

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Wednesday, 24th January 2001
at 2.30 p.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael) and the Acting Speaker (Hon J A Brown) (Castletown); Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); 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 D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc) and Mrs P M Crowe and Mr J Rimington (Rushen); with Mr T A Bawden, Acting Secretary of the House.

The Chaplain took the prayers.

Apologies for Absence

The Speaker: Hon. members, I have apologies from the hon. member for Middle, Mr David North.

**Tynwald Management Committee — Discharge of Members —
Resignation of the Clerk of Tynwald — Amended Motion Carried**

The Speaker: Now, you recall that last night we had an adjournment debate on the motion presented by the hon. member for Douglas East, and to refresh your memories, the motion was: 'That the hon. member for Glenfaba and the hon. member for Peel be discharged from service on the Tynwald Management Committee and two members be now elected to serve in their place.' Mr Braidwood has moved the motion. The motion was not actually seconded before the adjournment debate began. Is nobody seconding the motion?

Mr Quine: Yes, I will certainly second it, Mr Speaker, and indeed, seeing as there are so many people wishing to be shy here today, at least at this point in time, I will certainly speak to it.

The first thing I would like to do, Mr Speaker, is reflect on how we have arrived at this situation, and I must say that these two pieces of correspondence which I have received from the Tynwald Management Committee I find quite offensive in parts, and I certainly feel that some of that correspondence oversteps the mark and overstates the case. I would like to deal with that first, sir.

I think it has been known now for some time that a considerable number of members of this house have been unhappy about the actions of the Tynwald Management Committee in relation to what has happened with regard to these recent personnel issues. I think also that the strength of feeling has been made known to the Tynwald Management Committee on at least two if not three occasions through a face-to-face meeting with some of the Tynwald Management Committee. The response that we have got has been twofold: on the one hand the response has been, 'Well, we've done everything right - not our fault. All of this has come about through the actions of Professor Bates,' which we will now have a chance to

examine today. And the second response is, 'Members of the Keys, do please remember your place.' It is not for us to question these high-powered individuals that sit on the Tynwald Management Committee. Not only is it not our place, but some of the wording that is here, I would suggest, Mr Speaker, is tantamount to trying to intimidate the members of this House into not contesting the issue.

Two pieces of correspondence refer to us as being in breach of privilege! In the short interjections from the hon. member for Peel yesterday evening, she protested the need to protect her rights of privilege, quite rightly so, but I certainly do not see why members of the Keys, who have the greatest interest in the product of the work of the Tynwald Management Committee, should not be allowed to contest those decisions.

Again, today we have a letter, sir, from no less a person than Mr President. I am not quite sure how Mr President comes into the picture vis-à-vis the current debate. To my knowledge he is not the Chairman of the Tynwald Management Committee, and again we are getting this same line: 'We know best. Father knows best. You eat what is put in front of you. You may not contest these decisions.'

So I must say straightaway that I certainly take offence at some of the contents that is contained in these two letters and, to put it mildly, they are certainly not couched in terms which could be viewed as seeking to find a solution to the present problems. They are couched in terms of 'We have decided. You will accept.' I for one do not accept.

Mr Speaker, I am conscious that there will be a number of contributions wishing to be made here today. The position as I understand it, having been present at two briefings and having had the sight of some correspondence that was sent to me, I think is relatively straightforward. I say 'relatively' because I do not know how much of the whole has been disclosed to us.

It was known for some time that a vacancy was going to arise as a consequence of Mr Bawden's retirement. It has been mooted in the corridors of power that proposals were being considered to restructure the Tynwald office, a restructuring that is badly needed because, although it may be that members of government through their governmental positions have access to support, I do not see that the same support is available to those who are not in that position. So it was known for some time that a vacancy was going to become available and that there was a question over the structure of the Tynwald office to enable it to provide the support that the members, certainly the members of the Keys, require - I cannot speak for the members of the Council. So that, to me, is the starting point.

It flows from that that any logical and sensible approach was therefore one to look at taking necessary decisions on the structure before you decided to recruit and fill posts. To recruit and fill posts against what I understand is a situation of flux vis-à-vis structure to my way of thinking makes no sense whatsoever. I have this very strong feeling that had the base been laid properly in terms of the structure of the Tynwald office and the posts required within that office, we would perhaps not have got ourselves into this situation.

Then the exercise was, notwithstanding that backdrop, entered into by the Tynwald Management Committee. Now, my understanding is that we, along with our colleagues in the other place, determine who sits on that Tynwald Management Committee and who takes decisions in this matter, but I am advised that for this exercise the Tynwald Management

Committee took it upon itself to enhance its membership by having the services of a member of Council, and not only having the services of the member of Council but giving that seconded, if you wish to use the term, member of Council the rights of a fully-fledged voting member of the Tynwald Management Committee. The question must therefore be asked as to whether the Tynwald Management Committee, when it sat to deliberate on these issues and to take these decisions, was properly constituted and whether the procedures were valid procedures.

Moving on from there sir, in its lead-up procedure to seeking to fill this post, we then had a job description for the applicant which was quite specific and that required applicants or candidates for this post to have certain qualifications. One of those qualifications was to have a degree. Yet somehow we ended up with a shortlist of candidates in respect of which at least one did not have a degree. I would suggest that if you start out with a job description, you invite applications for that description publicly and you specify qualifications for that then you have got to go through on that basis. If you are not going to do that, you should be readvertising the post because you are into a different ball game (**A Member:** Hear, hear.). But that is not what happened. Having advertised against stated specifications at their say-so, assisted by this seconded member, they decided that they were going to vary the specification, never mind the natural justice, never mind that there might be other candidates out there equally well qualified as the one that was on the list who did not have the degree; they were not going to be considered. So that is another aspect in respect of which I shall be listening with great care to see what explanation is offered.

So we then went through a process, of which I am not privy to all the details, where at the end of the day the candidates who met the specification were discarded and the one in-house candidate who did not meet the specification was appointed. Then, of course, we are told that appointment was made and then when questions began to be asked we were told, 'Well, don't blame us, this is a matter that falls fairly and squarely on the shoulder of Professor Bates. He was the one that decided to tender his resignation.' That is not the whole story. As I understand it, Professor Bates raised with at least one member of the Tynwald Management Committee the question that this restructuring should be put in place and that he should get the long overdue, qualified support that he requested and what was needed and which it was transparently obvious to many of us was needed. That position was made known to at least one member of the Tynwald Management Committee. Surprise, surprise then, that when the outcome of this exercise is completed and we have a person appointed who does not meet the job specification, does not provide the obvious level and quality of support - and I say that with great deference to the person that has been appointed - Professor Bates is greatly upset. He has had to go along for a considerable period of time already, shouldering a load because he has not had the support that he needed, and now we have been put in a situation where all that was held in prospect for him by way of support for the future was essentially the status quo.

Now, there was some to and froing, some exchange of correspondence and I do not wish to enter into that, but to suggest that this was a voluntary action of Professor Bates to say, 'I am resigning' is not the truth according to the facts that we have been given. It certainly is not. The culmination of acts and events which led to him saying, 'I am resigning', I would suggest - if they were being judged against an employment tribunal they would be thinking in terms of constructive dismissal. (**Some Members:** Shame!)

Mr Speaker, there was every effort made over the last two weeks to try to find a solution without this public spectacle with which we are confronted today, but in truth there was no attempt made to try to meet the members halfway in this matter. They went through motions and there were delaying tactics but no sincere attempt to find a solution to this problem. The position, as far as I can see, was redeemable; I believe it is still redeemable, but there is no wish whatsoever on the part of the Tynwald Management Committee to seek that solution. They are the Tynwald Management Committee; 'We are the elders. This is our decision; you live with it.' It could have been resolved and it was not resolved. As a consequence, what option have we as Members of the House of Keys had other than to bring this matter forward for debate in this public arena? It should have been avoided, could have been avoided, but we have been led into this scenario.

Mr Speaker, my interest rests on having available to me, as I am sure to other members of the House of Keys, a Tynwald Management Committee that is structured and has the quality of staff to provide us with the support we need to discharge our functions. I accept we are not a large legislature. I accept we cannot have all the support and research staff that are dedicated to individuals in other parliaments, but we are entitled to be adequately served, to have competent staff service our needs, and there was available to us in the form of Professor Bates precisely that: a Clerk of Tynwald with exceptional legal qualifications, exceptional experience - European, international - and it was, I would hope, recognised or should have been, by the Tynwald Management Committee, that the retention of that service to the members was a matter of vital importance (**A Member:** Hear, hear.). I am not expressing just a personal view here; people, commentators outside the political arena (**Mr Houghton:** Yes.) have been in the media making exactly that point.

Now what situation are we in? Well, if we cannot even at this late stage redeem that position and retain the services of Professor Bates, what are we into then? We are into another period of uncertainty, we are into a period where we are going to be getting new people into the Tynwald office and that is not going to serve the members of this House and it is not going to serve the public, because it is the public that we are working for, we are not working for ourselves, and we need that high quality and level of support if we are to discharge our responsibilities to the public. That has been taken away from us and, as far as I am concerned, taken away from us for no good reason.

I believe that the only way forward is as intimated in the motion put forward by the hon. member for East Douglas, Mr Braidwood, and that is that we have to reconstitute to a large extent the Tynwald Management Committee membership and hopefully by that action we can urgently have a fresh look at the whether this position is redeemable. I do not think it is tenable now to ask the Tynwald Management Committee as presently constituted to carry out that exercise and look at this situation. I think they have really burnt their bridges as far as this is concerned, and I am not pointing a finger at any individual members of the committee; I am talking now about the committee in its entirety. But the fact remains, of course, that two of the members of that committee are ex-officio appointments and there is nothing we can do about them - at least, I am not aware of anything we can do about them - and three are not; three are elected. But I believe the only way forward for us now: we have reached this point, there is no backtracking. We either have to accept what we are heading towards if we stay with the present Tynwald Management Committee, and that is a second-class service

to members and a second-class service to the general public, or we bite the bullet, make the changes and let us have an honest look at whether or not this position is retrievable.

Mr Speaker, in terms of the motion which is now on the floor, I do feel to some extent that falls short, because at least I would have thought that all those members who are not members of the Tynwald Management Committee ex officio should be put to the test here today by way of this motion. I understand that there will in fact be an amendment moved to that effect but, whether it is or not, I think it is essential that we do get an amended motion which gets this foundation by way of the motion correctly worded.

I think that is all I need to say on this matter. I look forward with great interest to the contribution of other members. Thank you very much, sir.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I believe that we should always try to be in open government as much as possible, but I believe today that this House should deal with the staffing matters of this House internally. We are in public life and we have no rights to privacy but our staff do. I find that my colleague, who is a senior member of this hon. House, has managed to identify an individual who is an innocent party in this as far as I am concerned. I put in my letter, before the New Year what I felt about the management committee and I believe that should have been done in a sensible way, not in some sort of public pantomime way that this situation seems to be reduced to.

I believe that we will not have anything redeemable if we allow this debate to carry on in this House for the titillation of the media. We want this thing to be resolved and sometimes in life you have to do things that might not be popular but are right. I believe it may not be popular moving into private, but I believe it is right that it should be moved into private, because I believe that before anything should be done this House should fully know the facts behind this case, and I believe that it is wrong that staffing matters identifying individual people become a political football in other political games that are going on in this House at the present time.

Vainstyr Loayreyder, I move:

That this House do now adjourn to sit in private.

I know that it is not popular but I believe it is only right and fair for our staff that are up there in our office servicing us. I believe that if the hon. member for Ayre has anything which could make this situation redeemable, then we should be debating this issue and sorting out what did happen, a proper post mortem in this House regarding our officers. Our staff are not public footballs and I believe that this is what we should be doing at the present time. I hope this hon. House will support this being moved into private. I believe it is the only right, decent and proper way to resolve this issue. I beg to move.

The Speaker: Hon. members, I now have an adjournment motion put by the hon. member for Onchan that this House adjourn into private. Is there a seconder?

Mrs Crowe: I would be pleased to second that, Mr Speaker -

The Speaker: We are now, then, in an adjournment motion that we go into private and there is a five-minute timescale, and the motion is adjournment, not the main debate.

Mrs Crowe: I agree with the sentiments expressed by the hon. member for Onchan, Mr Karran. I think it is most unfortunate that trusted members of staff who cannot come into this House to defend themselves should be publicly pilloried in the way that has gone on. I do believe it is too late. I think that it is now in the public arena, but I think any further discussion of this matter should be in confidence, as indeed it was meant to be before it was leaked to the media. I do feel that the members of staff involved have been placed in a most unfortunate position, and that is all the members of the Clerk of Tynwald's office.

The Speaker: Member for Glenfaba.

Mr Gilbey: Mr Speaker, for once I am afraid I disagree with my very good friend, the hon. member for Rushen, Mrs Crowe. The fact of the case is that unfortunately the resolution is not about members of staff. Had it been, I would have totally agreed with her. But I regret to say the motion is 'that the hon. member for Glenfaba and the hon. member for Peel be discharged from the service on the Tynwald Management Committee and two members be now elected to save in their place.

I have been in this hon. Court, I think, nearly 18 years and I have never such a thing to happen before. Perhaps longer-serving members can confirm that I am right but, as this is in respect of us, we were appointed in public and I think we have an absolute right in due course to express our views on this motion regarding ourselves. I very much regret it. I think we would have been much better if, as offered by the Tynwald Management Committee, there had been a private meeting tomorrow lunchtime at which the whole situation could have been discussed and explained. But, as some hon. members have seen fit to make this highly public, I think in fairness, as the motion is about us and not members of the staff, it should be debated in public.

Several Members: Hear, hear.

The Speaker: The member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. If you appoint in public, I believe you should dismiss in public. (**Members:** Hear, hear.) I was appointed by this House to do this particular job. It is only a job. It is only to carry out the management of Tynwald. It is joint committee and people have been very scathing, especially the member for Ayre, about the responses that members have received and 'Why was the President of Tynwald writing letters?' He is a member of the committee (**A Member:** Hear, hear.) and another two members of the committee are being threatened by this House, and the member for Ayre suggests that he has never received letters like this. Well, I can honestly say that I have never received threats like I have received (**A Member:** Hear, hear.) because I would not constructively dismiss a member that has been appointed. We did not constructively dismiss anyone. The demands that were being made on us were that we constructively dismiss someone to fulfil the wishes of a number of members of this House. You appointed me in public and you can hang me in public.

Several Members: Hear, hear.

The Speaker: Member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. I wholeheartedly agree with the sentiments of the hon. member for Onchan. I am sure I am not alone when I say that this is an extremely regrettable

day for the government of the Isle of Man, that the national parliament has to be recalled especially to discuss a staff matter. (*Interjection*) It is developing into that. I agree entirely that it is unfortunate that members of staff are identified in these proceedings, but I would also take the point of the previous two speakers that the genie is now out of the bottle whether we like it or not. Ideally this should have been kept in private. It ought to have been a fairly straightforward matter which could have been resolved behind closed doors without embarrassment to anyone, least of all the standing of the national government of the Isle of Man. Nevertheless, Mr Speaker, allegations have been made against two members of our Court in public and I think it is most important that those individuals at least are given the right to defend themselves and put forward their arguments in public as well so that the equation is balanced, because otherwise we are going to find ourselves with half a story gone out yesterday and the other half of the story perhaps leaking out in an inaccurate manner. So I think we owe it to the people of the Isle of Man, now that this issue has been out onto the floor of this hon. House, to continue to debate this in public.

The Speaker: Hon. member for Onchan to you wish to reply to the comments?

Mr Karran: Yes, Vainstyr Loayreyder. I thank the hon. member for seconding. The hon. member for Glenfaba - I think the point of his sacking is not the key issue of this debate. If it was then that would be all right, but in order for members to be able to defend themselves, obviously information about the staffing arrangements is going to have to be brought out into this debate. I think that is wrong, Vainstyr Loayreyder.

As I said at half past five last night and then an hour later, we had to do it. It is the only way we are going to have a logical debate about the true dissection of how we have got ourselves into this position. I believe this House should be 110 per cent informed about the whole fiasco, and for us to get that 110 per cent fiasco I fear we are going to be denied it or, if we are allowed all the information, what we are going to end up with is a situation where people outside this House who have no right to defend themselves are going to be pilloried in public. I think that is wrong. It has already happened, and I believe - (*Interjection*) But they are pilloried now. They are in the papers at the moment. I believe that the hon. member for Glenfaba is wrong with his idea that this purely going to be about sacking him and the hon. member for Peel, because it is not (*Interjection*). It will be about all the details, and obviously he has to defend himself, and to defend himself he will have to give all the information about interviews and things like this and I think that should not be out for the titillation of the general public. I think those people have a right, and the same with Mrs Hannan. It is all very well saying, 'I was elected, appointed in public and I'll be sacked in public.' All well and good, I am happy to do so, but I do not believe that other parties who are involved in this and who are innocent in this situation will have to have their details dragged out in this public forum today. I sympathise an awful lot with what the hon. member for Ramsey said in that it is about the damage limitation of this House, apart from the staff.

I believe this House is wrong if it does not support this going into private, because I believe it is going to be very difficult for the decent, hon. members in this House to be able to put out a clear, honest factual account without causing problems for third parties outside this House who have neither a voice in this House nor a right of recall to this House, and I believe that is wrong. It may not be proved outside this House, but I am in here to do what is

right, not what is popular. I hope, Vainstyr Loayreyder, all the members in this House will do what is right not what is popular. I beg to move.

