

REPORT OF PROCEEDINGS OF TYNWALD COURT (DEBATES AND OTHER MATTERS)

**Douglas, Tuesday, 15th July 2003
at 10.32 a.m.**

Present:

The President of Tynwald (the Hon. N Q Cringle).

In the Council: The Attorney-General (Mr W J H Corlett QC), Hon. C M Christian, Hon. P M Crowe, Mr D F K Delaney, Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey, Mr L I Singer and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

In the Keys: The Speaker (the Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell and Mrs A V Craine (Ramsey); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon. S C Rodan (Garff); Mr P Karran, Hon. R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South); Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. A F Downie and Hon. J P Shimmin (Douglas West); Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Mr P A Gawne (Rushen); with Mr M Cornwell-Kelly, Clerk of Tynwald.

The Chaplain of the House of Keys took the prayers.

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Leave of Absence Granted

The President: Hon. members, may I welcome you to the first sitting of this hon. Court at our new temporary home, St George's Court.

I have given leave of absence to the hon. member for Ayre, Mr Quine, whom I am pleased to report is making excellent progress and hopes to be back with us by the October sitting. (**Members:** Hear, hear.)

Leave of absence has also been granted to the hon. member for Douglas South, Mr Cretney, from Wednesday lunchtime onwards and to the hon. member of the Council, Mr Delaney, from Wednesday onwards on departmental business.

Tribute to Manx Regiment

The President: Now, hon. members, I have great pleasure this morning to welcome Lieutenant-Colonel Brian Mylchreest, Gunner John Stevenson and Bombardier Laurie Kissack who are this morning in the gallery at my request as today I think it fitting we pay a short tribute to the Manx Regiment.

On 1st July I was privileged, hon. members, to attend a commemorative service at St John's when the old comrades in the Manx Regiment marked the passing of 65 years since its inception.

From its birth in the Territorial Army in 1938 to the climax of its fighting life in May 1945 the Manx Regiment carved for itself a unique place in the annals of the Isle of Man and its achievements are very well chronicled in the book *Ack Ack*. Hon. members are, of course, aware of the memorial tablet on the wall in the lobby of our other building which lists over 80 names. The Manx Regiment's batteries served in all the theatres of the Second World War where the British Army was to be found west of Suez. It served in Eritrea, Abyssinia, the Battle of Crete, the defence of the Suez Canal in 1941, the Desert of Egypt, Libya, Cyrenaica and Tripolitania to the victorious end in Tunis in 1943. It served with the Eighth Army from 1942 onwards as part of the 7th Armoured Division – the well-known Desert Rats – to Italy in 1943 and from the invasion of Normandy in 1944 onwards to Belgium and Holland and into Germany until the end of the war in Europe in 1945.

Perhaps, hon. members, it is fitting if I were now to use the words penned in the foreword of their book, *Ack Ack*: 'Happy those that recall that sense of comradeship that seemed to flourish most strongly during the darkest and most dangerous days. Sadder those that bring back thoughts of former comrades.'

Hon. members, as I understand following 65 years, the old comrades and the men of the Manx Regiment who inevitably become few in number, will not be holding any more formal occasions and I felt it was fitting that we here in Tynwald should record our grateful thanks to the remarkable gathering of men who distinguished both themselves and the Island with so much honour.

I am very pleased, indeed, to welcome the three office holders of that group with us this morning.

Members: Hear, hear.

Lieutenant-Colonel Mylchreest: Mr President, members of Tynwald, it is a great pleasure for me to thank you, sir, on behalf of the surviving old comrades – I think there are about 30 or 40 of us now out of the original 550 young men who went away in 1939 – and, of course, on behalf of those who would love to have been here but sadly are no longer with us for this very nice tribute that you have paid to us. Thank you, indeed, very much.

I do believe that the record of the Manx Regiment and the sacrifices so many of them made will form a very important part in the future of the military history of the Isle of Man. Thank you very much indeed.

Members: Hear, hear. (*Applause*)

Bill for Signature

The President: Now, hon. members, returning to our business for the day we have one Bill for signature, the European Communities (Amendment) Bill of 2003. This Bill was not returned from the Lord Chancellor's office in time to be included on the order paper but standing order 224B allows me, provided that you are content, to bring it before you. And I take it, hon. members, that you are content. (**Members:** Agreed.) We will continue then with our business whilst it is being signed.

Papers Laid before the Court

The President: Hon. members, we have one supplementary order paper before us which refers to an additional paper laid before the Court: Part One of the Mount Murray Commission of Inquiry Report. Under standing order 10.9, as it now stands, papers must be noted on the order paper and circulated fourteen days before the sitting in question unless with the consent of the Court the President directs otherwise. Part One of the Mount Murray Commission of Inquiry was not available until just after the order paper had been dispatched. I am, therefore, content in the circumstances to direct that this document should be formally laid today subject, hon. members, to your consent. May I take it that again you are all in agreement? (**Members:** Agreed.)

Hon. members, may I also inform you that at present I intend to take item 38 concerning the Department of Transport's petition for compulsory purchase of land at Vicarage Road at 2.30 p.m. on Wednesday afternoon. This will enable those who wish to make representation personally to this hon. Court to have a definite time at which to make their representation at the bar. It is possible that the progress

of business may cause us to revise that timetable but for the moment, hon. members, that is my intention: to take item 38 at 2.30 tomorrow afternoon.

Hon. members, I call upon the Clerk to lay papers, including the supplementary order paper.

The Clerk: Mr President, I lay before the Court the documents listed at item 1 on the order paper and Part One of the Report of the Commission of Inquiry into Mount Murray. This is on the supplementary order paper.

Road Traffic Act 1985 –

Driving Tests and Licences (Fees) Regulations 2003 [*SD No 423/03*]
Moped and Learner Motor Cycle (Definitions) Regulations 2003 [*SD No 414/03*]

Licensing and Registration of Vehicles Act 1985 –

Vehicle Duty Order 2003 [*SD No 424/03*]

Weights and Measures Act 1981 –

Weights and Measures (Testing Fees) Regulations 2003 [*SD No 462/03*]

Social Security Act 2000 –

Social Security Act 1998 (Application) (Amendment) Order 2003 [*SD No 442/03*]
Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 5) Order 2003 [*SD No 443/03*]
Social Security Legislation (Application) (No. 15) Order 2003 [*SD No 444/03*]
Social Security Legislation (Application) (No. 16) Order 2003 [*SD No 445/03*]
Social Security Legislation (Application) (No. 17) Order 2003 [*SD No 446/03*]

Social Security Contributions and Benefits Act 1992 –

Family Income Supplement (General) (Amendment) (No. 2) Regulations 2003 [*SD No 447/03*]
Income Support (General) (Isle of Man) (Amendment) (No. 5) Regulations 2003 [*SD No 448/03*]

Benefits Schemes (Miscellaneous Amendments) Scheme 2003 –

Benefits Schemes (Miscellaneous Amendments) Scheme 2003 [*GC No 22/03*]

Criminal Justice Act 1990 –

Criminal Justice Act 1990 (Designated Countries and Territories) (Amendment) Order 2003 [*SD No 453/03*]

Drug Trafficking Act 1996 –

Drug Trafficking (Designated Countries and Territories) (Amendment) Order 2003 [*SD No 454/03*]

Criminal Justice Act 1991 –

Criminal Justice (Enforcement of External Forfeiture Orders) (Amendment) Order 2003 [*SD No 455/03*]

Merchant Shipping Act 1985 –

Merchant Shipping (Pleasure Vessel) Regulations 2003 [*SD No 396/03*]

Highways Act 1986 –

Highway Closure (Palace View Terrace Lane, Douglas) Order 2003 [*SD No 450/03*]

Betting Act 1970 –

Betting Act 1970 (Amendment) (No. 2) Order 2003 [*SD No 435/03*]

Sea-Fisheries Act 1971 –

Sea-Fisheries (Experimental Area) Bye-Laws 2003 [*SD No 422/03*]

Adoption Act 1984 –

Registration of Foreign Adoptions Regulations 2003 [*SD No 403/03*]
Adoption Societies Order 2003 [*SD No 449/03*]

Compulsory Acquisition of Land at Vicarage Road, Douglas –

Petition of the Department of Transport dated 26th June 2003

Reports –

Isle of Man Government Annual Report 2003.

Department of Local Government and the Environment – Housing Policy Review Progress Report July 2003.

Value Added Tax Act 1996 –

Value Added Tax (Amendment) (No. 4) Regulations 2003 [*SD No 436/03*]

Tobacco Products Duty Act 1986 –

Tobacco Products (Amendment) Regulations 2003 [*SD No 452/03*]
Tobacco Products (Description of Products) Order 2003 [*SD No 451/03*]

Government Departments Act 1987 –

Appointment of Members of Departments Instrument 2003 [*GC No 23/03*]

Employment Act 1991 –

Employment Tribunal – appointment of
Deputy Chairman [SD No 463/03]

Agricultural Wages Act 1952 –
Agricultural Wages Board Order 2003
[SD No 401/03]

Patents –
Patents Act 1977 (Isle of Man) Order
2003 [SI 2003 No 1249]

United Nations –
Iraq (United Nations Sanctions) (Isle of
Man) Order 2003 [SI 2003 No 1522]

Appointed Day Orders –
Property Service Charges (Amendment)
Act 2003 (Appointed Day) Order 2003
[SD No 415/03]

European Communities –
Sixth Amendment to the List of Persons,
Groups and Entities under the European
Communities (Al-Qaida and Taliban
Sanctions) (Application) Order 2003
[GC No 24/03]
European Communities Secondary
Legislation April to June 2003

Reports –
Eighteenth Report and Statement of
Accounts of the Public Lottery Trust for
the year ended 31st January 2003.
Annual Report for the year ended June
2003 of the Standing Committee of
Tynwald on Economic Initiatives.
Report of the Police Complaints
Commissioner for the year ended
31st March 2003.
Report by the Clerk of Tynwald on the
Petition of the Department of Transport.
Annual Report to Tynwald on Hospital
Activity for year ended 31st March 2003.
Part One of the Report of the
Commission of Inquiry into Mount
Murray.
Report of the Standing Orders
Committee of Tynwald on Petitions for
Redress presented on 7th July 2003.

Accounts –
Isle of Man Government Accounts for
the year ended 31st March 2003.

**Urgent Matter of Public Importance –
Report of the Mount Murray
Commission of Inquiry –
Item 13 to be Taken Immediately and
Broadcast on Manx Radio –
Amended Motion Carried**

The President: Hon. members, we now have before us a motion concerning a matter of urgent public importance to be moved under standing order 2.8. A copy of the motion has been circulated to members and I call on Mr Speaker.

The Speaker: Thank you, Mr President. I wish to move under standing order 2.8 that as a matter of urgent public importance Tynwald is of the opinion that the business on the July Order Paper at item 13, 'Report of the Mount Murray Commission of Inquiry' be taken immediately and that any and all proceedings related to the said item be broadcast live and in full on Manx Radio.

I move this motion for two reasons. Firstly because I believe that such an important matter should be broadcast. In fact, Mr President, I believe that all our proceedings should be broadcast but that is for another day and I feel that, therefore, I would wish members to support the standing order under standing order 2.8 that this matter be dealt with immediately.

The President: There is a requirement, hon. members, for four members to rise in support.

Four members rose in support.

The President: I note, hon. members, that Mr Downie, Mr Braidwood, Mr Houghton and Mr Bell have risen in support and that complies with the standing orders.

Hon. members, that accepted, the first step is that the Court decides whether to give leave for this motion to be debated. If leave is given, the motion can then be considered on its merits. Mr Speaker.

The Speaker: Yes, thank you, Mr President. I believe that this issue is a matter of considerable public interest and is a matter that can be fully recorded and reported via the radio and will provide an opportunity for those in our community who are unable to be here within the Tynwald Court to hear the debate of this very important matter. I believe the people of the Isle of Man would welcome that. They will be able to hear all sides of the issues and it would provide an opportunity for them to understand the basis of the report and also the actions taken by individuals who are mentioned within the report.

Secondly, I propose that it be taken immediately and the reason for that is after seeing the question paper I believe that there may be some who would wish Question Time to be extended. If the proceedings of the Mount Murray report debate are to be broadcast

then certainty of time would be very helpful in relation to the public knowing when the debate is to start and it is only being taken immediately after the Court could take it now.

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

The President: Hon. members, I simply put to you that leave be granted for the motion to be debated. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

I am looking for a seconder to Mr Brown's motion now, please. Mr Brown, move your motion formally, sir.

The Speaker: Yes, sir. I again move the motion standing in my name, which members have had circulated and that is under standing order 2.8, that:

- (1) *As a matter of urgent public importance Tynwald is of the opinion that the business on the July order paper at item 13, 'Report of the Mount Murray Commission of Inquiry', be taken immediately and;*
- (2) *that any and all proceedings relating to the said item be broadcast live and in full on Manx Radio.*

I beg to move.

The President: Hon. member for Ramsey, Mr Bell.

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

The President: Hon. member for Michael, Mr Cannan.

Mr Cannan: Mr President, while I support the importance of the debate on the Mount Murray Inquiry I also draw to the Court's attention the importance of up to 12 questions relevant to that report and which I believe need answers before this Court can debate the issue with knowledge of what the outcome of the deliberations of the Council of Ministers and others are.

It is important that in this very serious matter, the conduct of this Court is to the highest standards of integrity and has the respect of the public and I believe it would be wrong just to debate the report and ask the questions afterwards. (**Mr Karran and Another Member:** Hear, hear.) The questions should be asked first and, immediately after questions, then we debate the report in the knowledge that we have obtained by members having the opportunity not only to ask questions in their name but all members of this Court to ask supplementary questions so that they may delve in depth as to the consequences of this report and the

conduct and manner in which this report is being examined by the Council of Ministers.

Mr President, I believe it is important in the public interest – and in the public interest alone – that the questions be asked and be answered and then immediately afterwards, as my amendment says, we run into the debate. Mr President, I beg to move the amendment standing in my name:

That the motion be amended by deleting from paragraph 1 the word 'immediately', and substituting –

'after Item 2 (Questions) has been concluded.'

The President: Hon. member of Council, Mr Delaney.

Mr Delaney: Thank you, Mr President. I am 100 per cent in favour of Mr Speaker's resolution but I must also support the amendment.

We have had some, with the intercession of Tynwald ceremonies, about nine days in which to study a massive report and to get the cross-referencing necessary to get to any factual situation that we wish to arrive at, given the information before us.

There is no way that I believe that at this time this should be debated without the questions – and I give deference to the members who have asked these questions to give them the opportunity to get answers, so they have a full picture and cannot claim – as has been said by the mover – we get the answers after we have the debate. (**A Member:** Yes.)

I think the members should be in full light and knowledge of what they are asking and I, Mr President, am aware that even people involved in the report were writing communications to members up to last Saturday morning. I think to get a full and factual one, as one of the questionnaires involved in this situation, we should give deference to those who have asked questions, then debate the report.

I beg to second, sir.

The President: Mr Earnshaw.

Mr Earnshaw: Thank you, Mr President. I rise to give support to the comments of the hon. member for Michael. I support the amendment.

Having read the questions, I am aware that in relation to those affecting Mount Murray there is an element of overlapping with quite a few of them, in my opinion, but I am sure you, Mr President, will deal with that in due course.

But certainly some of the questions in there I would very much like to know the answer to prior to the debate at the beginning.

The President: Hon. members, standing order 3.11(2) provides that both this motion and the amendment to it need a quorum of each branch to be

carried – that is 13 votes in the Keys and 5 votes in the Council. All those in favour, please say aye –

Several Members: Of what?

The President: We put the amendment first, hon. members. All those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

I put to you, therefore, hon. members, the motion as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Questions were taken at this point and concluded at 1.10 p.m. They are published separately.

The President: I think it is an appropriate time, hon. members, at which to take a lunch break. We will continue with our debate, in line with the motion passed by this Court earlier this morning, at 2.30, hon. members. Thank you.

The Court adjourned at 1.10 p.m. and resumed its sitting at 2.30 p.m.

Part One Report of the Mount Murray Commission of Inquiry – Debate Commenced

Item 13. The hon. member for Onchan (Mr Karran) to move:

That Part One of the Report of the Commission of Inquiry into Mount Murray be approved.

The President: Hon. members, in line with the motion passed by this hon. Court this morning, we now turn to item 13.

I anticipate that there may be many members who wish to speak to this motion, but could I request at this stage that members keep their speeches as short as is possible and directed to the content of the report, rather than to the wider issues. I make that comment, hon. members, so that we will not have too much repetition, if in fact it is avoidable, though I understand that each member will wish to build on their own contribution as they see fit.

Hon. members, it has also been pointed out to me, that in this new building acoustically it is not as efficient as some other building and therefore there is a requirement, on occasions, for members to make sure that they are being heard, so speak up if possible.

Hon. members, item 13 and I call on the hon. member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane, hon. members, Part One of the Report of the Commission of Inquiry into Mount Murray has been laid before this hon. Court. This is a fact that we can all agree: this momentous report is now before us all as members of this hon. Court. It has been our duty to read all 400 pages with care. It has

been our duty to give very serious thought to the commission's findings of fact and to its recommendations.

The Commission of Inquiry collectively is a formidable body; its legal, planning and taxation expertise is of the highest calibre, its credentials are beyond doubt.

The commission has now undertaken the first part of its task with painstaking attention to detail, with scrupulous fairness to all concerned. It is a fact that the Privy Council stated in its judgement of the 7th July, that 'the Commission of Inquiry is the guardian of the public interests'. The Privy Council also stated in paragraph 29 that under the chairmanship of Mr Macleod, and I quote, 'the commission is approaching its task in a responsible and focused manner'.

These are not my words; this is the judgement of five of the most senior judges in the Commonwealth. These judges reached their judgement after careful consideration of all the relevant facts.

Hon. members, I have read the part one report and as the mover of the original motion to set up the Commission of Inquiry, I offer my sincere thanks to each member of the commission for their efforts and for producing such a compelling report – a report which I believe any reasonable and unprejudiced reader on and off this Island will conclude is truthful, evidence-based and accurate.

I thank the commission for making detailed findings of fact and I also thank the commission for providing 23 recommendations.

As the report states at paragraph 20.12 on page 272, 'It will be significantly further in the public's interest and of wide general benefit to the Island if government acts to implement our recommendations effectively'.

Today, therefore, I move that part 1 of the report be approved by this hon. Court.

Hon. members, the *Isle of Man Examiner* headline says: 'Mount Murray decisions must be based on facts' and I agree; *facts*, hon. members.

The Commission of Inquiry has established the facts. The commission's findings are findings of fact; they were reached after deliberations, after examining oral and written evidence and after representations from certain parties. These findings helped us to understand once and for all what actually happened at Mount Murray.

For this alone I thank the commission: the commission's findings are findings of fact; they are not allegations, nor, as they have been described by the hon. member for Ramsey, are they 'a grotesque distortion of reality' –

Mr Bell: They are.

Mr Karran: – they are findings of fact and it is our duty to accept them, especially it is our duty to accept, in full, the commission's 23 recommendations.

These recommendations are more than apt when implemented effectively. They go a long way towards improving transparency and accountability – after all, the commission has found that the lack of transparency was one of the reasons why the Mount Murray affair happened in the first place.

I suggest we invite the commission in due course to reconvene to provide an update on how well the government is implementing these 23 recommendations.

I note the Council of Ministers issued a position paper on the commission's recommendations just 24 hours after the report came out. In its haste, the Council chose not to implement all 23 recommendations in full. This is extremely worrying.

In a similar way, I have noted the recent letter of the Minister of the Department of Local Government and the Environment. The minister refers to the consultation document modernising the planning system published in August 2002. The minister says that 'a large proportion of the commission's recommendations have already been processed within the department'. This letter is also extremely worrying.

Hon. members, this is not what the commission is saying. The commission has already considered the department's document and it still does not accept it in full. Speaking for myself, I prefer to believe the commission's word over the minister's.

In chapter 19 on page 253, the commission looks at steps which are already in hand to improve planning procedures and systems. It indicates where it supports steps proposed by the government, but where it finds the steps proposed by government should be strengthened or supplemented, then it sets out recommendations for additional steps for the improvement, which, and I quote: 'we do not consider that the government has implemented or put forward for implementation, or has not sufficiently done either of these things.'

I would like to pick out one proposal – the audit commission. As a highly important recommendation we urgently need this audit commission. We need it to be truly independent and it would save us millions of pounds a year.

Mrs Crowe: It wouldn't.

Mr Karran: Finally it deals with Professor Crow's recommendations. Overall the commission says the overriding concern is the need for transparency.

Hon. members, let us be clear: government's initial response is extremely worrying. Government seems not to want to implement all 23 recommendations, so I give the warning today: if it does not do so, we will have more Mount Murrays in the future.

Nothing less than the full implementation will do. In fact, if this government is progressing so well with so many of the recommendations already, what possible objection can there be to full implementation?

Approving the part one report means the full implementation of its recommendations.

I turn to the words of the Ard-shirveishagh, the Chief Minister, he said: 'In my opinion the Commission of Inquiry have found a few things which Professor Crow was unable, with the resources he had, to find, but the majority of this report reflects what he has said.' I note that the Chief Minister did not repudiate Professor Crow's report; he clearly stated that the commission had found a few things Professor Crow was unable to find.

I trust that the Ard-shirveishagh, the Chief Minister, will enlighten us all by telling us exactly what those few things are.

I do congratulate the Ard-shirveishagh for beginning to display some transparency by finally publishing the famous annex 5 of the Crow Report, about two and a half years after it was written.

I do recommend to the public to come to the Tynwald Library, to get a copy of the Crow Report complete with the famous annex 5. I understand it is now free – and the Commission of Inquiry Part One Report, incidentally, has been priced at £8, but it can be read free by visiting my website on www.peterkarranmhk.com. You can also download a full version to keep for free.

A Member: That would be wonderful!

Mr Karran: What do we find in annex 5? We find established facts – facts beyond question.

I read verbatim from the famous annex 5, page 4, under the heading Permanent Residential Development on the Site as Permitted, A5.17, this reads as follows: 'The first written indication of any permanent residential development would be accepted on this site, comes from a letter written to Mr Bell on the 13th May 1991 by Mr Vannan'.

It continues by saying that: 'The planning conditions to PA 91/1842, specifically numbers 5 and 6, are in no way in conflict with the description of the development as set out in the documentation attached to the application. Mr Vannan was saying exactly the opposite of what those conditions unequivocally stated. What he said was just not true and, understandably, Mr Vannan in evidence, told me' – that is, Professor Crow – 'that he now regrets writing this letter'.

Mr Vannan wrote to Mr Bell on 13th May 1991 to say that permanent residential development at Mount Murray would be acceptable. The statement made by Mr Vannan was not true and he has admitted that not just to Professor Crow but also to the Commission of Inquiry.

Mrs Crowe: We know that.

Mr Karran: At A5.18 on page 4 Professor Crow writes – again, I quote verbatim – 'He was under substantial pressure to do so. Mr Bell had earlier promised Mr Spence that the planning problems would

be resolved with the “emphasis on multi-ownership”. These are Professor Crow’s words, hon. members. Professor Crow said ‘substantial pressure’ and he said ‘Mr Bell’. The commission said ‘unacceptable pressure’ – very similar findings of fact.

At the time, the Professor Crow report was presented to the Council of Ministers, annex 5 was denied to us, hon. members. Some of us asked and asked again for annex 5 to be released, but this was denied and, what is more, it now seems under a false premise.

We could not read for ourselves the findings of Professor Crow. The Ard-shirveishagh, the Chief Minister, now has gone on public record stating that the commission’s findings conform to the Crow report.

Once again, this is not what the commission says, the commission acknowledges the assistance it has received from the report of Professor Crow. But the commission states that its examination was of a much wider range of circumstances and in much greater depth than did Professor Crow, and that it does differ from Professor Crow in parts.

But even if the Ard-shirveishagh is right, how can he accept the absurd protestations of the hon. member for Ramsey, Mr Bell, when at the time the Crow report was presented to the Council of Ministers, he had full knowledge of its contents and did nothing to challenge its findings.

But then why should he have done anything, when the Council of Ministers were determined to prevent the public finding the facts by keeping annex 5 a secret?

As long ago as December 2000, the hon. member for Ramsey, Mr Bell, the Treasury minister knew fully the contents of the Crow report and so did the Council of Ministers, but I do not quite remember Mr Bell decrying the findings of Professor Crow as those of an Englishman with an agenda, or saying anything with regard to justice, British or Manx, concerning Professor Crow’s report.

For as long as Annex 5 was kept away from questioning eyes of hon. members and the public at large, with the shocking lack of transparency, neither Mr Bell nor his English lawyers nor the Council of Ministers had anything at all to say about the findings of Annex 5.

When the Commission of Inquiry began to take evidence, the Council of Ministers and the Treasury minister must have known that it was only a matter of time before the facts contained within Annex 5 would become public knowledge.

Since the commission had reported its findings we have watched and listened to an increasing shrill of convoluted display from the Treasury minister and from other members and former members of the Council of Ministers as they try in vain to prevent the comments of the Treasury minister dragging this Island’s good name further and further into disrepute.

So let us just see what the part one report has to say. As paragraph 2.2 on page 13 says, it was the minister of tourism, the hon. member for Ramsey,

acting in an undesirably close alliance with the developer, who ensured that the proposal received planning approval. He did this by applying unacceptable pressure, hon. members.

Of the now infamous telephone call in paragraph 2.5 on page 14 it says: ‘this telephone call was not the action of a responsible minister’.

In paragraph 11.123 on page 123 it says ‘Mr Bell’s judgement can only be regarded as questionable: indeed he became so closely associated with the developer that he virtually surrendered his powers of sensible independent judgement’ – ‘questionable judgement’; ‘virtually surrendered’; ‘any sensible independent judgement’. Again and again and again the judgement of our Treasury minister has been proven to be lacking, yet in this same minister Ard-shirveishagh places his confidence to direct our nation’s finances and to represent us on an international stage.

He told the press on July 8th that there was no reason to consider the minister’s position, but hon. members, there surely is no reason *not* to do so.

The hon. member for Ramsey has since described the thrust of the conclusions in relation to himself and the tourist department as ‘a grotesque distortion of reality’, and he has now produced to hon. members more papers to support his case.

But it is too late; the commission has already considered these papers and the representations made by Mr Bell and by his lawyers and it has rejected them.

