by Mr Cannan and Mr Singer.

Mr Corkill raised an interesting point, that is the relationship between the media and members, and the broadcasting of Question Time and not broadcasting other parts of the proceedings of Tynwald which are just as or more important than Question Time. I can respond, I hope, positively to that comment by informing this hon. House - and members may know - that this matter is in fact under consideration by the Tynwald Management Committee at this time, and I think their deliberations are proceeding and I hope will be reaching a conclusion shortly.

Mr Quine just made the comment that he thought there was an overreaction and I can understand that point of view, but I did find it interesting just to find out what we were talking about when we were talking about breach of privilege, because it was one of those things that I have just accepted, I think, for the last 24 years and have not really thought about. What is the privilege that is being breached? Just the first sentence of Erskine May's chapter 5 concerning what constitutes a privilege - I hope members find this interesting - 'Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent

part of the High Court of Parliament' - obviously Tynwald in our case - 'and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals.' So it is pretty important stuff for the workings of parliament and for members. So that is what constitutes privilege and it goes on, obviously, with much more explanation. And it is a matter for the individual to say whether or not in this particular case there was an over reaction or not, but I think the principle of privilege and breaching that privilege is pretty important, and that is why we thought it would be of assistance to members to write out paragraph 3.3 as we have in full, and I hope it will become a source of reference for new members, perhaps responding to the point raised by Mr Henderson.

Mr Rodan just explained his own personal situation and the reason why he raised the issue in a Tynwald question.

Mr Henderson made the point that this situation could be 'demotivating', I think was the word he used, and I hope that the Standing Orders Committee wrote this report with a clear understanding of that and not wishing to demotivate anybody. That was, I think, the underlying sense of our consideration of this matter. The Secretary of the House, Professor StJohn Bates, tells me that he has made note of this particular issue and when we do have inductions for new members it is something their attention will be drawn to. So I hope that that will be useful.

Mr Braidwood just made the point that procedures need to be followed. I agree with that point, but I do believe, as I know others do, that a certain amount of discretion is required on behalf of every presiding officer from time to time.

So I hope we have dealt with that matter. I hope I have clarified the situation as regarding Mr Cannell. I hope I have clarified the situation concerning Mrs Hannan who wrote the letter to Mr President, and I beg to move, sir.

The Speaker: Hon. members, the motion is that printed at item 2 on your supplementary agenda paper that the first report of the Standing Orders Committee for 1999/2000 be received and its recommendation approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, I think the House has dealt correctly and sensitively with a difficult matter this morning, and I think it is to the credit of the House that it has dealt with it so speedily.

Hon. members, that draws us to the conclusion of our order paper for today and the House will now stand adjourned until Tuesday next in Tynwald Court at 10.30.

The House adjourned at 11.35 a.m.