The Speaker: Hon. members, hon. members the motion is that the House do sit in private. All those in favour say aye; against no. The noes have it.

A division was called for and voting resulted as follows:

For: Mrs Crowe, Messrs Rimmington and Karran - 3

Against: Messrs Gilbey, Quine, Rodan, Sir Miles Walker, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Speaker - 19

The Speaker: Hon. members, the motion fails to carry in the House, 3 votes in favour, 19 votes against. Hon. member for Onchan, do you wish to continue?

Mr Karran: Yes, Vainstyr Loayreyder, to the same motion. I believe then, if we are to have this situation, where I believe we are not going to get a satisfactory situation because the trenches are already built and there are already people in the different trenches. The next think I would like to see is an amendment to the original motion. As I said last night in this hon. House, I do not see how you can have a situation where you have two members of this House that are represented on this committee and not a third member, and I believe that there should be a movement as far as three members are concerned. It should be on that basis. I think it is incredible that it has been allowed and one wonders about the number of agendas that are about at the present time as far as this is concerned.

Vainstyr Loayreyder, I hope, as it is going to be in public, that the members will be able to get all the information on this sad affair. I wrote about this issue some time ago and I believe that it is important that we do have an amendment to vote on the three members en bloc - not on individuals, so that we can have personalities come on it. The three representatives were on that committee together representing the interests of this House; some voted with the majority of this House and some voted against what the majority of this House agreed to today, but they sat on that committee en bloc. The clerk prefers an amendment that the three members who represent this House that are not ex officio should be voted on en bloc on whether they should all be sacked or not at the end of this debate, Vainstyr Loayreyder, and I beg to move.

The Speaker: So you have put the amendment, if I am correct. Will you arrange to have it written and circulated, hon. member? Sir Miles Walker.

Sir Miles Walker: Could I ask on a point of order, Mr Speaker?

The Speaker: Yes.

Sir Miles Walker: The point of order is this: it has been stated that the Speaker of the House of Keys is ex officio a member of this committee and I think it has also been stated that he is also ex officio the chairman. I wonder, Mr Speaker, if you could point me to the standing order which identifies that situation?

The Speaker: I am taking advice, hon. member, and I understand that my appointment. . . Are you asking on the constitution of the committee, sir?

Sir Miles Walker: I am trying to clarify in my own mind, Mr Speaker, how it can be moved by a member of this House that all the Keys members on the management committee, which includes yourself as Speaker of the House of Keys, can all be asked to resign together, and if it is a matter of standing orders, it seems to me that perhaps the suspension of standing orders would be appropriate. If it is a fact that the Speaker of the House of Keys is chairman of the management committee by resolution of this House, then presumably a resolution of this House can overcome that situation. So what I am trying to get at is that, if there was an amendment moved to the resolution that the three elected Keys members and Mr Speaker be discharged from their responsibilities, that resolution would overcome the former one, which states that the Speaker of the House of Keys shall be chairman ex officio.

The Speaker: The resolution - and I am arranging for a copy to be distributed - states that it was a Tynwald resolution in 1979 that stated that the Tynwald Management Committee should consist of the Speaker of the House of Keys, the presiding officer of the Legislative Council who should be ex officio, and three members elected by the House of Keys. So the Speaker of the House of Keys is not elected by the House of Keys, it was a resolution of Tynwald in 1979.

Mr Cretney: In 1989.

The Speaker: Hon. member, I now have a copy of the House of Keys of Tuesday, 31st October 1989: 'Whereas - (a) by resolution of the Council and Keys in May 1976 a committee was constituted to manage the affairs of the secretariat of Tynwald; and (b) on 12th July 1989 Tynwald requested the Branches to alter the membership of the Tynwald Management Committee to: the Speaker of the House of Keys (Chairman), the President of the Legislative Council and three members of the House of Keys, chosen by the House of Keys. Therefore, in accordance with Standing Order 199(3) of the Standing Orders of Tynwald, this House resolves that - (i) the constitution of the Management Committee should be altered accordingly; (ii) the quorum be one member of the Council and two members of the House of Keys; and (iii) a message be sent forthwith to the other Branch of Tynwald informing it of this resolution and desiring its concurrence hereto.'

Sir Miles Walker: Thank you, Mr Speaker, that clarifies the issue as far as I am concerned. I could remember the House of Keys involvement and I was seeking the House of Keys resolution, sir, but it is obviously under Tynwald authority.

The Speaker: Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. I do not think that I am very good at this politics game. I would have thought that there was a way out of this today which I hoped would have been forthcoming and it is still not inconceivable, but it does not look as if it is going to be the way forward.

One of the comments from the member for Onchan, Mr Karran, was that people were in trenches. I believe that in the last number of weeks all of us in this chamber have attempted to find out how this issue can be resolved. I said to a colleague earlier today that if they thought that at the end of today's debate we would be given facts, we would be left with an understanding of what actually took place, I think that is going to be a great disappointment. I do not believe that, if we are until six o'clock this evening, there is going to be that much new

information or factual information which is going to change people's views. (**A Member:** Hear, hear.) Following an obvious expression in private meetings of disquiet amongst the members of the Keys, following letters exchanged between the House of Keys members and the representatives on the Tynwald Management Committee, I personally would have thought that the way forward would be for those three members of the Keys to resign and put themselves forward, if they chose to, for re-election, therefore allowing the members of the House of Keys to express their own views on their suitability but without going through what is potentially going to happen today: people in their trenches attempting to justify what their interpretation is.

I have a lot of respect for many members in this chamber, but we are politicians. Our interpretation of things will differ. We are not going to all see the same set of circumstances in exactly the same light. Our priorities on any given number of issues will differ. All we are aware of is certain facts which have been disclosed and a number of members of the House would like to see the situation where the services of Professor Bates could be retained.

Now, I would find it sad if hon. members in this chamber were not aware, as I am, that whatever we determine today and in the weeks and months ahead we have done a major disservice to our staff and there is a potential opportunity for some of those to leave, regardless of what we do now, because the ill feeling between fellow officers within the staff and members towards the officers and members to each other makes it a less pleasant place to work in.

I do not think, whatever we resolve today, we are going to undo the damage that has been caused, but one of the strengths of our parliamentary body in the four years that I have had the privilege of being here is the service and the nature of the people with whom we work in that Tynwald Office, and that has been damaged, possibly irreparably but I do not believe deliberately.

I think that the decisions that have been taken, in good faith or maliciously, we might disagree with. You cannot get a fact for that; that is your prejudice, that is your viewpoint. You will interpret the actions of that committee as each of us sees fit. You cannot prove it. If you do not trust or believe the people on that committee, then you will think the worst. If you believe that they are honourable and decent and did the thing in the best faith, you will agree with them, but no amount of detail this afternoon is going to change your view. I would dearly like to think that if the three members of the Keys on the Tynwald Management Committee could rise above all of this and put themselves forward for resignation, I personally would admire them far more than what we may have to put up with in the next two hours, and I would see it as being a strength rather than any sign of weakness that they have to vindicate what they have done, because you are not going to convince anybody else. My judgement of the actions will not change.

I think the public and the members would be able to see that as a House you either had our support or did not have our support. In the absence of that, I know that I, as a signatory to the letter, will go along with the motion and I will ask for the removal, if that is the only way that I can do it, to try and change the circumstances. It is not personal. We deal with issues so much in this House where we try and say 'Do not take it personally'. This is not a personal attack against two or three members of the Tynwald Management Committee. It is being viewed like that by some people; it is being viewed as taking sides. My view is that if I

am attempting to retain the services of somebody I believe would be better and I am aware of all of the consequential knock-ons that has had on the staff upstairs, if that is my priority and the only way I can advance that is by taking the action that is on the table today, then I will do it. But do not make it personal. That is our choice. We have attempted to deal with this in private; it has not been successful.

I cannot understand how the three members consider that their position is tenable, but that is their decision. I would urge them to consider that as an action. From my point of view, if the debate goes ahead, then I have no expectation that my view will be persuaded and we will listen for hours, as will the public. And it will inevitably involve staff who all of us say we admire, respect and want to minimise damage. The only way, to me, to do that would be to make a decision: resign, put yourself for re-election and allow the members to make their choice and exercise their views. Thank you, Mr Speaker.

The Speaker: Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I was one of the signatories of the original letters that went round. I did this simply to express my view that I wanted to see a way forward for Professor Bates to be like part of our staff again. I did not realise, possibly, that my actions as one of those signatories might lead us to this rather public opportunity to discuss these matters today, and with hindsight I probably regret signing the letter on the last occasion because I did not want to be responsible what I call dirty washing in public which I believe is taking place now.

I have no desire to sack any one of the members of the Tynwald Management Committee because I do not question or doubt their integrity (**Several Members:** Hear, hear.). I believe they have made mistakes, but I do not question or doubt their integrity. Two of the members of that committee represent the collective integrity of this House and the collective integrity of Tynwald Court. The other three members were voted by yourselves in times past when I was not a member of this House.

One of the wonderful things about the Isle of Man is that, besides all the other little bits of mismanagement and mistakes we make all over the place, there are actually no nasty smells around the place; there is no taint of things being done - corruption, brown envelopes, whatever. We do have 24 people with all their individual faults but who are people of integrity, and I would not in any way doubt that the three members who were elected by the Keys acted in a manner which they thought best.

Now, it is fair to say that I think they made mistakes and the ex officio members have made mistakes, and I think it was probably a mistake with hindsight - and it is easy to say 'with hindsight' - that there was an extra member brought onto that committee for the purpose of that selection procedure, but it probably appeared a very reasonable thing to do at the time. Those mistakes have been made, but those are not the only mistakes that have been made. Mistakes have been made possibly with the individual who has become the subject of all this discussion and the reason why all the letters have been flying around. Really, just because you have a highly skilled intellect, when it comes in terms of how you actually behave in particular situations you become just as weak a human being as the rest of us, and indeed the members of the Tynwald Management Committee, for all their strengths and all their faults, are not actually trained or skilled in the job that they were meant

to be doing at that point in time, which was going through, if you like a man-management procedure to appoint a new deputy Clerk. That is quite understandable because they are very busy people; in fact, they are politicians and their diaries are exceptionally busy and they probably do not go on personnel training courses and such like, and with all due respect that is not probably their prime role in life, going through those sorts of procedures, and unfortunately mistakes have been made.

So, in trying to find some sort of way forward, I would like to argue for the position of a third clerk, because I think that is what we need. I do not think we need a public spectacle discussing the ins and outs of what has happened before. I think we need a third clerk, without any strings about going to speak to so and so and if they say yes and all the rest of it. We need a third clerk both in terms of conducting the administrative business of this House and the other Court and the fact that we only have two. What happens, indeed, just from the simple point of view, if one of our two existing officers, whoever they are, breaks a leg or falls under a bus? You are actually caught slightly short. Constitutionally, I think it is important that if this House and Tynwald is going to perform its functions in a viable way you should have a third clerk. If we are going to have committees of the House and they are going to operate and look into matters well and report quickly rather than over long, long periods of time but actually do the job they are meant to do, then you are going to need that back-up.

I have absolutely no problem with the appointment that was made by the Tynwald Management Committee. It is true that it was not possibly to the liking of the existing Clerk. That is well known because of matters not of personality but in terms of qualification for the office. But I respect the decision that the Tynwald Management Committee made in the circumstances that they were in, and I am sure that they have actually appointed somebody who will behave professionally and competently and do a good job for this House. It may not be that the person will bring the qualities that the Professor was looking for and the qualities maybe that the Professor has. But it takes all sorts in an office, in a procedure, and people bring different qualities to those positions.

So I believe there is a need and there is a role for a third person, and the way I have expressed the amendment which is in front of you, and I do not have any seconder - possibly I will not, but who cares? - is that the House calls upon the Tynwald Management Committee to appoint a third clerk of Tynwald - with no strings, not to do it tomorrow, not to do it conditionally upon speaking to so and so and getting there response and all the rest of it. So it could be that you would end up having to appoint two new people; it could be that you would only have to appoint one new person, but that decision on whether it is two or one rests outside of this House and rests with the person who has resigned, and it will be up to him whether he wishes to reconsider his decision. It is not really the position of the Tynwald Management Committee or this House to go begging and scraping. That is a decision that individual will have to take on his own account. I beg to move, sir.

The Speaker: Does nobody else wish to speak? The hon. member for Douglas East.

Mrs Cannell: Mr Speaker, I rise to my feet and I wish to make it absolutely clear, Mr Speaker, that I am not rising to intimate support for or second this present motion. In fact, I do not approve of it. (**A Member:** Hear, hear.)

We are here today, Mr Speaker, because we are discussing what has now become a political issue. We have had the in-house meetings; we have had the private meetings; we have even had a private session of this hon. House to discuss and to wash our dirty linen - that is if it is regarded that we have any, but I do not think we have. And so the issues were made quite clear during those meetings that the majority of the members of this House did not condone the action taken by the Tynwald Management Committee.

In order to express their view more strongly, we had yet another meeting during the lunch-break of Tynwald only last week, and at that meeting we had two of our elected representatives who serve on that management committee at the meeting. At the end of that meeting it was felt, and a motion was put to that meeting, that we would write collectively and express our desire that this management committee look at our requests: (1) to retain the services of the eminent Professor Bates, and (2) to look with some urgency at the restructuring of the Clerk of Tynwald's office.

That letter was signed by 14 individual elected members of the House of Keys. We received a very, very rapid rebuttal the following day - a total rebuttal. We are in a position here where we cannot as a House, instruct or demand anything of the Tynwald Management Committee, and that is right and proper, but we can as elected members in this House make a request of them and we did just that, we made a request, and we also expressed an expectation that the committee would look at the re-structuring as a matter of urgency in order to secure the services of the eminent Professor, his invaluable service for the foreseeable future.

The rebuttal that we received back indicated that the issues that we requested to be looked at were discussed by the full committee and that they agreed to decline both of our requests - well, we made one request and we expressed an expectation. So, as the elected House, as the majority of elected members, are we to sit and merely accept this because the old guard on the Tynwald Management Committee have said, 'Sorry, we're not looking at this. We have made our decision and we will do as we see fit. We'll brush you aside.'?

Fourteen members of this House share a view, and that view is that we cannot afford to let Professor Bates go just like that. Unfortunately, of course, after the resignation was tendered, it was received rather promptly and agreed to, so he is not in a position to be able to withdraw. The ball is not in the court of any member of staff; the ball is in the court of the Tynwald Management Committee, but today the ball is in our court because we have a resolution on the agenda, we have a number of amendments to that and we are discussing our political representation on the Tynwald Management Committee.

I fully thought and expected that those members we elected to serve on that committee represented our views as a collective working House, and that they were there to represent our views, our interests and ensure that we had stability in terms of advice, expertise and service, and I do not think many members here will doubt my word when I say that we are only as good to our constituents as the service providers are to us. (**A Member:** Hear, hear.) If we are lacking in the service provision to us, then equally we will be lacking to the members of the public who we represent, and bearing in mind that we are 24 representing the whole of the Isle of Man, then all of the people potentially could suffer as a consequence of our service provision falling short.

So in recognising this, that is why the letter was so drafted and was supported by a majority of this House, asking the Tynwald Management Committee, 'Please look at this again. See how we can resolve this situation so that we can maintain the services that we have become accustomed to,' and that, I believe, the Isle of Man deserves.

I am not going to rake over the events that lead up to this. The hon. member for Onchan said we need to dissecting how we got into this position. I would consider that as looking at our own navel at this point in time. We have dissected how we have got into this position. We did that in private, and quite rightly so at that time, because it did involve talking about members of staff and about what went on, but there should be no uncertainty in the minds of members; we are all in receipt of papers that were circulated to us by Mr Speaker which describe the events leading up to how we find ourselves today. We do not need to rake that out into the public arena. This is not and should not be a spectacle. We are faced with a practical proposition.

This is not a witch hunt; this is not about personalities; this is about getting and receiving the representation that we as an elected House feel we are entitled to by this committee, not to accept rebuttal. We are entitled to maintain the service that we presently enjoy. I do not believe that anything that we have discussed today or last evening or during our private session constitutes a threat to any member of the Tynwald Management Committee. I have the highest regard and respect for each and every member, both elected and ex officio. We may not always see eye to eye politically, but that is politics; that is the game that we are in. This is about politicking but it should not be about personalities, and I shudder when I hear comments from the hon. member Mr Karran that try to bring it down to gutter level. This is not a gutter issue. We should be regarding it very, very seriously.

The one thing I think we have to be taking seriously is that we are in an election year. There is general election but a very short way away. We have a situation where we have quite a large number of chief executives of various departments coming up to retirement. At the moment there is a wealth of knowledge both within the office of the Clerk of Tynwald and also government departments which spells out stability for the Isle of Man and stable government. Imagine the scenario we will be faced with if not only some of our senior chief executives retire this year but also the most experienced and knowledgeable person who guides us as members and gives us impartial advice with his constitutional background also has gone and is lost.

Mr Cretney: Some of us might go too!

Mrs Cannell: Quite, and the public have got every right to either return us or boot us out (**Members:** Hear, hear.) and so shall that right remain.