On page 221 of the report it states at paragraph 17.36(g): ‘We appreciate fully the seriousness of our findings with regard to Mr Bell. We understand that he should be anxious to identify reasons for his disagreement with them, but having looked with the utmost care at what he has said and what has been said on his behalf, we remain satisfied beyond any reasonable doubt that our findings and conclusions with regard to Mr Bell as set out in this report are correct.’

Worst of all, hon. members, is that the hon. member for Ramsey has been found to knowingly mislead the House of Keys.

I am not sure that I can remember such serious findings in nearly 20 years in politics. Ministers have a duty not to deceive or mislead Tynwald or the branches, and to do so must be regarded as a contempt and unforgivable conduct and a matter of resignation.

What is more, we do not even know what else may appear as far as part two of this report. But we do know from the Privy Council judgement that it will involve more matters relating to the department for tourism. So in sorrow – not in anger – I say the time has come and it is now the time for Mr Bell to go, and go now.

The press reports that the Chief Minister, the Ard-shirveishagh, rejects parts of the report although he has not said which parts and why. I asked Mr Corkill: does he reject Professor Crow’s findings concerning his Treasury minister? He has rejected the same findings

delivered by the commission, and in this respect they are the same findings, hon members.

The conclusion in both reports leaves no doubt of any kind that the hon. member for Ramsey, Mr Bell, had committed unpardonable actions as a minister of tourism.

The conclusion is in both reports and leaves no doubt of any kind, that the Chief Minister and his Council of Ministers knew that to be so in December 2000, and both he and his executive know that to be true today. The only difference was that until July 4th, the famous Annex 5 of the Crow Report had been kept secret.

It was the Chief Minister, Mr Corkill, who appointed Mr Bell and Mr Corkill will no doubt take note that the *Isle of Man Examiner* has stated that all hon. members must be prepared to explain fully why they are voting the way they are, and the paper adds 'we demand every point raised is thoroughly addressed, every decision made now is based on fact and not misinformation, rhetoric or gestures.'

I agree. I invite the Ard-shirveishagh, the Chief Minister, to explain fully why he has not yet dismissed the hon. member for Ramsey, the Treasury minister, and to reconsider his decision.

Will he now say if he thinks that the unworthy comments by the Treasury minister on Manx Radio on the 6th July regarding the chairman of the Commission of Inquiry are the comments of an experienced minister fit for high office? Does he agree with the statements made by his Treasury Minister? Do the statements reflect the position of his government? – statements which I would – and we are now talking about a deputy High Court judge, hon. members – be very interested to know what his agenda was, and if this is an example of British justice I do not hold out much hope for the British people.

I leave it to this hon. Court and to public opinion to decide if they agree with me when I say that I find such statements repugnant and shameful for us all. They bring hon. members and this hon. Court further and further into disrepute, and that they should be uttered by a minister on national radio is nothing less than a disgrace.

The hon. member must reflect upon his rash and foolish words and withdraw them. He must also issue a full and unequivocal apology to the chairman and members of the commission.

I invite the Ard-shirveishagh, the Chief Minister who appointed this man as Treasury minister, to state plainly that he regrets such statements and that such statements were not issued on behalf of the Council of Ministers and he does not agree with them.

I do not accept that any minister capable of making such statements can be regarded as being in possession of good judgement. I do not accept that any minister capable of such statements can be regarded as fit to promote the national finance sector on an international stage; his actions past and present simply continue to bring shame upon us – he must go, and he must go now.

Hon. members, I also do not accept that ministers and others who hold high office, even those who preside over the proceedings, can keep the confidence of hon. members when it is shown that a profound misunderstanding is maintained in the face of clear, proven, collaborated fact.

I direct hon. members to page 53, paragraph 6.4; this paragraph finds that the hon. member for Castletown, Mr Brown (**Mrs Crowe:** Nonsense.) who holds the distinguished office of Speaker, incorrectly translates my comments into actual direct allegations of corruption. The commission describes this as 'incorrect translation and quite a serious misunderstanding'.

For a Speaker this is a damning finding. It gives me no pleasure to remind hon. members that in 2002, Mr Speaker, Mainstyr Loayreyder, ruled on the 11th July: 'On checking *Hansard*, it is clear that the hon. member for Onchan made allegations when asking supplementary questions in relation to the Island Studios Limited'.

On that occasion, I protested that this statement did not conform to the *Hansard* record, nor was factually correct, but on that occasion the arbitrator was not a distinguished panel of three independent experts but it was Mr Speaker himself.

Although outside the commission's remit, I note the commission reaches a similar conclusion in relation to Mr Speaker's comments on Manx Radio – and this is not all.

I note that the Speaker states that he does not believe that the issue of a statement made in debate in Tynwald Court, is within the remit of the commission. Not surprisingly, the commission disagrees with his quite extraordinary claim. They find it 'self evident that our duty requires us to examine what was said in Tynwald'.

Mrs Hannan: I think we've got protection.

Mr Karran: I remind hon. members that the commission's approach to its remit has been fully endorsed by the Privy Council.

Thirdly, I refer to the commission's findings on paragraph 11.121 on page 128: there the commission expresses its view that the then Minister of the Department of Local Government and the Environment, Mr Brown, totally detached himself from the development control matters. The commission's clear view is that he took this detachment further than any legal requirement demanded.

The consequence was that Mr Brown was basically unaware of the irregularities, which were occurring in the planning process concerning Mount Murray and Mount Murray's applications, and was unaware, as the minister, whether those proceedings were adequate and, if they were, whether they would have been effectively operated if they were not.

Like Mr Bell, Mr Brown had his opportunity to persuade the commission otherwise, but, as with

Mr Bell, the commission does not accept his comments.

I remind hon. members that the commission's approach has been endorsed by the highest court in the Commonwealth. The commission also appears to include Mr Brown when it criticises politicians for having a mistaken sense of general satisfaction at the quality of the government's systems they were operating, and I note that the hon. member for Castletown attempted to have this debate moved to take place before Tynwald questions, not afterwards. Did this have anything to do with the 13 questions about Mount Murray? (**Mrs Crowe:** No.) So much for transparency, hon. members!

I invite the hon. member for Castletown to reflect upon the serious criticism by the commission in this part one report, which reflects so seriously upon him, his understanding of the comments in Tynwald, his understanding of *Hansard*, his judgement and interpretation of legal advice, his mistaken sense of satisfaction – all serious criticisms which bear directly upon his rôle as Speaker – and all the serious criticism which has been made before.

The commission's criticism reflects very seriously upon the distinguished office which the hon. member for Castletown presently holds. It would therefore be appropriate for Mr Speaker to reconsider his position and reconsider his position now.

I pause briefly to comment on those others who are seriously criticised in the report, whether politicians, civil servants or others. For the integrity of the system of government, those seriously criticised must consider their positions.

Hon. members, the Chief Minister is in serious denial when he tells the press: 'at the end of the day, this is an event 12 years ago so it has little or no relevance to today's administration'. I invite him to reflect upon these words and consider how far from reasonableness – from proven fact – he has now fallen.

The Chief Minister's words are precisely the opposite of what the report actually says; the report says on paragraph 20.8, on page 271: 'The failure to detect and examine the misdeeds for nine years until the Crow Report was commissioned is an important aspect of our report as are the original events. This is because of the weakness and failure by government in the handling of these matters continue in a significant degree' – I repeat, 'continue in a significant degree' – 'with a still present belief, in many areas of current influence, that there was really little wrong with the systems of government, and that there was simply negligence or misconduct by some limited number of individuals who were operating the systems. Such opinions are seriously misconceived.'

Chief Minister, your response to this report is seriously misconceived. The commission has delivered a sober and profound report. Its proposal is to reveal the truth and to make the best possible recommendations in the best interests of all the people of the Isle of Man.

The commission and its report deserves the gratitude and respect and I invite the Ard-shirveishagh, the Chief Minister, and his Council of Ministers to reflect with much more gravity upon the findings of fact of the commission.

Eaghtyrane, hon. members, I read from the commission's part one report just a short paragraph, paragraph 13: 'It was possible for these matters to happen as they did, not simply because of the weakness of the individuals involved, but also and importantly because of the lack of transparency in government systems and because of the absence of any effective system of ensuring compliance with the appropriate conduct and codes through the government departments. It was all substantially aided by a mistaken sense of general satisfaction by the officers and politicians, in the quality of the government systems they were operating'.

In reality these systems were materially defective; regrettably the mistaken sense of satisfaction remains apparent today and among politicians active at the time.

Hon. members, the international eyes are watching and listening to our proceedings here today; some are friendly and some are hostile. We cannot fail to act now and, in the face of such compelling evidence that our systems of government are so defective, if we do not get our own house in order along the lines proposed by the commission, then more powerful forces outside may do it for us with much less favourable terms.

Some may think that approving this report seems bitter medicine. Maybe, but I would rather we take the bitter medicine now and our systems of government can recover and prosper. Let us demonstrate that good government can exist on the Island and that it can be restored without outside interference in our domestic affairs.

I place my trust and faith in the people of the Island, who will watch over and will remember what is done here today. The people have spoken loudly enough, even for the Council of Ministers in collective denial to hear: dy-liooar, dy-liooar, enough is enough.

We now turn to the Chief Minister to take fast and decisive action to redeem our international reputation. We call on you, Chief Minister, Ard-shirveishagh, to take three forward steps: step (1), you must dismiss those in your Council of Ministers who are severely criticised in this report; their continuous presence tarnishes your administration and devalues our parliament, and we may find it hard to have confidence in you for as long as you have confidence in them –

Mr Cretney: Who is 'we'?

Mr Karran: Step (2), you must agree that we must all accept and approve the findings of fact of this eminent commission of inquiry in its part one report. Make no mistake: to only receive it would be tantamount to rejecting it. This report must be approved.

Step (3), you must implement all 23 – I repeat, ‘all 23’ – of the report’s recommendations.

Hon. members, let us show our maturity and approve this report. I beg to move.

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

The President: Hon. member for Douglas South, Mr Cretney.

Mr Cretney: Mr President, in 1991 I served as chairman of the Isle of Man Planning Committee with three of the most honest, conscientious Manxmen you could ever meet: (**The Speaker:** Hear, hear.) Charles Guard, Charles Faragher and Dr David Moore. (**Several members:** Hear, hear.)

We acted at all times without fear or favour. If an application was judged to be wrong it was refused, our obligation was to do the best we could in our position for the Isle of Man. Planning lasts a long time and we therefore took very seriously our rôle.

In regard to development of the Mount Murray, we made it totally transparent throughout our consideration of this, that our support was for a tourism development – nothing else.

This was made totally clear to those who advised us; there could be no misunderstanding as to our clear instructions.

The rôle of officers was to professionally advise us on all aspect of any development; after all, that is what they are employed for and ultimately to follow our instructions.

Our approval for tourist use of the site was specially and transparently referred to in the approval notice issued on 1st March 1991 to planning application 90/1842, condition 5, and I quote: ‘The proposed buildings must be occupied only by *bona fide* tourists. Permanent occupation of the buildings is not permitted.’ This was the consistent position of the planning committee.

What happened subsequently is that, for whatever reason, the committee were not informed of the activity going on in the background, nor the fact that documents being put forward invalidated our strongly held position.

Indeed, it was at the time of the Crow report that I first read the Buyers’ Guide and at the time of the commission that I was shown other documentation, which would have made things quite clear to the planning committee, and would have guaranteed a refusal of the proposals, had we not been misled.

My clear understanding was that the Buyers’ Guide was put to us on the basis of a time-share concept – nothing else. Officers knew clearly our stance on this: both the commission and the Crow report accept this matter.

As with the Crow report, this inquiry emphasises that the committee were deliberately misled by Mr Vannan and that the committee were quite unaware of any second agenda on the part of other parties and

advisers. Although the report is critical of the system which allowed this to happen, it also concludes that in my rôle as chairman of the committee, I should somehow have taken steps to ensure that all members were in a position to fully evaluate all relevant information. I cannot accept that this is a fair conclusion.

I made it clear in my evidence to the commission that I do not claim to be without fault in this matter. What I am not prepared to accept is the underlying threat of criticism that the planning committee should, without any reason, have doubted the professional advice given to it by the department’s planning officers in respect of this particular application.

This advice included an executive summary of the contents of documents of which the committee is now criticised for not having scrutinised exhaustively themselves.

As I said in my response, no business could be completed by a lay committee which is expected to question the accuracy of all information supplied to it by its professional advisers.

As a matter of interest, during 1991-2 the planning committee considered 2,268 planning applications. It is pertinent to recall the views of Professor Crow, himself a senior and highly experienced town planner, in his report of last year when he said: ‘In the relationship between officials and elected members there needs to be mutual trust. This should not preclude planning officers from making an unpopular recommendation; indeed, both as chartered town planners and as civil servants it is their duty so to do, if that recommendation flows from their considered professional opinion.

‘For their part, political members of departments need to respect opinions honestly preferred, and unfortunately the result of the officials ducking the issue at the crucial time had the effect of concealing the residential element from the committee until it was too late for them to do anything but express their concern.

‘This was completely contrary to the ethos of the committee in respect of the development at Mount Murray. Had there been any clear suggestion that this was taking place, I am confident that the committee would have brought it to a halt.’

Although there is criticism of the system which allowed these events to happen, I still question how any system can legislate for a situation where professionals set out to mislead.

Throughout my time as a public representative I have at all times acted honestly and with this planning matter the same applies. The report accepts this to be the case, the second time with an independent overview from off the Island that this conclusion has been reached.

I believe the trust between elected members and the electorate, and between elected members and officers to be very important in all we do (**Mr Delaney:** Hear, hear.) I hope systems will be supplemented for the future to ensure that elected

members or lay members of, for example, the planning committee cannot be placed in the invidious position we were of having our integrity put into question for months on end because of the interpretations of corruption spoken of in this hon. Court and elsewhere, (**A Member:** Yes.) where, from an academic perspective, it was used in the context different to the one normally associated with planning matters. And, of course, we have been found to be entirely innocent of such charges.

The President: Chief Minister.

Mr Corkill: Thank you, Mr President. Hon. members will have before them, I hope, now the amendment circulated in my name, which I spoke about at question time:

For the word 'approved' substitute 'received' and add –

'and the Council of Ministers be asked to report on the recommendations therein by October 2003.'

There was also the issue at question time within relation to Annex 6 of the Crow Report and in my contribution, if I can just start by making one or two comments about Annex 6 in order to help hon. members about that particular situation, I would like to lead my contribution with those comments.

I am now in a position to provide hon. members with that further information. As I indicated in my answer, I do not recall having been made aware of annex 6 of the Crow report prior to the publication of the detailed ruling of the Privy Council.

Indeed, when that ruling was made my initial reaction was that a mistake had been made, as I had always understood that the only chapter or annex that remained unpublished was Annex 5.

Late yesterday, staff from my office retrieved from the office of the Commission of Inquiry, the files relating to the Crow report which had been provided to the commission in May 2002. It was only when reviewing these files that it became evident that annex 6 had not previously been published. As indicated in my answer this morning, Professor Crowe's report had been structured in such a way as to enable those parts of it which related to specific individuals or matters to which no resolution had been found to be left out of the published document.

Because the relevant files were in the office of the Commission of Inquiry and because, since the original publication of the Crow report, there have been some staff changes in my office, the officers currently dealing with these issues having not previously been involved, an assumption was made, when preparing a report for publication on 3rd July, that the only additional annex to be published was annex 5. Clearly that was an incorrect assumption.

However, we located annex 6 and I can confirm that we will be republishing the Crow report in its

entirety, including annex 6, to be made available both within the Tynwald Library and on the government's internet site.

In relation to the cost of that report being available free, the hon. mover of this motion made a comparison of charges. We felt it unreasonable to recharge for a report that has already been published and people have already paid for. In relation to the cost of the inquiry's report – which is independent and nothing to do with executive government – the cost of that report is not something that I have had any input into. That is a matter for the commission themselves.

Turning to the content of Annex 6, hon. members have now been circulated with a copy, which was circulated with written questions, I understand, and this takes the form of a single page memorandum from Professor Crow.

The memorandum relates to Professor Crow's concerns about the proper funding arrangements for the management company at Mount Murray. As a result, Professor Crow recommended that the arrangements for the maintenance of the common parts of the estate be followed up with the management company and subsequently monitored by the Department of Transport.

As I indicated earlier, this issue will be referred back to the Residual Issues Committee, which, as recommended by the commission of inquiry, is to be reconvened to progress certain outstanding issues.

Of course, during the period of the inquiry this committee has not done anything because it would be wrong to have done that whilst the inquiry was doing their work, but that was the Residual Issues Committee which came out of the Crow report and there is outstanding business for that Residual Issues Committee to progress. So this annex relates to that work which will now recommence.

It is important to point out that the Commission of Inquiry did have access to annex 6 and it was the Commission of Inquiry which provided the Privy Council with the full Crow report, including that annex, yet the commission of inquiry did not, as far as I see in the report, consider the issue to be of any significance, and as far as I am aware there is no reference to it in the report.

We will nonetheless ensure that it is picked up and not allowed to drift, as seems to have been the case back in January 2001, during the last administration.

I am moving an amendment today which I believe commits the Council of Ministers to react positively to this Commission of Inquiry report.

The Part One Report of the Commission of Inquiry into Mount Murray is a very substantial document, and it does once again highlight the inefficiencies and incompetence which government past and present has previously acknowledged, featured so heavily in this particular development. There are 450 pages and I would say, hon. members, that these do require considerable study in order to understand it properly.

I believe hon. members must make their judgement on its contents when it has been properly understood.

We have heard the statement made by the Attorney-General about his concerns and I find myself echoing those concerns. I believe that we initiated this report because allegations had been made of corruption – and by that, I mean what we all understand by the word ‘corruption’, not this redefinition to the corruption of systems. (**Mrs Crowe:** Hear, hear.)

I have taken the trouble to read the definitions of the word ‘corruption’ in a number of areas: dictionary definition, the Council of Europe Convention definition of corruption and also the United Nations Convention definition of corruption, and in each and every one of these definitions there is a common thread: each one of them states, in terms of varying clarity, that some individual benefit or gain must have occurred to the public officials concerned, in order for corruption to have taken place.

I said this morning the report clearly and unequivocally states that corruption *did not take place*. I welcome that and I think it is something that we should be making more of out of this report. We have always known that the systems failed and that we have known since the publication of the Crow report.

So far as system failure is concerned, this report confirms what we already knew. However, importantly, this report makes other statements and draws other conclusions and makes certain recommendations, and the hon. mover of this motion made reference to that.

I believe it is our duty as members to consider this report and the evidence in it, together with other evidence we have amassed, such as the Crow report, and then make a judgement as to which of the statements, conclusions and recommendations we as Tynwald members agree with.

I do not believe the process is new: this is how we as a Court consider every report which comes before us and I think it would be premature if we were to seek to vote to approve this report wholesale, without having had the time to give it adequate consideration.

There are 23 recommendations in this report, but I do not believe the hon. mover of this motion spent a great deal of time on those particular recommendations. In his presentation he dwelt on other commentary aspects within the report, but out of those 23, 21 deal with planning issues. This is all as a result of the system’s failure that we have talked about. These recommendations originate for the main part in a report prepared for the Department of Local Government and the Environment in March 2002 by the current Director of Planning.

The department’s consideration of that report resulted in a public consultation document called ‘Modernising the Planning Systems’ and this was published in August 2002. So, there is progress and I take umbrage with comments that in fact the current administration is as bad as it was all those years ago –

Mr Karran: It is worse.

Mr Corkill: – because I do believe we have learnt as a community –

Mr Karran: You are worse.

Mr Corkill: – that there were things wrong, that the system did break at that time and I believe that there are proper measures beginning to be put in place so that hopefully it never happens again. The comments to say today’s situation is as bad as it was then, the hon. mover of this motion is using the present tense to talk about issues which are historical and I repudiate that.

But he talks about how to recover and prosper and I am sure that is what we all want. We do want recovery, we do want prosperity in our planning system and that has to be made sure that is there, and that is why in my amendment, it obligates the Council of Ministers to come back to this hon. Court in October to actually say to hon. members where we have got to with those planning changes. It is not just about implementing what the planning changes are referred to in the Commission of Inquiry’s report but there is also that little thing called ‘public consultation’, which is also the way we do our business and that is not yet complete. The Commission of Inquiry into Mount Murray, when drafting their recommendations, which, as I say, are based on the Director of Planning’s original report, did not have the benefit of that public consultation.

The Council of Ministers and the hon. mover referred to this, published a position statement as at 3rd July which shows that the majority of the recommendations are already underway. We did that out of respect for the report because we wanted hon. members to be informed as to what the current position is. As soon as we could put that paper together, there was a lot of work went into the reading of the report from the Tuesday morning on, by the Thursday we had our initial Council of Ministers’ meeting regarding the recommendations, we had a paper at that Council meeting for our guidance and that is the paper that hon. members were circulated with. It was an up-to-date position statement – not a commitment, none of those things – but to let hon. members see where we were progressing, and I think it is important that we take that paper for what it is: it is a position statement; it does show that the majority of the recommendations are already underway.

There are some of those that need further evaluation. The position statement also covered the further non-planning recommendations, one of which concerns the Residual Issues Committee, which I am very content and happy to reconvene.

The reason I am happy to reconvene it is that, for the last nearly two years, I have been unable because of the work of the inquiry to let that committee do what it was set up to do, which is to deal with the

outstanding issues of the Mount Murray report and there are individuals who were affected by Mount Murray in the early days, who I know are very keen for that Residual Issues Committee to be reinstated. I am pleased that this recommendation has also been endorsed by the commission of inquiry, because that one does not cause a problem at all.

But there is another one and it is a big issue and that is the audit commission suggestion. Now that scenario is already being considered by the select committee of Tynwald, considering the report of the Public Accounts Committee. There is already parliamentary process and scrutiny of that suggestion going on and so I think, from executive government's point of view, we have to be very aware and cognisant of the fact that Tynwald is already doing something in this area and we would hope to work with that select committee in order to come to a conclusion on that particular issue.

But for us to accept this report today lock, stock and barrel would be a premature decision for this Court, in my opinion, in relation to the definite decision to set up an audit commission. I am not opposed to discussing whether we need an audit commission; it may well be a very good thing. It may well be that if that is in place we no longer need the Public Accounts Committee. It could be the very scrutiny that . . . The hon. member who is moving this motion says that hon. members are not scrutinising the executive enough: it may well be that the Audit Commission, perhaps instead of a Public Accounts Committee, could be the way forward. But I await to hear from the findings of the select committee of this hon. Court before I would wish to make a conclusion on that very point.

We have a duty in respect of this report not only to study it carefully, not only to heed the words of the Attorney-General, not only to determine our own judgements on the statements made and the conclusions reached, but also to balance the recommendations of the commission against the clearly expressed views of the people of this Island. It is for that reason that I recommend that this report be received but not that we just receive it – because we know what that means – but that the Council of Ministers is obligated to report back to the October Tynwald on the recommendations contained within it and what I have talked about.

There are a couple of points I would wish to make about the hon. mover's comments because I believe that he has misrepresented Professor Crow's comments in Annex 5 in his presentation: paragraph A5.18 makes it clear that the pressure that was put on the planning system came from Mr Savage, not Mr Bell. He has also asked government to set up this audit commission and I have covered that point: I believe that is a matter for parliament.

In releasing annex 5, I want to make just another point: the commission of inquiry report said that it should not be made public. They concluded on their part that they saw no reason why Professor Crow's

wish to keep it confidential should not remain. The Council of Ministers took a different view and, on contacting Professor Crow, bearing in mind the stage we are now at, he took a different view as did everybody that was involved in that process and that is why it became public, but I do repudiate any suggestions that the Council of Ministers over the years – the current, the one before the last general election – has conspired to keep annex 5 a secret, because that is simply not the case.

I beg to move the amendment in my name and I would ask hon. members to respectfully dwell on my words about how much of a commitment we can make to all of these recommendations at this stage, but by October we will be better informed, I do hope.

The President: Hon. member of Council, Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I am pleased to second the amendment made by the hon. Chief Minister because as he has commented in his speech, the main recommendations of this report are concerned with the planning system on the Island. But again, the commission of inquiry has reported in such a way as to give an impression – and the word 'impression' is an oft used word in this report – that the situation that was in place in the early 1990s is still with us today.

I am happy to reassure hon. members that it is most certainly not the case. Many improvements have been made in the way in which planning systems operate over the past 10 years. A number of beneficial changes have been introduced both prior to and since Professor Crow's published report.

Whilst I would not deny that mistakes and errors of judgement were made in the early 1990s and that any system will always be vulnerable to human frailties, I do believe that many of the criticisms made by this Commission of Inquiry are misplaced in 2003. Professor Crow's recommendations have been implemented and other improvements will continue to be made as a new planning system evolves.

When I became minister of the department, I immediately asked for a thorough review of the planning process. This review has been conducted in an open and transparent manner, and resulted in a consultation document being published by the department in August 2002, under the title 'Modernising the Planning System'.

A major consultation exercise took place with all interested parties – the general public, local authorities, developers, all users of the planning system. It has been a root and branch review examining the whole of the planning system, that is both plan preparation and day-to-day development control.

The department is almost ready now to publish its proposals for the new subordinate legislation which the department is required to bring into place under the Town and Country Planning Act of 1999, and this will

enable remaining parts of the Act to be brought into operation.

One of the positive things to come out of the commission of inquiry's report is a recognition by the commission of the many changes that have taken place to address the shortcomings that were evident a decade or more ago. For example, the commission in paragraph 9.8 of its report states: 'We find the introduction of these Standing Orders to have been a valuable contribution to the improvement of the planning process, as they do meet several of the problems which arose in the planning permissions which were considered in 1991.'

Then in section 15 of the commission's report, they say that the introduction of the development control handbook and of the standing orders 'provided a much improved system and reference can now be made, particularly where officers and administrative staff are uncertain, as to coherent guidance and instructions'.

The commission of inquiry also makes numerous references to the options for change identified in the department's modernising the planning system consultation document. Of the 23 recommendations made by this commission, no less than 20, in one way or another, refer to the planning system and, of these, 12 have already been addressed by the department in its consultation document.

In relation to the other recommendations, all I can say is that whilst such issues as staff training and procedures for copying plans are important, they are at a much lower level and perhaps not worthy of comment in our consultation document.

It would be remiss of me if I did not make a statement to this hon. Court today about the comments made by the commissioners regarding individual members of staff in the department.

Firstly, it is a matter of considerable regret that the chief executive of the day, Mr Mike Savage, passed away prematurely and was not able to provide evidence in person to the Commission of Inquiry. This has inevitably led to a degree of speculation, but everyone who knew Mike Savage held him in the very highest regard. He was a most extremely able chief executive of the highest integrity. And one must also have a degree of sympathy for present members of staff who worked with the late Mike Savage, because, whilst mistakes undoubtedly were made and have been admitted to, there is no suggestion that any of these members of staff acted wilfully.

Looking to the future, the publishing of the commission's report has caused the department to delay the launch of its public consultation process on the subordinate legislation. This is so that the draft documents can now be reviewed in light of the recommendations made by the commission. As part of that review I have called a special meeting of the department for early August, when full consideration to these matters – the recommendations – can be given. I can then arrange for the public consultation process to start as soon as possible thereafter. Again, it is

consistent with the department's policy of seeking to involve all interested parties in the design of the future planning process. I hope that it will be possible to introduce the new orders and regulations before the end of this year, with a view to the remaining parts of the Town and Country Planning Act being brought into operation from January 2004.

I summarise and I would say that I have concerns about the amount of money this commission of inquiry has cost – I think I worked it out at something like £3,700 per page – especially when it has revealed very little new to the findings of Professor Crow. However, that is not to say that the comments and suggestions made by the commission are not helpful; I assure all hon. members that they will be given the most careful consideration by my department.

As I have said, a great deal has already been done to improve the planning system and this process will continue, so as we seek to provide a better service to the public. The amendment will give us time for that consultation with all parties prior to the introduction of legislation, and I hope that hon. members of this Court will support the amendment.

The President: Mr Attorney.

The Attorney-General: Thank you, Mr President. I took possession of my copy of the Report of the Commission of Inquiry into Development Matters at Mount Murray on Tuesday, 1st July. Having given careful consideration to the report and the terms of reference which establish the commission, I feel it is appropriate that I should make some comment as to certain aspects of the commission's conclusions.

I am particularly concerned about the use of the word 'corruption', a word which, as hon. members will appreciate, may have very damaging connotations depending on the context in which it is used.

Hon. members may have some anxiety that I give the appearance of counsel defending institutions or persons who have been found guilty of offences of corruption. That is not my intention nor, of course, is it my function.

It is the function and indeed the duty of the Attorney-General to consider and advise upon matters affecting public interests generally. The Attorney-General does not require to receive instructions before taking action and giving advice in appropriate cases. The Attorney can act independently on his own motion, as I do today.

To my mind, nothing could be more important to the public interest of this Island than that I scrutinise carefully and independently the findings of the commission and advise hon. members if I have concerns as to those findings.

It is important that hon. members appreciate the function of a commission of inquiry such as the commission which has investigated the development at Mount Murray. A commission of inquiry is not a court of law; there is no appeal from its findings, although a petition of dolence may challenge the procedures of

the inquiry if they do not comply with the rules of natural justice or if they are manifestly unreasonable.

As the judicial committee of the Privy Council observed, when delivering its judgement on the 7th May in the matter of Mount Murray Country Club Limited and others against the chairman and members of the commission, the task of the commission is not to determine an issue defined by pleadings between two parties; it is to inquire into a matter of public interest and concern, defined only by the terms of the two resolutions in Tynwald.

In concluding that the public interest required that the commission's inquiry should not be limited in any way, which might invite it being criticised as a cover-up, their Lordships made some important observations as to the procedures to be followed by a commission of inquiry, and if I may I will quote from an extract of the judgement: their Lordships referred with approval to a decision of the Federal Court of Australia, and I quote, 'In determining what is relevant to a royal commission inquiry, regard must be had to its investigatory character, where broad terms of reference are given to it, as in this case. The commission is not determining issues between parties but conducting a thorough investigation into the subject matter.' Those observations apply equally to a commission of inquiry such as that chaired by Mr Nigel Macleod QC.

I would not wish hon. members to think that I have any concerns whatsoever about the scope of the inquiry, and it would, of course, be intolerable if the findings of the inquiry could properly be criticised as a cover-up. Rather, my concerns centre upon whether the conclusion that the system of government in the Isle of Man has been corrupted is fair.

In this context, I would refer to the recommendations as to inquiry procedure made by Lord Justice Scott, in his report into exports of defence equipment to Iraq. His Lordship reviewed the factors to be taken into account in deciding what procedures should be adopted for an inquisitorial inquiry.

The objects to be served by the procedures were stated to be three-fold: first, the need to be fair and to be seen to be fair, to witnesses and others whose interest may be affected by the work of the inquiry; second, the need for the inquiry's work to be conducted with efficiency and as much expedition as is practicable; third, the need for the cost of the proceedings to be kept within reasonable bounds.

Lord Justice Scott observed that while the second and third of these objects must never be allowed to submerge the need to be fair, there was an inevitable tension between on the one hand the requirements of fairness and on the other the need for an efficient process.

His Lordship repeated the point that in an inquisitorial inquiry there are no litigants. Witnesses have no case to promote; their rôle is to assist the inquiry to establish the facts. They may have an interest in protecting their reputations, in protecting themselves from possible criticism and in answering as cogently and comprehensively as possible allegations

made against them. But they have no case in the adversarial sense.

Similarly, until the stage has been reached at which an inquisitorial inquiry reaches provisional conclusions which are critical of an individual, the inquiry does not have a case against any individual.

It seems to me, therefore, that the Scott report makes it perfectly clear that the need to be fair and to be seen to be fair to witnesses and others, whose interests may be affected by the work of the inquiry, is paramount.

It will be recalled that at paragraph 2.5 of the commission's report it is concluded that, and I quote: 'The result of the forces applied to the government by the developer through the Minister for Tourism, allied to the inherent weaknesses within government already identified, was that government could not handle the pressures applied to it on this matter and it succumbed, and in this sense was corrupted, leaving effective control of the Department of Tourism and planning office on this matter to the developer.'

The Government of the Isle of Man, of course, as such, was not a witness and has not been called upon to give evidence. To all intents and purposes, though, the term 'the government' in this context represents the Council of Ministers and the relevant government departments. The finding of corruption in the sense of having succumbed to pressure has, so far as the commission is concerned, been made out against the executive government, the relevant government departments and certain of the civil servants working for those departments.

Bearing in mind the observations of the Privy Council that the task of the commission is defined by the terms of the two resolutions of Tynwald and the warning given by Lord Justice Scott that the first object of an inquiry is to be fair and seen to be fair, to witnesses and others whose interest may be effected by the inquiry, it is appropriate to see how the commission has approached its terms of reference and to ask whether its findings are fair.

At paragraph 4.10 at page 44 the commission observes that it has been required to investigate the allegations of corruption made in Tynwald in February 2002. Those matters did not necessarily coincide overall with the irregularities as referred to by Professor Crow.

If I may, I would refer and quote from paragraphs 4.12, 4.13 and 4.14: 'The nature of the corruption being alleged was clarified in evidence before us by Mr Karran and by Mr R E Quine MHK, the seconder of the resolution on 19th February. Mr Karran referred to corruption of the relevant system of government in the form of maladministration, and Mr Quine said: – and I quote – “that ‘on the basis of what happened in this case we have had a corruption of our planning procedures, of our planning system’”.

The report goes on: 'It is thus apparent that the reference to corruption included corruption of the systems of government on the Isle of Man, in the sense that those systems did not operate as they should have,

and in particular raised the question as to whether they failed to resist the manipulations and pressures to which they were said to be subjected by the developer and his various agents and associates.

'In the light of this and of the resolution and of the preceding debate in Tynwald on 19th March 2002, we consider it appropriate to our remit to investigate corruption in the more familiar sense of the term, that is whether there was improper action taken in return for some material gain, that is, for example, any money, gift or other consideration paid or given, and also in the wider sense as exemplified in paragraphs 4.12 and 4.13 above', and I close those quotes.

At paragraph 6.21, it is clear that the commission readily concluded that it was the wish of Tynwald that the commission should investigate the allegations of corruption widely and thoroughly, and that it should not limit its investigations to the passing or receiving a pecuniary gain or other consideration in return for actions taken or not taken. The commission, therefore, has taken into account the wider understanding of the term as put by Mr Karran in support of his moving of the resolution on the 19th February 2002.

As I indicated earlier, I do not think that it can be doubted that Tynwald requires a wide and thorough investigation of the allegations of corruption, but it concerns me that the commission has interpreted the term 'corruption' in a sense that bears no relevance to the meaning of that term, as it is ordinarily understood (**Mrs Crowe:** Hear, hear.) when corrupt government practices are from time to time reported in the international press. (**Mrs Crowe:** Absolutely.)

'Corruption' in the conventional sense has been defined as 'the misuse of entrusted power for private benefit. Corruption involves behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the power entrusted to them.'

Article 2 of the Council of Europe Civil Law Convention on Corruption provides that: 'For the purpose of the convention, "corruption" means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.'

Most recently, the revised draft United Nations Convention Against Corruption defines the term by reference to a variety of criminal offences when committed intentionally, such as bribery of public officials, trading in influence, embezzlement, misappropriation or other diversion of property by a public official, concealment, abuse of functions for the purpose of obtaining economic benefit and so on.

The Island's Corruption Act 1986 refers, for example, to 'the corrupt acceptance or obtaining of any gift or consideration as an inducement or a reward for doing or forbearing to do any act.'

Any evidence of corruption in that conventional sense would clearly be indicative of a most serious

state of affairs, (**Mrs Crowe:** Absolutely.) and the commission would no doubt have referred the evidence to the appropriate criminal investigatory authorities on the Island.

The commission at paragraph 18.15 at page 249 makes it clear that there was no evidence of corruption in the ordinary sense of corrupt payments, gifts or other considerations and therefore the suspicions and consequential smears in this regard can be dispelled. (**Mr Cretney:** Hear, hear.) (**Mrs Crowe:** Yes.)

The commission has, however, taken on board, as I said, an investigation into the allegation of maladministration and weaknesses in government, allied to lack of transparency, which was made by the hon. member for Onchan, Mr Karran, see paragraph 6.5. This allegation is coupled with the hon. member's concern expressed at paragraph 6.11 as to, and I quote, 'fundamental issues involving good government, the integrity of the law, the competence of ministers and the fitness of such individuals to hold ministerial office and the placing of profit over the rights of the electorate outside this hon. Court', and his plea at paragraph 6.4 for open, honest, competent government'.

The commission has concluded that there was corruption in this broader sense of failing to withstand pressure by experienced developers, failure to protect the planning system from excessive internal pressure, both political and professional, and failure to detect officers who were condoning or activating wrongdoing. This theme is developed at paragraph 20.6: 'we do find that there was corruption of the system of government by reason of consistent maladministration and weakness, allied to wrong doing by officers, and the lack of transparency in government dealings.'

It seems clear, therefore, that the commission has concluded that there has been corruption of the system of government, *not* in the legal sense which is so closely related to bribery, but rather in the sense that the system has been spoiled.

Although this essential difference between corruption in the ordinary legal sense and corruption in the sense of being spoiled is emphasised in the commission's findings, it seems to me that there is a danger that this difference may be overlooked by those who have not read the report carefully, by those who might confuse the functions of a commission of inquiry with those of a court of law, and indeed by those who would wish to take any opportunity to dash the Island's hard-won reputation (**Mrs Crowe:** Yes.) as a well-regulated financial services centre. (**Mr Cretney:** Hear, hear.)

Mr President, government and officers within government departments may be at fault in the sense of having done wrong; they may be negligent and they may be inefficient. Individuals may be weak and unwilling to resist pressure, others may be overzealous in a desire to promote a particular policy. Procedures may not be as open as they might be, minutes may not

have been taken in an ideal form or record appropriate substance.

The hon. member for Onchan, Mr Karran, was putting in a plea for open, honest, competent government. A government may be opaque and may be incompetent but all those failings, in my respectful view, fall well short of corruption in the conventional sense of the word (**Several Members:** Hear, hear.) and in the broader sense, if that broader sense is intended to embrace the notion of a government riddled with dishonesty.

As law officer of the Crown in the Isle of Man, there is a further point of paramount importance. I have referred to the fact that at paragraph 6.11 the hon. member for Onchan, Mr Karran, in pressing for the public inquiry, stated that there were fundamental issues involving, amongst other things, the integrity of the law. I would wish to make it abundantly clear that the commission has *not* in its conclusions on corruption at section 18 of the report or elsewhere made any findings which lend credence to the suggestion that the integrity of the law has in any way been questioned or undermined, or that the administration of law in the Isle of Man had been corrupted in any sense, conventional or otherwise. It is most important that this point be emphasised.

Mr President, in conclusion, I hold no brief for any individual or for any government department. The purpose in my address to hon. members is to alert them to the concerns I have as to the conclusions reached by the commission as to corruption. There is absolutely no evidence of corruption as that term is recognised in the criminal law, and, to the extent that the commission has concluded that there is corruption of the system of government in the wider sense of the government having been spoiled, it would seem to me that there is no cogent evidence of widespread dishonesty within the government.

The President: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. My first reaction to this report is that of its wider national and international ramifications, other than the obvious detailed implications that are set within its pages. I am also struck by the attention to detail and the in-depth Island assessment, which sets out the scene for events that unfolded over ten years ago.

The report makes many observations and conclusions. It highlights specifically Mr Allan Bell, the planning committee which Mr David Cretney headed up and government systems which failed to withstand continuous pressure. It also highlights the inadequacies of ministers of the day and government officials.

This whole saga has been at the forefront of public and media attention for some time and to say it is one of the highest profiled political footballs the Island has ever experienced is an understatement.

A message to the Chief Minister: the public of this Island are following this very closely, sir, and the credibility of your government is on the line, depending on how the Council of Ministers see fit to vote and play out whatever hand they intend to today.

I have to say that the more this government seems to rubbish the Macleod report in my opinion and the more members of the commission are devalued, then the more suspicious our community is becoming. Bickering over the report content is only serving to dig a deeper hole of suspicion and mistrust for our government. It is digging itself into a crisis of trust with our community.

It would do this government far better to show contrition and to throw up its hands and admit that mistakes have been made and apologise, rather than the current demonstration of institutional arrogance which is on display.

There are many lessons to be learnt from this report, which was chaired by Mr Nigel Macleod QC, a man of high integrity, a deputy High Court judge in England and particularly knowledgeable about planning law and procedure, a man with no particular axe to grind but charged with an independent scrutiny of the systems which allowed these problems to develop.

I want to offer an alternative approach. There are three broad aspects to this report that ought to give us particular concern as parliamentarians: (1) the lack of proper administrative systems to ensure competent decision making; (2) the lack of training given to those involved in this and associated with relevant decisions; (3) the rôle of members of Tynwald.

In the case of lack of proper administrative systems to ensure competent decision making, we have here a picture of decision making in a small community with all its virtues and faults. The entrepreneur has easy access to decision makers, with pre-meetings involving the then Chief Minister, planning officials, enthusiastic support from the then tourism minister concerned with his departmental responsibilities to the extent that it obscured the larger picture.

We also have the commission's conclusions that one officer in particular appears to have deliberately and systematically misled the planning committee, that much of the real decision making was done in a way which was administratively incompetent. It is not a pretty picture and the process failures are from top to bottom.

The truth is that we still have a Council of Ministers which reflects the structure of the past autonomous, freewheeling boards of Tynwald loosely controlled from the centre. The commission suggests that there should be detailed instructions on what departments must take to the Council of Ministers, not hidden or obscured to the point where things are not being picked up at a political level.

I hope the present Chief Minister can assure us that this will be done and laid before Tynwald as soon as possible and not merely placed in an in-tray.

The report identifies that what administrative procedures there were seemed not to be accompanied by procedures to ensure their compliance. The report identifies the frailties of human nature; complacency had crept in.

To this end, I look for a clear statement from the Chief Minister on the actions that he and the Council of Ministers still intend to ensure good governance, which is the exceptional key that the UK, as we all know, can use to legitimise direct interference in the internal workings of this Island. Good governance is crucial and vital to the stability of our economy and how the UK and the international community perceive us.

In addressing training issues, I would like an assurance from the Chief Minister that he will require an audit of the procedures in all areas of government, where staff come into post; that there is adequate training and briefing before the postholder takes up an appointment; training programmes must in the first instance be directed to our basic institutional requirements.

My third point is the rôle of members of Tynwald and especially as three serving members of this hon. Court are clearly identified in highly critical terms, it does not give a ringing endorsement of politicians in action.

We sometimes ask ourselves why the electorate is unenthusiastic about casting their votes, but we can only expect enthusiasm and interest for what we do as politicians if we can demonstrate that we are adding real value to our community, which the people can identify with. That means that however unfortunate our predicament may be, we cannot say we are simply entitled to rely on the advice of civil servants, we must be able to evaluate the situation and act accordingly, using our own integrity, and have the strength of character to fully question things – questions that produce a satisfactory, traceable audit trail to build an appropriate and correct decision upon.

If we are to be a credible parliament, it is difficult to see how we have these deficiencies thrown up in this report, how a chairman of an important committee failed to acquire and read relevant papers, according to the commission, and how another Tynwald member acted as if the end justified the means, and, according to the report, misled his colleagues.

We need to reflect on the fact that this was a task entirely appropriate for a select committee, but we chose not to take that course. That was not an undermining of the constitutional advances in the Isle of Man, as was said at the time, but in my opinion it was a shirking of a responsibility which we should perhaps have undertaken ourselves as parliamentarians.

Concluding on this aspect, I would point out that the commission makes an important recommendation to which I have not yet referred: that an audit commission be established to audit the annual financial accounts of the Isle of Man government and report annually to Tynwald.

Although such a body would be an important constitutional advance, it is worth noting that none of the members of the commission have any parliamentary experience. In my opinion an audit commission should indeed be established, possibly as a statutory board, but it should be appointed by Tynwald and its work should be integrated with that of the Public Accounts Committee.

Scrutiny is a parliamentary rôle and, while the Audit Commission must have independence of action, we should supervise its activities and be responsible for considering the implications of its findings.

That is one of the main themes of this report: that departments in government cannot be continued to be allowed to divorce themselves from reality, that they are part of a bigger picture and must work as a body corporate, not as individual empires, and ultimately have to bow to the supremacy of Tynwald.

I now turn to the current planning section of the Department of Local Government and the Environment: a new team trying to get to grips with the wide-ranging impending changes, which have to be acknowledged are on the way via the modernising of the planning system, which the minister for the department has very ably described here in this afternoon's session, these are already in train, much of which has been picked up in the report.

We must acknowledge we have a dedicated and hard working staff in the planning office, coping not only with forthcoming changes but have turned around nearly 2,000 planning applications since January this year. The damage this is doing to morale is immeasurable at the minute and the sooner we have an action plan in place and move forward on positive tones – and I repeat that, 'on positive tones' – and not craving the head-on-plate syndrome or baying for blood, the better. We need to accept that changes are required, we need to stop castigating and blaming and we need to move forward on strong positive tones.

Chief Minister, you cannot hide your head in the sand on this by way of trying to amend the motion and bury it. That will be a whitewash and you and your government know it and the public will know it.

I did not use the term 'crisis of trust' lightly and that is what will inevitably happen if nothing positive comes from this debate. The public of the Island demand that you make positive assurances on what is going to be done, not tossing the report away in a pique of arrogance, but embracing it, warts and all. The public deserve nothing less.

To that end, I propose to move an amendment to address some of the issues I have been illustrating and if I could ask the Clerk of Tynwald if he could – which he has done, thank you very much, sir – I will expand a little on why I see the reasons for issuing an amendment to the motion.

The first point is: I can fully understand the Council of Ministers' position in trying to suddenly accept this report, warts and all, and with 23 or so recommendations on the hoof, as it were, without having the full time to consider everything and see

exactly what the implications are and how practical or quickly they are to be put into train.

I can also see the other side of the coin: the public of this Island have got our parliament under the spotlight at the minute and certainly this afternoon, I am sure there will be a lot of people listening to this debate live and certainly I know there are thousands of people very, very interested in the outcome. There is a lot of concern, maybe there are plenty of different views and maybe some of the views are not quite right, but the point is we need to be seen to be doing something this afternoon and not just saying that we are receiving a report and will come back a few months later, after our recess, and see what we can say about the conclusions.

So, as I say, what I am proposing is:

Delete the word 'approved' and insert –

'received, and that the Council of Ministers accepts the need for change and gives an undertaking to assess the recommendations of the Mount Murray Report, and convey to the October sitting of Tynwald as to how those recommendations can as far as practical be implemented.'

I see this as a much fairer way forward because I can fully understand that trying to fully implement everything here this afternoon by way of accepting the report could cause a lot of problems. I think we need to apply some thought to the situation, but be contrite enough to accept that changes are required.

And, lastly, I would just like to mention the people of Mount Murray estate themselves because they have not entered into the debate so far, or the problems that they are facing, and if nothing else at the end of the day, I think that we could do with some recommendations or something progressed from government that would help address the particular situations that they are suffering up there at the minute (**Several Members:** Hear, hear.)

With that, Eaghtyrane, I beg to move the amendment standing in my name and I hope somebody will be able to second it.

The President: Mr Speaker.

The Speaker: Thank you, Mr President. I would first like to say I welcome the important statement made by Her Majesty's Attorney-General, (**Several Members:** Hear, hear.) which I believe was critically important to the whole issue before us.

I have read the report of the Mount Murray Commission very carefully and with interest, and I have to say I feel disappointed that it has not, in my opinion, truly reflected the situation and, importantly, the evidence given by many parties to the proceedings, including myself. (**Mr Karran:** Shameful.)

I would say that my comments today do not come from a position of arrogance but from a position of putting the record straight, providing the truth – fact. I

accept that it is difficult for any investigation to provide a truly factual record of events that happened over 12 years ago, especially when some of the witnesses are not available for giving evidence.

It is even more difficult to try to put such events in a meaningful and truly reflective way, especially when there are people who have not, or as I say, are not available to answer questions.

However, that being said, I do have considerable difficulty in understanding why the commission have consciously decided to ignore what I can only describe as important relevant information that was given in evidence by myself.

First and very importantly, there is the accusation by the commission that I did not get involved in this matter. The commission seemed to refuse to accept the legal advice I had received from Her Majesty's Attorney-General, that I, as Minister for Local Government and the Environment, should not in any way become directly or indirectly involved with any matter which may become or is subject to the planning process. The commission say that I took this advice too literally and that I could have sought to have the application pulled in for special inquiry.

They reason, the commission says, that 'the Mount Murray planning application should have been called in because it was a large development'. Yes, in tourism terms it was, but in Island terms it was not. Again, the commission refused to accept this point, even though I gave at least one example of where there was a larger development. In fact, they ignored the argument put by myself in relation to this fact. They do not even mention my points on that issue in their report.

They also insist that I could have sought to have the planning application called in for special inquiry, even though I was the minister. I refute this totally and the reason I refute this is based on the legal advice I had received over the years whilst I was minister.

To justify their criticism of me in relation to this matter – that is, that in 1991 I did not propose that the planning application in relation to the Mount Murray proposals be called in for public inquiry – the commission use an English judgement in the House of Lords in relation to the position of the Secretary of State for Environment, Transport and Regions.

UK planning law and the position of the Secretary of State is fundamentally different to that of the Minister of Local Government and the Environment in the Isle of Man, yet this ruling that was made by the House of Lords was made in the year 2001 – that is 10 years after the planning issues (**Mrs Crowe:** Yes.) that are related to the Mount Murray application. Reference to this can be identified on page 129 of the commission's report.

I think any reasonable person would accept such a reference by the commission to justify their response to this matter to be unreasonable and to distort the issues before us.

I would wish to make it clear that in carrying out my responsibilities and duties as Minister for Local

Government and the Environment, in relation to planning I complied fully with the advice given to me by Her Majesty's Attorney-General, which followed the law of the Isle of Man, in that I did not and was not in a position to become involved either directly or indirectly with any issue related to the planning application for the Mount Murray development.

The commission may hold the view that that advice to me was wrong or that I followed it too literally. One can imagine, however, what would have been said by the commission and by others if I had become involved either directly or indirectly with matters relating to the Mount Murray application.

The purposeful saying of Lord Hewitt is worth quoting where he stated, when dealing with a case in 1924, that, and I quote: 'It is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done'. Therefore if, as Minister for Local Government and the Environment, I had become involved in anyway whatsoever with any matters relating to the Mount Murray planning application, taking cognisance of my position, then this fundamental principle would have been breached.

The commission states that I was too distant from the staff of my department; this is just not so. I told the commission that all the officers of my department had access to me at any time, either when I was in the office, which was virtually every day, or they could also contact me by phone at home or anywhere else I may be, or they could raise any issue with me at our formal monthly departmental meetings. These meetings were specifically there to provide officers with access to the minister and the members of the department and to provide members of the department access to the minister in a formal setting.

As I stated to the commission, knowing the officers well, as I did, I can assure hon. members that if the pressures being brought to bear on them by anyone, including ministers, in relation to planners were considered by those officers to have been unreasonable, either on them individually or collectively, they would not have hesitated to speak with me, yet none did.

If that was the only course of avenue for potential complaint within the department, then one could say they decided to say nothing, but that ignores the fact that within the planning department of my department, there were then three other people who certainly were not inhibited from raising any problems with me, plus the chairman of the planning committee. This would especially apply to any unreasonable pressures being exerted by a minister or, for that matter, by any other persons.

First there is the then chairman of the planning committee, the hon. member for Douglas South, Mr Cretney. Now, I appointed the hon. member as chairman because I knew that he was somebody I could trust, someone who cares deeply about our Island. I knew he was someone not to be pushed around and would not knowingly allow any special

treatment to be given to anyone, and he had firm views in relation to planning. Anyone who knows the hon. member knows this to be right.

I know that if Mr Cretney had felt uneasy or threatened by the actions of others – and I would suggest especially by a minister – he would not have hesitated to come to me immediately and advise me and/or seek my advice over any matter. He did not.

Then there were the three public lay members of the planning committee: Mr Charles Faragher, former MHK, and Mr Charles Guard, former news presenter for Manx Radio, and Mr David Moore, former MHK. I, along with Mr Cretney, chose these three people because we knew that they are totally trustworthy, that they had a deep interest in planning and are people of the highest integrity who care deeply about our Island. Again, either individually or collectively, none of them would have hesitated to raise any issue of concern with me. They did not.

I now move on to the issues in relation to the zoning of land which is mentioned in the report and the matter of consideration that the planning committee must give to any application. The commission are critical of the planning committee and the department due to the fact that part of the development proposed impinged on land not zoned for the purposes being sought. However, the commission, in my opinion, conveniently ignores the provisions of the Isle of Man Planning Scheme Development Plan Order 1982.