Where is the stable government in all of this? That is the other thing that worries me. (*Interjections*) Whenever we are advertising the pros and cons and the advantages of the Isle of Man in all of its glory as a Crown dependency, we always talk about stability. I would suggest that we could be faced with a scenario of instability if we do not take the bull by the horns today, effect change, change for the better. There is the old saying that 'if something is not broke you do not fix it'; well, I would suggest that it is broken now. It is such a great shame when you get the banter and personal attacks when you are trying to be genuine and serious about an issue, which I attempting to be now, as other members who have spoken

here today have shown genuine concern. The hon. member for West Douglas was genuine in his comments today; the hon. member for Rushen, Mr Rimington, was genuine in his comments; the hon. mover is genuine in his attempt to try and resolve the situation, and the hon. member for Ayre is equally as genuine in seconding that motion. (*Mr Cretney interjecting*)

Mr Speaker, I have another amendment. (*Mr Brown interjecting*) I have a lot of respect for many members in here and there are those that I do not care for, but that is life, isn't it? (**A Member:** Hear, hear.) There are those who will work with me and there are those who will not. I will work with anybody for the benefit of the people, no matter what side of the fence they are on.

Mr Speaker, it was mentioned earlier on in debate that it was felt that motion on the agenda as written fell a little short in that it only referred to two elected members and not three, whereas we do have three elected members who represent the House of Keys. So to address that imbalance, I propose to move:

- (1) *the figure (1) be inserted before the words "That the hon member";*
- (2) *delete all words after "Glenfaba" and substitute -*
 - (a) *"hon member for Peel and hon member for Malew and Santon be discharged from service on the Tynwald Management Committee, and that their discharge be voted on separately; and*
 - (b) *other members now be elected to serve on the Tynwald Management Committee in the place of those discharged."*

To my mind, that will address the imbalance which apparently we are faced with at the moment. It also provides an opportunity for members to vote on the three representatives individually. Some members may feel that one of those members has represented their views. Equally they may not, but what it does is give members flexibility. It addresses the balance because it includes all three elected members from this House and it provides the opportunity to be able to vote separately. I believe that members should be afforded that flexibility.

I hope it gets seconded. I hope that we do not fall into the gutter with the debate that will ensue and that we will be positive in our deliberations today so that we will come out here with a clear way forward that is going to maintain the stability of the Isle of Man, maintain the level of services that we have become accustomed to and that our people deserve. I beg to move, sir.

Mr Brown: I will second the amendment, sir.

The Speaker: Thank you. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. In rising to speak I think there has been quite a lot said during the last hour and twenty minutes for me to respond to in some detail.

I am concerned by the three main members who have spoken on this. The member for Ayre suggested that, in relation to the response that had been received by members, that it was high-handed and did not approach the issue in a very straightforward way. I would suggest that the way that it was put to us as members, both in meetings and faxed and by

letter, was also very straightforward and we responded to it in a very straightforward way. When it comes down to it, it was not the Clerk or the person clerking our meetings that signed these letters as is usual, but the chair in each individual response signed the letters, except the last one when we all signed it except the chair because he was not available to meet following the last demand made on members; that was just on Monday, when we responded before 4.00, as was demanded of that latest fax and letter. So if you put a demand in that way, you will get a response in that way, and I believe that the committee was straightforward in responding straight down the line to the demands that were being made.

The member then went on to say that he was sure that the committee had worked quite well during that year and the four years that we have been in being. I can tell you that that member did not support the working of the Tynwald Management Committee. He obstructed, (**A Member:** Hear, hear.) as Minister for Local Government and the Environment, any improvements in conditions for members at all.

Mr Brown: Absolutely.

Mrs Hannan: He was the person that obstructed it and did not believe that members should get better facilities now or in the long term by expanding into the 'wedding cake' and the registry and by building there. It was only after representations were made by members of the committee that we were able to secure a future prospect of improving facilities for members.

So it is in the light of those sorts of obstructions that we have had along the way, during this four years, that we have had to work, and we have worked extremely hard to improve what little improvements there have been, but what we have been able to improve during that time has been done by the Tynwald Management Committee working together collectively in the best interests of all members of Tynwald.

When it comes to job descriptions, they are a guidance. The job descriptions were put together by the two presiding officers, the chair of the Legislative Council and also the Speaker of this House, along with the Clerk - not the full committee. It was put together by the three persons I have mentioned. In doing that, it is a guidance - and I am sorry that the member for East Douglas does not want to hear what is being said to clarify the situation. (*Interjections*)

The job description is a guidance. So that job description was put together and I am assured - and I know that members do not want to know this, but I will go through it any way - it is a guidance. It is to get the best people for the job, and then there is a shortlisting process once the applications are in. All the members sat down and shortlisted, along with the Clerk, Professor St John Bates. Mr Lowey, who had been invited from the Legislative Council, was not at that meeting. He did have a word with the Clerk about who he would accept on, but the majority of the members of that committee actually shortlisted.

During that shortlisting - and I have been back over what happened during this time because of what has happened since and I will share it with members. (**Mr Brown:** Hear, hear.) - we went through; there was no strong objection, although members have seen there was a question mark next to interview. There was not a suggestion by the Clerk, who had been through and done a full rēsumē of all of the applicants. There was a question mark about an interview: 'Query interview.' We sat down together and we went through this, and it

was not to keep a member of our staff sweet or whatever that we decided to put that person on the shortlist, because we decided, or at least it was discussed during that meeting, that anyone on the shortlist could do the job. We had to satisfy ourselves on that issue, because should we have appointed, and we could very easily appointed, a person who needed a work permit - we interviewed six persons and I think at least two of those people required a work permit. So we had to satisfy ourselves, as the body that was appointing, that we could satisfy the work permit situation, also ourselves, that we were not putting anyone on the shortlist just for the sake of putting them on. That was quite clearly discussed by the committee.

Also, as we went through, there was no strong objection from Professor St John Bates. However, it was suggested that another member from the office should go on the shortlist, because if Mrs Cullen was on the shortlist, and it was also in the writing, then this other person should also be on the shortlist. The committee declined the invitation to put this other person on the shortlist for the simple reason that this person did not normally clerk meetings, did not have parliamentary experience, had a degree by all means, but did not service the members of this House. We declined to put that person on the shortlist. Mrs Overman does a good job in what she is doing but she does not service the members in committee, in this House or in the Legislative Council. That was unanimous. There was no strong objection. Professor Bates had not swayed us, but he did not make a big issue and at the end he did not suggest that Mrs Cullen should come off the shortlist. That was the time that the strong objections could have been put forward. That was the time to say it, because the committee along with the Clerk had gone through this process of the best person for the job and everybody interviewed or on the shortlist could do the job. The other members will speak on this as well and the chair of the committee, who was also there, will be able to explain that to members should they wish.

It is not safe to say that each of the members that we interviewed had a degree. Another candidate did not have a degree who we interviewed. Another had a music degree. Another had a science degree, granted two, but had a science degree. So it is not safe to say that the job description of law or economics was for every person as the job description was written.

We have heard about restructuring of the office and that was not wiped out by the management committee at all, but it was felt, and it was also supported by the Clerk, that this would happen after we had appointed and that we would look at it again.

The member for Ayre has also suggested that this was constructive dismissal of Professor Bates. The Speaker who chairs our meetings will be able to tell you, should you wish, that Professor Bates approached him on a number of occasions to tell him that Professor Bates would resign if Mrs Cullen was appointed. Why was he so adamant that it was going to be possible that Mrs Cullen was going to be appointed? Even down to the lunch break in between interviewing in the morning and the afternoon, Professor Bates approached the chair to tell the chair that he would not continue if Mrs Cullen was appointed - Mrs Cullen had been interviewed first thing in the morning.

It could be said that to hold that information and to carry on the interview, or at least to carry on as a member of the interviewing panel, was wrong. That information was not shared with us, the members of the committee. It would have put us in a most difficult situation had we known, and had we known we should have not then been in a position to carry on the

interviews, I believe. But neither should the chair of that committee been party to the interviews knowing that. So when we come down to constructive dismissal, I cannot accede to that suggestion.

It could be suggested that even if the member for Ayre believes that, two suggested wrongs do not make a right, and what was being demanded of the Tynwald Management Committee, Vainstyr Loayreyder, was that we then go in for constructive dismissal. We are lawmakers. (**A Member:** Hear, hear.) We accept *everyone*, all employers, to look after the interests of the employees, and that, you could say, is what the Tynwald Management Committee is about. If you are asking us to break the law, which I believe the demands were, then I believe it was quite right for the Tynwald Management Committee to decline your invitation (**A Member:** Hear, hear.) to those demands to carry it out.

For that reason I would like to ask, what has the member for Glenfaba and myself and the member for Santon and Malew too, done wrong? I will accept that we have not yet brought this matter to Tynwald for approval, but neither were we told by the Clerk, even though certain members did approach the Clerk and ask the Clerk if the committee had the remit within their bounds to appoint. They were told that they had.

It was also told by the person that chaired the committee, our Mr Speaker, that regarding the candidates as they were being interviewed, a decision would be made later in the day and that they would be informed that same day of the appointment.

There are a number of other points which I would like to cover, but I would just like to say that I believe that we do have, as a committee - and it does not matter what committee it is - a privilege. Now, that privilege was scoffed at before by the member for Ayre. (**A Member:** Hear, hear.) But there are certain officers - Mainstyr Loayreyder is one - to protect the interest of members of this House on advice, and to protect certain members of committees and that, I believe, has not been done. It was not done yesterday and it has certainly not been done before in committee or outside. I say that because I believe this has been a concerted effort by the chair of our committee to get to this position. I come to this not lightly by any means. The interests of the committee should have been protected by the chair of that committee and the interests of the committee and the privilege was not protected by the chair, the very person that we elect and have elected in this House to protect the rights of members of this House.

The member for Douglas West said that views were entrenched, that there was a difficulty and that it would have been nice to have been able to solve this in some way before now. He also suggested that members resign and allow their names to go forward for reselection, respect for members, and I dare say he would say he had respect for this House and another place. However, in saying that I am surprised, because I know it was the member for Douglas West that brought this information and demands to the attention of Manx Radio.

Mr Shimmin: I beg your pardon? Substantiate that!

Mrs Hannan: I know that you handed that information over to a reporter of Manx Radio last week in the House of Keys who had actually signed the letter.

He also said about damage to staff and members, and I agree. He also then went on to say that it was not personal. What has gone on has been extremely personal; it has been personal for members, it has been personal for staff and it has been personal for everyone else involved in this situation.

Also the member for Douglas East stated that she did not wish to wash dirty linen in public. However, these things have been brought to the public's attention. They have appeared in the press by the very people that signed the letter and signed the faxes and letters to the members of the committee. So it is very sad that these sorts of comments have been made in this House. They are wanting the issues settled, but all the time this information is being disseminated.

The committee is not in a position to speak to the press on this issue and the committee has not spoken to the press on this issue for the very reasons that have been spoken about this afternoon: staff situations are very sensitive and we have treated them as such. I have been through it before, but it was in private, but the committee was so shocked by the response from Professor StJohn Bates to the suggestion that Mrs Cullen should receive the job that he then said that he would resign, and he was so adamant about it. He said it to me when I went to bring him back into the room; he said to the committee that he had spoken to his wife and that he was absolutely adamant about it. Now, we did not rush into accepting his resignation. We asked him to sleep on it, but he was so adamant. It was not a witch hunt and never has been a witch hunt. There was no-one more shocked than the members of the committee when he said he was tendering his resignation. It was requested by the chair for him to sleep on it, and that was supported by each and every member of the committee. He was asked that the next day, even when he had submitted it in writing. I was not at that meeting, but it is minuted that the members at that meeting requested that he reconsider. The chair of the committee, our Mr Speaker, had said that he had spoken to StJohn Bates and he was adamant, and so of course the committee had to be responsible and look for a future to serve us as members, and that future is to look for someone else to be Clerk of Tynwald and Secretary to the House of Keys. It is looking to follow on from that, and therefore I think the Tynwald Management Committee have acted extremely responsible in doing just that.

The conditions of resignation were put to the committee by Professor StJohn Bates: when he should resign, when he should leave office, how he should be paid in lieu of notice up until 31st May. He suggested to the committee that he go at the end of February and was paid to the end of May in lieu of notice and that was, regrettably, accepted by the committee. The committee then went on, at that same meeting, to put together a written contract - because it had already been a verbal contract with Mrs Cullen - signed by the chair of the committee.

Mr Cannell: How do you get paid lieu of notice if you resign? (*Interjections*)

Mrs Hannan: In offering the job and in the written contract, written on that particular day - I think it was November 17th - that is a written contract and what was asked for in the letter and in the fax was that we, the Tynwald Management Committee, should break that contract. We, as I have said before, are lawmakers; we are not in a position, I believe, to break a contract. As I said before, we were so shocked by the resignation; it had come straight out of the blue - a resignation of a senior member of the House, widely respected by every member

of the Tynwald Management Committee who we have worked so closely with over the last four years, and when I say closely, we had numerous meetings to do with the development of the House. I worked extremely closely with the two presiding officers on a sub-committee. The relationship could not have been closer because it was on a monthly, even sometimes weekly basis. So we were really shocked by that, but it was a resignation. What were we to do? Sit back and wait for something to happen to say we have got ourselves into such a difficult situation? It would be remiss of us if we had not looked towards the future, and that is what we have done. It was said yesterday that all members want is to get StJohn Bates back at any cost - that was the member for Douglas West, Mr Downie. Does he not think that we tried as a Tynwald Management Committee? Does he not think that we tried?

A Member: You tried very hard.

Mrs Hannan: We did. We were told that he was absolutely adamant and that was told to us by the Speaker.

But then the demand came in - and I am sorry, I am repeating myself, but if the Tynwald Management Committee had done that at what cost to another human being, (**Mr Gilbey:** Hear, hear.) because the member that we are talking about has been in a most unenviable position for the last two months, (**A Member:** Hear, hear.) when it would seem that that person does not matter as a human being, as an individual, when that person's feelings do not matter, count for nought, when that person has been a responsible officer of this House and Tynwald Court, though she is so reliable, so dependable and, except for one member, the support of the majority of the Tynwald Management Committee.

So I would like to know how the 14 members that signed that letter deemed that we should not abide by law that we passed in this hon. House. We would be absolutely appalled by that if somebody outside or if a government department - because this is parliament we are talking about - had treated somebody in the way that Tynwald Management Committee is being told to treat this person. Privilege is immensely important and I would hope that the members of this House will respect the privilege of the committee of this House, and I do not ask for that protection lightly. Tynwald, the House of Keys, the Legislative Council, is more important than individuals (**Mrs Crowe:** Yes.) and I am afraid that this sorry, sorry mess has created a laughing stock of the very elected representatives of the people of the Isle of Man in Tynwald and in the House of Keys and also, I am afraid, of the Clerk, Professor StJohn Bates.

Why is it that we thought so highly of him and why are you not posing these questions to him? Why did he not tell the committee how he felt at shortlisting about Marilyn Cullen? Have you asked him? I hope the person that is winding up will explain that to us. Why did he not tell members of the Tynwald Management Committee that the Tynwald Management Committee did not have the full authority to appoint to the post? Why did he then put pressure on Mr Speaker, the chair, by telling him over and over again that he would resign? That put the chair of the committee in a terribly difficult position. (*Mr Cannell interjecting*) Why did he not consider his resignation when requested by the Tynwald Management Committee or by Mr Speaker to do so? Why is he now laying down conditions to get his job back?

Why I have asked these questions of you is because I do not understand much of it myself. As I have said, we worked very closely with the Clerk over the last four years. It has all

been a rather thankless task, but then none of us are here to be thanked. We, the members, were elected by you to serve on that committee, and during that period we have had the guidance and the assistance of the Clerk of Tynwald, Professor Bates. So why have you not asked these questions of the Professor?

We did not make or even suggest to the Clerk that he should resign. We did not stand over Mrs Cullen when she signed the acceptance of the post. That was the chair of the committee, Mr Speaker. We did not write out the Clerk of Tynwald's conditions of resignation; the Clerk himself put that in writing. Walter and I were not at the meeting on 17th November when the formal letter of contract was sent to Mrs Cullen, but we did comment on Professor StJohn Bates' resignation and were quite practical about the way ahead for Tynwald and the House of Keys. We were not going to be left high and dry. Tynwald had to have a Clerk, the Keys a Secretary. So we suggested, or at least I suggested, that Arthur Bawden should be asked to stay to see us over this difficult period, that we should not be left in the lurch, so to speak. So because I believe that Walter and myself were practical about the future, this is why it is being suggested that we have to go.

You may not care about our country but I do, and I believe that what you have done is a disgrace to the name of justice, fairness and the rights and privileges of this House. I am also appalled that Professor StJohn Bates, who I had the highest regard for, could be part of this and have so little regard for another human being, who has been put through this whole saga by him and by the majority of this House.

Mrs Cannell: It is unfair.

Mrs Hannan: Mr Speaker, I am not important; I am a mere politician passing through this place. Officials of this House keep the wheels of democracy turning. It is the parliament, not the government as has been suggested. Government is still stable; government is not reeling and rocking by what has happened here. Parliament - Tynwald and the House of Keys, who I have the greatest respect for and the greatest respect for representing my constituency Peel, but unfortunately this has turned the clock back. It would seem that the only person of any importance is Professor StJohn Bates, Mr Speaker, Mr Braidwood and the other signatories, but the only person to come out of this with any credit *at all* is Marilyn Cullen. (**Members:** Hear, hear.)