To clarify this matter, a matter of fundamental importance, I quote from the Isle of Man Planning Scheme Development Plan Order 1982, which is an order under the Town and Country Planning Acts of 1934 to 1981, which were applicable during the period that the Mount Murray planning application was before the planning committee. Part 2 of the order deals with the reservations of lands, zones or notations on the plan. The relevant paragraphs of the order under part 2 are, first, paragraph 8.

Paragraph 8 is headed 'Effect of the Scheme' and states, and I quote: 'The scheme shall be a guide to the department in its administration of the development policy and errors of information or discrepancies on the plan shall not invalidate the scheme or the provisional order'.

The important words in this paragraph, and I quote, 'the scheme shall be a guide to the department'. This quite clearly indicates that the planning committee must, in considering any planning application, consider the zoning as provided for and, doing so, they can determine quite legitimately to approve an application that does not conform with the zoning of the land.

Clearly, the planning committee have to be satisfied that such a decision is justifiable and, if they are, they can make a determination to approve. It is not illegal for them to determine to approve in this case and their decision can be challenged within the planning process. There was and is nothing wrong in planning terms, under the planning law as passed by Tynwald, for the planning committee to permit land to

be used for a purpose, where the planning committee are satisfied that in their opinion they felt justified to give an approval. Their decision in this case could have been challenged through the planning system. It was not.

However, again the commission do not clarify this fundamentally important matter and therefore leave the public with the impression that the planning committee acted wrongly regarding permitting unzoned land to be developed.

Mr President, I now wish to turn to the issue when the hon. member for Onchan, Mr Karran, moved his motion in Tynwald on the 19th February 2002, when he referred to corrupt practices. Mr Karran stated that, and I quote: 'The Mount Murray development has been the cause of the deepest discontentment and has created the profoundest suspicions that corrupt practices have taken place'.

The commission have gone to great lengths to clarify what Mr Karran actually meant and were critical of myself, in that they say I incorrectly translated what Mr Karran had said. However, as I stated to the commission, members did not have the luxury to cross examine Mr Karran in Tynwald during the debate, a luxury afforded to the commission. Further, the use of innuendo to infer something is well known.

Mr Karran also had the opportunity to clarify what he actually meant when he referred to corrupt practices when I moved an amendment to the motion at the March 2002 sitting of Tynwald. He chose not to.

In my opinion, what is obvious from the 2002 debate in February is that without this reference by Mr Karran, the hon. member for Onchan, to corrupt practices then Tynwald would, I believe, have been content to set up a select committee to investigate the matter.

It is also obvious from reading the transcript of Mr Karran's evidence on day one that the chairman of the commission had considerable difficulty in obtaining from Mr Karran what he actually meant when he used the term 'corrupt practices'. In my opinion, after reading the transcript more than once, the chairman led Mr Karran to the answer – the answer that is before us today.

Yes, maybe lessons can be learnt from this inquiry. However, what the commission has provided in addition to what we already know from Professor Crow in his report into the Mount Murray is very little.

Already, recommended changes to the planning system and procedures have been or are in the process of being implemented and in fact in the 1991-2 period, were being promoted by the Department of Local Government and the Environment.

I am satisfied that I carried out my duties and responsibilities as Minister for Local Government and the Environment in full compliance with the law of the Isle of Man and the procedures as expected from a minister. Her Majesty's Attorney-General has confirmed the procedures and practices to be followed

in such cases by the minister and the commission confirm that I followed that guidance.

Mr President, I have no problem in receiving the report, I have no problem in approving the recommendations, I have no problem in those recommendations being considered in detail, with a further report back to ensure that, if we do implement recommendations from a commission, any recommendations are not to the detriment of the Isle of Man and its planning system.

A Member: Hear, hear.

The President: Hon. member for Rushen, Mr Rimington.

Mr Rimington: Thank you, Mr President. In relation to the Mount Murray affair and the various reports, I, like many other hon. members of this Court, was an outsider to the whole affair, in not being here in terms of time and not having any involvement at any time with any of the departments involved, so to me –

Mr Delaney: Mr President, ask the speaker to speak up; I cannot hear him.

Mr Rimington: My apologies. To me it has all been a new event in my life and the Crow report when it came through in December 2000, I honestly did not pay a lot of attention to it, I admit, at that time, because I felt I was new to the Court. This was not an issue I had been part of. Obviously since then, yes, I have had to take time to study both reports and all the correspondence in full.

There is one issue, perhaps, which I would like to emphasise about this whole sorry affair which maybe we have not touched upon yet: that is actually what has taken place there, what we are left with on the ground, which as we know from the report is a rather badly planned development with a poor infrastructure. My particular concern is for the trees because I used to drive past there as many others did and it was a pleasure to see a forested area.

Now, I understand that that forested area was not good quality in terms of a forest or a woodland in strict arboricultural terms, but probably very good quality in conservation terms, by the nature and structure of the land that was there. It was a joy to see that and to see it now is not a joy, and to see the fact that that development has taken place and that we have lost probably 40 or 50 per cent – there is no exact sign here – of the trees that were on the site.

Just to relay something from the knowledge of the officials in my own department, this is not the end of the story; those trees that are remaining in and amongst the built up area are all going to be possibly subject to either wind damage or weakness. Their roots may have been severed; they were trees that were part of a woodland, not individual trees exposed to the wind. Therefore, over time there is going to be even more and more damage.

That having been said and expressing that area of concern, I turn to the report, which has taken me away from my normal ministerial duties to actually find the time to plough through it, which is obviously quite a considerable length – and constituency duties et cetera. What impression do I get from reading that report?

I do not share the impression that is being given forth by the hon. mover. We are looking at something that has taken place 12 years ago. The report has quite clearly said there is no corruption (**Mrs Crowe:** Absolutely.) and obviously things have taken place in that time period that were wrong or mistaken, or with hindsight, people would not have so acted.

But what is our rôle and what should we be seeking to gather out of that at this point in time? Yes, we should be seeking to take on board the recommendations, to analyse those, to take on board what we think fit as an independent parliament – not as the dictator of the Commission of Inquiry but as an independent parliament (**Mrs Crowe:** Absolutely) – should go forward and be implemented.

Do we seek, as the hon. member for Douglas North alluded, the ‘heads on the plate’, the scapegoats? I do not think so. I think the question you need to ask is: how did people behave at that point in time? Did they behave honourably or dishonourably? And if it was not completely honourably, to what degree away from that benchmark of perfection did they go and did they go to complete dishonour to that point where you should say ‘heads should be on a plate’.

My analysis of that report is certainly not that at all; people did act honourably, by and large. Certain people did act mistakenly. Possibly there were certain professionals that acted more mistakenly than others but, by and large, people acted honourably, because they were not acting for any corrupt purpose. They were acting for the benefit of the Isle of Man as they saw it. Obviously, where there were weaknesses in procedures we are now collectively addressing those weaknesses.

I abhor the fact that the hon. mover is coming here with his motion for blanket approval; I abhor the fact that he is saying ‘we invite the commission to come back and check on us’. Perhaps the hon. member would like to invite the commission to take our place completely and install them as the government of the Isle of Man, because that is the logical (*Interjections*) extension of what he is saying –

Mrs Cannell: A federal Europe will do that.

Mr Karran: That is accountability, son.

Mr Rimington: That is what the hon. member is saying –

A Member: Rubbish!

Mr Rimington: And I abhor the fact that he is saying, ‘the recommendation for the audit commission: you must accept it, I demand you must accept that’.

Because that is being analysed and I have a record throughout the time of being in this Court of wishing to seek greater parliamentary scrutiny on the financial side and I presume that is why this hon. Court put me as one of the members on the committee which is looking at that issue.

If we are to accept this recommendation purely from the report by people who are not necessarily alive to the ins and outs of our process but were focusing on that particular planning issue – but not on our whole system of audit and financial regulation – then please put a motion down to disband that committee, because that is what you are saying we should do and that should be the honest intent of your actions.

I abhor the way I see that politics is going in this Island and has been for some time.

Mr Cannan: Ah, that is interesting.

Mr Rimington: For that I will put one of the fingers of blame on the hon. mover of this motion, Mr Karran.

Several Members: Oh!

Mrs Cannell: Surprise, surprise! Well done!

Mr Rimington: Mr President, do I expect my comments to be received by comments from the public gallery?

The President: No sir, you have the floor; continue.

Mr Cannan: Arrogance!

Mr Henderson: To the nth degree.

Mr Rimington: It is essentially on this Isle of Man now, the politics of scandal, and that is the main thing it operates. It is the politics of the tripwire, to catch somebody out, to find their misdoings, to embellish it, to publicise it, to bring them down, to dress it up with all sorts of what I would consider spurious arguments, but what is actually missing in all this is actual politics and that is my criticism of this Court in general, maybe, or politics on the Isle of Man. Since the time I have been involved there is actually very little politics coming from those who are opposing.

Mrs Crowe: They are not in opposition.

Mr Rimington: And I shall look forward later on the agenda when we have the government report, to hear a coherent policy projection from the hon. member, and from the Manx Labour Party, and from the Alternative Policy Group – I lose track of what name it is –

Mr Henderson: Alternative Policy Group – APG, Mr President.

Mrs Cannell: Where is your policy, minister? Where are your politics, minister? Up the trees, you are, minister!

Mr Karran: Incineration.

Mr Corkill: Keep going.

Mr Rimington: That is the nature of things at the moment –

Mrs Cannell: Touch earth!

Mr Rimington: People like the hon. member for Douglas East are very keen to try and drag people down and to weasel and worm, and find where faults are, but what we never hear is coherence – policy coherence.

Mrs Crowe: True.

A Member: You've already got one.

Mr Karran: You've got 23 recommendations.

Mr Rimington: The hon. member is a member of the Manx Labour Party. I know what Labour Party politics are and I have never heard any of it come through to me since I have been on this Island, and you have got representation in the Court. (*Interjection by Mrs Cannell*) That would be most interesting, and if you had that presentation and that coherence –

Mr Delaney: Is this to do with the report, Mr President?

Mr Rimington: – then we might progress further and instead of concentrating all the time on where there is fault.

We are not helped in this process by the rôle of the press and the media, in that they very rarely report debates in a coherent manner. There was an interesting debate we had some time ago where the contribution by Mr Speaker, as it happened, was quite an important contribution and his words were reduced to two – his 15 minute speech was reduced to two words – by the press at that time and made absolute nonsense of what he said.

If you have that presentation of ideas and policy and debate that goes on in this chamber into the public arena, then no wonder politics is devalued on the Isle of Man because there are no real coherent set of arguments being presented, so Tynwald is devalued, politics is devalued –

Mrs Cannell: Mr President, point of order sir.

The President: Hon. member.

Mrs Cannell: Point of order, Mr President. I thought we were debating Part One of the commission of inquiry.

The President: Yes, I am about to ask . . . Hon. member for Douglas East, please resume your seat. I am about to ask the hon. member to come a little closer to the –

Several Members: Hear, hear.

Mrs Cannell: I should think so. He is swinging in the trees, sir.

Mr Karran: Out of La La Land.

Mr Delaney: Cut the trees, please!

Mr Rimington: This as the hon. member for Douglas North pointed out, we are talking about the crisis of public confidence and election turnouts and it is all linked in.

But I will finally say (**A Member:** Hear, hear.), and I will say this to the hon. mover – and I do enjoy standing up and being controversial, Mr President, I am sorry about that – let those without sin (**Mr Cretney:** Hear, hear.) cast the first stone. (**Mrs Hannan:** Hear, hear.) (*Interjection and laughter*)

I have a letter for the hon. member, the hon. mover of this motion, the contents of which are private to myself and the hon. mover, and he will read it in due course.

If the contents of that letter were out in the public area, I would suggest there would not be the same public approval for the hon. member. (*Interjections*)

Mr Delaney: Mr President, under standing orders, sir –

Mr Cannan: Point of order, sir.

Mr Rimington: I have another letter for another hon. member who may – (*Interjections*)

Mr Karran: Read it out now, sir.

Mr Delaney: You have to, under standing orders.

The President: Hon. members, please resume your seat. Now, the hon. member for Rushen, Mr Rimington, do not, sir –

Mr Delaney: He referred to a letter.

Mr Karran: Read it out now.

Mr President: – do not impugn in any way any other member in the Court. Continue sir, or withdraw –

Several Members: Hear, hear.

Mr Delaney: Under standing orders, Mr President, it says we should see a copy of documents referred to.

The President: Hon. member!

Mr Karran: Eaghtyrane, I think that he has already impugned my reputation. (**Two Members:** Hear, hear.) I have spent years being misquoted and abused. Now read the letter out and let us see what the nonsense is, as far as the hon. member is concerned.

The President: I am sure the hon. members will get together and knock those heads together over teatime and then we will decide afterwards. Hon. member, finish your debate.

Mr Rimington: Well, I would say there are people who are speaking and will be speaking on this issue who wish to see heads roll, who are making quite, what I would consider, vituperative comments about people who possibly, in their own actions, if they were subject to the same scrutiny as has been undertaken by the Commission of Inquiry, might well enjoy the same lash of the chairman's pen.

Thank you, Mr President.

The President: Hon. member of Council, Mr Gelling.

Mr Singer: What contribution was that?

Mr Gelling: Thank you, Mr President. I must confess that this has been something that I have watched very, very closely. (**Mr Delaney:** Hear, hear.) Obviously with it being in my own constituency at the time, I had probably more interest than most.

Of course, I had a concern and that was that we started off with something and we ended up with something different. And my request always was: how did this happen? Of course, it is well recorded what we tried to do to ascertain how we got to where we were, when we started off somewhere different.

As far as I am concerned, the persons who are in this Court at the moment can answer far better than I some of the reasoning that was behind the commission in their preamble before they came to their recommendations.

But the one thing that I saw in this, which I thought at first may have been just a mistake, because the motion that was put down by the mover says that 'Part One of the Report of the Commission of Inquiry into Mount Murray be approved'. I know that there are many members of this Court who, as has just been said, took very scant attention of what was going on at Mount Murray because it did not particularly, maybe, attract their attention. However, I would say that possibly we have to be fair and to be seen to be fair. We also have to address perception and the way in which this particular report has gone out in the media, so much debate has already taken place.

So when I read that motion again last night, the one thing that I felt was missing was the fact that, first of all, it is a very unusual thing to approve the report. Surely – and up to now all I have heard is people saying that – the recommendations should be carried through and we should make sure the recommendations are carried through.

So I have an amendment which I wish to put on the floor of this Court, which, in my opinion, addresses the perception that this must not be put away somewhere, it must be acted upon.

I would agree that the recommendations that are there . . . We have already heard that 21 of the 23 are already being addressed, I take the point that the hon. member who has just resumed his seat, that there is also a select committee looking at an audit commission or an audit general. I see it slightly differently to the hon. member for Rushen and that is that this is someone else who is looking and has made suggestions about what a select committee is looking at, but I would suggest, at the end of the day, it will be this Court that will make the decisions on what happens and what finally is the conclusion.

There is nowhere in the recommendations that say Mr X should be fired, Mr B should be . . . The recommendations are quite clear: what has been found that was amiss, whatever reasoning they used to get there, in my opinion is something you read and you read with interest and you accept or you do not accept. But, as far as the recommendations are concerned – we have already heard all but one are being addressed – I would say to hon. members if we inserted after 'be' – where it says 'Mount Murray be' – 'received and its recommendations approved'. That is really what I would suggest hon. members could perhaps feel comfortable with, inasmuch as perhaps they do not agree with all what has gone before in the preamble, up to the conclusions and recommendations, but do we fall out completely with the recommendations?

I would suggest that everyone I have heard so far in the debate has not criticised any of the recommendations. I would, therefore, Mr President like to put before you, which I hope has been circulated to hon. members, that an amendment be put to the original motion that after 'be' insert 'received and its recommendations approved'. I beg to move.

Statement by the President

The President: Hon. members, I think it is an appropriate time at which we took a break. The Court will resume its deliberations at 5.15 by the Court clock. The next to speak will be the hon. member for Malew and Santon.

Hon. members, before we do break for tea, I would just draw attention to the standing order which two members were intent on drawing to my attention. It is relative to members speaking and 3.23(7) says: 'Unless it is of such a nature that its publication would be inconsistent with the public interest, no document

may be referred to until a copy has been distributed to all Members.'

The hon. member for Rushen referred to a possible letter which he has and did not quote from that letter in any regard. If there was any imputation at all on the hon. member for Onchan, Mr Karran, as far as I am concerned it is not in any regard to be treated as such.

Court will resume its deliberations at 5.15, hon. members.

The Court adjourned at 4.52 p.m. and resumed its sitting at 5.15 p.m.

**Part One Report of the
Mount Murray Commission of Inquiry –
Debate Continued –
Amended Motion Carried**

The President: As I indicated when we made our break, hon. members, I call on the hon. member for Malew and Santon, Mr Douglas.

Capt. Douglas: Gura mie eu, Eaghtyrane. John G. Diefenbaker, the former Prime Minister of Canada, once said: 'Freedom is the right to be wrong; not the right to do wrong'.

Over two decades have elapsed since the area of land now known as the Mount Murray Complex, formerly the site of a hotel and grounds known as the Alex Inn, was first designated under the 1982 development plan as suitable for zoning as tourist accommodation and parkland.

In all that time we have seen almost unbelievable changes in our fair Island, changes that, by and large, have brought about prosperity for many of our people, better education, social changes, employment opportunities that perhaps may even have been beyond the wildest dreams of our predecessors, and an infrastructure that sits in place to progress the Island through the next few decades, thus maintaining many of the benefits that we enjoy today.

Progress often has an unacceptable price tag attached to it. There is always the chance that opportunists may visit our shores. In the days of long ago, look-outs were posted on Cronk ny Arrey Laa to keep a watch and warn whenever danger threatens. Today's would-be wrongdoers travel the air waves and do not necessarily need to even set foot on the shores of Ellan Vannin to create mischief.

In Sir Henry Newbold's *The Island Race*, probably better known as 'Drake's Drum', are found the immortal words: 'Heaven, art thou sleeping there below?' Well, sir, we did not have the benefit of Drake, but a watch was being kept below by vigilant members of this hon. Court, chief amongst them, the then Chief Minister, Donald Gelling. Thus the Crow report into planning and development and other matters at Mount Murray was commissioned.

As a new member of Tynwald, I do have to ask the question – and it has been asked early on today in this hon. Court – 'Would the Macleod commission have been necessary if annex 5 had been included in the original Crow report?'

Be that as it may, there is that is useful contained within Professor Crow's report. His recommendations certainly give thought as to what can be improved and, indeed, many of the findings and suggestions have been acted on already, which may bring some comfort to members of this hon. Court and indeed, to the public.

Putting aside the Crow report for the time being, it appears that the government was unable to persuade their critics – and there were many – that the much sought after transparency of government was not being achieved. Believing that there were still many questions left unanswered from the Professor Crow Report, the hon. member for Onchan, Mr Karran, who, despite being put on the dog-watch, managed eventually to get through to the bridge and attract the attention of the Council of Ministers and Tynwald and so another inquiry was formed – very high-powered this one and sure to bring out all the answers. If success is measured in the number of pages produced then this report has to be a best seller. Facetious remarks, you may think; they are not meant to be.

I believe that I am not alone in expressing how difficult it has been to delve through this meaty tome in the time involved since we were given access to it. Certainly, there is much more detail provided than in the Crow report, and, far from placing it on a shelf to gather dust, it should become compulsive reading for all senior civil servants, the legal profession and, last but no means least, all politicians.

The key difference between the two commissions' reports is, I believe, clearly shown by the resolution placed before Tynwald on 9th February 2002. With your permission, sir, I would like to repeat just part (a) of that resolution: 'Tynwald requests the Governor to appoint a commission comprising three independent persons to investigate a report on the government's handling of the irregularities occurring at Mount Murray referred to in the Report of an Inquiry into Planning and Development and Other Matters at Mount Murray, and to make any appropriate recommendations in relation thereto.'

In short, the first report was commissioned to examine planning and development and other matters at Mount Murray, whilst the second report was initially to examine the government's handling of the irregularities occurring at Mount Murray, as discovered by the first report, Professor Crow's.

However, as the record shows, at a later sitting of Tynwald on 19th March 2002, it was resolved to add a further instruction to the inquiry, namely: 'and further that the Commission of Inquiry be requested to investigate the allegations of corruption made in Tynwald Court at its sitting in February 2002'.

In the Crow report, the professor quite clearly indicated in paragraph A5.60 that, and I quote: 'There

is no evidence of substance that would justify the serious allegations made and indeed, in my opinion, the weight of evidence tells against them.'

Tynwald, however, was not to be denied a second look at allegations of corruption, and so it is that we find in the June 2003 report the word 'corruption', by careful definition, appears to be mixed into a potpourri of ingredients. In fact, the word is used no less than 39 times in just seven pages, between pages 43 to 57, and a further 23 times between pages 247 and 249. I have not even looked for it elsewhere in the report.

A moot point you may think. However, as Professor Crow used the word 'corruption' on only three occasions within his report – chapter 1, page 7, and Annex 5, pages 10 and 11 – is it not a wonder, then, that this single word has caused so much discussion, anger and embarrassment in this hon. Court and elsewhere?

May I also state my unease at the fact that some extremely important witnesses were, for one reason or another, unavailable for interview by the commission and that this affair has dragged on for some considerable time. I share their obvious disappointment. It certainly leaves a gaping hole in our ability to achieve natural justice for the many people who feel aggrieved by this whole sorry tale.

Can I now turn, sir, to the people of my constituency who live at Mount Murray and have certainly borne much of the pain in this sorry saga. It is a saga where, in the original 1991 scheme, clearly 90 per cent of the homes were planned as holiday homes, with the remaining 10 per cent for permanent residence. In 1991, in just four days, the whole scheme changed to 100 per cent permanent residency.

When, in 1996, a constituent bought a home – and here I would draw attention to the fact that no homes were planned for Murray's Lake Row, see page 154, paragraph 12.36 – his personal choice of a house facing the pond was denied on the grounds that other homes were holiday homes. That is 1996, and still the holiday homes scheme was being promoted. Something like 35 deposits of £250 each were taken.

It is a tale, sir, of people still flying in during 1996–7 to check on progress of the building of their holiday homes. Then suddenly, in 1998, there was a meeting of the proprietors and, within four days, the sales office is shut down, to be reopened under new management within four or five months with a cheese and wine reception and a hike in prices in the order of £25,000 or more. The same year saw the deposits returned with interest of £2 or £3.

Advertising then commenced in this year with the properties described as 'permanent homes', Chief Minister Gelling striving, without success, to get answers to his questions to DoLGE.

The year 2002 saw letters of comfort being given to the owners of the four houses in Murray's Lake Grove – none to the existing nearby owners, who must have suffered a material capital loss, never mind the reduction in the quality of life suffered by these residents. It is also a fact that photographs were

submitted to the Macleod inquiry by neighbours showing work being done on services to Murray's Lake Grove houses. This may be contrary to the contents of paragraph 12.37 on page 154.

The contents of paragraph 12.42 on page 155 clearly indicate the lack of respect shown to the Vakil and Fox families by the planning office. Since then they have seen extensions to houses that were built without planning permission in the first place. Both reports recommend apologies by the government and the Crow report makes it clear that some compensation should be considered to assist to returning their quality of life to something akin to what it should be.

There are many other items within the Mount Murray estate that have caused discomfort to the residents and when the Chief Secretary's office reconvenes the Mount Murray Residual Issues Committee, as recommended, I stand ready to place my evidence before it.

Looking back over the years to the beginning of this sorry saga and having some knowledge of the tourist industry, it was obvious that the industry then was gripped in an almost death-like illness, and times were hard. Perhaps it is understandable that a development such as Mount Murray could be seen as a saviour. That, of course, would be no excuse for wrongdoing.

We here today have to decide who were the wrongdoers, remembering that two wrongs do not make a right, and if we get this decision wrong innocent people might suffer.

In conclusion, sir, can I share some words from one of my constituents who was one of those most affected by this whole sorry business, and I quote: 'A witch hunt is no good for transparency. I would think more of the government if they said "sorry"'. If the government acts and believes in themselves and does it right, the public notice. That is what is important.

For myself, sir, I will be thinking on those words by John G. Diefenbaker: 'Freedom is the right to be wrong, not the right to do wrong'. Thank you.

The President: Hon. member Mrs Cannell.

Mrs Cannell: Thank you, Mr President. I think what we have to do is to focus on the findings of the Commission of Inquiry into Mount Murray. We have particularly to focus on all that page 13 contains, which is the overall part one summary conclusions, and there are some very, very serious implications in there for government as a whole, for government systems as a whole, because that is how I . . . and I have finished this report, and I have read it cover to cover, and I have re-read parts of it that, perhaps, I needed to just go over and clarify in my own mind that, in fact, what I was picking up in there was the right interpretation.

I see this not as a report looking into a particular planning issue, although that was the first remit, to look to see what happened and why. That was then further amended, which was alluded to by the previous

speaker, by looking into the allegations of corruption, and there is a whole section – a whole chapter – dedicated to that.

But overall the feeling that I am getting from this is that what they have detected, what they have reported on, are findings which are based on evidence which was presented to them by all of the witnesses called. So all the evidence that was available to them, they looked at and they scrutinised and they came up with their findings.

A lot of those findings had originally been found by Professor Crow in his report, although he was not charged with the same power, if you like, as the Commission of Inquiry: and certainly, he seemed to scrape, in terms of the finances, to conduct his investigations with the assistance of a part-time secretary or clerk to help him to do research.

But the ramifications within this report are for government systems as a whole and that is the thing that concerns me greatly.

I stood for this hon. place in 1996 and my platform was, and still is, open and honest government – transparency – because the more the government is prepared to be transparent and put things into the open arena, into the public arena, when it concerns public money, the more respect, the more trust, the more reliance, the more integrity, will be brought to bear for this small parliament in this small nation, which is wanting to be a world player and to play at the big table with the big boys and girls.

That is why it concerns me when I heard all the way through the mini public debate on the findings of this report which has been in the newspapers and on the radio – it is talked about everywhere I go; at street level people are talking about it. We have started the debate today, we had questions this morning and we had answers coming this afternoon, and yet, still, I find that the Chief Minister is in denial. He is in denial. He will not accept the report en bloc. He wants to just receive it. He wants to just go away with his Council of Ministers and consider the recommendations.

I put it this morning and I think it is worth reiterating that this Commission of Inquiry sought the Governor in Council to establish it, to appoint it, and my understanding is that the Lieutenant-Governor took advice from the Lord Chancellor's Office, in terms of who should chair, who should preside in this commission, and the recommendation was made, and the chairman was appointed.

Now to my mind, if the government continues to dodge the major issues that are contained within this report, then we are heading, potentially, for some very rough constitutional waters, and I put that on the record and I put it on the table, because of the things that are going on outside of the Island that seem to be without our control at the moment.

We are a small nation, we are a Crown dependency, we rely upon the United Kingdom for much, and the United Kingdom is under pressure to join the federal state of Europe, and we will get sucked in. And rebutting this, and not giving it the credibility

and the endorsement that it requires by a mature parliament – and I am not underestimating the maturity of this parliament, because it will be this parliament that will be the final arbiter in terms of how we treat this report, how we deal with the recommendations, and how thorough we are to become, and to gain transparency in all that we do. It is not going to be achieved overnight, but there has to be a firm commitment.

But I worry because, within the report here, all the way through it talks of the fact that the ethos, the culture that has been detected through the investigations, both with ministers and chairmen of the time who are still in this place, and officers at the time, some of whom are gone, others are still there, still prevails. That they could not see, and still cannot see, any real fundamental fault with the system that they have been managing.

Indeed, it is in here – the cross-examination aspects are in here: where the chief executive was called from the Department of Local Government and the Environment, the planning director was called, and although they are very praiseworthy of the suggestions and the public consultation document which has been issued by the department, they say, in this report, it does not go far enough, and they make various suggestions to actually strengthening some of those things that they became enlightened by during the cross-examination process.

But the thing that they keep reiterating, through here, is the fact that it has been and continues to be dismissed by senior officers within that particular department that there really is anything fundamentally wrong, and that managers should oversee the staff and should ensure enforcement, compliance, knowledge, the way things are supposed to be – 'that prevailed in the 1990s and there is nothing wrong with that', although they both admit – or at least one admitted – that there is room for improvement.

When you look at the report, on page 13, it talks about lack of transparency, lack of compliance, appropriate conduct and probity, defective government systems – they say 'systems' – defective systems, succumbed under pressure and were corrupted.

Now I think it has been an oversight, perhaps, during debate that it has been said that it was planning that was put under pressure, it was planning by tourism and the then minister. I am not in a position to say that that is not true, I was not here at that time. I have come in with fresh eyes and an unbiased opinion. I have been waiting for the evidence. The evidence is here, and I do not doubt it for a moment, I want to add.

But significant pressure was also put, according to the report's findings, on the Department of Transport. That has not come out, has it? Nobody has mentioned that on the floor today – on the Department of Transport. In fact, a letter was sent from the drainage division at the time to the then minister at the time, who is now not here, to say 'This is going on. What should we do about this?' At least the officer in that respect, in that department, did go to his minister and

say, 'This is not fair, we are being pressurised'. In fact, on page 117, 13.44, it talks about this issue and it was on 26th May 1992, there was a letter from the drainage division to his minister, and he says: 'We are being placed as piggy-in-the-middle by the developer, the tourist board and the adjacent landowners. Strong objections to the Minister for Tourism's comments and allegations were made.' This is in the letter to the Minister of DoT at the time.

And then it further says at 13.44 in the last sentence: 'This letter and the previous letters referred to' – because there are numerous – 'and the corroboration provided by Mr D. North, below, indicate to us again that further pressure was being applied by the Minister for Tourism in favour of the development.'

Now, I have heard all of the reasons for applying the pressure, I have heard all of the reasons that tourism was in a state and the minister felt he had to do something. All credit to him; yes, he was conscientious, but at what cost? This development at what cost?

Then we look at the scenario we look at the pattern of events from the Crow report, of how the whole thing manifested, how it started, and it is quite clear from that, that the very first planning application was for houses, on that site, it was not for the hotel at all. That came later. The main intention – the way I read this – was that the developer wished to have properties that he could be free to sell, to rent out to tourists, to make money. He wanted to make money – and I say 'he' because we do not know how many people were involved – perhaps, I suggest, at the expense of the Manx taxpayer, but until we receive part two of the Commission of Inquiry, we have yet to consider what their findings are in respect of that.

I would suggest that the government of the day and even the government, to a degree, today, has been totally hoodwinked. I would have more respect for the government today –

Mr Corkill: Government then, not today.

Mrs Cannell: – involving those of the previous government, if they had, in fact, stood up at the beginning when this was published to say: 'Yes, perhaps I was over-enthusiastic, yes, perhaps I have made a mistake. I am sorry for that and I dare say I will pay the consequences when I stand, or if I consider standing for re-election again.' That is the sign of a mature minister. That is the sign of a mature government, to be able to do that, and not to stand and defend by attack and attacking this, nit-picking all the way through on this.

I have read it cover to cover, and all the evidence is at the bottom and at the back of this report and I have gone in and sought evidence that is at the Commission of Inquiry's library, and it is all there. It is a rational, factual finding of fact, whether we like it or not.

We can nit-pick and we have heard a degree of nit-picking. There is the evidence of the phone message from the then Tourism Minister to the developer. There is the Buyer's Guide, which Mr Bell, the hon. member for Ramsey, saw fit not to incorporate within his papers to us at the weekend. In fact, he omitted it. Was that a mistake or was that on purpose? Are we further being hoodwinked or misled?

I have a serious problem in terms of my trust in what this government is doing, that I play a part in as chairman of water. My trust in the integrity and the capability of the Council of Ministers at the moment is very much on a very thin edge for me, particularly in the way in which this is being received, and has been received to date, because I would have expected a little bit more mature, commonsense, thought-provoking response, that wanted to bring in transparency.

It is interesting when you look at page 30 of the report at section 3.62, that on 11th September 1991 a Mr and Mrs R L Reeves, who were local residents, wrote to the secretary of the planning committee raising a number of points about the proposals. Amongst the points Mr and Mrs Reeves raised was the question as to whether these 150 houses would simply be private dwellings.

So for the record, the true nature of the intended use was raised by local residents at an early stage, *and* before formal consent for permanent residential use was given. So the public had straight away had a suspicion that this . . . 'Come on, what's going on here?' They raised it with the relevant personnel within planning before, *before* formal consent was given for permanent residential use. Why was that not taken any notice of? Why was it disregarded? It appears to have been totally disregarded.

Braddan Commissioners were forestalled. They had a complaint, they had an objection, they were forestalled over the sewage situation. The planning committee, now we heard –

Mr Corkill: The planners knew.

Mrs Cannell: – we heard as part of the debate earlier on a contribution by the Minister for Tourism now, who was then the chairman for planning, and he spoke about the integrity and the good intentions of his committee at the time, and I daresay they were. The question raised in here is to whether or not they made appropriate scrutiny of things that were reported to them, whether it was oral reporting, or something written, that they did not scrutinise to the degree that perhaps they should have done. Also in here on evidence, two of his then committee members said that they were not happy about this and they pressed and they pushed. They did not get anywhere, so they did not pursue it, they gave up, and that is very unfortunate.

But when you turn to page 39, 3.96, the commission of inquiry say, 'That before turning to the Crow Report we wish to draw attention, as part of the overall context, to a meeting of the Planning

Committee on 20th June 1997. At that meeting it is minuted that Mr Vannan reported that advocates acting on behalf of the site owner had sought confirmation that the planning consent covering the erection of the dwellings allowed for the properties to be sold as both tourist accommodation and permanent accommodation. It is further minuted that Mr Vannan advised the planning committee that by notice dated 2nd October 1991 the approval was restricted to bona fide tourists and that by notice dated 4th October – just two days later – ‘the approval was altered.’

The minute further states that: ‘The Planning committee noted *with concern* the situation as outlined by Mr Vannan and reluctantly advised him to confirm that the sale of properties to permanent residents complied with planning consents.’

So, as long ago as 20th June 1997, that is when they became, obviously, properly aware, when they really should have been aware beforehand.

Part two, of course: the chairman of the commission said that part one should be read in conjunction with part two, and I do not think that we should lose sight of that fact. So to be dismissive with part two will, perhaps, put out the perception that there was going to be a predetermined position in respect of the consideration of part two – we do not know what that is going to contain, but I think it is going to be pretty thorough. After the Privy Council findings the commission is perhaps a little bit more powerful than they were before.

I am not going to deal with the issue of corruption because there is a whole chapter in here, and I am not going to take umbrage with the Speaker. I totally disagree with his interpretation, and I did so at the time, but nevertheless, he felt he was right at the time and then, as we all know, from time to time, some of us are proven wrong, and in this case I think he has been proven wrong.

I have covered the highways; there is so much I could say but I am not going to, it is just the salient points.

Page 219, section 17.35 is quite interesting. It says: ‘So for all the above reasons’ – and there is a whole host of them – ‘we find that the Chief Minister’ – the Chief Minister of the time, of course, is not here – ‘Mr Watson, and Mr Mitchell were fully informed about the scheme directly by Mr Spence from the beginning.’ This was the fellow, of course, who was the key to it all, made it happen.

And it further goes on to say at 17.36a): ‘it is plain beyond doubt that Mr Bell knew of the position by 13th May 1991’. I think what might be helpful with the Chief Minister, is if perhaps he was to go away with someone who is outside of the Council of Ministers to help him go through, in chronological order, (*Laughter*) the dates of events, the dates of knowledge, and then perhaps come to his own conclusions as to whether or not we have, or a previous House, parliament, was misled: because, in my view, it is plain to see that it was misled – perhaps unintentionally, but nevertheless misled.

Mr Corkill: Not intentionally.

Mrs Cannell: Page 221, 17.37 – and I have got my little ticket in here, which says: ‘January 1991 – they all knew!’ – and this particular aspect of the report proves it, and it says, ‘For the reasons set out above we find that the Chief Minister, the Department of Tourism and the Department of Local Government and the Environment had full knowledge of the permanent residential element in the application of 16th January 1991 by the time that it was submitted’. Everybody knew.

Mr Corkill: Do not look at me, I was not the Chief Minister.

Mrs Cannell: No, no, you were not. No, you were not. (*Interjection by Mr Corkill*) Perhaps you were not in the Council of Ministers at that time, and this is why I feel that, rather than the ‘stand by the sword, die by the sword, even though you know you are wrong’ attitude, I think you need to put your sword aside, sir, and make some very valuable rational decisions based on evidence and fact.

Page 249, summary conclusions, 18.5: the Attorney-General read part of this out, but I felt that it appeared to be slightly out of context because it was only read in part, but when you look at 18.5, and I am going to read it all, it is not very long. ‘Accordingly, we conclude that there was corruption of the system of government in the sense that it failed to withstand pressure determinably applied to it by experienced developers. It failed to protect the planning system from excessive internal pressure, both political and professional, and it failed to detect officers who were condoning or activating wrong doing. Mr Karran’s complaint was rooted in corruption of the system, and that complaint has been made good. Equally clearly we find that there was no evidence of corruption in the ordinary sense of corrupt payments, gifts, or other considerations, and therefore the suspicions and consequential smears in this regard can be dispelled.’

So I think again, (*Interjection*) I do not . . . well, it is one legal opinion versus another in terms of the use of the words ‘corruption of government systems’. Clearly, the chairman of this, who is a high-ranking legal officer, is quite happy.

To make it easier for members, I think, the chairman, the high-ranking QC, has made his most salient points of findings in two notably different coloured pages within the report and they are buff-coloured. I referred at the beginning of my contribution to the first, the second one is their final conclusion and that appears on 271, and again, they talk about the qualification of their interpretation of the corruption of the system of government by the consistency of failings within government systems – the failure; the failure; the failure.

They also go on to say on the same page 271 at 20.8, and this is where I take umbrage with what the member for Rushen said, Mr Rimington, when he was

in the trees throwing rotten apples at us. (*Laughter*) The commission of report says: 'The primary events which led to the production of this report occurred over twelve years ago, yet it was only some three years ago that they were truly brought into the public arena. (*Interjection by Mr Corkill*) The failure to detect and examine the misdeeds for nine years until the Crow Report was commissioned is as important an aspect of our report as are the original events. This is because the weakness and failures by government in the handling of those matters continue in significant degree with the still present belief, in many areas of current influence, that there was really little wrong with the systems of government and that there was simply negligence or misconduct by some limited number of individuals who are operating the systems. Such opinions are seriously misconceived.' And that is what we have heard right throughout this debate today by most of the contributors who are not really happy with the contents of this. That is what we have heard: denial; denial; denial. Page 272 at 20.9 –

The President: Hon. member, could I ask, please: in fairness, you have been five minutes longer than any other member who has spoken so far on it already this afternoon. Do you mind, if you hurry up, without quoting too many passages out of the book, which I assume members have read.

A Member: Hear, hear.

Mr Corkill: Repetition.

Mrs Cannell: Well, Mr President, I do not share your optimism in terms of most members have read the report. I believe they have not, and perhaps that is why I am being a little bit more vigilant in the salient points. (*Interjections*) I will come to a conclusion soon, sir.

I think the most salient point within 272, other than what I have just read, is the paragraph which says, 'That the need to recognise the past failure has considerable relevance today, and to recognise the serious consequential problems which have been created and which need to be addressed by government *now*.' And it is not just recommendations in terms of planning; it is the big issues, it is getting the ethos and the old culture out, and having a clean brush coming in to make us clean and transparent.

And the Chief Minister, of course, is not listening because he has heard it all before and he knows it all before and he is chatting away to his colleague next to him; that is how important this debate is to him.

There is so much arrogance within our government at the moment – so much arrogance. It does not matter what they do, they are entitled to do it, and they all rally round each other.

What I would like to say at this point is that the Chief Minister has been interviewed by the Isle of Man newspapers, he has subsequently done interviews on radio, he has alluded – in fact, he said there will be a

free vote; he has not tied his ministers up to this. There is no one collective role in terms of that, and yet this morning during Question Time he said, 'The Council of Ministers are content that . . .' and then he told us about the content of his proposed amendment which is before us.

So what is it? Is it a free vote in here, or has the 'whip' had the whip out, has the whip been to hand and have all ministers been told to stand by the sword, die by the sword, or they might get the stabbing later on? I would like that clarified.

Mr Corkill: We are content that 21 recommendations fall in line with what we are already doing –

Mr Karran: Then what is the problem with accepting them, then?

Mrs Cannell: Some of the responses, some of the language that has been used has been most unfortunate, and it has displayed a degree – and I still maintain – of arrogance, ignorance, to the real ramifications of this. If you do not treat it right, the way we will be regarded as a nation . . . and that concerns me and that concern is shared by other hon. members in this place, and I think it is time that the government listen to us and took cognisance of what we say, and react in the way that we want them to react – in a mature responsible way.

We have had words such as: 'I take umbrage', the Chief Minister said, at what the report says. Sorry, this is fact. (*Interjection by Mr Karran*)

The hon. Attorney-General said: 'Are its findings fair?' But fairness and natural justice was dealt with when the Chairman of the Commission of Inquiry actually openly invited Mr Bell to put in a further submission, an extension of time until 1st August, and he would hold back the report, but that was refused. There was your extension, beyond reasonable doubt, of more natural justice opportunities, but why did not the member take up the opportunity to clarify the natural justice question raised by the Attorney-General? He refused. So it has gone.

So it is no good standing up here and moaning and saying, 'Oh, but there is no right of redress, there is no appeal'. I think this commission of inquiry bent over backwards. I think they have bent over backwards.

There is more I could say on Crow and I think we have not got to the end of this. Today is the start of this, we have got a long way to go on it. But there are certain areas within the Crow report: first of all, it was not Professor Crow who asked that the report remain confidential, that request came from the Chief Minister at the time, and I am going by his statement that was submitted by Professor Crow, dated 23rd May, to the commission of inquiry, where he recites exactly the course of events, and it is in here and he makes it quite clear. He talks about the five chapters and six annexes, we have covered that this morning. We finally got it, but it is quite clear in here that it was not at the

suggestion or the request . . . it was the Chief Minister of the day, and it says here: ‘The Chief Minister made it plain that he did not want a public inquiry’. He did not want a public inquiry, he wanted things kept quiet, and it also says, ‘We agreed that my report would be prepared on the basis that it will not, in its totality, be put in the public domain, though some parts of it will probably need to be made public in view of the obvious pressures’.

And again, in here, in his evidence to the commission he says: ‘Even when the report was finished it was sent to the Chief Secretary of the day and he never got sight of it after that. The first time that he saw it was when he was giving evidence to the commission of inquiry, some two to three years later.’ (*Laughter*) What is going on? Is it just maladministration, (*Interjection*) or is there a cover up?

Well I am looking at you, Chief Minister, because you are the leader of our nation at the moment, and if we cannot look at you, sir, for some leadership and some rick, (**Mr Cannan:** Hear, hear.) where can we look?

Mrs Hannan: You’re supposed to be speaking through the Chair!

Mrs Cannell: Mr President, where can we look?

Mr Corkill: Please address the Chair.

Mrs Cannell: Mr President is very good as presiding officer, I am going to wind up. I will be supporting the main motion on the agenda, and I think the sooner the recommendations and reports on how the recommendations are doing are submitted the better. (*Interjection by Mrs Hannan*) This is day one, there is part two to come yet, Mrs Hannan. Part two has got to come yet, which will cover, Mr President, the tax matters and possibly tax relief and I think that is going to be more controversial than part one.

The President: Hon. member for Garff.

Mr Rodan: Mr President, I think the first thing we must do in any inquiry which is external and independent, is acknowledge that it deserves and must be taken seriously. (**A Member:** Hear, hear.) Where blame is cast there must be acknowledgement. Where faults in the system have been demonstrated, these must be corrected. Where mistakes are made there must be contrition, and where wilful wrongdoing is proved there must be remedial action, and it is in the latter regard I wish to bring the Court back to the very serious and important statement made by the Attorney-General earlier in the debate.

Mr Attorney quite clearly told us that the standards to be applied in an inquisitorial inquiry have been laid down by Lord Justice Scott and consist of three things: the need to be fair and to be seen to be fair; the need to be efficient; and the need for the cost

to be reasonable. But in an inquisitorial inquiry the requirement for fairness was paramount and if I interpret him correctly, and, in paraphrasing, I think what he said, or meant: ‘There must be sufficient burden of proof to warrant the damning indictment of individuals, whether in official or elected positions, especially when, unlike a court of law, there is no facility for cross-examination of witnesses’. And I am sure members will conclude and form their own opinion as to whether the burden of proof, evidence, the facts, point beyond all reasonable doubt to wilful, deliberate intent to mislead, or instead to lesser offences, whether they be described as maladministration, negligence or incompetence.

The Macleod report differs in one essential respect from the Crow report. It contains sections specifically dealing with alleged corruption. That is a very serious issue, which was why many of us voted for the setting up of the inquiry in the first place. That section occupies a very small part of the report, and essentially said that there was no proof of corruption: not surprising that this section is small, since there was no corruption in the generally accepted understood sense of the word when applied particularly to systems of government and people in government.

Instead we had a definition of corruption which I think, in the eyes of many of us, is itself demonstrating that the meaning has been corrupted. (**Mrs Crowe:** Yes.) The meaning of that word itself is a corruption.

The rest of the report, the Macleod report, the other 400-plus pages, tells us about the shortcomings in administration, the same concerns contained in the body of the original Crow report and now that the previously confidential Annex 5 to the Crow report is in our hands, we can see that the same events are in that too, with the difference of the naming of names and the identity of individuals attached to particular events and actions, but with the essential difference, in my view, that things that are new and different, which are the attribution of motives to those individuals which stand in contrast to the motives in the other report. So, in that sense, the Macleod report is the Crow report, one might say, in technicolour. (**Mrs Crowe:** Yes!)

Professor Crow says that an error over permanent residential occupancy has been made and he says, page 11 of Annex 5, that ‘the error, once made, should have been frankly admitted and corrected as soon as possible, but all the evidence points to the fact that the error was not frankly admitted, but rather that the issue was fudged. The responsibility for that is shared between the three named officials.’

Those officials, it goes on to say in 5.71, ‘whose ducking the issue at the crucial time had the effect of concealing residential elements from the committee until it was too late for them to do anything but express their concern.’

Next paragraph quoting, he says, ‘In this sorry history, however, the officers concerned appear neither on the one hand to manipulate the planning committee to their point of view, nor on the other to face up to an

embarrassing and divisive issue. Rather they were content, as they perhaps saw it, to let that issue stay below the horizon. In so doing, they were successful in keeping the momentum of what to them was a very desirable project, but in so doing denied to the committee and to government as a whole, the opportunity of deciding for themselves whether the price to be paid was worth paying . . .’ et cetera.

Those words: ‘fudge’, ‘ducking the issue’, ‘letting the issue stay below the horizon’ – these, in my view, and I conclude, are the incompetencies, the inefficiencies, the mistakes, the symptoms of mal-administration that are at the root of this business.

I do not think, myself, that the facts point to conclusions that go significantly beyond that. Those crimes are a far cry from wilful and deliberate misleading, or from grand conspiracy theory that some are reading into the Macleod report, with the suggestion of underlying motives that go beyond competence, inefficiency and ineptitude. I would say that there is a good legal term that could have been used, which is ‘not proven’.

The President: Could I ask you to speak up, hon. member, please.

Mr Rodan: Yes, I beg your pardon. I do not believe that there was a grand conspiracy or any sort of plot over this, an establishment plot. I am surprised that people think that the establishment is so well organised to produce a coherent plot. (*Laughter*)

The evidence, on the contrary, points not to anything organised but *di*organisation; to shortcomings in the system, insufficient checks and balances, failures that have been clearly identified, and where it was certainly identified in the first report, and on which action was being taken to put right. These are the crimes that, in reality, named individuals and this system are guilty of and we have suffered from.

Those who want to see the worst motives in all this, I think would do well to appreciate that there are well-meaning, well-motivated, individuals, motivated by high ideals who can and do fall short.

Mr Gill: Oh, you noticed that, did you?

Mr Rodan: And not for the first time in the history of governments, whether here or anywhere else, have there been mistakes, and it will not be the last time that there are mistakes. What we have to do is to learn and correct these mistakes.

The hon. member for Rushen said: ‘Let he who is without sin cast the first stone’. There is another great Biblical injunction: ‘Where there is no vision, the people perish’. Let us have the vision in this hon. Court to so organise our affairs that we learn from these mistakes, put them right and minimise the risk of it all happening again.

Now, I do not think the amendment moved by the hon. member for Douglas North, Mr Henderson, has been seconded. If not, I will take this opportunity of

seconding that amendment. I see this amendment, the way it is phrased and worded as particularly helpful in obliging the executive government to accept the need for change – which it implicitly has accepted, but this spells it out – and to give an undertaking to assess the recommendations of the Mount Murray report, and convey to the October sitting, as to how those recommendations can, as far as practicable, be implemented. I think that is a very commonsense, practical way forward, and it does give that opportunity to correct mistakes.

In contrast, the amendment moved by the hon. member of Council, Mr Gelling –

Mr Delaney: It has not been seconded, has it?

Mr Rodan: – which has not been seconded, which, were it to be seconded, might be considered too all-embracing and not providing that opportunity to assess the recommendations in the way this amendment does.

So I commend the hon. member for Douglas North for his amendment and I would recommend accepting that, Mr President.

The President: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Eaghtyrane. As you will be aware, I indicated to you in the break that I had it in my mind to stand to second the amendment in the name of Mr Henderson, but I am more than happy to have been beaten to the draw by my hon. colleague for Garff, Mr Rodan, who not only is a member for whom I am sure I am not alone in having the deepest respect as a sincere and genuine and honest member of this House, but also a member of the executive government, and I do not think there is any contradiction in that, so I am happy to begin on that basis.

If I can begin by saying that the past week has not only been busy because it has been our national week, although that seems a long time ago, given the last few days. It has also been marked by public interest generated, of course, in the publication of the report by the commission of inquiry, that has attracted so much attention today.

Before it had been released, in fact, in some cases, before publication and public distribution, we heard outraged cries demanding the sacking or resignation of some, or all, of the central figures criticised in the report. Similarly, we heard and read denunciations about the competence, impartiality and remit of the commission from those who had been criticised. So the battle lines were drawn, or rather, given that these matters had been argued over for so long, had been redrawn, and no doubt today we will see and hear further posturing and manoeuvrings from all sides to try to gain the most prized territorial possession, the high moral ground. Well, that is to be expected and in many ways, of course, it is to be welcomed, as this

inquiry does raise many issues which are fundamental to any open and democratic society.

Every member of this hon. Court would agree that they are the goals that we seek: open, democratic and transparent government. I also do not doubt that certain members would have difficulty accepting that any other member has quite the same commitment and determination to achieve such lordly aims as he or she holds true to their own heart. But as long as we, as individual members, or collectively as this Court of Tynwald, are stuck in this stasis, we are not going to positively address the issues that do need to be dealt with.

This is a political circle we are not going to square today, tomorrow, or, in all probability, for as long as we debate this matter without the benefit of calm, measured and informed consideration.

That is not to suggest that these reports can be marginalised or have their importance diminished or ignored. Of course, we must not allow that. These reports, together with that of Professor Crow and his appendix five – and now we have, belatedly perhaps, got the appendix six also – are all extremely important reports which touch on a wide range of issues which have serious and far-reaching implications. These are issues which the Chief Minister and his government has to address and has to address comprehensively, and of course, it is in this Tynwald Court that these matters should then be fully aired.

It gives me no pleasure to comment that I feel that there is no doubt that the domestic and international reputation of the Isle of Man, our government and our business probity has suffered as a result of the findings of these reports and the coverage, and sometimes misleading reactions to them.

As I have said previously, I regard these as extremely serious matters which need to be considered fully, but that full consideration must also be timely, and time limited.

We all know that the Council of Ministers' response document in which they list the individual recommendations in the commission's report, and their response, or planned response, to each point. Similarly, we have all heard the DoLGE minister's view that many of these recommendations have simply plagiarised her department's ongoing review of the planning system. All of this may well be valid: that remains, I suggest, to be seen. But to make a fuller judgement I am willing to refer this back for further consideration and then review in the new parliamentary session. It will, hopefully, give more light and less heat to the situation.

I am conscious that others will disagree; they will demand decisive action now, or heads must roll, resignations must be forthcoming, or sackings must ensue. Possibly these demands have merit. If they do have merit then surely they will have equal, if not greater, merit in the autumn when all concerned will have the opportunities (**A Member:** Hear, hear.) to have their cases heard more fully, and, in doing so,

afford everybody concerned the proper process of natural justice. (**A Member:** Hear, hear.)

This, then, is my view about how this sad and sorry affair can be best progressed – and I do say 'progressed', not sidelined, not dismissed or used as the basis for a possibly flawed premature administration for what could be seen as posse-justice.

I believe that the Chief Minister and his Council of Ministers should return to this hon. Court for the complete and transparent response to all the issues before us in these reports for our further and informed consideration in the early part of the parliamentary new year.