I am so sorry it has come to this. I could go on about Marilyn's credibility, her rightful position as Deputy Clerk of Tynwald and Clerk to the Legislative Council. I could go on. The committee are satisfied, certainly with the exception of one member, that Marilyn Cullen will serve us well and is the right person for the job, and I for one do not think that we will be disappointed in her service to us as members.

Several Members: Hear, hear.

The Speaker: Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker, I think we learned some very important facts from the previous speaker. I personally am at a loss to understand the motives of the mover of this motion. I do not see what could possibly be achieved if the whole committee resigned *en bloc*. We may not like the decision that the next committee come to. What do we do then?

But some very important facts have come out of the previous speech. We have learned that a contract of employment has been offered and has been accepted. We have learned that a resignation has been received and we have been told that the management committee have asked for that resignation to be reconsidered and that their request has been refused more than once. Do we have any knowledge that the learned Clerk, who resigned, a man who is well used to making very considered decisions, would agree to return to this House in any post? The office is destroyed by a lack of loyalty, a lack of support from both within and without, but more importantly we now know that the chairman of this Tynwald Management Committee was under threat. The chairman had been compromised by having previous knowledge that the learned Clerk would resign, and apparently we have just learned that this information was again reiterated to the chairman. I feel that, having been compromised, the chairman should have stepped aside and taken no part in the selection of a learned Clerk, and in regard to that, Mr Speaker, I would like to move that, in accordance with established precedent, the Deputy Speaker occupy the chair while this matter being considered by the House so that the Chairman of the Tynwald Management Committee, Mr Speaker, can assist us in our deliberations and so that he can give us a full account of his views of what happened in that Tynwald Management Committee. If we are seeking the resignation - and I do not know why - of these people, I think we need to have a full account, and I would like to move:

That, in accordance with established precedent, the Deputy Speaker do occupy the Chair while this matter is being considered by the House so that, as Chairman of the Tynwald Management Committee, Mr Speaker can assist the House in its deliberations.

The Speaker: Hon. members, there is a move by the hon. member for Rushen.

Mr Cretney: I happily second that in order that you may have the opportunity to speak, sir.

The Speaker: I put the motion to the House. The motion is that the Acting Speaker take the chair. Will those in favour of the motion please say aye; against, no. The ayes have it. The ayes have it.

The Acting Speaker took the chair.

The Acting Speaker: Mr Downie.

Mr Downie: Thank you. I have some sympathies with the committee, and on another occasion in private I did indicate that they were, for whatever reason, in a difficult situation - not a very nice committee to be on in circumstances like this, and no doubt, in making the decision they did make, they took what they thought was the best advice available. But one question that still remains unanswered is that before making the appointment of Mrs Cullen and given that the impending resignation of Professor Bates would be contentious, to say the least, why oh why did not the committee come back to the House with a recommendation and explain the circumstances? Why did we have to read in the paper on the Monday that Professor Bates had resigned and Mrs Cullen had been appointed to this position? That is the first I knew of it when all this appeared in the newspapers.

To be quite honest, hon. members, I do accept that when committees are set up, particularly committees of Tynwald, but this is a management committee and all through this

committee's existence, when decisions have been taken about the building and providing facilities for members, we have always been fully briefed and it has always been put to us that this is the way the management committee have worked.

I do not want to go over old ground. I said last evening that if there was a way that we could resolve this issue and Mrs Cullen could go about her business, carry on in a position at the same salary and was agreeable to do that and we could find some way of retaining the services of the Professor, I would be delighted, because I think it would be a sad day for this parliament if we lost the Professor. But, saying that, I really would ask the committee to consider that if the Professor does go and we are left in a situation where we have to reappoint someone, I think in the best interest of us all we have to have a fresh start and we have someone else looking at this so that nobody can point the finger, as it were. I really do not think that, given the situation that exists at the moment, the members of this committee could actually stand up and say they have the full support of this House - not that I am standing here criticising them, but at the same time the future of this House is very, very important, and I think it has to be absolutely essential that some fresh thought is given to this.

At the end of the day it is Tynwald's duty or Tynwald's right to appoint, but I still think that one of the major mistakes that the committee made, bearing in mind they had a very difficult job to do, was not to advise the House of the impending appointment and not to advise the House of the situation they had got into with the Professor. They seemed quite willing to cast their fate to the wind, as it were, appoint and wave the professor goodbye. Whether that is the situation or not, that is the way it has been seen by the outside world, so if one of the committee is able to tell me why we were not consulted on this issue I would be very happy to hear them. Thank you.

The Acting Speaker: The member for Rushen, Sir Miles.

Sir Miles Walker: Thank you, Mr Acting Speaker. It is unfortunate, I think, ever since this issue has become an issue that has become debated amongst us, that there have been attempts, whether deliberate or otherwise - I suppose we all have our own views - to get members to take sides, and it seems to me particularly unfortunate that the sides we were asked to take were for or against Professor Bates. I am on record, and I will repeat my view again now, saying that I think I have as much respect and regard for the abilities of Professor Bates and the way he has serviced us as members of this House and members of Tynwald as any other member, and I have to say that I was saddened to the core when I heard of his pending resignation.

Nevertheless, we are gathered here this afternoon to consider a motion of Mr Braidwood's, and that motion suggests that the hon. member for Glenfaba and the hon. member for Peel should be discharged from the management committee. I do not believe, when Mr Braidwood moved that resolution, that he made a case as to why it should be just those two members who are named in the resolution and why it should be just those two members that are discharged. Mr Braidwood did not make the case, and I have to say, even listening to the debate so far, I do not understand the case for just those two members to be discharged. It seems to me that we are not talking about individual responsibility, we are talking about committee responsibility, and if we are considering discharging individual members that is wrong and that is why I support the amendment proposed by Mr Karran to

include the Chief Minister, and I have to say I would like to be in a position, but I am not, after exploring it as we did on the point of order, that Mr Speaker also be included as one of the Keys representatives on that committee, because it seems to me that it is the committee's decision -

Mr Downie: He is there by right.

Sir Miles Walker: - and it is the committee's action. Mr Acting Speaker, I accept that Mr Speaker is there by right or there by resolution of another place, and so we cannot interfere with that, but I go back to the point I am making: it is, in my view, a committee decision that is under question, not one or two or three individual members of that committee. So I believe that it is right that we include as many members of the committee as we can in the resolution and, although I support the amendment, that does not mean necessarily that I will support the resolution when it is put.

It seems to me that the question that we should be addressing when talking about discharging members of a committee is whether or not that management committee acted properly and with propriety. It is not whether or not they made a decision with which we can align ourselves, but whether they have acted properly and gone about the tasks, the responsibilities that they were given, in a proper way.

When I consider that situation, I think there are two issues which come out which I put a question mark against. The first one is whether or not, after advertising for an appointment and stating the qualifications required, that that should be ignored when it comes to shortlisting. That is the first issue that I think requires some question. But from the information we have been supplied with, it was in fact this committee that set out the qualifications that they were requesting, and whether or not that matter was delegated to the two presiding officers and the clerk or what it does not really matter; it was the committee's agreement. So the committee themselves decided to disregard one of the qualifications they set out. Then I wonder to myself, would anybody have questioned that if we had not been faced with the resignation of the Clerk of Tynwald? I rather doubt that we would.

A Member: We would not have known.

Sir Miles Walker: Well, we would not have known? The matter was advertised; it was there for everybody to see and we would know who was given the appointment and we could have then decided whether or not it was an issue. My view on that is that we probably would have decided that it was not an issue.

The other matter that I think I question is whether or not the chairman of the committee, having knowledge that he was unable to share with the rest of the committee, was correct in carrying on considering the appointment. I certainly accept that if the chairman of the committee was asked by an individual, in this case Professor Bates, to keep something confidential, he was right in doing so. I do not question that decision at all. I think perhaps what should have happened is that Mr Speaker should have tried to persuade Professor Bates to share that amongst the rest of the committee and, if Professor Bates had so refused, then Mr Speaker should have sat out of the decision-making process, because it seems to me that there was an unfortunate clash of issues at that stage.

But reading through all the letters, all the information we have had those are the two issues that come out to me where I have a question mark in my mind about whether or not the committee acted properly and with propriety.

Now, yesterday evening before we adjourned, I suggested that there was a serious responsibility in front of us and a serious responsibility in front of this committee and the members of the committee; that we are talking about careers and they are important; we are talking about contractual issues and legal issues and I believe they of the utmost importance, so there are legal and political responsibilities in this lot, and it seems to me that by changing two members of the committee those responsibilities will still be there with the committee and its new membership.

Now, a few weeks ago I suggested that the management committee ought to consider the restructuring of the Clerk of Tynwald's department in line with the suggestion that had been made, one possible way for restructuring. I believe that that was the right thing to do then and I believe it is the right thing to do now, but that restructuring, whether it is desirable or not, should not be done with the thought in mind that it would suit one particular individual and that one person would sit comfortable with it. It is a matter of standing back from the personalities and looking at the restructuring of the office, deciding whether it should happen or not and then advertising the posts, and it seems to me that what is being asked now is wrong - that is, that a restructuring should take place so that somebody can be employed in one of those posts. I moved that resolution and I believe it was carried and formally I have heard nothing back from the committee, although I understand from a conversation with Mr Speaker, as chairman of the committee, that the matter was considered and it was decided that that restructuring should not take place at this time; it should wait until either a new Clerk of Tynwald is appointed or resignations withdrawn or whatever. But a restructuring should happen where the chief post-holder was in place and his advice could be taken. That was clearly my understanding from my conversation Mr Speaker. Now, Mr Speaker suggested to us, as members, that in fact a restructuring ought to take place to allow the Clerk of Tynwald, and then he thought the Clerk of Tynwald would stay. Mr Deputy Speaker, I believe that is the wrong way to look at staffing issues, restructuring, regrading of posts and all the rest of it. They should be done without bearing in mind particular post-holders or individuals.

Mr Quine: So why weren't they done?

Sir Miles Walker: So I am inclined to support the amendment proposed by my hon. colleague, Mr Rimington, except that amendment says that a restructuring shall take place somewhere here -

The Acting Speaker: Can I just remind the hon. member that only one amendment has been seconded yet, and that is the one in the name of Mrs Cannell.

Sir Miles Walker: Right, thank you, Mr Speaker. But it seems to me that the amendment that has been suggested by my hon. colleague, then, is one step too far. He is directing that a restructuring should take place. I still think a restructuring should be considered and it should be considered as a matter of urgency, because a number of members have suggested that the Clerk of Tynwald's department is weak in various respects.

I would be interested, Mr Deputy Speaker, to know whether or not, Mrs Cullen when offered the position - and we have a copy of the letter which sets out the situation, a letter to

her dated 17th November, and it says appointment is with effect from the 1st March 2001 - knew or understood or was led to believe that that appointment had to be confirmed by Tynwald, because I am not clear in my mind whether or not that is the case. Again it seems to me that if it was clear to the committee that confirmation of the appointment was required by Tynwald and if Professor Bates felt aggrieved by the decision to appoint, he should have waited until Tynwald had considered that matter before handing in his resignation. That, to me, seems to be quite crucial regarding the contractual responsibilities that I was referring to before, because reading through this letter it seems like a firm offer has been made and has been accepted (**Mrs Crowe:** Yes.) whether Tynwald approves or not.

Mr Downie: Absolutely.

Mr Gilbey: Correct.

Sir Miles Walker: Again it is a suggestion of railroading. I do not know whether it is railroading or bad advice, but it is a fundamentally important issue and just by replacing two or three or even four members of this committee is not going to get over that particular problem. So I really do not think that the issue of the decision that was taken by the management committee - whether that decision was right or wrong and on the basis of that people should be sacked or not. I do believe that we should be thinking whether or not the committee has acted properly and with propriety in their work, and I have to say it seems to me that they have acted properly and of course we would argue with some of the issues, but by and large I believe that have acted properly, and on that basis I will not be supporting the resolution as amended to discharge the three members of the committee.

The Acting Speaker: Member for Malew and Santon, Mr Gelling.

Mr Gelling: Mr Deputy Speaker, I finished last night when I sat down by saying it was rather a complicated issue and one which would take a long time of this House. I will not go through all the ins and outs of what has happened; I think a clearer picture now is becoming available to members to understand that maybe some of the things they thought were not in fact correct, and what I will try to do is address the situations that have been since brought up as not very clear. I think we must remember that our adviser and legal counsel to the committee was the Professor. It is important that you recall that that was the case.

I am not going to go into the selection process or anything; I am going into how at least I felt as a member for the committee when I asked on two occasions about the responsibilities and the power of the committee. The hon. member for Rushen, Sir Miles, has raised the question: did we or did we not know that this had to go before Tynwald? That was the question that was posed, and the answer was given: we had the responsibility to make the appointment. So it was not clear to the committee at that time, because the advice was that we did not have to go any further with that particular position. That was pointedly asked and that was the answer we had, so I hope that perhaps clarifies in the hon. member's mind what the situation was.

The question then was asked, why the hurry in the appointment? It was decided very, very early on before the interviews took place that we ran the interviews as was the practice of the education department in as much as, even the evening before, the candidates who were coming for interview were gathered together at the Sefton Hotel so that people and the panel could get to know them - I did not get to that, as I have said before. At the start of the

interviews it was again made quite clear to the first candidate and all other candidates that a decision would be made that day at the conclusion of the last interview.

That was the situation and that is the way it was progressed. I am not going to go into all the other ins and outs of who said what and why and what we knew and what we did not know. All I can say is that I, as has already been said by another member, was totally shocked when the Professor tendered his resignation. However, what does disappoint me is that we are talking about some thing that happened on the 15th, 16th and 17th November (**A Member:** Hear, hear.). Now, over the Christmas I was talking with StJohn Bates, the Professor, trying to find a way forward, because I for one, and I can speak, I am quite sure, for the other members of the committee - we all deeply regretted the situation that then we found ourselves in where the Professor had resigned. It is not just in the providence of other members (**A Member:** Hear, hear.) to realise that the gentleman is important and his skills are important. So therefore what I want to say is this: the strategy had already been discussed. Now, the hon. member, Mr Quine, said it was all the wrong way round, but a decision had been made that the strategy that had been put forward to us by the Professor of his plan for the future it was decided by the committee to hold back until the position was filled for the hon. Clerk, Arthur Bawden, because then we would have had time to take some other advice as to that structure, which was just one person's ideas; there were differing ideas within the committee about certain areas of that strategy that perhaps they did not feel would work. Nevertheless that strategy was on the table and that was, I would have thought, the way that we would have gone forward with some slight tuning.

I am also quite convinced that that situation was manageable. I was disappointed that Professor Bates resigned because I thought that the situation was still manageable with the third clerk and whatever else that could have thrown up. I was disappointed that the Professor had not stayed in the position, made his position quite clear but still would have been there to manage that through to fruition, because I am quite sure it could have been done.

Now, I feel that with the time lapse that has gone on since November, if hon. members are so determined that Professor StJohn Bates should remain, I question why they did not approach the Tynwald Management Committee maybe earlier. The only correspondence I had before that was from the hon. member for Onchan. All the other correspondence comes in later on, in January and so on. Your committee had in the meantime had to accept that, having asked the person to reconsider and been rebuffed and told absolutely he would not reconsider, we could not just sit there in a vacuum; we had to start the progression of getting someone into that position.

I regret that we are in this position today. I regret it because I have to admit I did not see it coming. I never saw this great problem arising. It was one of those things that I thought would have been a purely straightforward situation of personnel in the office and getting someone to fill a position.

I would say to hon. members: okay, let us have all the representatives of the Keys out. I would suggest that perhaps the three that you replace them with might very well have the intention of keeping Professor StJohn Bates, but no-one has told me personally of how that is going to be achieved, other than for the good Professor to indicate to the committee that he is possibly going to reconsider his position -

Mr Quine: I said that.

Mr Gelling: - and, if he is going to reconsider his position, why has he not come forward to the committee and said 'The support from the hon. members of the Keys is such that I want you to reconsider my position. Can I come and meet the committee?' That has not happened, we have got two situations poles apart.

I do not know whether it is going to be helpful, but I would like to put to hon. members an amendment and the amendment, after 'that', would substitute, 'This House regrets the resignation of the Clerk of Tynwald and Secretary to the House Keys and calls on the Tynwald Management Committee to enter into discussions with the Clerk with a view to retaining his services.' To me that comes as a mandate from the Keys to the Tynwald Management Committee. I have trouble in trying to put an official line on. . . As the hon. mover said, there had been a meeting in the Tynwald Millennium Room, now I do not know under what statute that was raised. The hon. member Mrs Cannell says a resolution was passed; well, that was a group of members of this House making it known to two members of the committee - i.e. two representatives of the Keys - what their views were. But the approach, I still maintain, was to the Tynwald Management Committee because as yet we have not had any indication as to whether or not Professor StJohn Bates will even consider the situation, and I think this is the difficulty we have. Time is of the essence because the machinery still goes on and applications have come in and so on.