So if I could also turn to the issue which certainly caught my attention – and I know I have not been alone in this – which is a specific allegation that a minister has knowingly misled the House of Keys. Clearly that represents a serious breach of parliamentary conduct, if indeed, it proves to be the case.

I would urge, therefore, the Chief Minister to refer to the House of Keys standing order 40(3) which relates to the Management and Members' Standards Committee function, specifically, if I can quote: 'To consider and report upon any matter that may, from time to time, be referred to the committee by the House, or by a member, which relates to the conduct of the member.'

I have the honour of sitting on that committee, together with Mr Speaker, who is the Chair, Mr Cannan, hon. member for Michael and Mr Anderson, hon. member for Glenfaba. I feel therefore, that it would be inappropriate for myself or any fellow committee member to refer a member facing allegations such as those we have heard in this case, but it does seem eminently appropriate for the Chief Minister to do so, if he is sincere in his assertion that he wants these matters dealt with openly and fully. That I will leave with the Chief Minister to consider and act upon.

However, Eaghtyrane, as you and Mr Speaker will both appreciate from the House of Keys standing order 6(3), this option of referral to this committee if the Chief Minister, or indeed, any other member chooses to start down that road, may have the effect of requiring Mr Speaker to either convene a sitting of the Keys to consider such matters in advance of the October sitting of Tynwald, or, if he chooses to stick to the scheduled sittings programme, his committee might not be able to report before the November sitting of Tynwald. Nonetheless, with that caveat, I will leave this firmly with the Chief Minister for his consideration.

Overall, this is a very unfortunate and sorry situation. How we respond and deal with it will be the litmus test of this hon. Court's genuine willingness to address the festering misgivings and mistrust which have permeated this place and throughout government for too long. I hope that hon. members will support my contention – and it is a middle way, I will happily concede that. This middle-way, which affords

government, through the Chief Minister and those of its members who have been personally indicted, gives them a chance to defend themselves, their actions and inactions, and then to come again to this Court to hopefully, bring some closure to this sorry affair.

So I realise that, today, this affair will not go away. It cannot be allowed to be sidelined. To further consider, in the new session, will not however, allow culpable parties to wriggle out of their responsibilities. The commission's findings have put prevarication or mealy-mouthing off limits. The general public will not allow it and neither shall we.

Possibly – and I say 'possibly', because I do not wish to prejudge this matter – it will increase the heat on those people who feel that they have some uncomfortable issues to explain. To those people I would simply remind them of the Eskimo proverb: 'You never really know your friends from your enemies until the ice breaks'. Sir, perhaps, for some people, it will be a long, hot summer. (*Laughter*)

If I can conclude by saying that I do support the amendment in the name of Mr Henderson. I do think it makes eminent good sense, it progresses matters, and, most of all, I believe it reflects the sound and perfectly fair principles of natural justice. Thank you, Eaghtyrane.

The President: Hon. member for Douglas West, Mr Downie.

Mr Downie: Yes, thank you, Mr President. I would just like to state for the record that I have a free vote here today, as does every other minister in this Court, and that is contrary to the opinion expressed by the hon. member for East Douglas, Mrs Cannell. There is no whip, there is no line on any minister, and anyone who does know us, knows that there are numerous occasions when ministers do step out of line and do have their say and I really want to set the record straight in that area.

Having listened to the debate so far, I feel, in fairness, that I must support the amendment that has been moved by the hon. member for North Douglas, Mr Henderson. I think that is the right way forward. It means that we receive the report, but there again, there is still pressure on government to get to the nub of the problems and to deal with the other matters and recommendations in the report.

Could I suggest, respectfully, to the Chief Minister that if this amendment is carried today, and I hope it is carried, that we do not just have a Council of Ministers review, we have a cross-bench review, we bring as many different voices and views into the committee proceedings as possible and we get a good, broad view right across the whole Court. Let us have everybody involved.

I do not accept this situation which appears to be prevalent in the debates now that there is a 'them and us' in here. When I came into Tynwald I was prepared to work with anybody and everybody and I have my own personal quarrels and fall-outs with members, but

they are never long-lasting and at the end of the day, when the debate is over, I really do not want to fall out with anybody, and I think we should look at that context in the light of all our debates.

Now, I agreed, like a lot of other members to support the independent inquiry, and I have read it. There are parts that give me a great deal of concern, but, in fairness, in signing up to that, I feel that I must accept it, warts and all, and if there are issues in there which strike home at certain members, well, I am sure, at the end of the day, the truth will come out and we will get a satisfactory outcome to this report.

The people who I do feel sorry for are the people who bought properties on the Mount Murray estate, (**A Member:** Hear, hear.) in good faith, and I sincerely hope that this prolonged inquiry is not going to cause them some sort of planning blight. That is why I cannot accept the report in its entirety, because I think that we need to sit back and look at all the recommendations, and, for example, hon. members, if you look at recommendation 11 in the report, on page 258 and 259, it actually says that, 'someone' – it does not say who – 'someone should acquire the land by agreement or by compulsory purchase to facilitate the proper passage of emergency fire vehicles, to provide footpaths within the estate', et cetera, et cetera.

Now, let us be honest, hon. members, that is a private estate, those roads are private. I do not even think our existing compulsory purchase powers allow us to go and purchase parts of private estates – they do when it is in the good of everyone, like for widening a major highway – so, there could actually be legislation required. So let us not rush into this particular issue. Let us get all these issues out and go through the recommendations properly and let us look at them in a rational sort of manner.

Other issues that have not come out of the report: we have heard today that people have acquired properties which have not had the benefit of planning approval. I would question: are we still seeing the situation where we have one advocate acting for a buyer and a seller? And as everyone knows, to register a property for a title you would need to have a habitation certificate. Now, the report, I think, is poor there because a lot of people who have bought properties will finish up with a situation which . . . there are recommendations in the report, but there are other complications along the way.

However, I am very content with the report in that it shows no evidence of corruption, in the true sense of the word, and I think we should be content with those findings. At the end of the day, hon. members, we are really lay people when we come into parliament. Some of us move into other jobs, some have more responsibility than others, but we do rely a lot on the advice that we are given by our senior officers, and I think it is unfortunate when we hear in debates that politicians are expected to fall on their swords, for whatever reason.

My own personal view in this whole issue is that the inquiry still has a long way to go. But I would just

leave you with one comment that: ‘the man who never made a mistake never did anything’, and that should be borne in mind.

So, Mr President, as I said, I will be supporting the amendment that has been moved by the hon. member for Douglas North, Mr Henderson, and I hope that as many members as possible can agree to that and we can get on and get on with the job of putting right our house and getting our planning system in order and dealing with the outstanding matters that have arisen as a result of the inquiry.

The President: Hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr President. Initially, can I just crave your indulgence for two minutes, recognising that, in spite of the debate we have had so far today, the majority of members in this hon. chamber, certainly in the House of Keys, have only been elected since 1991, and I think it is important to really understand the conditions surrounding this particular issue, to put the debate itself in context.

The late 1980s saw a very rapid decline in the Manx tourist industry, mainly because of the changing demands of our holidaymakers. Cheap travel and package tours to the Mediterranean, with its guarantee of sunshine, better-quality hotels and attractions, were inflicting serious, and in some cases, terminal damage to British cold-water resorts.

The Isle of Man was no exception, and for these reasons, coupled with the sustained lack of investment in our infrastructure, by 1991 tourist arrivals had hit an all-time low of approaching 100,000. Douglas promenade was falling into a state of major disrepair, there were serious problems with our main transport providers, in particular the Isle of Man Steam Packet Company, and the core of our hotel industry was reluctant to accept that only a very major restructuring of itself, coupled with a significant investment to upgrade our facilities, could possibly save the industry from complete collapse.

In the early 1990s the Isle of Man had become almost unsaleable as a tourist destination, and the Department of Tourism was under virtual siege, both politically and via the media. During this period the Minister of Tourism had the most challenging job in government.

In 1988 we were approached by developers who wished to develop a 100-bedroom hotel at the airport, which was to be run by Novotel, at the time one of the largest hotel chains in the world. A huge amount of work was put in by the tourism department, once again working closely with the developers, and this ultimately led to a Tynwald resolution in 1989 seeking approval for a £1.5 million grant towards the hotel. Tynwald, in its wisdom, voted against this scheme on the casting vote of the Governor, and the Island, once again, lost a major new hotel with its attendant benefits.

Following this setback, in July 1990, Tynwald approved a tourism department strategy document, entitled ‘Tourism and Reality’, which outlined the strategic targets identified by the department as necessary for the revival of the industry.

Amongst those targets was a proposal for two internationally known hotels to be established. Over that period the tourist department spoke to a number of potential hotel developers, who all had proposals for a number of new hotels in various parts of the Island. Ultimately though, all these fell by the wayside for various different reasons.

So, from the perspective of a very buoyant and successful 2003, the Isle of Man, at that period, was a very different place indeed, with the tourist industry fighting for its life, and its economy threatened by a recession in the United Kingdom.

However, in 1990, a developer approached the then Chief Minister, Sir Miles Walker, in search of a site sufficient to build a new tourist development: a resort village. After meeting with Mr Spence, Sir Miles then referred the proposal, and the suggested site at Mount Murray, to the Department of Tourism for further consideration.

I have to say, initially, I was very sceptical, as Mr Spence appeared to be an implausible figure, and somewhat lightweight. However, he did persevere and eventually brought us a scheme for a hotel, motel, golf course, leisure facilities and a housing complex which would be individually owned and occupied for part of the year with the bedrooms then leased back to, (**A Member:** Yes.) and managed by, the hotel, for tourist use for the rest of the time; in short, a form of time-share.

Shortly after this he revealed that the proposal would be run and managed by Radisson Hotels, a major American hotel chain, and one of the most prestigious companies in that particular market. Potentially, this represented a major coup for the Island and fitted exactly within the strategy for tourism, which had been approved by Tynwald in July of that year. So at this point, we began to believe that this proposal had substance, and was worth pursuing and supporting.

Hon. members, as far as I was concerned – and I want to make this very, very clear at the outset – I believed that I was supporting a scheme to develop a village resort as described in the ‘Notes of Presentation’.

To explain my actions at the end of last week, I would just like to say that I have circulated a copy of these ‘Notes of Presentation’ to all hon. members, as only one page of it has actually been reproduced in the main report, in common with so much else in this report. This part, read in isolation and out of context, (**A Member:** Yes.) gives an entirely distorted understanding of what was proposed at the time.

I have circulated the document in the form that it was sent to me by the commission of inquiry; this is why you have five pages. It would appear that there is another page, which the hon. member for Onchan,

Mr Karran, has reminded us about, that was not in the papers that were sent to me, and that is why it was missed. There was no other reason for it. This is the only document I have sent from the commission itself. But to meet with standing orders, as I quote from the document, I understand members need to have sight of it.

I have also to emphasise that this proposal as described in the 'Notes of Presentation', as I have distributed to members, is what I believed I was supporting, not only when it was first presented to me, but throughout my period of time subsequent to that in the tourist department, until I left that department in 1994.

The resort village is an American concept, and at the time was certainly unknown in the Isle of Man, and, I think to be fair, also unknown to the United Kingdom. This is why, in the earlier stages, problems appeared to arise over planning and, in particular, in the description of 'tourist use'.

If I can quote from the document it just might help clarify how it was presented to us but also how some confusion could perhaps have developed subsequently. The document describes the concept as follows: 'Hotel developers and investors are having a problem to get a rate of return in the development and in hotels. The reason is the cost of acquiring land and building hotel bedrooms today has outstripped what the ordinary person is prepared to, or able to, spend for a night's lodgings.'

'Some 25 to 30 years ago in America the holiday village was born, and today it is unique in that it requires very little investment from the hotel operator – because of the way the holiday village is funded, it does not require a grant.'

'The reason is that investors, and these investors are either corporate bodies or individuals, put up the investment required for those houses, which, in turn, are made available to the hotel company to rent out as bedrooms through the hotel rental programme to vacationers.'

'This means the capital and interest cost to providing the hotel bedrooms is financed and carried by others, and the hotel operating company is only involved in letting the accommodation which is available, and of course, when it does, it takes a percentage from the income received, and thus always has a positive and profitable cash flow.'

It goes on to say: 'For this concept to work we need approximately 500 beds to be available, to ensure that, after taking into consideration occupation at various times by investors, there is sufficient number of rooms available to justify the central facilities provided. Thus the concept works, and relies on the fact that the bulk of the bedrooms are supplied to the company by way of investment by the investors. The company then rents out those rooms, through its rental programme, to holidaymakers.'

It goes on: 'The reason for the motel is to strike a balance between the letting of the house beds as opposed to motel beds. It has always been company

policy that the customer – in this case the house-owner – takes preference over the motel as far as lettings are concerned. By the same rule, empty beds in the motel need to be kept to a minimum. The only way the company can survive is out of its rental programme over the coming years, so as to recoup its capital investment on the facilities.'

It also says: 'Experience at all our other resorts shows that approximately 10 per cent of houses sold fall into the residential category, but this 10 per cent is continually changing hands when residents find out that this type of development, which is tourist orientated, is not conducive to resident living.'

It finishes by saying: 'It can be seen, therefore, that profit comes in the later years from the holiday-rental programme and club membership, without which we could not survive.'

Now that is the outline of the scheme which was presented to us in those early months when Mr Spence came to see us with this proposal. As hon. members can see, it is a new concept – it is still a new concept for the Isle of Man; I am not aware that we have anything like this over here now – but this concept of a mixture of fully-recognised tourist accommodation, plus the residential accommodation which is using its bedrooms, in effect, as a form of timeshare, is a difficult one – certainly it was when you think we are talking of 12 years ago now – to fit in to the planning concepts of the day.

At the same period the Buyers' Guide was issued to the planners, which outlines the various conditions of sale of these properties. Now, my understanding is when the planning application went in, a copy of the 'Notes of Presentation' and the Buyers' Guide were presented along with other documentation, to the planners. Perfectly right, perfectly legitimate: overall, that was a planning document going into the planning department.

I have to state that the first time I saw the Buyers' Guide was actually in July 2002 when giving evidence to the commission, and I can state absolutely categorically that I was not aware of the contents of that document, either from reading it or from being told of it by my officers prior to last July when I was giving evidence. This, as I say, was essentially a planning document and therefore there was no reason for me to see it.

With the benefit of 20/20 hindsight it is reasonable to claim that the permanent residential occupation paragraph should have been spotted and acted upon by officers. However, Professor Steven Crow himself, an acknowledged planning expert, says in paragraph 5.63 of annex 5 of his report, referring to the officers in this case: 'For this lapse they may, in my opinion, be forgiven, if not excused. The Buyers' Guide in its original typescript, as it was attached to the material applications, ran to 49 pages, including such anodyne material as the Isle of Man occupying a central position, not only in the Irish Sea but also in the British Isles, and also many turgid pages about the philosophy of holiday development. Even if one of those

concerned had taken the trouble to read the document, from end to end, which nobody appears to have done, the one page on which permanent residential occupancy was far from directly stated, could easily be missed.

‘Of course, that now looms large as a consideration, but it must be remembered that at the time the proposal was being sold to the Island, as a tourist enterprise, and this now-apparent fiction did not loom large as an issue at the time.’

So even an acknowledged planning expert, who is very used to reading this documentation, admitted himself, that the very small paragraph for the one section referring to – in the Buyers Guide – the possibility of permanent occupation, was far from directly stated and could easily be overlooked.

And as he goes on to say himself, you must remember, in the context of the times, this was being sold as a very major, vitally important, tourist development for the Isle of Man, and naturally, those reading it probably would be looking at it with a biased eye, and not necessarily looking for this one particular pitfall which would appear to have been hidden in the document.

So I utterly refute the claim by the commission that at this point my department and myself were aware that this was an application for permanent year-round occupancy. It is a claim based on impressions and suppositions and has not been backed up with a shred of evidence anywhere in the report.

Equally absurd is the claim, again based on assumptions, not evidence, that the then Chief Minister and both the Departments of Local Government and the Environment and Tourism and Transport knew, in advance, that this was supposed to be a straightforward housing estate. This is the claim in the report.

Now I ask hon. members to think about this. It is a throwaway line, virtually, in the report itself, but this implies that, aside from myself, the tourism minister of the day, Sir Miles Walker, the then Chief Minister, Mr Brown, our Speaker today, as the former Minister of Local Governor and Environment, Mr Cretney, who was the chairman of the planning committee, Dr Orme, who was a member of the tourist department at the time, Charles Guard, Charles Faragher, David Moore, three highly respected individuals who were making up the planning committee at the time, and, I think, four other private sector members of the tourism department, all very well-known in the community, all these individuals knew in advance that this was to be a permanent housing development, and as such, conspired together to keep it quiet. This is the implication of the statement made in the report. Now I ask hon. members: these are all individuals of the highest integrity, and it is, I believe, an outrageous slur on their character, to suggest that such a thing could happen.

I now come to the equally outrageous claim that I acted in ‘undesirably close alliance with the developer’. Throughout my time in Tynwald it has always been our proud boast that we are close to our

people and easily approachable, and accessible if there are problems. Ministers in particular, have always been accessible across the whole of government, but especially in those areas related to economic activity, such as treasury, trade and industry, agriculture and tourism. If individual problems arise we are frequently approached and work with those individuals to resolve matters.

Equally, if we have economic opportunities presented to us, we have usually responded quickly and worked closely with the individuals concerned to capitalise on the proposal for the benefit of the Island.

This has been a contributing factor in giving the Isle of Man one of the fastest-growing economies in Europe over the last few years and delivering real material benefit to all our people as a consequence.

This is in dramatic contrast to the usually very distant and unresponsive relationship between business and the appropriate government departments in the United Kingdom, of which the chairman of this inquiry will have had vastly more experience, whilst at the same time knowing nothing of our Manx traditions. Traditions, which I might add, both government and our business community frequently use as a major selling-point when attracting, or attempting to attract, new business to the Isle of Man.

To support that point, I would point out to members the decision of the High Court of Justice in the Isle of Man on 12th July 2000, in the matter of Manx Ices Limited and the funding and the decision of Acting Deemster Hall, that, and I quote, ‘Ministers and civil servants in the Isle of Man are approachable and wonderfully easy of access for those who have genuine problems, and at one time or another during the eleven years or so that Mr Gullen was in charge of the petitioner’s manufacturing operations, he discussed the petitioner’s affairs with, and corresponded with, a number of ministers, including the Chief Minister, and with senior civil servants in various departments.’

Here the Isle of Man is being praised by a respected QC for its working relationships with that business, and I would point out that I, in fact, was one of the ministers who met Mr Gullen on a number of occasions to try and assist him with his problem in that particular area.

But I ask hon. members just to ponder the question again: what is an undesirable close alliance? Is it the minister for local government working with local builders to deliver our affordable housing programme – not only the current one but previous ones as well? Is that an undesirable close alliance?

Mr Karran: We are waiting to see it.

Mr Bell: Is it the agriculture minister working very closely side by side with our farmers to raise subsidies in various areas? Or is it an undesirably close alliance for the trade and industry minister to work alongside Smiths to try and save 60 jobs in Onchan? Is that unacceptable?

Or even, if we bring it up to date, the present tourism minister working with a commercial developer to rebuild Summerland? Where do we draw the lines as to what is a close working relationship?

Without that relationship, I put forward to hon. members, we would not have the prosperity and the structure we are enjoying on the Isle of Man today and it is vitally important that we recognise that, and continue to support that concept. (**A Member:** Hear, hear.)

So I have described the conditions which existed within the tourist industry in 1991. I, as tourism minister, I had an absolute responsibility to fight to save that industry and promote new investment, and as part of that fight it was essential that I worked as closely as possible with any substantial potential investors that came to the department. Some were successful, some disappeared, but it was important that that relationship was there, and I ask hon. members, had I rejected this proposal, as we all understood it to be at the time, and rejected the opportunity to attract Radisson Hotels to the Island, I would have been severely criticised, and rightly so, for failing in my responsibilities as Minister for Tourism, and I challenge any of my critics today, had they been in my position at the time, to say that they would have acted any differently.

I did have dealings with Mr Spence. I have been quite open about that. So did many others associated with government, including the Chief Minister of the day. However, in spite of the unsubstantiated insinuations in the report, my contacts with Spence were limited to a small number of meetings and telephone calls and an equally small number of letters.

I can tell hon. members that Mr Spence was not the most pleasant of individuals to deal with at any time, and therefore my contacts with him were kept to an absolute minimum. Essentially, the Mount Murray project was a planning issue, and most of Spence's dealings were with the planning offices and not with the tourist department.

The report alleges that because of the close relationship I surrendered my powers of independent judgement and placed undue pressure on planning officers to grant consent to the development. Once again, I find these allegations totally outrageous and completely refute them. There is not a shred of evidence to prove these allegations which are being made.

Of course I supported the development, but my support was based on the scheme as outlined in the Notes of Presentation – a resort village – and all my decisions were taken to achieve that end. I had a small number of discussions with Mr Vannan and Mr Savage as the scheme progressed. On a very few occasions issues were brought to my attention, either by Mr Mitchell or Mr Toohey in the tourism department, or indeed, by Mr Spence himself.

One such issue related to the planning approval in April 1991. This granted approval for tourist use, and

this tourist use was enshrined in conditions 5 and 6 of the approval.

All this happened over 12 years ago, and I cannot recall the exact details of everything that happened at that time. However, I do know that the developers were in touch with the Department of Tourism, concerned that a strict interpretation of 'tourist use' may not allow the resort village concept to progress. They were anxious to get clarification of this point, because, clearly, as previously explained, the residential lease-back element was pivotal to the whole development, and if that was not allowed to go ahead under the umbrella of tourist use, then it was presented to us that the whole scheme would collapse. So my involvement at that point was from a perspective of achieving clarity from the planning division as to what was covered by tourist use. It was not to change the designation, it was not to – as we have heard in very florid language – 'corrupt the system'. It was simply to try and get an understanding between the tourist department and the planning officers of what they considered to be covered by tourist use.

My letter – which is quoted in the document – to Mr Spence quotes me as 'seeking a more appropriate planning solution and recognising the possible short-comings of the planning system'. This is entirely consistent with what I have stated all along.

The resort village concept was unique to the Island, including, as it did, a substantial residential element, which was also to be used for tourist use. It did, as I have said, straddle two planning definitions and I was attempting to clarify, with the officers, what their interpretation of tourist use actually was.

My reference to the possible short-comings of the planning system relates simply to there having been no precedent for such a development and no obvious planning definition to allow for a resort village concept. I would reiterate, most forcibly, though, hon. members, at no time was the possibility of permanent occupation for the whole of the residential element ever discussed.

At the meeting I had with Mr Vannan and Mr Savage, the clarity required by the developers was considered and the officers, unprompted, came to the conclusion that the condition restricting occupancy to tourist use did allow the resort village, as described, to go ahead. This was confirmed, by letter, to me from Mr Vannan the following day.

Now, hon. members, when I am told of this conclusion by two key and highly-respected officers of a department, I respect that conclusion as being accurate, and when receiving written confirmation, I assumed that the relevant politicians – in this case the planning committee – were comfortable with that statement, particularly as the letter had been copied to Mr Brown, his minister, and Mr Watson, the chief planning officer. I had no reason to question the validity of the contents of this letter.

I would remind hon. members that this was an attempt to gain greater clarity of the interpretation of 'tourist use', not to gain a change of use for permanent

occupation. The transcript of my subsequent phone call to Mr Spence quotes me as saying: 'Now we have gone through all the conditions which were placed on the scheme and we believe, and the committee have confirmed, as I believed it at the time, that the definition of 'tourism', within those conditions, is sufficiently flexible to allow your scheme to go ahead. There is no need for you to apply for change of use for permanent accommodation, residential accommodation out there. The present conditions will allow you to do exactly what you want.'

Once again, the commission has taken this out of context and put the worst possible interpretation on it. With hindsight, I accept that I should not have used the word 'permanent', but I did correct myself by qualifying it as 'residential', which is consistent with the Notes of Presentation, but the whole issue was clearly and formally stated by Mr Vannan and Mr Savage in separate and subsequent letters to Mr Spence.

In Professor Crow's report, Mr Vannan admitted that the interpretation he had placed on the conditions was wrong and he regretted doing so. Professor Crow claims that Mr Savage asked Mr Vannan to write to me to confirm the situation, and I have no knowledge, I have to say, whether this is true or not.

Two issues arise from this. I still believe that everyone involved with this scheme within government, including myself, believed at this time that was still basically a major tourist development. I do not believe that there were any other agendas other than to secure this development in the best interests of the Isle of Man, and in particular, the failing tourist industry. With the benefit of hindsight, it is clear to me, that the 'Notes of Presentation', the Buyers' Guide and other documentation, may well have been written and presented in such a broad way as to obscure what, indeed, could have been the original intent of obtaining approval for permanent residential housing on a site zoned for tourism.

Perhaps I was naïve, perhaps I was over-enthusiastic in supporting what appeared to be such a major opportunity for the Isle of Man. If I was, I can only apologise to the Court and to those who were affected by it, but there was no malice of intent in this at all; it was simply an enthusiasm for the scheme itself.

Nevertheless, I have yet to see incontrovertible evidence, either in the Crow report or the commission's report, that clearly states, even now, that this was the original intent.

The Macleod report leans heavily on supposition, impressions and circumstantial assumptions, but has very little in the way of hard evidence. Indeed, if the starting-point of this inquiry had been more objective, and accepted that we did not know in advance that the proposal was always intended to be for permanent housing, then the entire conspiracy theory woven by this report totally collapses and is discredited.

Part of that conspiracy theory also alleges that I put undue pressure on Mr Vannan to progress this

scheme. Firstly, can I again remind hon. members that this was always essentially a planning issue, and even if I had pressurised him, I had absolutely no influence over the planning committee, who clearly were the only body charged with making final planning decisions.

But it is Macleod's claim that I exerted undue pressure on Mr Vannan that concerns me deepest and raises serious questions as to the way this issue has been handled. Can I say at the outset, in common, I believe, with everyone else who had been criticised, when this inquiry started I was expecting an open, fair and objective approach, similar to Professor Crow's balanced report. I did not expect the turn of events which has eventually appeared, and therefore did not think it necessary to employ an advocate to protect my interests, particular by way of cross-examination.