So I just say to hon. members: surely the indication of this hon. House, if it is the wish of the majority, I would say, is that would be a way forward, because that is certainly what I personally have been looking for: a way forward to find an avenue in which both sides can come down and come out with what, at the end of the day, is what the hon. members and the majority of them wish. I beg to move:

After "That", substitute -

"This House regrets the resignation of the Clerk of Tynwald and Secretary to the House of Keys and calls on the Tynwald Management Committee to enter into discussion with the Clerk with a view to retaining his services."

The Acting Speaker: Member for Michael, Mr Cannan.

Mr Cannan: Mr Deputy Speaker, having listened to much of what has been said I would just like to remind hon. members of the statement of events leading to the appointment of the Deputy Clerk of Tynwald and Clerk of the Legislative Council, which was circulated to every member. This document was drawn up by the committee, not drawn up by me as chairman, and if I can briefly go through it, because I think it is important in what has been said: '(1) Meeting of the Tynwald Management Committee on the 13th September attended by Mr Speaker, Mr President, the hon. D J Gelling and Mrs Hannan. It was noted that Mr President had received a letter from Mr Bawden intimating his wish to retire on the 7th February 2001. It was agreed that the Clerk of Tynwald, in consultation with the chairman and Mr President, should prepare an advertisement and a job specification for the appointment of a successor to Mr Bawden, the advertisement to be placed in the press in sufficient time for the applications to be received before the next meeting.' Hon. members you will recall that in the documentation sent to you, you had a copy of the advertisement, and the advertisement called for a graduate in law or economics.

Then there was a letter from the Clerk of Tynwald dated 15th September to all members of the Tynwald Management Committee saying what had happened, and at the meeting of the Tynwald Management Committee on 27th October, attended by myself, Mr President, Mr Gelling, Mr Gilbey and Mrs Hannan the Clerk of Tynwald reported that Mr Lowey, the member of the Legislative Council nominated by Mr President as the Council representative on the interviewing panel, had been invited to attend for this item but was unable to do so. The Clerk indicated the views expressed to him by Mr Lowey on the applicants for the post, and that meeting on 27th October was to go through the short list. Now, the President requested that Mr Lowey be co-opted onto the committee -

Mr Quine: On what basis?

Mr Cannan: - and he did that request through the Clerk of Tynwald, Professor Bates. Whilst I personally had reservations about it I did not wish to cause any ripples. It was a request and I could not see, really, at that point to make an issue of the person being invited to the committee. The 21 applicants for the post were considered. It was agreed that references should be taken up for the following candidates and that they should be invited for interview: Mrs Cullen, Mr Hollingworth, Dr Kneale, Mr Lo Bao, Mr McMeiken and Mr Mohan.

Prior to that, hon. members we had all been sent, on the committee, a summary of the applications as assessed by the Clerk of Tynwald, and he assessed some that he did not think should be considered and others that should be considered. And for the clerk administrator he wrote, 'My candid view is that Marilyn is an excellent administrator and willingly and efficiently undertakes administrative tasks. She has enjoyed the parliamentary work that she has undertaken which is relevant to this post, but I do not feel that she is appointable as Deputy Clerk in this field.'

Mr Quine: That is clear enough.

Mr Cannan: That was clear enough. Now, there was debate whether the lady should be on the shortlist or whether she should not. There were conflicting views and the consensus at the end, and it was a consensus, was that she should be on and would be appointable. At that point it was not clear that the Clerk of Tynwald was totally opposed to her appointment. He had not made it actually absolutely clear.

Mr Quine: It could not be clearer.

Mr Cannan: But, as I say in this, the Clerk of Tynwald expressed reservations about Mrs Cullen's inclusion on the shortlist.

Then, shortly afterwards, the Clerk of Tynwald came to me, in my office, and told me that he wished to speak to me in the strictest confidence, as other people and other members of this House have done, and in agreeing to allow him to speak to me in the strictest confidence he indicated that if the clerk administrator was appointed he would immediately resign. I obviously suggested that perhaps that was being a bit brash but he was quite clear on that, and I then said to him that I must inform the committee, and he insisted - and I have written it here - the Clerk advised the chairman that this was confidential to me as he, the Clerk of Tynwald, did not wish to antagonise the interviewing panel.

I accept it may in hindsight have been better to have broken that confidence (**A Member:** Hear, hear.) - in hindsight. But how many times is one told something in confidence by

members, by your constituents - I believe from time to time in your constituency work you are told things in confidence - and perhaps in hindsight you should have done something about it? But it was a human error that I did not take the issue to the committee and say to the Professor, 'I cannot accept your confidence.'

Mr Quine: Not an easy situation.

Mr Cannan: It was not an easy situation for anybody.

Mr Houghton: Hear, hear.

Mrs Crowe: Not at all.

Mr Cannan: It was not an easy situation for anybody.

It has been suggested I should have stood down from the panel. In standing down from the panel I would have broken the confidence, because I would have had to tell that I had information in confidence that did not enable me to do the interviews - a very, very difficult position.

The interview panel was assembled, and it was myself, Mr President, Mr Gelling, Mr Gilbey, Mrs Hannan and Mr Lowey with Professor Bates in attendance. Before we did the interviewing we discussed the method of interview, and I suggested to the committee that my experience on the Department of Education with a senior appointment was that you met the applicants and their wives on a social occasion the night before. That was not a precedent, because I was at the social occasion the night before Professor Bates was appointed, and that was in the Sefton Hotel - very short and informal with short eats and a glass of wine, and that was the same format as for the appointment when it became vacant in 1988 - nothing new. We met the applicants and their wives; the next day, before the interview started when we were assembled, we agreed on how, as a committee, the interviews should take place. I asked whether they were satisfied and I have forgotten which members said and how they were to be told and so forth. Unfortunately, there was not a *Hansard*, so not every single word can be recalled of who said what. However, it was agreed that we would interview them and the very first question it was agreed I should put to the person was 'If you are offered the post would you accept it?', and that, in a moment, you will see was done for one very good reason.

So we interviewed in the morning Mrs Cullen, Mr McMeiken, Mr Lo Bao, and then in the afternoon the first candidate came, Mr Mohan and I said to him, 'If offered the appointment would you accept?' and he said, 'From what I have seen of the Isle of Man' or words to that effect 'I wish to withdraw,' and quite rightly so, and that saved everybody's time. (*Interjections*) So we knew exactly the form in which the interviews took place.

At the end of the interviewing the panel were: in favour of Mrs Cullen, 4 votes, 2 votes for Dr Kneale, who is a Manxman and would not require a work permit but he was born and educated in the Isle of Man and now presently lived. At that point I felt that I could no longer retain the confidence of Professor Bates and I informed members that the Clerk of Tynwald would resign, and members were shocked, as the Chief Minister has said. I have written here I told members twice, but it was discussed round the table and members expressed their views about it, and one member in particular, or two perhaps, had very strong views about it. But it was made quite clear to members that he would resign. I asked members to

be aware of the likely repercussions of such a resignation; the Chief Minister acknowledged that there would be repercussions and I cannot remember what the other members particularly said. Members would not alter their decision so I asked them then whether they would hold the decision over till the next day, and the majority opinion was that Mrs Cullen was to be informed immediately. Mrs Cullen was called and informed of the decision of the Clerk of Tynwald, who had been asked to leave before the final decision was made. He had been asked to leave. The committee wished, in their final deliberations, not to have the advice of the Clerk. The Clerk was recalled and informed of the decision and the Clerk of Tynwald immediately tendered his resignation and that resignation - and you have had the papers - was received in writing on 16th November.

The Tynwald Management Committee, attended by myself, Mr President and the Chief Minister, had an emergency meeting on 17th November and accepted the Clerk of Tynwald's resignation. The other two members, Mr Gilbey and Mrs Hannan, sent their apologies. Mr Gilbey faxed the views which he wished to be recorded in the minutes of that meeting, and the fax that Mr Gilbey sent said that in no circumstances should he be asked to withdraw his resignation.

So those, basically, are the facts of what actually happened. If I have any mistakes - and we all make mistakes - if I have anything where I have made a possible mistake it was in not overriding somebody who told me something in the very strictest confidence, but then that is a decision which each and every person has to take when they are told something in absolute confidence.

I regret, and I have been regretting since yesterday, that all this matter has come to the House to be publicly debated. However, the one thing that has pleased me in the last 20 minutes is the amendment proposed by the Chief Minister which, if it is accepted, will be the mandate of the House to the members of the committee, and the committee then will have a mandate to clear up and resolve the position, and I have pleasure in seconding that amendment when we see it - sorry, I have not got a copy because I see that amendment as resolving the problem that has arisen. At the same time the amendment asks the management committee to talk to the Clerk of Tynwald and Secretary of the House of Keys, and I believe that that really is the wish of this House, and this House, hon. members, has expressed the view clearly that the services of Professor Bates be retained. Now, they can only be retained if the Professor is willing to be retained, and if he is willing and there is a mandate, then I can see the way forward to resolving this very difficult and very messy issue. I am not suggesting to anybody to curtail the debate, but without going deeper and deeper into the swamp and into the mire it would be easier for the House to accept the amendment and allow the committee to enter into negotiations bearing in mind, if that is the will of the House - and I believe it is - that that is the wish of this House. Thank you Mr Deputy Speaker.

The Acting Speaker: Member for Onchan, Mr Cannell.

Mr Cannell: Thank you, Mr Deputy Speaker. I think probably everybody us running is out of inspiration for this, but I have waited to try to get the views of the full committee. We are only one short, I think, of that now as we sit here risking deep vein thrombosis wading through a lamentable situation not really of our own making. Yes, sir, I am one of the 14 signatories to the letter which was despatched, but no, sir, I am not in a trench; I am acting on my own behalf here with my own judgement. I am not pulled one way or another. I hope I

am not on very many issues, but particularly this. I most certainly am not, but what I am trying to do is to balance the requirements of reasonability, because I am not amongst the camp that thinks Professor StJohn Bates is totally indispensable and that this House, Tynwald Court, the Legislative Council and just about everything else will completely grind to a halt if his services are not retained. That is not the case. Whether it is so in actual fact or not I do not need to contemplate, but you have the scenario where for any other reason Professor Bates might not be available - like illness or anything else - but that would not make any difference so you have to cater for that. No-one is, in any position, and in fact we have got high-powered government ministers in the United Kingdom resigning for a second time today (*Interjections*) from the Cabinet so he is not that indispensable either, but of course he has got Tony chasing him to try and balance it up. But Professor StJohn Bates, and indeed any other officer of this hon. legislature, is not indispensable.

One of the most notable, in my opinion, and salient points which has been made is the fact that the Professor had time to think on his resignation. Now, we have all said things, we have all flounced, we have all postulated, we have all said 'To heck with that,' throwing papers in the air, walking out of meetings, or most of us have, but when you wake up the following morning you come to one of two conclusions: you say, 'What a chump I was!' and try and do the very best you can to rectify the situation by apologising if necessary or taking any steps you can to get back in, or you wake up with a clear conscience and you say 'Thank God, I have been meaning to do that for years and I am sticking with it', but the Professor had every opportunity to change his mind, although of course the opportunity to have the variance which was so sought after, the appointment of Mrs Cullen, had gone because Mrs Cullen had been told and from that moment on she, as I tried to explain to her personally, was in a win-win situation, because she either did the job, which was a promotion for her, or she did not do the job and would take the appointing authority to the cleaners through an industrial tribunal - not a pleasant position, a far from pleasant position to be in, but one which was unassailable legally as my hon. colleague for Rushen from the Office of Fair Trading would tell us.

So we have all this intrigue. We have this national parliament brought specially to this arena, probably with everything else that goes with it, at quite a high cost to sort out what is an internal affair. Now we have gone just about as far as we can go, but we have not been told the real story. There is one piece of the jigsaw remaining, and we have one member of the committee, one of the two who yesterday said that he claimed he was being treated like a common criminal by not having the right but now most certainly does have the right to respond, and that is the hon. member for Glenfaba, Mr Gilbey. The Professor has gone through a process of being cajoled, flattered, almost begged by everybody to stay in a job. I cannot think offhand of anybody who has ever been pursued with such vigour to stay in a job, and if that is rebutted then so be it. We cannot afford to throw the entire weight of everything at the behest of one person who has had every opportunity to change his mind and now wishes to come along, presumably if this motion by the Chief Minister succeeds, as a member of the committee. If that succeeds, then again he sits there and says 'I knew that eventually the opportunity would come to me.'

So what does he do then? If, in fact, some role is created, if he stands up and says, 'Yes, I will come back to you', what about the terms we have already heard that the gentleman concerned has somehow managed to extraordinarily manipulate his severance

terms on a set-up which I do not think could be paralleled anywhere, where he tells you when he will go, how he will go, for what he will go. He resigned! He chose to go; that is what he did, but the final piece of the jigsaw is what led him to do it to start with, and it was hinted at by the hon. member for Peel. If you were paying attention - and it nearly escaped me but I just caught the end of it - at the end of the day she said that there were other factors bearing upon it, and I am sure there were, so if that is the case let us hear them. Let us hear from the final member of the committee what really was the situation.

Now if in fact we had a short list of people, how come that short list eventually arrived for interview purposes? That is the bit that baffles me, and yet there was no suggestion by the person concerned to anybody except the chairman of the committee. What did he expect the chairman to do? The chairman tells us that there was a confidentiality upon him because he was told that. Honestly, we are not that wet behind the ears, are we? If someone wants information to be placed, you do not tell someone such as the hon. Speaker of the House of Keys to retain it as a confidentiality. You might have a chat over a bottle of wine, you might see him in the 'corridors of power', as they are sometimes laughingly referred to upstairs, but you certainly do not impart information like that if you do not wish it to eventually be utilised, and he was in an exceptionally difficult position because he is honourable enough to respect the confidence but knew that either way the committee would be in a difficult position, because if he told them he could be seen as being an influential factor, and if he did not tell them and at the end the appointment was made, then he was in difficulty personally and would have been slated for that. So it was a very tricky position but, as someone said earlier on - and I think even the gentleman himself admitted - the way perhaps to have done it would have been to just withdraw saying 'There are circumstances which prevent me from continuing' and in fact he could not have been pressed, had he held his nerve, for any reason why he withdraw. Anyone can withdraw from anything and cannot be forced at a gunpoint to actually reveal the reasons why they did it, and that was in fact what could have happened.

But all that is all leading to: what are we going to do now? We have a plethora of amendments on the table, some seconded, some not. I think we have the amendment moved by the hon. Chief Minister, member for Malew and Santon as he stands in this respect, and it looks as if that may well win the day, but what you are going to do with it, if indeed you accept it, is to open up yet another raft of discussions where the gentleman actually has previously said no. You are starting again. You are trying to lead to water someone who, up to now, might be led to the sink or horse trough or whatever but certainly has shown no indication whatever.

Of course there is another thing. As plenty have found to their cost, this booming financial sector is supposed to throw up vast amounts of alternative employment for everyone. You can walk into a job - no reason for anyone to be unemployed. That is, until you actually try it, and it is not quite so easy. I have some personal family experience of this, but you do not write your own cheque for a job even with a degree, which the person I am talking about has got; you have to work hard to get the position you want, and it is not a licence to print money. I hope I am not being disrespectful to the former occupant of the post of the Clerk of Tynwald because I think he told me, or admitted to me, one time that it was not a case of saying 'I am a former Clerk of Tynwald and therefore I want an £80,000 job in Athol Street.' It is not quite like that, and in fact the hon. Professor is being claimed as a world

class authority; in that case are we going to be told that every authority in the world is going to be writing begging letters saying 'Please, if the Isle of Man do not like you, come and work for us'? I have not heard of it happening up to now. Perhaps it is. Good luck to him if that is the case, but if he does do that, he has to leave this Island with all that that entails. I do not believe he wants to. I believe he has traded it, he has pushed it right to the brink, and I think we have too, and it is about time he and us banged all our heads together and laid this one to rest once and for all.

But it is not, finally, Mr Deputy Speaker, enhanced by receiving a letter on paper here in which indeed the signatory does not state his office under his signature but it is presented nevertheless on the official notepaper of the office of the President of Tynwald - and I stand alone in many things and I stand to be shot at too, as we saw yesterday - but it says here that another agenda was being followed. Oh, yes? But where has all this come from then? What notion does the hon. President of Tynwald have to make that statement that another agenda was being followed? Can he substantiate it - and whose agenda, and with what aim? Are some people holding back here in this debate? That is what I call upon the hon. member for Glenfaba to tell us: what is the final piece in the jigsaw? Are we playing war games here between factions within this Court to try to overthrow officers, sympathetic or otherwise to the cause, or are we just merely being caught up in something that looks as if we are? If we are only playing at it, let us get out as quick as we can. If we are playing real war games, then let us have the bullets fired across but let us know who is sitting behind the guns.

But I will not be standing very easily to hear that, in fact, as a signatory to a committee which had shown every possible sign of frustration in rebutting the attempt of the members - all right, it was only a semi-private meeting in the Millennium Room, but if I had been on a committee and found a signatory of 14 members of my House which appointed me, I would have done one of two things: I would have said, 'Let us get him in and see what it is about' or I would have resigned. They did neither, so no wonder members - and I put myself top of that list - felt frustrated, and that is why I signed the list. I do not flinch from it but I certainly do not think I qualify to receive a letter from the President of Tynwald suggesting that I am in breach of privilege.