This was most apparent in the way certain witnesses were led by the commission, at times almost having words put in their mouths, in a manner which would never have been allowed in open court. When questioned by Mr Lewsley, for the commission – this is the QC acting on behalf of the commission – on day 20, Mr Vannan was asked by Mr Lewsley: 'What I am wondering is, would it be right to say that there was strong pressure on officers of the planning department from the Department of Tourism and their minister at around this time, March 1991, to make sure the development goes ahead?' Mr Vannan replied: 'We were certainly aware that the Department of Tourism wished us to proceed'.

Mr Vannan further replied: 'I was just thinking that, sir, pressure, I suppose, in a political sense, rather than direct to officers. We were well aware, as I say, of the background to this and to the need as identified by the Department of Tourism. To that extent there was pressure, yes, but I cannot recall any direct individual pressure from any officer, or for that matter, any politician to ourselves.' Mr Vannan was quite clear on that point when he first gave evidence to the commission.

This statement confirms Professor Crow's conclusion, in paragraph A5.70 of annex 5 of his report, where he says: 'Mr Vannan accepts that he was led to favour the proposal as a whole, not only by the strong support given by the Department of Tourism, but also what he saw as an exciting development of benefit to the national interest. This was a professional opinion he was fully entitled to hold, and he, together with Mr Watson and Mr Savage, was keen to see the project through. Indeed, it may be said that much of the quality of design of the hotel and ancillary buildings, and their surroundings on site, are due to Mr Vannan's patient intervention. I ask hon. members, is this an impression of someone who has been under severe pressure from the Minister of Tourism?'

I would also like to just point out, because, once again some members may not be aware, Mr Savage, who was also involved in this, I believe was one of the best officers this government has ever had (**Several Members:** Hear, hear.) He was an absolutely totally

committed and dedicated officer, who sadly, I have to say, died in office, just about, because of the huge amount of work he put in for us, but I would point out that Mr Savage, although one of the most able officers of his generation, was previously the administrator for the Department of Tourism, and therefore, Mr Savage himself, because of that background, was very enthusiastic and very knowledgeable about the needs of the tourist industry, and these two issues married together in this particular project.

But to continue: as recently as 11th July last week, Mr Vannan was interviewed in the *Manx Independent*, which stated: ‘Mr Vannan denied he was under undue pressure and refuted claims he deliberately misled the planning committee. He said he believes that Mr Bell has too much emphasis placed on his role, and added, “he genuinely did not try to direct me or influence me.”’ Again, does this indicate that Mr Vannan was put under undue pressure and instructed to act against his will?

Furthermore, if indeed he felt I had pressurised him, he could have complained to the Chief Planning Office, Mr Watson, his Chief Executive, Mr Savage, the Chairman of the Planning Committee, Mr Cretney, his minister, Mr Brown, or indeed the Chief Secretary, Mr Kissack. Mr Vannan complained to none of these, and this fact, coupled with the subsequent statements made by him, prove, without doubt, that the conclusion drawn by the commission is a gross distortion of the facts. Indeed, as I have said, in many areas of this report I believe the commission has attached the worst possible interpretation to events.

I could contest every point that he makes about my involvement with this scheme, but I feel that would serve little purpose at this point. I can only state here, in the very strongest possible terms, that the allegations which have been made about my motivation, my knowledge and my behaviour, and most of all – something I feel fiercely upset about – my integrity with regard to this scheme, are a grotesque travesty of the truth and I deny them completely.

But there is one final issue which I must comment on. That is the allegation that I deliberately misled the House of Keys on 7th April 1992. Of all the unfounded allegations which have been made, this has devastated me more than anything.

I have been in Tynwald now for 19 years, 15 years as a minister. Over that time I have fought and disagreed with just about every member at some time or other, over matters of policy and priority. That is part of political life and it makes for a vibrant democracy. Some battles I have won, some I have lost, but even in the midst of the fiercest disagreements, I believe that most members have recognised the sincerity of my beliefs and the integrity of my behaviour.

I am a red-meat politician, I will put my hands up and admit to that. I believe I am elected to deliver the best possible services and policies for our people. I am not a member for sitting on the fence or making up the

numbers, and I detest the shallowness and posturing of playing politics – and I admit, at times, I tend to show my feelings.

However, throughout my entire time in Tynwald, amidst the myriad of issues we have all had to deal with, never once, knowingly, have I misled Tynwald or the House of Keys on any issue, and this is no exception.

In brief, Mr Delaney’s question centres round two points: What markets do the developers to the Mount Murray site hope to attract to ensure that this tourist development will not require, at some time, a change of planning use to permanent residency; and will public money be required in this development?

Now, as is normal, right throughout government at that time, and I understand still today, the answer I gave was written by my officers, in the Department of Tourism, and not by myself. The answer included the information provided to us by Radisson Hotels about the markets it intended to target and also the statement that no applications for financial assistance had been received.

The general debate throughout the tourist industry at that time concerned the giving of grants to new hotel developments, which was perceived by some as giving new operators an unfair advantage, at the taxpayers’ expense, over existing hotels and businesses which were struggling. I believe it was on this basis that the answer was prepared, and, quite clearly, the answer was that there had been no grant applications received, none were expected, and indeed, no grant assistance did go to this company, either prior to, or subsequent to 7th April 1992, when the question was asked.

Eventually, the first part of the scheme did qualify for tax relief under the Tourist Business Incentive Allowance Scheme. However, the first certificate issued under this order, was not until 22nd November 1992, and even then, the relief would not have been given until probably at least a further year later in the 1993-4 tax year.

The only other area in which government monies were indirectly involved was in bringing forward the then DHPP scheme to upgrade the C21 road and junction at the C21/A5. The then minister, Mr David North, said in his evidence to the commission, when asked about grant assistance paid by the DHPP: ‘In my opinion the department should be congratulated, because it actually saved taxpayers’ money. There was no grant assistance’.

He continued: ‘In 1992 it was recognised by officers of the department that the junction of the C21 with the A5 and the section of the C21 leading to the hotel would need to be widened on the grounds of safety. However, there was no funding allocated for this upgrade in the 1992-3 DHPP schedule of works.

‘The Mount Murray project’ – and this is Mr North’s words again – ‘was the first major hotel project for decades, and was seen as having strategic, economic benefit to the Island. Consequently, the DHPP endeavoured to be helpful so that the project

was not delayed', and I am quoting Minister North on this.

He continues: 'At this time the DHPP received an offer from the developer offering to pay 50 per cent towards the cost of the upgrade of the C21-A5 work. Mr Garry Spence, from Heritage Realty, subsequently claimed that they were prepared to pay for all the highway improvements. We thought we had done well at 50 per cent under the circumstances.'

He goes on to say: 'As I remember the law, no developer or contractor in the Isle of Man can have any condition, planning or otherwise, imposed on them to either improve or upgrade any roadworks outside the curtilage of their site.'

'On the same proposal, dated 27th May 1992, as I have mentioned above, I also agreed' – this is Mr North again – 'that we should accept the offer and that the DHPP would contribute 25 per cent of the cost, together with another 25 per cent from the Department of Tourism, at a total overall estimated cost of £154,000.'

Now, from memory – and my memory of events, certainly in this area which I had very little to do with, is very sketchy – I think I was aware, in a general sense, that the road may need to be improved. I was not aware at that particular point that the tourist department would be asked to contribute to the DHPP. This was essentially a DHPP issue at the time.

I have checked again, as best I can after all these years, to identify the date when I as Minister for Tourism, made the decision to pay 25 per cent of the road costs to the DHPP. The relevant document – so I have been informed by the Department of Tourism – numbered ministerial decision 92.16, appears to be missing from the file of documents given to the commission by the Department of Tourism.

However, ministerial decision 92.15 was dated 26th May 1992 and ministerial decision 92.17 dated 1st June 1992. Therefore, it would appear that the relevant 92.16 was given between those dates.

As the question itself was put on 7th April 1992, I doubt any consideration had been given by myself, or seriously by my department, to this issue until several weeks after this question had actually been posed.

As far as I have been able to ascertain, the 25 per cent contribution was a departmental transfer from the Department of Tourism to the Department of Highways, Ports and Properties, which carried out the work, and therefore, none of this money, to the best of my knowledge, was ever transferred to the developer.

I apologise for going on at some length on some of these issues. I appreciate time is getting late, but, as I am the main target of this, I do believe, certainly on these two or three pertinent issues, that to the best of my knowledge I want to impart this information to members, so that they can see that there is another side to this argument and it is not quite as straightforward as it would seem.

I have – and I will not go into it at this point, because as I say I recognise time is going on – a

number of concerns about the way the inquiry itself was handled.

Sorry, my pages are mixed up here, if I could just follow on from the roads.

On the question of whether this development, which was clearly understood to be tourism at the time, would require at some time a change of planning use to full permanent residency, the answer I gave was factual, on the basis of the information and understanding I had of the project at the time.

I have already categorically stated that my understanding of the project was based on the 'Notes of Presentation' document, which described the development as a resort village. Yes, there was always to be a residential element – that was described in the document – but the occupancy, as I understood it right up until I left the department in 1994, was to be based on multi-ownership and lease-back of the bedrooms to the hotel management.

There is clear evidence that after I left the department in 1994, the developer was still vigorously arguing that the residential element was for tourist use, and should therefore qualify for tourist business incentive allowances to be granted on the properties.

On 19th October 1994 Mr Spence wrote to the Chief Minister. On 7th December 1994 a meeting took place between the then Attorney-General and a QC, and others, representing the developer. On 7th February 1995 Mr Spence again wrote to the Chief Minister, and on 4th April 1995, Mark Moroney, acting for the developer, equally wrote to the Attorney-General, Mr Kerruish, at the time, also confirming the position.

So there is clear evidence there, long after I had left the department, that the developer was still arguing that this was a bona fide tourist development. These were to try and get the tax credits, the tax relief, on the housing.

Now I do not want to go on that issue because I know that is in Part Two, but I feel, to defend myself, I have a duty to point out that there are on record at least four letters, which I have been able to find very quickly, which clearly prove that long after I had left the department the developer was still arguing that the housing element, the residential housing, was for tourist use.

It is easy to claim, looking at it today with 20/20 hindsight, 'Oh, you were wrong.' Clearly, as things turned out, I was. But I hope hon. members were listening when the hon. member for Malew and Santon made his contribution, because he has confirmed exactly what I have been saying all along: that he has evidence, as late as 1996-7, that these properties were still being marketed and promoted as tourist accommodation, tourist homes. This is what I have been saying all along, this is what I have been saying to the commission. We were under the impression, and this charade, if you want to call it that, on the part of the developer continued for several years after I had left the department.

I will not go through all of the points I have to raise, other than two final quick points. As I have said, I am concerned about the methodology and the shallowness of evidence that the commission has sought to support the conclusions that it has drawn. I have real concerns about that in a number of areas and the Attorney, I think, has touched on our concerns earlier on, but I will not go through them all right now.

There is one point that I want to make absolutely clear. As members have already said themselves this afternoon –and, again, I thank the Attorney for his contribution today – the one important thing above all that has come out of this report is absolutely, indefatigable proof that there has been no financial corruption of any sort in relation to this issue. This is a vitally important conclusion, which appears to me to have been missed in the frenzy which has been whipped up in some quarters by this report.

I have a concern that the interpretation, though, that has been put on – or the re-interpretation – the remit of this committee, was, on the one hand, in exonerating totally everyone involved in it with financial corruption, has now infiltrated the word ‘corruption’ into everyday language, which will be used with greater and greater frequency now in government. Whenever any department has a problem or a mistake, it will be a ‘corruption of the system’ and I will mark it down to members right now: this is going to cause problems in the future, from a presentational point of view. This is what some members have been trying to do for a very long time and they have now succeeded.

The point I really want to make – it is a personal point, it is only a small one, but it is something which has hurt me very deeply and hurt my family as well as a result of this – and I want to put on record, in this hon. Court, and in response to some of the slanderous accusations and allegations which have been made about me, which have been circulating, and that is that I do not own any property on the Isle of Man or off the Isle of Man. I have never owned a property in my life and I rent a small cottage in Bride where I have lived, in a rental situation, for well over 20 years. And I want to put the absolutely outrageous stories which are being propagated around the Island that somehow I have property in the United Kingdom (**A Member:** Hear, hear.) and that I have something to hide. I am absolutely devastated by these sort of comments, and, as I say, it also has a very serious impact on my family as well, and I find that quite unacceptable and outrageous frankly. (**Two Members:** Hear, hear.)

I will not go through everything I wanted to say. To wind up, in the general sense the recommendations of the report, I think, will go through tonight. They will be accepted, and I fully support the hon. member for North Douglas in his resolution. I think it is the right way forward and it gives members comfort that the issues will be referred to, and, where practical, they will be implemented, and I think that is the right way forward.

I would just remind hon. members, before they condemn, out of hand, that these events took place nearly 13 years ago. Huge changes have taken place in the Isle of Man since then, both economically and socially, and, more importantly, in the structure of government. Government is not something which is frozen in time; it is an evolving situation, systems improve, systems change, and new mechanisms are brought in. It is easy to criticise with the benefit of hindsight, but again I ask hon. members, before they condemn me on some of the comments which have been made here today, to put themselves in my position back in 1991, and consider how they would have reacted at the time under the pressures that I was under at that point.

And I would just throw another point in, I suppose in defence, but to show the pressures that were on – we have heard a lot about pressure on officers. For a part of this period that we are talking about, I was, in fact, minister of two departments. I was Minister for Industry, as well as Minister for Tourism and Leisure, for a 12- to 15-month period over the key period when a lot of this took place. I had a major workload to deal with in both departments. I am not making excuses, but I am just illustrating that the pressure was not just in one quarter, it was right across the board.

I believe mistakes have been made. We have seen the results of the development, and some of the comments, but I believe these mistakes, and my mistakes, were brought on by over-enthusiasm and over-commitment, if that sort of thing is possible, and again, with a degree of naïvety – not by any act of malice on my part, or indeed, on officers’. We all acted in what we believed to be the best interests of the Island at the time. It could very well be argued that we were taken in by a very experienced developer, and I am absolutely sure we will not be the last.

Mr President, hon. members, these last few weeks have been the worst weeks of my life. I can honestly say, I am absolutely devastated by these allegations. If I have made mistakes, I can only apologise to members and those who are affected by those decisions, but I would point out to hon. members: I am a minister, I am an MHK, I am not a superman. I am an ordinary Manxman trying to do my best for an Island I feel passionately about. I would ask hon. members to judge me on my record of public service as a whole, over the whole of the 26 years, and indeed, to recognise the 10 years’ very active service I had with Mec Vannin before that. We all learn from experience. I am no different from anyone else.

The President: Hon. member for Glenfaba, Mr Anderson.

Mr Anderson: Thank you, Mr President – it just took me a bit by surprise there!

I rise this evening to raise concerns about what I found in the report. I am pleased that the hon. member Mr Bell this evening has, in a way, admitted, that in hindsight he would possibly have done something

different. That is the first time that I have heard that from the hon. member over the last few weeks, and I am pleased to see that movement and that acceptance, because I think it is important to state that we all make mistakes. Indeed, I think it is important that we all learn from our mistakes, and actually accepting that we have made a mistake is, in fact, a statesmanlike thing to do.

I was very pleased earlier in the day when the hon. member for South Douglas, Mr Cretney, quite openly admitted (**A Member:** Hear, hear.) that, in hindsight, he had not done everything he should have done in his rôle, but he held his hands up and said he would learn from those mistakes.

I think here today, we have heard a lot of allegations. I was one of the ones who voted for this inquiry when we heard about the allegations of corruption, and, quite clearly, this report shows that there was not actual corruption in the sense that we know.

But it did show that there was a weakness in the system of government at that time, and I think what has also been very helpful today was the statement by the Council of Ministers to show exactly what had been done since then, and what has been put in place to make sure things will not happen on that scale in the future.

However, I would like to state that over the past several weeks the general public of the Isle of Mann has raised its concerns because we live in a society that is demanding openness, and it is each of our responsibility to be as open as possible in government, but I think it is fair to say that we all make mistakes. No politician has lived yet that has not made a mistake, but we must learn from these mistakes, we must learn the lessons.

I fully support the amendment in the hon. member for North Douglas's name, because I see that as a way forward for this hon. Court, not as a cop-out, not as a way of spilling blood, but a way forward for this hon. Court. And I look forward to the October sitting, when we can come back and quite clearly see what executive government has progressed in putting into place systems that, hopefully, will mean that this situation cannot take place again.

I know that there are members in this hon. Court that have taken an extreme view, and I must admit that I could not go along with that extreme view, but I believe that they are right to want answers to questions, and they must always have the right to have those answers, but when it becomes so personal, I believe that we must back up those allegations with facts.

I am pleased that we have had this debate today, and I just hope that we, as politicians, can learn from it, and that after this debate we can all learn to work together, (**Mr Cretney:** Hear, hear.) so that we work for the good of the community of the Isle of Man (**Mr Cretney:** Hear, hear) and we actually do not use this as a souring exercise, but as one that we can go on from. Thank you, Mr President.

The President: Hon. member of Council, Mr Delaney.

Mr Delaney: Thank you, Mr. President. I hope you hold me to the same time as given to the hon. member for Ramsey, Mr Bell, if I need it. (**Mrs Cannell:** Hear, hear.)

First of all, I would like to express to the Manx people my most sincere apologies, with the member for Ramsey and the member for North Douglas, who will echo that today. I let them down. Even though I was not a minister, I, at the time, let them down, because I did not pursue my question. In some respects I could not: those who are here know I then went through a number of medical problems so I was not here to follow it up, but I still let them down, and I am sorry for that.

I have spent a very, very short time, given to members, since this huge report come out, and members, I hope, will realise that I have done it, because they have seen me do it. I have spent 9 or 10 days in the middle of Tynwald, trying to do the homework necessary to cross-reference what was said, by whom, for what reason. Things have been said today, people are using sayings. I heard one from the hon. member for Rushen, the Minister of Agriculture, about 'he without sin cast the first stone'; there is another part to that one: 'before you do it, make sure you have a tin helmet on,' because there are going to be incoming stones coming back at you!

Mr Singer: Apples!

Mr Delaney: We are all aware of that, but what you are as a politician, of course – if you are any sort of politician – you are given the job, on behalf of the public, to speak and to scrutinise on their behalf, what is happening to the administration of which you are part, and they put you as part, whether you be a humble backbencher or a minister.

Now, having read this report, from what I understood it, with the help of – thank you, very much – the Attorney-General's department, our excellent library, and a number of other people concerned . . . I hoped Mr Bell would stay to listen to what I have so say, but obviously –

Mr Bell: Nature calls!

Mr Delaney: Well I will hold it till you get back; you cannot, obviously! (*Laughter*)

A number of things happened during this report and I want to say: it is the findings that have been expressed, but I am concerned about how some of the findings and conclusions came.

First of all, I sat and listened to the inquiry, when I could get the time, together with some other members, and as far as the report deals with the then member for planning, Mr Cretney, I want the Manx people to believe – if they do not believe him, or believe anybody else, please believe me – that I sat there, and once an

officer had admitted to the inquiry he had misled the planning committee, that was then completely, in layman's terms, out of the frame, because if you have told a lie, on which you have to make a decision, and you do not know it is a lie, you will still make the decision, and this happens not only at planning meetings, it happens at every other meeting, and that is why the law of perjury is so strong. So that in any court, when someone misleads the court to come to a wrong conclusion, there is a severe penalty for it, and that is the same with planning as it is in the court.

So please, let us take that side of it away. I do not agree with their findings on that.

Neither, as the past Minister of Local Government, do I agree with the criticism of the Minister of Local Government, and I will tell you why: I took over as first minister of that department after Mr Walker – I had an excellent officer, the late Mr Savage, who I would hope to call a friend – and when it came to appeals – and remember that I was involved in the system of operation – I came to the silly situation when I said, 'Right, I will go out and have a look at these sites and see if these appeals are justified'.

Then I was informed: that is totally wrong to do that. We checked it out, and it was totally wrong for me to go to any site that was under planning, after the final decision from an inspector, for me to look at to make a final appeal to, because that may have been wrong, I may have been influenced, they told me.

So I said what happens if ever I am challenged in court, and I have to go to court, and sit in the witness box, and this very clever Attorney says, 'How much time did you spend on this site, looking at my client's appeal, and the problems thereof?' I would have to answer, 'None'! And that, hon. members, would put me, and any minister, in a very difficult situation.

So, it is not just in relation to the minister's criticism, I want to make sure the Manx people share: that as a flaw in the system, which I hope is corrected, because that puts the minister of local government in one heck of a position when he gets out and the public read that and they say: 'What sort of minister have we got? He cannot even go out and judge an appeal outside the office. He has to judge it on the paper. I thought we lived in a small community.'

So I want to say that I disagree with those findings, not in the evidence that came to it, but that is a fact how this inquiry saw those situations. I disagree with the way they have got to that situation.

Now, as the originator of the question in 1992, you may be surprised, apart from a couple of new members, who have done the courtesy of asking me around the government office why I asked that question in 1992, because nobody, other than them, every asked me, and it is the logical thing to do. Surely somebody would have asked me why I had suspicion.

I am not speaking of hindsight, and I understand the difficulty of Mr Bell in saying that anyone can be wise in hindsight. I asked the question in 1992, long

before they got the decision of planning. Why? There were a number of reasons.

First of all, as the ex-minister, which was qualified by Mr Walker's evidence, the ex-chairman of the planning, I knew, because I was told, that you could not build on this site. At a time when I had been told to go out and build houses for the Manx people, the three other members, Mr Gilbey, Mr Leventhorpe and Deemster Luft and I went out to look at everything anywhere we could build on, to build houses for the Manx people, and particular 'brown sites'.

This site was in terms 'brown site', and a 'brown site' is somewhere where there have been buildings on it before.

So obviously I was interested, but I was told, quite categorically, we could not build on it, and you will see in the documents that Mr Walker was of the same opinion. So my suspicions were aroused. Why? Because as I said in my supplementary question: 'Was the minister aware that they were breaking into the main sewer?' And, of course, we all know, if you read it, what the minister said to me.

I asked him if that gave an indication of what was happening there, and he said, it was. So, I was happy with that because what that meant to me, and certainly to anybody else who had looked at it, was that there was something more than an hotel going there, and it was going to be of more permanent usage, and I was concerned. I was more upset about the fact that I could not build houses for the Manx people, and then I was seeing houses for visiting Americans, albeit for tourism, which I was a major part of, being the member for East Douglas. You think how I felt, and that is why I asked the question.

We come to a number of issues here. The minister at the time has used it today: the first time that I can see it anywhere, is the implausible figure of Mr Spence. I did not meet him socially; I came across him once –

Mr Bell: That's enough.

Mr Delaney: – and I was absolutely horrified that we were doing business with a man who obviously had an illusion of his own importance, had an illusion that he could get his own way with anybody by bullying them, and obviously had an illusion that we, the Manx, were a load of 'hicks' – and that immediately put my hackles up.

Unfortunately, after that, as I have said, I was not able to take part for certain reasons, but thanks to Dr Hillas and some excellent medical service, I am back.

And I am back to say this: one person has not been mentioned here today, but is right through this report, and not one person has mentioned him – not the ex-minister and nobody else – Mr Mitchell.

Now, all the new members here have got nothing to answer for whatsoever, as far as I am concerned; they were not here, they did not take part, and I hope the public remember that. They did not take part in any of this; but we did.

Now Mr Mitchell was appointed on a part-time basis for two days a week, at the tourist department. He subsequently became a full-time civil servant, and he left our employment after a number of issues became relevant to us and to our taxpayers, such as the 'wonderful' situation which occurred with the tyres. I even named him, at the time, Mr. Michelin, because we were shipping tyres, second-hand tyres, to the Isle of Man, while Frank Bentham was shipping them out! (*Laughter*)

Now, you can have a one-act play on this. (*Laughter*) If nobody got wise to what that man was, we are in great danger of having it done again to us, as the Minister of Treasury has said. If we cannot be the judge of men and women who work for the public and we employ, there is something wrong with us; we should not be here, the public should replace us all! (**Mrs Cannell:** Hear, hear.)

What we have is people coming to the Isle of Man, such as has been described, and able, again, and again, to take advantage of us. Mr Mitchell is not a figment of my imagination, he is not a figment, as some new members might think, of their imagination. He actually existed. He was there on the stage of the Isle of Man Government, so large, you would not believe it.

When I – as I do, all the members in here know I do it, the minister particularly – when I am going to ask a question in this Court, I inform the department or the minister – and I hope that at least they would give me that courtesy – of telling them I am asking them a question. Why? Because I know it is the staff that have to answer that question. It is the secretaries that have to type it up. It is the officers who have to think up the answers. So I think it is courtesy to them, if not to the minister, to inform them that it is coming, because it is them that do the work.

Also, they know I am serious when I am asking the question, but the answer I will tell Mr Bell now, of his man – the day I phoned up, he was off the Island – it is that clear to me. I phoned up this particular person, I was referred to Mr Mitchell, and I was told he was irrelevant to what I was asking. It was nothing to do with him, he worked for the minister – and he did, of course, because he was a consultant for two days, at that time.

So, of course, I realised that was the position, and I said, 'Well I have told you now, anyhow', but that was it.

But that was the people we were working with. He is all the way through this report, and if anybody wants to read his history, I suggest that they go back to the public accounts, dealing with the tyres and dealing with the bowling alley, and add up all the figures and you will see that not only did it cost us his wages but it cost us long hundred of thousands of pounds for that man, and we did not get wise to him until, I think it was, 1994. I think he left us then – (**Mr Bell:** Five.) 1995, was it? I am sorry – four by-passes, I was having by that time!

But the situation was, and is, that we are still vulnerable to that. Thanks to the public accounts committee, they, when they came back with the report, pointed this all out, and I hope that will never happen again, so we have something to thank them for, on that.

Now, members will see the document from myself, which I circulated, together with the original question, which was another document, but I did intend to ask a question of the Minister for Treasury, because I received the document he circulated to us.

The document states on 11th July – sent by Mr Bell to us, and I thank him for it – in the fourth paragraph: 'A description of how the concept would work was included in the document, produced by the developer, entitled "Notes of Presentation", which he has made reference to, and which is in your report. This document was presented to the Department of Tourism as his' – I do not know how that works – 'initial proposal that forms the basis for our (in particular my own understanding of the scheme as progressed).'

Now, I was going to ask, if I could have asked him, 'will you confirm of your letter to hon. members of 11th July, with regard to Mount Murray' – as I have just read out – 'the date of the initial proposal, where the meeting was held, who was present at it, whether the minutes of the government department meeting were kept, and where can they now be found?'

I cannot ask that question because question time finished, and I do not know if I would have got permission under standing orders, which I showed you a copy of, to ask it.