Members: Hear, hear.

The Acting Speaker: Member for Rushen, Mrs Crowe. No? We move on, then, to the member for North Douglas, Mr Henderson.

Mr Henderson: Thank you, Mr Deputy Speaker. I was going to rise to second the amendment moved by the hon. member for Malew and Santon but it has already been done by the Speaker, so I rise to third it because I think it is a fair compromise and a way forward and I think (*Interjections*) all members in this House need to take careful consideration of what the hon. member Mr Gelling has tried to do here and take careful note of what the hon. Speaker has said, and possibly take less note, despite the serious comments, of the inflammatory observations from the hon. member Mr Cannell, because I think we are in danger of possibly widening the debate and going on further and further and moving into territory which we will never be able to come back from, and I see that as dangerous.

There is a fair compromise on the table and I for one believe that if there is a way of retrieving the situation, at least he should have the bottle to have a go. It does not matter if

you are eating a bit of humble pie. If a situation is retrieved and there is a little bit of credibility on all sides come out of it, that has got to be good. It has got to be better than what has happened here this afternoon and I, like my hon. colleague for Onchan, am dismayed with the letter that was waiting for me on the desk and, as he pointed out and as I have highlighted, the bottom paragraph which I consider to be intimidatory, and as far as I am concerned that is what I think of that. **(Mr Houghton:** Hear, hear.) I was elected here on various issues, one of which was to carry forward the views of the people of my constituency and this Island, and I hope I will do so. Certainly there has been a lot of mention this afternoon of bringing this House into disrepute and all sorts of aspersions, and I have to say that watching the hon. member for Peel spilling her guts did nothing -

Mrs Crowe: Dear, dear!

Mr Henderson: - but to bring that view forward in the full spectacle of the press as far as I can see,

Mrs Crowe: A factual statement.

Mr Henderson: - and I am very, very sad that it had to happen this way, and I am only sorry that the amendment did not come sooner, because it might well have solved the situation a little sooner.

So with that, Mr Deputy Speaker, I would ask people to take serious note of this amendment, give it some serious thought and see if we can get something positive out of this whole situation.

The Speaker: The member for Peel.

Mrs Hannan: I am speaking to the amendment, Vainstyr Lhiass-Loayreyder. *(Interjection)* The member who just resumed his seat suggested I spilled my guts this afternoon. I would remind him what this motion was about. This motion was about telling the member for Glenfaba and myself that we had acted in some way inappropriately. Nobody has spelled out to me this afternoon how and why we acted inappropriately, so I would like to know how we acted inappropriately.

Somebody criticised me for mentioning privilege. Committees of the House do have privilege. We have privilege in the House, we are protected when we are in the House, and committees should not be directed.

One of the pieces of advice we had from the Counsel to the Speaker was that if it was informal it could not be seen as being a direction, but once it becomes the situation such as we are in today, it becomes a direction and it is a privilege which is being abused by the House because it is then a formal request, and I just wonder where this amendment that has been moved by the member for Malew and Santon stands in that instance, because it does direct the committee to do. . . whichever the committee is, and I do not know that that amendment can actually solve the problem that some members think that it can.

We have also heard, people have been deeply offended by a letter from the President of Tynwald. The President of Tynwald is on that committee and are you saying that the President of Tynwald, who was party to all these discussions, does not have a position to spell out the situation? This is the only way in which he can put a position to this House - in a letter form.

I would refer to these demands which have been made on the committee, albeit informally, albeit faxed and in letter, but it says, 'We the undersigned, being the majority of the members of the House of Keys, have directed our elected representatives to request the Tynwald Management Committee to make an immediate approach to Professor StJohn Bates with a view to him continuing in his present position for a further period of not less than three months.' It says, 'Following this, we fully expect the committee to take immediate action in the reorganisation of the structure of the Office of the Clerk of Tynwald to allow the appointment of a deputy Secretary of the House and senior deputy Clerk of Tynwald with a view to retaining Professor StJohn Bates' valuable service to us for the foreseeable future. That is the demand that was made and presumably the amendment that is before us in the name of one of the members of the committee - and he knows the situation, but it is there - this is following up the demand that was put to us in letter and by fax. It also came to us in the form of spelling it out to us - if I can find it - where it said we had to respond by 4.00 individually to these demands which had been made on us. The response that we made to that was that we were not individuals when it came to this; we were collectively a committee and I feel we were quite within our rights to point that particular situation out, just in the same way as a member of the committee who cannot have a say here today but, I suppose feels as responsible as we are as members for what has taken place, and all he is doing is spelling out to members the situation, as he sees it, to advise members.

What I would like to know - and there must be somebody, and I would imagine that we would suspend standing orders to be told this, because there are so many people in this House who are so close to Professor StJohn Bates - is on what grounds he would reconsider his position (**Mr Gilbey:** Hear, hear.) and I think that this should be spelt out before this amendment in the name of the member for Malew and Santon. I think it should be spelt out quite clearly what the committee would have to do to fulfil that, because it could be that you are asking the committee to break legislation that has been passed before this House in the interests of employees, employed not only by government but also by the private sector, which we have striven over the last 14 years that I have been a member of this House (**Mrs Crowe:** Hear, hear.) by which to improve the situation for them. And if we are going to stick two fingers up to that legislation, then I believe we are giving an open invitation to everybody out there to do exactly the same. But I think we ought to be told what the situation is and there must be somebody here who knows -

Mrs Cannell: The mover.

Mr Downie: The mover will know.

Mrs Hannan: The Clerk, chair to the Tynwald Management Committee, must know on what grounds that this particular amendment could be considered, because it does not matter whether it is me or the member for Glenfaba, the member for Malew and Santon or Mr Speaker or even the President, who has been told to do this. If they have all been told to do this, what do they have to do to conform with this amendment? And in a way I think we have got to the stage now where it is possibly inappropriate because we have had two months, we have had endless meetings of the Tynwald Management Committee which are known about throughout the whole of the Clerk of Tynwald's section, and at any time Professor Bates could have asked any of us if he could attend a meeting. And of course he could have

attended a meeting to talk to the management committee. He resigned; he was asked to reconsider. It is not a simple case of us jumping on the bandwagon saying, 'That is it.'

The other things that I point out following on: members will have had a letter dated 12th December and I wish to bring it to members attention now. It says, 'Dear colleague, following the private sitting of the House of Keys on 5th December the Tynwald Management Committee met on Wednesday, 6th December. The committee resolved (1) to seek independent legal advice from Mr David Doyle of Dickinson Cruickshank and Company on (a) the legality or otherwise of the actions of the Tynwald Management Committee and the appointment of a Deputy Clerk of Tynwald; and (b) Mrs Cullen's position in this matter; (2) in respect of the staffing structure of the Tynwald office the assistance of a clerk from the House of Commons be requested in (a) making the new appointment of Clerk of Tynwald and (b) subsequently assessing the new structure in consultation with the new Clerk of Tynwald. It is the committee's intention to keep members of Tynwald advised, in confidence, of progress in the above matters.' Now it is possibly remiss of the committee if we have not brought to your attention the comments that were made by David Doyle of Dickinson Cruickshank and also that the person that has accepted the invitation from the Tynwald Management Committee to advise on the future structure along with the new Clerk of Tynwald. What I said before in speaking to the debate - now I am speaking to the amendment - was quite right in that we could not let the situation drift. We had to go on and look for a way of solving the problem. You remember it was the meeting of the 17th November; the President, the Speaker and the member for Malew and Santon were at that meeting and they asked at that meeting, could St John Bates be encouraged to stay on and to withdraw his resignation? Mr Speaker said, no, he was absolutely adamant about the position. And of course that left the management committee in a very difficult position. They had then to go to look for a way forward. That is when the approach was made to Arthur Bawden to see if he would carry on and come out of retirement again when he had already got himself psyched up to retire, to stay on until the position was filled. That is where we are up to at the moment. But it is very remiss of the committee, I must say, and the chair of that committee, not to have kept members informed of the response from Dickinson Cruickshank and also of the person from the House of Commons that has accepted the invitation both to act as adviser to us on the appointment, so that would be in at the interviews, advising the Tynwald Management Committee, and also to then go on to look at the structure and to advise on that.

Now, we think that is the way ahead. When we considered it we thought that was a responsible way ahead. We have had advice in the past from the House of Commons and their advisers on personnel within that particular department. They have many more staff, and it seemed to be the responsible thing to do. We had to have professional advice on the way forward. But I would like to know from this particular amendment before us that somebody should actually spell out the conditions before this House actually votes on this.

The Acting Speaker: Before we continue, hon. members, it has passed the hour of 5.30. Do I take it you wish to conclude the matter before us? (**Members:** Hear, hear.) Thank you, I call upon Mr Rodan, hon. member for Garff.

Mrs Crowe: Mr Speaker -

The Acting Speaker: Is it a point of order, Mrs Crowe?

Mrs Crowe: It is a point of clarification, please, to the last statement that has just been made, if you will excuse me please, Mr Rodan.

Mr Cretney: I am sure he will!

Mrs Crowe: Mrs Hannan has referred to a letter, presumably that they have received from Mr David Doyle of Dickinson Cruickshank, with advice. Is this correct? And would it be possible for us to see what this advice was? We were told in this letter we would be kept informed and we have not, as far as I know, had this information. Thank you.

The Acting Speaker: Can I say to the hon. member the point that the hon. member, for Peel has referred to it is one issue. Whether or not any other member of the committee has the letter and wishes to refer to it, if they wish to take the opportunity to speak, is a matter for them.

Mrs Crowe: Thank you, Mr Deputy Speaker.

The Acting Speaker: I call on the hon. member for Garff, Mr Rodan.

Mr Rodan: Mr Deputy Speaker, after three hours of debate and three hours of what can only be described as bitterness and recrimination I think at this stage of the afternoon we are in great danger of talking ourselves out of possible solutions. (**A Member:** Hear, hear.) We have come full circle, and amidst all the heat there have been some shafts of light and ways forward and I suggest that we focus on those shafts of light and how we can in fact get ourselves out of this most unhappy situation.

We more or less know the mechanics. We more or less knew before today the mechanics of what happened at the Tynwald Management Committee and the events that led up subsequent to unfortunate events. These have been well documented by exchange of correspondence from the chairman of the committee. They have been well documented by exchange of letters, not least the latest letter from Mr President. They have been aired in private meetings. They have been aired this afternoon: Mrs Hannan, the hon. member for Peel's explanation and justifications twice for the actions of the committee of which she is a member.

Regarding the situation we have been in until today and, I fear, we might still be in today, there are two things that come to mind: the first is saving face (**Mr Bell:** Hear, hear.) and the second is stubbornness. I fear that otherwise admirable traits of not wanting to back down or to be seen to back down or to be seen to have been in the wrong, not saying who may have been in the wrong - I rather fear that we are still in that situation and I fear for what we have heard about the Tynwald Management Committee and what went on there; there are elements of not wanting to be seen to be giving in to blackmail after a certain decision has been made. I see this and I see, more importantly, a stubbornness at not wanting to retrieve the situation if at all possible. What has gone on since the decision has been aimed at trying to retrieve the situation without loss of face, and I do not know if it is possible to do that without loss of face. But one thing is certain: that what is very clear is that whether or not there is justification for the committee's actions historically, what there is, evidenced by the motion today, is the clear dissatisfaction by majority of members of this House about where we are at. There is clear dissatisfaction that whatever the rights and wrongs of the selection process, whatever the misunderstandings on the advice that was given or in fact the

definition of what the advice was that was given by the clerk, for example, whether or not the committee have acted properly or with propriety and if there is evidence that by the letter of things that they have. What there apparently is not is a willingness to retrieve the situation. Even when more facts are made known, better understood, there is apparently still this not wanting to back down, and I rather fear that the prediction of the member for Douglas West, Mr Shimmin, nearly three hours ago that entrenched positions would be dug and we would be in them - unless we move very quickly towards a shaft of light we are going to stay in those entrenched positions.

A question has been asked as to terms that might be acceptable to retrieve the situation on the part of Professor Bates and I likewise understand that as a result of private discussions that have taken place there may be, if not a formula, circumstances for a way forward that actually involves consent of all the parties involved while acknowledging contractual and legal obligations, and that would result in retaining the services of Professor Bates, retaining the services of Mrs Cullen and involving recruiting the services of a third clerk. Now, I have to say I do not know what the details of all that are, but I am led to believe that all that is possible.

Mrs Crowe: True, fine.

Mr Rodan: Now, am I right? I do not know if I am right but I believe, from having heard it from various sources, that this might be possible. If it is possible, I suggest we try and pursue this. Of course, Sir Miles is right: there are legal and contractual issues before the committee, not least the one of the way the committee was constituted with the presence of Mr Lowey, a matter raised quite some time ago by the hon. member for Ayre; that has not been addressed. Whether this is one of those legal issues that renders null and void any decision I do not know, but it has been raised and has to be addressed.

I had been coming towards the position - and I expect it is one shared by many members of the House - that there is not the slightest prospect of the committee as currently constituted being able to work together towards a solution (**Mr Quine:** Hear, hear.). I believe there is ample evidence that the committee, up to today anyway, has lost the confidence of this House and has an ability to progress out of this mess. Now, that may or may not be the case; it may have lost the confidence of the House, but a committee, whether it be this committee or a new committee with new members of this House elected to it, has to grapple with these legal and contractual issues and has to grapple with the suggestions that have been made that have positive vibrations attached to them that actually there might be a way forward.

The healing process, I suggest, has to begin now. A shaft of light and a way forward has been identified by the hon. member for Malew and Santon which calls on the Tynwald Management Committee, whoever is on that committee, to enter into discussion with the Clerk with a view to retaining his services, which is the express wish of the majority of members of this House. So that cannot be other than the most worthy objective, and I suggest we put our shoulders, all of us, behind the amendment of the hon. member for Malew and Santon because that is the only way forward. Wherever we come from in all this, or the stances we have had, or the trenches we occupy this is the only way forward out of this impasse, and I suggest we take it before we continue to go round fruitlessly in circles.

The Acting Speaker: Hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Deputy Speaker. It is my intention to be extremely brief on this. I have to say this is one of the most unedifying debates (**Mr Cretney:** Hear, hear.) I have sat through in a very great period of time. I do not think it has enhanced the reputation of this (**Members:** Hear, hear.) hon. chamber in the slightest, and I do believe, in two or three weeks when the dust has settled on this and we look back on this day, it will be with some considerable embarrassment. It is not helped the democratic process, I believe, in the slightest.

I have to say personally - and I suspect I speak for a number of members in this hon. chamber - that I have already received vastly in excess the amount of information that I wish to absorb in this particular debate. I have heard more than enough of this and I would hope hon. members would agree with me that we should be drawing this to a close (**A Member:** Hear, hear.) with some rapidity, because we are going round and round in circles just repeating the arguments and getting absolutely nowhere.

The hon. member for Garff sums up my views completely, and that is that the root of all this seems to me to be pure, plain stubbornness. I can see the two sides on this, the management committee and the Clerk of Tynwald, as being two petulant children stamping their feet and refusing to talk to each other to come to what could simply be a compromise. All that the members of this chamber who certainly I have been talking to over the last few weeks have ever wanted is embodied in the amendment put forward by the hon. member for Malew and Santon. That is all we have ever asked for. (*Mr Downie interjecting*) We are looking for the best possible advice as elected members of this chamber that we can get; perhaps not everyone but the majority of members feel that that advice has been forthcoming very effectively from Professor Bates over the last few years, and we wish to retain that provision if it is at all possible. That is the only simple, basic request which has been made of the committee and I find it unbelievable that the committee has dug their heels in and refused to recognise what is a genuine and sincere request from members. In spite of everything and the hours and hours of verbiage we have heard, I do not believe it is beyond the wit of man to come to some sensible compromise where this could have been achieved. (**Members:** Hear, hear.)

I have no intention at all of regurgitating any of the arguments which have gone on this afternoon; I have heard more than enough for me to make up my mind, and that is that I will be supporting the amendment from the member for Malew and Santon and I would urge hon. members to do the same.

However, there is one issue indirectly relating to this which certainly has been touched on but perhaps not with the same seriousness as I see it, and that is the letter we have got from the President of Tynwald who himself is a member of this committee, albeit not a member of this House to defend his position. Again, I am at this stage totally disinterested as to what his overall position is on this, whether he has played any role in the situation we have arrived at or not, but I do as a signatory to the original letter have some grave concerns about the final paragraph in the letter that we received. (**Members:** Hear, hear.) I just will read it to members if they have not already had the chance to read it. It states, 'I must, however, as President of Tynwald, express my extreme concern at the action of those members who are signatories to the letter dated Friday last and sent to the three House of Keys representatives

on the committee. It is my opinion that the letter constitutes a threat to the hon. members and that therefore the signatories' - that is, all 14 of us - 'are in breach of privilege of Tynwald.' Now, that is a serious accusation to make and it is not one which should be treated lightly in this hon. House. It implies that 14 members, a majority of this hon. House, who took action in all sincerity to protect their own interests, to achieve the best possible advice to enable us to do our job, in trying to protect that position are now, officially in writing by the President of Tynwald, being accused of being in breach of Tynwald.

Mr Quine: Scare tactics!

Mr Bell: Now, I do not know who can follow this through, but I do not believe it should be left simply lying on our desks to be thrown in the waste paper basket. I do believe this statement, this allegation, this accusation against 14 genuine, sincere members of this hon. chamber needs investigating and either corroborating - because if in fact what he says is correct then we ought to be told quite clearly we cannot take this action in future - or, if it is incorrect, then I think the President of Tynwald should be apologising to us for making this allegation in the first place. Either way I am not in a position to know whether there is any truth to this or not, but I do believe, now the statement has been made, that there ought to be some clarification on this point so that we know in future what are the bounds of our ability to take action, should we not be satisfied with the performance in this case of the Tynwald Management Committee, and what courses of action are in fact open to us to try and achieve a situation with which we are dissatisfied.

That is the point I would wish to make today. I do not wish to go over the ground. I think members have made up their minds now what the way forward is. We have heard facts ad nauseam; I do not believe we need another round of it, but I do believe we clarification of this point.

Mr Cannan: Mr Deputy Speaker, on a point of order can I assure the hon. member for Ramsey and all members of this House that I too received the letter from the President of Tynwald and I intend to seek the advice of the Counsel to the Speaker within the next 24-48 hours as to the propriety of those allegations. I will get it in writing and I will advise members of the advice I receive.

Several Members: Hear, hear.

The Acting Speaker: Hon, member for East Douglas, Mrs Cannell, speaking to the amendment by Mr Gelling.

Mrs Cannell: Thank you, Mr Deputy Speaker, I shall be very brief. I can see that it is a very genuine attempt to try and provide a bridge to all sides and to satisfy our concerns today. However, I do have a major concern in that it is calling on the present Tynwald Management Committee to enter into discussion. That has already been rebutted by a request made by the majority of those members, the 14, who signed that particular letter. There is no assurance within this particular amendment as it is being proposed in the event of the management committee digging their heels in, sticking to their guns and saying 'No, we have considered this and the answer is no.'

Now, in that event, if that were to happen what do we do then? Are we going to come back again and go through this whole debate again on how we can move forward? We have

the opportunity to enter into change, thereby securing that there will be a future role for the Professor and also invaluable change within his department to help us all. That is the one scenario, if they say, 'No, we are not going to do it,' and I think we have had, following on from that, what the hon. member Mr Rodan was saying, that he has heard no assurance today from those members that they will reconsider the position in respect of retaining the Professor's services. I would agree with him there that we have not. The hon. member for Peel was very swift to her feet to point out to the hon. Mr Gelling, who is also a member of the committee, that she believes that to actually make a formal request through the House of Keys is inappropriate and there is a big question mark over that. I feel that there is an indication there of an unwillingness to reconsider the position. Equally, of course, the other side of the amendment is, if they agreed to effect this particular formal view of the members of the Keys in terms of approving this amendment, then we are in a position where the Clerk is in an untenable position, because he is being asked to reconsider staying in position in his present position. And if we look at his present position, it was alluded to earlier on that what he was faced with prior to tendering his resignation was that he had lost the opportunity of having a qualified assistant in his office. That had gone down the drain and he was faced with the status quo. I would assert that he was not faced with the status quo; in fact, he will be and is faced with a matter far more serious than that, because not only has he lost the opportunity of having qualified assistance, he has also lost a very valuable secretary, and at the moment the eminent Professor does not have a personal secretary, or will not, when his secretary takes up her new appointment. In my view Mrs Cullen's appointment has been secured and that is where she will stay and her position should be made, and is, secure.

I cannot see that we can move forward with this amendment other than, in effect, tossing it back to the committee and saying to them that it is the formal will of the House that you enter into negotiations, but there is nothing - no standing order or anything else - written to say that the Tynwald Management Committee cannot just dig their heels in and reconfirm their previous decision, which is to not reconsider and not make an approach to the Professor. In addition, if they agreed to make the approach to the Professor, what is the Professor going to say? What would we anticipate we would be faced with? Exactly the same position that was the result of him tendering his resignation: no professional assistance, on top of which he has lost a very valuable personal secretary so I would just -

Mrs Hannan: She is not just a secretary!

Mrs Cannell: Mr Deputy Speaker, I believe I do have the floor. I think, whether I have got the description right or wrong I will be corrected. The point I am trying to make is that the situation is worse than it was prior to the appointment. There are no guarantees in this amendment, although I see it as a very sincere attempts to try and bridge the divide. Thank you.

The Acting Speaker: Before I call on the next hon. member, could I just clarify the situation that has been mentioned where the hon. member for Peel has put observations about the amendment in the name of the hon. member for Malew and Santon. The amendment from the member for Malew and Santon is in order. The hon. member for West Douglas, Mr Shimmin, to the amendment.

Mr Shimmin: Thank you, Mr Deputy Speaker, I am brought to my feet by the hon. member for Peel who raised questions regarding this amendment, and I would urge

members to support it despite what I said earlier this afternoon. But I would clarify to the committee that, with supporting this amendment, that does not mean that I or, I would think, others believe it is at any cost. What the amendment says is, 'enter into discussion with the Clerk with a view to retaining his services'. Now, I would say to the management committee that that does not mean that I or other hon. members are saying, 'You must go out and get him at any cost.' It is what the amendment says, which is a discussion with a view, and I personally, and I would hope other hon. members, would accept that if that was not able to broker a satisfactory arrangement, then my trust for the committee is sufficient that they will have done their best. They will understand the views of the House and the only reason for standing up now is really to give that guidance to the committee that I do not believe that this is a gun to the committee's head to say, 'You must reappoint or find a mechanism', but the discussion should take place.

Now, I am aware that some members of the committee have already said that that has happened previously. I think the difference here is that it would come with the full weight of the majority of the House of Keys, which is substantially different from merely the same members of the management committee who were involved in the whole appointment process.

So my view is that the amendment should be supported. I think it does give the committee sufficient flexibility and it also allows, as members for Garff and for Ramsey have already said, an opportunity for people to hold a position of respect and honour for each other without having to back down.

I am a bit concerned about some of the comments from my friend from Ramsey when he talks about the committee, because I see Mr Gilbey there with numerous pages of paper. I am not sure whether we are going to have the final member of the committee. I would say I do not believe we need to. I think his integrity and the rest of the committee's has been fully exonerated. I would say that this amendment does appear supportable.

I would finally say, Mr Deputy Speaker, that allegations were made against me earlier this afternoon; I normally hang on every word that the hon. member for Peel says, but I must have been daydreaming at the start of it this afternoon, so I will be looking at *Hansard* and will be making a response in due course.

Members: Hear, hear.

The Acting Speaker: Hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Mr Speaker, as far as I am concerned, this is a matter entirely of policy and principle and not of personalities. Colleagues are continually disagreeing on various matters of policy and there is no need for this to upset their personal relationships. We are a mass of floating consortia: one day you agree with someone, the next day you are disagreeing with them.

Also I think, Mr Acting Speaker, everyone would agree that this is a parliamentary matter and in no way connected with executive government. In respect to the Clerk of Tynwald, I have always considered that he has helped me whenever required and I hope that I have had as good a personal relationship with him as I have with other senior officials throughout the public sector.

Regarding the hon. member for Onchan, Mr Cannell's points about political plots et cetera, I have heard suggestions of this. I do not know of any myself, but sometimes one does wonder that some of the things that do happen are not motivating them, but I cannot comment about things that I have no certainty about and never have had.

Regarding the letter from Dickinson Cruickshank, I am glad that that has been circulated.

Unlike the hon. member for West Douglas, I think the facts of the case are very important and, in fact, I will get the Acting Secretary to pass round again to members the papers that were referred to by Mr Speaker and which were actually sent to all hon. members in November and which clearly set out the situation as unanimously agreed by the committee. I think it is important that members should see these in confidence to members; they have had them already.

There are a couple of points in it which, in going through it, the hon. Mr Speaker did not mention: in (2) it says 'members were not advised that Mr Lowey's appointment was irregular or incorrect, nor were members advised that before the appointment of the successful candidate, the person had to be ratified by Tynwald', although the question had been asked' I think it was particularly asked by the hon. Chief Minister, and I would like to point that out.

Regarding the rest, I think it shows quite clearly that the Clerk of Tynwald was asked on more than one occasion to reconsider his resignation when he put it in and that he appeared to make it perfectly clear that he was determined to resign. For example, after section 11, I have noted that not only did the Clerk of Tynwald refuse to reconsider his resignation but he also made it clear, which is not in these notes, that he had consulted his wife about his resignation, therefore making it appear that it was a carefully thought out decision. It is interesting too, he also suggested that Mrs Cullen should be informed of her appointment at once.

All this took place on 16th and 17th November, over two months ago, and since then it has been well known that the committee was advertising the position of Clerk of Tynwald, that applications for the post had been received and the date fixed for interviewing. Furthermore, as the hon. Chief Minister said, various members of the committee have spoken to the Clerk and not once has he intimated that he wished to withdraw his resignation or, as I believe would now be the legal position, apply for reappointment. However, I understand that he did tell one hon. member of this House that he would not approach the committee but that it was up to them to approach him - not, I would suspect, this met an attitude that most people would expect from someone who has submitted his written resignation and then refused two requests to withdraw it, as the hon. member for Onchan, Mr Cannell, has rightly intimated.

Now, had the Clerk withdrawn his resignation immediately or a few days after formally submitting it in writing, there are indeed arguments that the withdrawal should have been accepted. However, it is perfectly clear that this never happened, but I am glad that the hon. member for West Douglas who has just left the House accepts that the committee has behaved with perfect propriety and integrity, which I am totally sure is the case, so I need not argue that point any more.

However, again in integrity, I must say that I have constantly expressed a view, as a matter of principle, that once a person in a senior position has formally resigned, that should be the end of the matter and they should not be re-appointed. Furthermore, I am bound to say that from talking to people in the private sector, I believe this is the general view. Indeed, it has been said to me, it may be all right for a very junior employee to ask to withdraw their resignation and for that withdrawal to be accepted, but it is not appropriate in respect of senior positions. This is a belief that I hold and I must be true to, but of course, as in many other things, one accepts the majority decision. There are many things I disagree with, and if the majority of a committee or legislature decide on something else, one has to accept it and accept it with good grace, but that does not mean that one thinks it is right or one goes back on one's principles. I think, bearing in mind that the resolution to re-appoint the Clerk of Tynwald at the private sitting of the Keys was not passed, although put, that over two months have passed since he handed in his resignation and it was accepted, and that advertisements for a successor have been put out and interviews arranged, to now reappoint him would be extraordinary, to say the very least, certainly, by any commercial or business standards.

I think, above all, one has to consider the effect on other people: firstly those who have been shortlisted and whose hopes have been raised; then above all, Mrs Cullen, whose position might be quite untenable if the Clerk were re-appointed. Indeed, it seems to be suggested that the only terms on which he would be reappointed would be that she should be effectively downgraded from at least one of the posts she has been offered and accepted in writing. There is no doubt at all - *(Interjections)* Well, I have heard this suggested, certainly *(Interjections)* and I am very glad that hon. members would not agree with such a thing, because any change in her title that she has been offered in my view would be a clear breach of contract. When you employ someone, it is not just the amount of money and the conditions that go with that, but it is the position that has been offered. Certainly, to me, it would be fundamental that nothing should be done to alter the name or responsibilities of the post that she has been offered, and I am also quite sure that if that was done she would have grounds for claiming considerable damages and I could not personally blame her for doing so.

For these reasons, I believe that up to now the Tynwald Management Committee have been right in the policy and actions which they have pursued, but if a resolution is passed instructing them to try to do something else, obviously that is a matter for the committee to consider and a majority of the committee to come to a decision on, but I certainly cannot go back on principles that I have made perfectly clear, in public and in private, for many months.

The Acting Speaker: Hon. member for Rushen, Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. I am brought to my feet to speak to the amendment by the hon. member for Malew and Santon, the Chief Minister, regarding the entering into discussions with a view to retaining the services of the Clerk. We have been told by the committee that we cannot direct the management committee of the House, and I would think that that is a clear direction to the management committee.

Now, the hon. member for Garff suggests that we should not be seen as giving in to blackmail. This is an employment issue. We have a letter before us from Mr Doyle of

Dickinson Cruickshank to say that Mrs Cullen's appointment is quite in order, that there is no way that that can be disputed virtually.

What is this lady to do? We now have a situation where we are saying, do we honestly believe that regarding this loyal servant of this House, not the personal secretary of the Clerk of Tynwald but who quite often deputises for the Clerk of Tynwald, the whole function of that office will go back to normal? We are not living in the real world here! This is ridiculous, but in order to be helpful, I would like to make a suggestion.

I would like to suggest an amendment. (*Interjections*) This is an important employment issue. What signals this is giving out to the industry on the Island I do not know. I would like to suggest that, rather than the directive to the committee, we say, after 'that', 'this House calls upon the Tynwald Management Committee to consider the appointment of a third clerk.' Now, that in no way is a direction - (*Interjections*) it is a different amendment and it may well be seconded. We did have a provision. This is 'consider the appointment' it is different.

The Acting Speaker: Hon. member for Rushen, could I just ask. . . Hon. members, the amendment is being circulated, so you will see then. Carry on, please.

Mrs Crowe: Thank you, and I think this would be a more helpful way forward. We know this House cannot direct a committee, and I think that this may well be a way forward. Thank you, Mr Speaker.

The Acting Speaker: I call on the hon. member for Onchan, Mr Corkill.

Mr Corkill: Mr Deputy Speaker, I have not spoken on this subject and I do not intend to say very much except that I was one of the persons that signed that first letter, and quite simply I wanted to convey a message to the committee that they do their utmost and that they did everything that could be done under the circumstances to resolve the situation. That was simply the reason I signed that letter. I think, too, to that extent it did put pressure on the committee, and that was what it intended to do.

Today I have listened very carefully about everything that has been said. There have been some sorry things said, and I feel pretty low, really, about some of the things that have surfaced, but here we are at the eleventh hour and we have an amendment by the member for Malew and Santon, the Chief Minister, which I believe really is an honestly brokered way to try and get a consensus of this House. At the end of the day, we have consensus politics in the Isle of Man and it is a sad day when an employment issue does become political, but we are here and it is political and we have to get on with it. So I can support this amendment but, having come from the situation of someone who has signed the letter because I wanted to put pressure on - I did not just want to lose the services of our Clerk, Professor Bates, because I know how experienced he is and I obviously know from what members have said how many people respect what he advises them - at the end of the day, as we have heard, resignations are a matter for individuals to consider, and we went into that in the earlier part of the debate. I am now finding it difficult to actually support the amendment in the name of the member for Malew and Santon because I think it may be a little too generous and I think there is a swing, but even so I can still support it.

There are a couple of things I would like to add, perhaps for the committee's deliberation if the amendment is successful, and that is that the terms and conditions and the contract of employment are looked at again, because I think, in another committee in another place, that particular situation, the terms under which the Clerk has been employed, has been a matter for a little bit of discontent underneath, and so if dialogue can be opened up and if Professor StJohn Bates is willing to come to the table and talk to the committee, which I hope he is, then I think it has to be an open, full, frank discussion with everything on the table. Now, whether that is acceptable only time will tell. So I can support the amendment in the name of Mr Gelling if those issues are raised, and I would hope that they would be.

The member for Rushen, Mrs Crowe, has just mentioned living in the real world; I have been observing the behaviour and the comments from members and there are different comments coming from members who in their business life have had to employ people and different comments from people who have never been in business and have never employed people on a personal basis. That interface between employer and employee is very sensitive and very difficult and having it aired in public like this is another situation on top of that. Under the normal employer/employee situation it is delicate; under these circumstances it will take a great leap of faith for everyone to actually make it happen, but all those involved, all of us and the Professor, are in fact aware of what political life can be. We have all seen and experienced it for a period of time, and I would ask that the amendment is supported. I am not asking for a clean sheet of paper, because that is not living in the real world; relationships will have to go on. But I do believe that it is an opportunity to put things in good order, to set an agenda for the future which will either be acceptable or it will not, it will be a clean break or a new beginning. It has to be one or the other. There is no in-between, there is no grey area in this, and I am sure the members of the committee already appreciate that.

But, having got to this political forum, I would certainly think that there may be an opportunity for everyone to construct something which is to the benefit of the people of the Isle of Man at the end of the day, because the functions of this House are so important so that everything feeds down from this House. We heard comments earlier about stability of government; we heard comments about executive government. Well, I believe executive government is stable and is strong on this Island. I would say that, wouldn't I, because I am part of it at the moment, but it is only stable because this House makes it so as a first step, and we do ourselves a disservice if we do not resolve this issue cleanly. An agenda for the future or a clean break - there has to be no grey area and nothing left in the middle that is then going to fester for a second time. Thank you, Mr Speaker.

The Acting Speaker: I call on the hon. member for Ayre to speak to the amendment of Mr Gelling.

Mr Quine: Just speaking to the last two amendments if I may, sir - and I shall surely be short on this - first of all, I would just like to say that the hon. member for Rushen, Mrs Crowe, speaking to the letter of 19th December for Dickinson Cruickshank, gave us an assurance that everything was absolutely spot-on because the legal advice said so. That is not what the legal advice says. The legal advice says, 'My preliminary views are as follows. . .' and then goes on to qualify that further, to say that this is based on his initial perusal of the instructions based on the documentation provided to him. That is quite a different matter.

Speaking now to the amendment in the name of hon. member for Malew and Santon, Mr Gelling, I recognise this is an honest attempt to find a way forward for us, and after such a lengthy debate I am all for finding the way forward. More to the point, if I could find my way home, I suppose, (*Laughter*) but I do have certain reservations about this and I think there are two reservations in particular. I think it is going to depend on a large extent on whether or not the existing members of the Tynwald Management Committee are in truth going to apply themselves to working to find a solution. Some of the comments that have been made in this debate by certainly one or two members of the Tynwald Management Committee convey to me the fact that they still maintain an entrenched position and I am not sure whether that is going to lead to an honest and open and genuine exercise to find a solution. I sincerely hope it is.

Then, looking beyond that, one has to look at the contributions of members of the Tynwald Management Committee here today and the indications of apparent acrimony which have surfaced here today and ask yourself whether this committee can, in fact, see out its lease of life and continue to give the service that we expect it to give during the remainder of this House.

So I have my reservations and I think they are quite well-founded reservations, but I do believe that we should lend our support to the amendment in the name of the member for Malew and Santon and hope that this will bring us to a position where something can be retrieved from this sorry exercise.

The Acting Speaker: Hon. member for Rushen, Mr Rimington, speaking to the amendment.

Mr Rimington: Deputy Speaker, I hope you will advise me. My previous amendment, which was not seconded, is withdrawn -

The Acting Speaker: You are only speaking to the amendment by the member for Malew and Santon.

Mr Rimington: - and I wish to second the amendment from the hon. member for Rushen, Mrs Crowe.

The Acting Speaker: I am afraid you cannot do that because whilst you can withdraw your amendment which has not been seconded and so therefore is not before the House, you cannot speak again as you have already spoken. You therefore cannot second the amendment in the name of Mrs Crowe. You can speak on the other amendments. (*Interjections*) I am just making sure I am right, but I am right!

Mr Rimington: Thank you, Mr Deputy Speaker.

The Acting Speaker: Hon. member, please carry on.

Mr Rimington: Well, very briefly, whereas I recognise that the amendment by the hon. member for Malew and Santon is an attempt to see a way forward and may well be the one that will find the final resolution of the House, I am concerned about it in terms of how it will affect the procedures that are going to take place, and I do not think necessarily that focusing through one individual is the right way to structure the office of Tynwald. That is my concern and that is why, if I had had the opportunity, sir, wished to second the amendment by Mrs

Crowe, which would have allowed the Tynwald Management Committee to have acted in a more appropriate manner.

The Acting Speaker: Just to make absolutely sure that I am correct, could I ask Mr Bawden to confirm my interpretation?

The Acting Secretary: That is correct, yes.

The Acting Speaker: So the ruling I have given is correct. Okay, the hon. member, Mr Karran, speaking to both amendments.

Mr Karran: I am speaking to the amendment from the Chief Minister. What I cannot understand is why we have to have this amendment here now. Why couldn't this have been resolved beforehand? As I said at the start of this debate, I did not want it in public and I think it has done no favours in public, even though I must say that the member for Peel has, in my opinion, acted very restrainedly and very responsibly as a member of this hon. House, (**Members:** Hear, hear.) and I think that needs to be noted. The danger of certain ones trying to belittle that - it is a very difficult situation when you are dealing with private information.

The one person I have been impressed with in this debate and as far as this amendment is concerned is the hon. member for Garff, but I believe that he is supporting this amendment by the Chief Minister. I cannot understand why we need to support this amendment. I believe that we should not support this amendment and we should vote off the three members off the committee. I think that to support this amendment is the wrong way of going about things, and the new members of this committee will be more than happy to take on the debate that has been in this hon. House. That was strengthened by the input from the hon. member from Glenfaba after his input. I honestly believe that this House, if it supports this amendment, will end up with a sad situation and that what we will find is that there will be no real will to try to build bridges and, get out of the trenches that so many have got in. Maybe 'vanity over sanity' will be once again something that people outside will be saying.

I think that if this House supports the amendment of the hon. member for Santon and Malew, what we will end up with a glorious defeat where everybody saves face. I believe that now we are being forced into having this debate in public - and many things still have not come out, which may be a blessing - I believe that we should at least have the courage of the convictions of this House and not try to be friends with one another. I did not sign that letter and I was quite glad I did not sign that letter, particularly when I found out that it went into the press. Members of this House have seen my letter. I pulled no punches as far as my letter is concerned and I believe that maybe my diplomatic skills do need a bit of polishing, to say the least! But I think that the facts that I laid down in that letter still obtain, and I believe that certain parties did not want the Clerk of Tynwald to stay in post anyway. I believe, Lhiass-Loayreyder, that this House would be wrong to support this. The amendment where we vote on the three members of the Management Committee should go ahead and we should not go ahead with this proposal, because I believe that it will not go anyway. We keep on getting caveats from here and caveats from there and caveats from everywhere else -

Mr Quine: Carrots for the next chap!

Mr Karran: - and I believe that the member for Garff is right. The management committee are in the trench, well dug in, and I believe that there should be a vote in this hon.

House and vote on the three members, and I believe that the amendment in the name of the Chief Minister should not be supported as it will be another glorious defeat.

The Acting Speaker: Right, hon. members, I intend to move to close the debate now. Is that agreed?

Members: Hear, hear.

The Acting Speaker: We have two amendments before the House and I intend to call the mover of the amendment which was the first one to be seconded, that is the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Deputy Speaker. I just wish to clarify for hon. members that during the debate, of course, members said, that the Professor was asked twice, at least on two occasions, to reconsider his resignation and of course it could still be expected of him to withdraw his resignation. I would just like to point out that we are, and he is, faced with a procedural difficulty in respect of this because his resignation has been formally accepted by the Tynwald Management Committee. So he is in a no-win situation because he cannot go back to the Tynwald Management Committee and say, 'Can I withdraw my resignation?' because first the Tynwald Management Committee would have to say 'We are withdrawing our acceptance of your resignation; will you reconsider?' And so to my mind that is the way in which it would have to be done. He has not got the opportunity to be able to resolve or to even acknowledge the amount of feeling within this hon. House of those who signed the letter and have stuck together through thick and thin during this particular unhappy and unsavoury situation. I believe he is very moved indeed by the support of hon. members in this House, but he is not in a position where he can actually do anything about it. The only people who are in the position to effect change are the Tynwald Management Committee.

I am quite happy to support Mr Gelling, the hon. member for Santon's amendment, but I think rather that those of us who would support it may be suffering from a little bit of blind faith, because I do not believe, especially in view of the entrenched position of at least one of the members of the Tynwald Management Committee, that they are actually going to get anywhere with this, and what I would say is that it is going to have to come back, but I would remind hon. members that this particular issue is included on the agenda for next week's sitting of the House of Keys. Now, I would believe that the outcome of this debate today, and what can happen in the course of the next week or so will determine whether or not that motion will actually be moved, withdrawn or whatever. There may be a procedural problem, of course, that it cannot be moved because it is being moved today, but nevertheless it is there, even if it sits there on the agenda as a reminder to hon. members that we have still to resolve the situation to the satisfaction of all, and so I just throw that in.

It has been a very lengthy debate. There have been something like 28 contributions, some members speaking more than once. My amendment, I think, marries off the original resolution quite well because it includes the hon. member for Malew and Santon, it also gives the flexibility of being able to support or otherwise the individual three representatives on the committee and it also affords the opportunity for change to be taken today, which will secure, perhaps, a more fruitful outcome in terms of the future of this House, of the role of the Clerk of Tynwald and Counsel to the Speaker and, of course, the whole set up within the quarters of the Tynwald offices.

I think that we should be brave. We should support the amendment circulated in my name and we should take action now, because I believe that by going for the softer option - and it is a softer option - we are really just playing at this: we are acknowledging our disappointment; we are asking for discussions to take place. It may or may not happen, and then where will we be then? We cannot revert back, possibly, because the standing orders do not permit the situation to be raised in this hon. House again within the next six months or so and I will be guided by the Deputy Speaker on that because I know he is very familiar with standing orders. **(Mr Cretney: Hear, hear.)** But I would say please, hon. members stick to your convictions, go for a change. I would also suggest that if it does not get supported and we go for the softer option I would, with respect, expect the hon. member for Glenfaba to actually resign from this committee -

Mrs Crowe: Oh, come on!

Mrs Cannell: He has made it clear today in his contribution that he cannot change his mind in this situation. *(Mr Gilbey interjecting)* That is an indication to hon. members that at least one member refuses point blank to reconsider. So there is a risk element here, members. Thank you.

The Acting Speaker: If I may just clarify the point raised by the hon. member for East Douglas, Mrs Cannell, about the question on the order paper for next week, questions which have been put by the House under standing order 69 cannot be put again within six months. I am sure that the Speaker will clarify that at the appropriate time if necessary.

Mr Cannan: Unless by suspension of standing orders.

The Acting Speaker: Except by a suspension, yes, Mr Speaker. Right, can I call on the hon. member for Malew and Santon?

Mr Gelling: Yes, Mr Deputy Speaker, first of all this amendment that I have put forward, I can say, is purely from my own personal position as a member of this House in trying to find a way forward, and I think what I would like to suggest to hon. members is that the very things that have been spoken of during this debate are much clearer both to the members of this House and also to members of your management committee for the simple reason that people who originally signed the letter - it has been asked 'Why do we need this motion?' - and maybe the letter following were signing it on one principle. They did not know the facts, they did not know the reasoning. One particular member is now saying that he accepts the integrity of the committee members. He now is suggesting that perhaps we can move forward.

Why I have put that amendment as it is is to actually leave it that little bit wider and with a bit of flexibility, because I am not suggesting that the person who has been put into the position is now told the position is not there; we have to understand there are legal requirements and legal contracts. What I am saying is that I still believe that with a will we could still manage our way through this, because no-one has said that the strategy that is within the committee is not going to happen. The suggestion that we go forward with an amendment for a third clerk - well, these are all the things that have to be now discussed around the situation we have today, not the situation we had before we had the resignation. We now know exactly where we are. We have heard hon. members from where they are coming and surely, I would suggest to hon. members, you will at least give the management

committee an opportunity to take heed of a motion of this House - much, much different to receiving a letter from people who have signed it, and we hear today not really knowing exactly what they were signing it for except the principle, and that was to try and retain the services of someone that everyone appears to respect. I cannot see anything wrong with that.

The hon. member has said that it is a soft option. I would suggest that it is an option that now is coming forward to the management committee. I speak personally only on my own here; I think we deserve the right to be able to now take on board what has been said and try and manage this by being able to open discussions with the person who at this moment. . . I think it was said 'hearsay' - we only hear that perhaps it could be reconsidered and so on. It is up to us now to see if we can find a way forward, and if that way forward cannot be found and it is not a possibility, I would suggest then that is a time when we have to come back to this House and explain the reasoning behind that and I think, from what I am hearing, that is something that is acceptable to members. If it proves impossible for whatever reason, it could be explained to members that that will be acceptable.

So, yes, there are procedures, but once again I come to what was said: 'It is worse today than it was before.' Of course it is. The atmosphere in the Tynwald office is dreadful, and we have to accept that that is a working office which must function for the good of this parliament and for the good of the Isle of Man. So, what I am saying is, I will not accept that anything at all was done that was incorrect, but what I am listening to is members saying 'Yes, but we want you to try and do everything possible to retain the services of a person. That, I am sure, we can do and, if we fail, I would suggest again that will then become a problem, where, certainly from where I stand, you will not be having to move a motion; I certainly would be resigning from the committee, sir.

Mr Quine: Hear, hear.

The Acting Speaker: I call upon the hon. member for East Douglas, Mr Braidwood.

Mr Braidwood: Thank you, Mr Deputy Speaker. When I stood up yesterday I said it was with a heavy heart and I said I was taking no pleasure in doing so. I, when I spoke, concentrated on the efforts that the majority of the Members of the House of Keys had tried to do when communicating with members of the Tynwald Management Committee. I did not go into the what-fors and why-nots because everybody, including the hon. member for Malew and Santon, had been circulated with a list of events and what had happened by Mr Speaker and how they achieved down to the last two members Professor Bates leaving. I did not want to go into that. I did not want to bring personalities such as Mrs Cullen in when it says in the papers that the Professor, Clerk of Tynwald, did not want her on the short list and he had great faith in her as a clerk administrator and would see her in a third clerk's position if that restructuring went ahead.

I do not intend to go through every contribution that has been made here this evening.

Members: Hear, hear.

Mr Quine: Come on, Phil, stick with it.

Mr Braidwood: The hon. member for Onchan, Mr Cannell, said he was waiting to hear it. Now, I can say a little bit about Mr Cannell's contribution, because he insinuated that the

Professor was trying to get back because he would have no other job to go to. (*Interjections*) I do not believe in that at all. He is a highly qualified, constitutional lawyer and well respected expert and it would be a travesty, as I said yesterday, if we lost his services. We have become entrenched; this is what had happened. I said yesterday, we were not like reeds being flexible; the Tynwald Management Committee were standing stiff and were not swaying at all. They had their beliefs and I said they had done a good job up to the time on the appointment and then the resignation of the Professor and the swiftness of Mrs Cullen's appointment and the acceptance of his resignation.

Sir Miles Walker was wondering why I had just concentrated on two members of the Tynwald Management Committee.

Mr Karran: He wants promotion! (*Laughter*)

Mr Braidwood: That was not the case. In hindsight I might have drafted it wrong, but I had spoken to the hon. member for Malew and Santon and I had spoken to Professor Bates; I have spoken to Mrs Cullen. I have the highest regard for Mrs Cullen. I was not, in my motion, taking the position away from her of Clerk to the Legislative Council or Deputy Clerk of Tynwald, and it never has been my case to do that.

I do believe that if an approach is made to the Professor and heads need to be knocked together . . . As the hon. member for Garff has put it, he can see a shaft of light to try to get together to retain the services of the Professor, which I think the majority of the House of Keys needs.

I will support the amendment standing in the name of the hon. member for Malew and Santon, because really it is asking what we had already asked in a letter and been rebutted. Now it is coming from this House, not by signatories to a letter, and I would like to pick up on something that Mr Gilbey said: it is policies and principles, not personalities. I have not brought this motion because I dislike the hon. member for Glenfaba or the hon. member for Peel. The hon. member for Glenfaba and I have a very good working relationship (**Members:** Hear, hear.) and I know he believes in all honesty that it is not a personal thing.

Mr Gilbey: It is not, no.

Mr Braidwood: I do not want to carry on much longer. (*Interjections*) I think people have made their minds up. I just hope when this amendment, which I think will go through, the Tynwald Management Committee will take it on board, go to the Professor, thrash it out and we hope, and I honestly believe, that we will retain the services of the Professor. Thank you, Mr Deputy Speaker.

The Acting Speaker: Right, hon. members, I have before us two amendments and I intend to put the amendment that was moved and seconded first, which is the one in the name of Mrs Cannell. Therefore, the amendment in the name of -

Mr Karran: Lhiass-loayreyder, on a point of order. I am pretty happy to not get the word 'right to reply' on my amendment, but I do believe it was seconded and I do think it should be voted on, Lhiass-loayreyder.

The Acting Speaker: Well, all I can do, hon. member, is advise you that it certainly is not indicated on the notes here that it was seconded. Could I ask -

Mr Karran: Seconded by Sir Miles.

The Acting Speaker: Sir Miles? (*Laughter* I mean I can certainly to help, could I ask Sir Miles just to clarify?)

Sir Miles Walker: Mr Acting Speaker, I certainly spoke in favour of that resolution and my understanding was that it had already been seconded, sir.

The Acting Speaker: No, it had not and the Hansard Clerk is indicating it was not seconded. Are members happy with that? If I therefore put the amendment in the name of Mrs Cannell, all those in favour say aye; all those against say, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Houghton, Henderson, Duggan, Braidwood, Mrs Cannell and Mr Karran - 7

Against: Messrs Gilbey, Cannan, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Acting Speaker - 15

The Acting Speaker: Right, the amendment is lost with 7 votes in favour, 15 votes against.

I then move on to the second amendment in the name of the hon. member for Malew and Santon, Mr Gelling. Will all those in favour say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Cannan, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, and Gelling - 20

Against: Mr Karran and the Acting Speaker - 2

The Acting Speaker: That amendment carries, 20 votes in favour, 2 votes against.

I now put the motion as amended. Will all those in favour say aye; against, no. The motion is carried. The ayes have it. The ayes have it.

I now will vacate the seat to allow Mr Speaker to come back to his seat.

The Speaker resumed the chair.

Procedural

The Speaker: Hon. members, before I formally close today's business there are two announcements I have to make. One is that Braddan Commissioners have now decided to postpone their presentation to a later date and will advise hon. members when that date is.

The other announcement which I seek the guidance of the House on: Members of the House, Tynwald and the Legislative Council were invited tomorrow to meet the management committee. Is it the wish after today's debate that you still wish to meet -

Members: No. (*Interjections*)

The Speaker: In that case, as chairman of the committee, the meeting will not now take place. I believe that all that needed to be said has been said.

Mr Bell: Many times!

The Speaker: And now, hon. members, the House will stand adjourned until our meeting next week on Tuesday, 30th January at 10 a.m. in this chamber.

The House adjourned at 6.59 p.m.