But it is important – I think, the lesson from what has gone on here, and I thought it was clear to everybody – that when you have a meeting, on behalf of government, which is working on behalf of the taxpayers, you have minutes, so that nobody can come back and sue you in the future, if nothing else.

But I cannot find them, because I believe – and I am sorry to say this – that Mr Mitchell, again, was the only one at that meeting.

He was not. So, therefore, the minister was at the meeting.

Mr Bell: Terry Toohey.

Mr Delaney: Mr Toohey informs me he knows nothing of that document. Mr Toohey, the present main officer, I have approached, and I have spoke to my minister, and he was not present at that meeting, and he did not have that document.

Now, therefore, was I correct, or is Mr Toohey lying? I do not believe so. I find Mr Toohey is an excellent officer, I believe he is prepared to take his responsibilities, together with all the other officers of the department. I believe they were excluded from what went on at Mount Murray. I believe, when we talk about the Department of Tourism, we do not talk about the Department of Tourism in total, we talk about Mr Mitchell, who was a two-day consultant for

the minister. That is a fact, and nobody will deter me from saying that, or prove me different, because there is no minutes that I can find – unless the minister can tell me where they are – but this is what happened, and that is the part that hurts me.

I hope the Chief Minister is listening to that, because I also want to say this: if I was sitting on a Manx jury, not only me but I hope no Manxman or woman would find the then minister of tourism guilty, and send them to jail for an offence, because after going through all this, I have to take his word for it he never read any of the documents – or did not understand the documents.

But he was the minister, and he is the minister now of Treasury. So I want someone to say and put something down somewhere, ‘ministers should read documents, particularly when talking about multi-million-pound developments.’

That is the situation we have got to, because no ordinary lay person would be able to go the tax office, or any other office, and say: ‘I am sorry, I did not read the document’. They would say: ‘That is nothing to do with us, you still owe us the money’. If you go to social security for anything –

Mr Bell: On a point of order, Mr President, could the hon. member just say which document he is talking about, which was not read.

Mr Delaney: I will then do it. I am sorry you have asked that question, because I will then do it.

You say, as I understand in this letter, the document is the notes of the meeting (**Mr Bell:** No.) (**Mrs Crowe:** Presentation.) – the ‘Notes of Presentation’.

On the back of those ‘Notes of Presentation’ on the last page – now you asked me to do it – it says quite clearly that 10 per cent of this development would be residential. Quite clearly, that is what it says on the last page of the document you sent the members, and they all have it, sir. I am sorry you asked the question –

Mr Bell: I am not denying it.

Mr Delaney: Right, so therefore, if you did not read the document, as you said – and I accept that – I then cannot find you guilty of any fault, except the fact that it is naïvety of the broadest sense. I would hope that every document, while you stay in the Treasury, as you have been told you are still the Treasury minister – and I hope you live a long time to be that minister – that you read every document that is given to you before you sign it –

Mrs Cannell: Hear, hear. The planning document.

Mr Delaney: – because the situation is we are all responsible for that situation.

When we come down to the situation of the rest of the findings, I was getting worried this afternoon that

we were going to give the chairman and his two independent other people six months because it seemed that way we were getting around to it. They are the people we charged through the government to be appointed to look at a situation. You might not like what they found, and I certainly do not, as I expressed in the findings, but I have defined them that they did it as independent people and if you do not like that you should then complain to the Governor and the Home Office who put them in – that the situation was they picked those people who were not independent. Now surely we can accept that.

Mr Corkill: Independent Is one thing.

Mr Delaney: I am sorry, but that is what we have to do.

I was going to second the amendment which was not seconded, but I understand from the mover of that, that Mr Gelling, the ex-Chief Minister, that he is happy with Mr Henderson’s amendment and I am happy to amend that.

But I also want to say on this report, having gone through it, looked at everything and then seen the solution, I will say to the hon. member for Onchan – who I have no social contact with, I have never had a drink other than a freebie with, and the same with the member for Ramsey, Mr Bell – with both members I have no aggravation at all of what has gone on in any way. They are both doing their job in the best way they thought fit, but my question, myself, is ‘did we do it well enough?’ And obviously we did not. So we have got on our school report to say, ‘must try harder.’

Mr President, there are a number of things here that actually lead to the conclusion that Mr Mitchell was the – how shall I put this without causing any offence? – villain of the piece.

I have checked with and I am grateful to Mr Waft’s division. I have tried to find out, because I was asked to, whether he is on a pension, what recompense he got from the Isle of Man. I cannot find out because the law says it is private and confidential and I cannot find out that situation. So I cannot answer that question, which has been put by several people.

I am aware, and it occurred to me very clearly, with the Crowe report, that we had a situation where persons who misled the committee and admitted to misleading the committee then found it necessary through health reasons to leave the government and the administration. That is a pity, but that happened.

We must question how and why senior officers sometimes get it wrong, but what we should also do is make sure that they have every opportunity to get it right more often than they get it wrong and we do not seem to do that.

I have had running battles with civil servants in my 28 years here, but I have never held it personally. But what I have been saddened by is that we have a situation where officers were allowed to mislead us, the public representatives, and that frightens the hell out of me because if that situation is allowed to go on,

the public cannot expect anything but more Crowe reports and more inquiries.

One other thing this afternoon which has been interesting is that we had – and I am sorry, I have read the history of the Japanese kamikaze pilots but I never knew we would have a Rushen kamikaze pilot! – but the Minister of Agriculture, your contribution, I will say it, was so nonsensical . . . In the words of Deemster Luft, when he looked at and said to then another member for Rushen, who was Doctor Orme on the inquiry that was required into the bowling alley, I believe at the time, that ‘you think the best offence is attack’.

The best defence here is to stand up, admit to the faults and hope that the public will forgive you, (**Mrs Cannell:** Hear, hear.) but not to attack other members who are doing their jobs. I agree that we all make mistakes and ‘he without the sin should cast the first stone,’ but I also think that you should be prepared to give the other members the benefit.

I do not see that it serves any purpose as a minister if that is going to be the answer every time the Council of Ministers have a problem. Mr President, this is a sad story for the Isle of Man – a sad, sad story. I hope that we have learned from it but I will wait with interest until the second half of my question, when it comes, and I want to remind you again what I asked on my supplementary:

‘Mr Delaney: A supplementary, Mr Speaker. Iis the minister not aware, through his colleague and through the Department of Planning then, that already where the development originally was on the site sewerage as a Klargest system it has now been changed to allow sewage to go into the main sewerage system ahead of any possible development of IRIS, which might not occur?’

‘Mr Bell: ‘I am well aware of the situation and this has been imposed on the development company by the DHPP’ – but we know from the report what was happening there because it has been alluded to today because of the worries from the DHPP.

‘Mr Delaney: Are you aware that the implications of such a decision?’

‘Mr Bell: ‘I have been in Government long enough, Mr Speaker, to know what the hon. member is talking about.’

I am sorry, if you knew what I was talking about, you now see Mount Murray, exactly what I was talking about.

The President: Hon. member for Ramsey, Mr Bell.

Mr Bell: On a point of order, Mr President. Just to clarify the comments that the previous speaker has made. The item he referred to, of the document I had not read, I did in fact read out as part of my presentation, and it says quite clearly where it refers to residential element of the document – it was part of the document that I read out – that this 10 per cent is continually changing hands when residents find out

that this type of development which is tourist orientated is not conducive to resident living. I did read that document out, Mr President.

The President: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr President. I think it is the nightshift starting now!

When I first read this report which I have read carefully and with interest, the first comments I put down were ‘Pandora’s box’ and I think that is what we have opened, and I think that the report highlights human frailties.

Now, I wrote my comments and I would like to make the point that I put these comments together prior to Mr Bell speaking. I would also like to advise that Mr Bell is a man I barely know. Although I have been a member of Tynwald Court now for about 18 months, the only contact I have really had has been at Tynwald meetings and House of Keys meetings during that time.

The President: Hon. Member, could you speak up, please.

Mr Earnshaw: Sorry, Mr President.

I was just outlining that the report highlighted human frailties and these include threats, greed, ambition and carelessness and they all appear in the report.

I would also like to make the point that this report and this situation has highlighted that there have been no winners here. Mr Corkill has not been a winner, Mr Bell has not been a winner, Mr Karran has not been a winner, the public of the Isle of Man has not been a winner and the Isle of Man has not been a winner –

Mrs Crowe: That is true.

Mr Earnshaw: – and I think the whole thing has been a great shame.

The focus has been on the claim of corruption and I have listened earlier today to the Attorney-General’s description of this and I have my own view which I formed when I was reading through the report; it certainly ties in with what the Attorney-General said, that corruption in the true sense of the word, i.e. financial gain, did not occur and that is clearly stated in the report.

When I read this report, I tried to put myself into the situation which existed in the early 1990s and imagine how tourism as we had known it was at that time. At that time tourism was on its knees. It had collapsed from what we knew of it in our younger days.

So, suddenly in the early 1990s, at a time when big money was hard to come by, along comes someone with a fist full of cash and that was where the ambition and the greed, I believe, came into play and in this case it was greed for success. Here was a chance not only to

have a state-of-the-art tourist development but also to rid ourselves of what had become an eyesore – the old Alex Inn, and many will remember that by that time it looked like the haunted house on the hill. (**The Speaker:** Hear, hear.)

I believe, Mr President, that great excitement must have been generated at the Department of Tourism and they became overeager and got carried away with themselves. When they were faced with a skilful and determined developer, who all the time knew exactly what they were wanting and ultimately got it, those involved were outwitted and they were caught – and that is what I believe is at the bottom of this. It is just a mistake; a simple mistake, brought about probably by carelessness.

I believe that there was naïvety and people found themselves out of their depth. Whoever it was, I do not know, but Mr Bell at the end of the day seems to have caught the rap for this.

Having made the mistake and found that they had been outwitted, they were then manipulated by the developers, who had them on the hook. It was then that things, in my opinion, began to get pear-shaped and the problem was compounded from there on and, as I have said, the frontline politician in this, according to the report, was the Minister for Tourism at that time. Now this report and annex 5 of the Crowe report have been published, he came out fighting, but I am very pleased today that, after he has made his statement, there is a little more contrition there, and he has explained himself, I think, very well. The same goes for the hon. member for South Douglas, the present Minister for Tourism, Mr Cretney, who was in charge of planning at that time.

Just as a matter of putting some balance into this situation, Mr President, as I read the reports I mused over what the headline in the *Isle of Man Examiner* of 1991 might have been if no mistake had been made and if Mr Bell and his colleagues had read everything carefully in detail, stuck to their guns and no residential development whatever had taken place. I wonder if the headline might have read ‘Bell’s intransigence leads to collapse of Island’s much needed £50 million holiday development.’ How would that have suited us? So it is a fine line between success and failure.

Mr Karran: I can see he will go far in the accounting world.

Mr Earnshaw: A lot by now has been said, Mr President, and I cannot add a great deal more to it. I do, however, feel comfortable with many of the comments made by the hon. member for Garff, Mr Rodan, and I would like to associate myself with his remarks.

I too, therefore, shall be supporting the amendments put by the hon. member for North Douglas, Mr Henderson.

Can I conclude, Mr President, by returning to my earlier comment – no winners. Members of the public

should be aware that on this Tynwald agenda there are two important motions in my view regarding funding an ice-skating rink and the TT experience building at Summerland, and also a figure of £800,000 plus which we intend spending relating to a funding for bio-terrorism.

I mention this, Mr President, because I have spent around four full days working on this Mount Murray report and others will have spent much, much more, as I am only on the periphery of things. The point I am making is that, collectively, thousands of hours by Tynwald members have been spent on these reports – reports on actions that took place 12 years ago. This has been a major distraction to Tynwald members and should poorly judged decisions ultimately be made regarding the funding of bio-terrorism, the ice-skating rink and the TT experience, all of which involve significant funding, we can view this against the background of Mount Murray – it has been that much of a distraction to us all.

In voting for Mr Henderson’s amendment, Mr President, I hope that we can begin to put this episode behind us and start moving forward. Thank you.

The President: Hon. member for Michael, Mr Cannan.

Mr Cannan: Mr President, just quickly in reviewing what we have been discussing. In February 2002 this Tynwald Court asked the Lieutenant-Governor to appoint a commission of inquiry into the development at Mount Murray and he, on the advice from the Lord Chancellor’s department, appointed Nigel Macleod QC as chairman, Martin Bradshaw as a member and experienced planning official, I am led to believe, in the United Kingdom, and Mr Mark Solly representing the Island environment, and they produced a report that has cost the people of this Island – the people’s money – £1 million and possibly more.

That report has made some scathing criticisms, Mr President, both of the administration of government then – and they say it is continuing now – and scathing criticism of members of the civil service and members of Tynwald.

And the person who received the most scathing criticism, the hon. member for Ramsey, Mr Bell, has made a spirited defence and quite rightly so. That is democracy and that is justice.

So, on the one hand, we have the report with its criticisms and the defence of those criticisms by Mr Bell and I believe that the people of the Isle of Man are the jury. It is their money. They paid for this report and they will give a verdict at some time, just as we in Tynwald, their elected representatives, will give a verdict tonight.

But the one thing that concerns me in all this debate is that here we have – and I set aside Mr Solly, who is known to people and knows us – two people from the United Kingdom, who, I believe, know none

of us. We were just names when they set upon this commission of inquiry and I wonder to myself why they should have any reason other than to report faithfully and truthfully what they found. (**Mr Karran:** Hear, hear.) I cannot believe that they had some secret agenda. I could, if it was a member of Tynwald or if I was doing it, members might well say, 'Well he has got a secret agenda.' But I cannot think that these two distinguished gentlemen in their own professions would have any other agenda but to search out what was actually happening and is happening in the administration of government and what did happen in the manner in which the Mount Murray development started as holiday homes and ended as permanent residential houses to the great financial benefit of the developer. Make no mistake about it, we have heard today from Capt. Douglas that the prices from holiday homes to residential houses took an extraordinary leap in value.

There was a benefit to someone out of all this and I have no doubt that it was the developer. He set his hand to the tiller, he drove a hard course and he got what he wanted.

As I say, I am not going to cast any stone. I am not going to blame anybody. It is the people of the Isle of Man that will be the jury – 80,000 people good and true.

Mrs Hannan: No, it is not!

Mr Cannan: Their money was spent. They will determine what they think went wrong and how it should be addressed.

But we, as their elected representatives, must put our house in order and I am slightly saddened that the Chief Minister in his speech was still in denial. At least the member for Ramsey started to show a little contrition and a little humility.

The Council of Ministers cannot, in my view, go on in denial of this report. I hope that they will now, during the coming months, examine it closely, make sure that there is proper transparency in the conduct of government affairs – they have been weighed in the balance and found wanting – and that, in future, things will be put right.

And I have one final point to make in all this. The excuses have been made about people or trying to make excuses about what went on in the administration, denial, trying to downsize the significance of the report, but I ask you one thing: say the report had said that they had found no evidence and Mr Karran had wasted their time. I can assure you – and I would be included amongst us – Mr Karran would have been pilloried and drummed out of Tynwald if that were possible. We would not have listened to his excuses, but this time the report is on the other foot. (*Interjections*) The commission of inquiry expressed confidence that the House of Keys did the right thing in instituting this report (**Mr Karran:** Tynwald.) and that it was necessary.

I will end by saying, and I say this to the Chief Minister, cleanse these Aegean stables where necessary; let us draw a line now under this affair and let us then go forward in good, honest government for the benefit of the people of the Isle of Man and their prosperity.

The President: Hon. member for Middle.

Mr Quayle: Thank you, Mr President. With regard to the sad and sorry situation that we are facing today – and some of us actually have only been here for a relatively short time, since 2001, but others have faced it since 1990 or thereabouts – we are still trying to grapple with the aftermath of what has been the largest débâcle in terms of planning, perhaps, that the Island has ever faced. Firstly, I have to say that it is a matter of supreme regret to record the fact that had annex 5 of the Crowe report been published in 2000 instead of being kept secret it is doubtful that we would ever have ended up in a situation of spending perhaps up to £1 million or more to have a full commission of inquiry appointed to investigate these matters. The reasons that we all know about the annex 5 was kept secret and it is surprising that even at this late stage annex 6 came into the public domain.

However, I find that the commission of inquiry has completed a very complex and complicated task in conducting the inquiry, resulting in a very comprehensive document now, in the form of part one, with part two to follow later. Much of the information contained in the report has already been dwelt upon, so I will certainly not return to all the points that have been mentioned.

Suffice it say that the overall part of the summary conclusion on pages 13 and 14 are particularly damning and whilst the commission, in their conclusions on pages 247 to 249, confirm that they found no evidence of corruption in the ordinary sense of corrupt payments, gifts or other considerations, and that is in itself to be welcomed, as one of the principle factors in this whole report. It is extremely disappointing that the wording they use in terms of government failing to withstand pressure determinedly applied to it is stated as 'corruption of the system', although not in a financial sense. I think it would have been preferable if they could have referred to that situation instead as 'major deficiencies' or 'flaws' or 'maladministration'. (**Mrs Crowe:** Absolutely.)

However, these deficiencies occurred, as we know, and I am pleased to learn that many of the recommendations in the Crowe report and this latest report have already been implemented and systems strengthened to avoid a repetition.

Having been one of the supporters of the original motion to appoint a commission of inquiry to deal with this matter once and for all, perhaps it is pleasing to note in part J, 'part one final conclusion', on pages 271 and 272 that the commission are of the view that the public owes a debt of gratitude to all members of the Keys who sought a proper investigation and that

Tynwald, in its resolving that they should be appropriately investigated further, that it will be significantly furthering in the public interest and of wide general benefit to the Island if the government acts to implement the recommendations effectively. I feel absolutely confident with what we have heard today that that is what will happen.

Turning to the question of approving the report or receiving it, I feel that I am unable to sign up to every sentence, every word, every dot, comma, statement and allegation and, indeed, every recommendation, when further investigations, particularly as some of the senior members of Tynwald have, to some extent, not fully accepted the findings and feel that they have had insufficient time.

It is rather like the recent select committee which was appointed to consider measures to encourage people to vote at general elections and, in fact, most members of Tynwald were not able to approve fully in every respect that particular report, as they could not accept all of the recommendations. We were faced with the prospect of, in fact, just receiving it, as we could not pull out of the report the relevant sections that had, in fact, met with our approval. So I see a certain similarity in this report and others that we are called upon from time to time to consider.

I am content then to support the amendment in the name of Mr Henderson, hon. member for North Douglas, and to receive the report with its other details.

However, I believe it is not enough for Tynwald to receive the report and come back in October to hear a progress report on the various recommendations. I believe that the public disquiet that has manifested itself over many years will not be assuaged unless there is something done more than what is already proposed. It simply cannot be 'business as usual'. I believe the integrity of the government of the Island is in doubt, and will remain so until this appalling situation which is of such massive magnitude is dealt with. I know we are talking about a situation from many years ago, and things have moved on since then, but it has taken an enormous amount of years to get around to fully dealing with it.

This is a matter that will come round back again to haunt us if we do not deal with it correctly and grasp the nettle and deal with the implications of the report.

The principal person, the hon. member for Ramsey, has indeed been rather contrite and certainly given a great deal of apology in his speech today. I feel that had he been, in that vein, speaking publicly then I think there would have been a degree more sympathy from the public to his position. Certainly, in himself virtually attacking the integrity of the commission (*Interjection by Mr Bell*) that was something that was to be regretted and in anybody's situation they would be giving a spirited defence.

So it is with great regret that I have to conclude that the best interests of the Isle of Man would be served by inviting the Chief Minister to consider very carefully the position of the Treasury minister, not just

in respect of the findings of the report and in particular the allegations of misleading the House of Keys which actually could possibly be dealt with if the matter was referred to the Management and Members' Standards Committee. It certainly gives me no pleasure whatsoever to suggest this and it has not been done lightly.

I believe that the Treasury minister has done an excellent job in his latest role, in addition to his efforts over a number of years, and his efforts for the good of the Island are certainly in my mind not in any doubt. Reflecting upon, to some extent, the strenuous denials from the Treasury minister, it seems still to me an untenable position, particularly with regard to public opinion and this is why I believe it would be preferable, perhaps, for him to consider his position.

Hon. members will have realised that I act as an independent member giving my views and voting on issues as I think fit and not following a particular line, whether by government or from elsewhere. As it transpires, perhaps for the majority of time, my views have coincided with the government. On this occasion I regret not being able to support the government's position, which effectively is to receive the report and look at the recommendations, especially when there had, until today, perhaps, been such little sense of contrition, regret or apologies about the situation that has caused so much public disquiet and disaffection.

The Manx people are looking at members of Tynwald to deal effectively with this once and for all and to heal the wounds as soon as possible and move on. This can only be done, in my opinion, by the actions that I have hitherto mentioned and I feel would take the heat out of the situation and would avoid the debilitating pressure which may arise and continue on the government and the Treasury when, in fact, I believe that all our energy is required to address the very serious challenges that lie ahead, such as our relationship with the Crown, the British Government, the European Community, OECD and all the other matters nearer home.

As we await the outcome of part two of the report, it is important to attempt to bring public support towards the parliament and government and I believe that, with what I have outlined, I think it represents a realistic way forward which would do so much to restore faith and trust in the elected politicians and would demonstrate to the public that members of the government can be held to account.

In conclusion, Mr President, the five law lords stated that, in respect of the commission of inquiry, it has been given extraordinary powers in order to investigate what Tynwald must have seen as an extraordinary situation. In my opinion, I agree that part two of the inquiry which now will have access to all matters that will now provide the final step of the audit trail that will enable the commission to dispel or confirm the suspicions that are held by the hon. member for Onchan, Mr Karran, about the tax aspects of Mount Murray. I certainly look forward to the day

when this whole matter can be brought to a conclusion so many years after it first arising. Thank you.

The President: Hon. member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Vainstyr Eaghtyrane. I had hoped that I would not have to make a contribution today. This has been a very difficult issue for me, obviously one of the newest, and I believe the youngest, members of Tynwald, and I believe relatively free of the political baggage under which many members' shoulders are currently creaking. I hope that I can offer an unbiased, fair and helpful contribution to this debate.

I have spent many long hours over the past few weeks trying to get my head around this issue. With the reams of reports and supporting material which have been spilling out from both sides of the argument, it is easy to lose sight of the significance of the findings and the fundamental issues which lie at the heart of the report.

This is not about whether or not the Treasury minister has been hard done to in the report. It is about the good name of our Island. (**Two Members:** Hear, hear.) Whether we like it or not, we cannot sit on our hands or fudge the issue in the hope that it will go away. Since the release of part one of the inquiry's findings there has been much gnashing of teeth and lamentation heard from the hon. member for Ramsey, Mr Bell, in an endeavour, I hope, to clear his name.

Unfortunately for Mr Bell, however, the independent inquiry places him unambiguously in the mire. It appears to many people that, by angrily thrashing about in an endeavour to somehow clear his name, the hon. member for Ramsey is sinking deeper in that mire and, if allowed to continue, will significantly damage the reputation of this Court and indeed the good name of the Isle of Man.

The irony of this, of course, is that the Treasury minister has been at the forefront of government endeavours over the past decade, at least, to build a strong, clean and healthy reputation for our nation and economy. Indeed, it gives me no pleasure at all to have to stand here and undermine a man who has given so much time, energy and passion to enhancing the quality to life of our Island nation.

This debate, however, is not about condemning a simple Manxman who has tried to do his best for the Isle of Man but in doing so has corrupted the political process. As far as the Manx public see this matter, it can be distilled down to two important questions: did an obscenely wealthy developer use his money and power to ride roughshod over the law and Manx political process to get what he wanted; and what are we, as members of this hon. Court, to do to reassure the public that government systems, officers and Tynwald members are as incorruptible as possible?

The first question is unambiguously answered in the report. I make no apologies for repeating some of the conclusions reached by the Mount Murray

Commission of Inquiry at this point because the Treasury Minister, supported by the Chief Minister, appear to be in complete denial of this independent commission's conclusions.

Mr Cannan: That is true.

Mr Gawne: I quote: 'it was the Minister for Tourism, Mr Bell, acting in undesirably close alliance with the developer, who ensured that the proposal received planning approval. He did this by applying unacceptable pressure to officers in a weak planning office.'

Then later: 'it was also substantiated by a mistaken sense of general satisfaction by officers and politicians in the quality of the government systems they were operating. Regrettably, the mistaken sense of satisfaction remains apparent today among politicians active at the time.'

And, finally: 'government could not handle the pressure applied to it. It succumbed and in this sense was corrupted, leaving effective control of the Department of Tourism and planning office on this matter to the developer.'

Many of the sordid endeavours of the unsavoury developer appear to be inextricably linked to the then Minister for Tourism, Mr Bell. However honourable his motivation, the following line from Minister Bell's now infamous telephone conversation with the developers seriously undermines his credibility as a minister. Quoting again from the report, the minister said he had achieved a situation which 'will allow you to do exactly what you want.' This telephone call was not the action of a responsible minister.

So now to the second question which the Manx public want answered. What are we, as hon. members of this hon. Court, going to do to reassure the public that government systems, officers and Tynwald members are as incorruptible as possible?

Clearly, the first thing we must do is accept unequivocally the commissions' recommendations and undertake to implement them as soon as is practicable. The Department of Local Government and the Environment have already adopted, or at least undertaken to adopt, many of the recommendations and I am sure that we all welcome the department's work so far. We cannot, I believe, be seen to be in any way selective over our acceptance of the report's recommendations.

A serious charge has been made in the report that senior members of Tynwald have a mistaken sense of satisfaction in government systems. Consequently, if we choose to ignore or reject some of the less palatable recommendations we run the risk of perpetuating a growing public perception of government incompetence, conspiracy theories and Council of Ministers' cover-ups. Anything other than an unambiguous acceptance of the recommendations will undermine Tynwald's credibility. (**Mr Karran:** Hear, hear.)

The second aspect of the report that must be addressed is its criticism of three senior members of Tynwald. Mr Speaker, who at the time was Minister for Local Government and the Environment, has been found to have perhaps rather too rigidly stuck to the rules and, by doing so, was unaware of a serious breakdown in the operation of his department. The commission highlights the curiosity of the practice of the minister avoiding involvement with an important aspect of the business of his or her department, but does not find any significant flaw in the hon. member for Castletown's actions.

The hon. member for Douglas South, Mr Cretney, is also mentioned in the report. The commission found that, as chairman of the Planning Committee, he should have taken steps to ensure that all members were in a position to give due consideration, with relevant documentation, to all applications and to understand appropriately the decisions which they were being asked to make. While this does highlight certain weaknesses in his rôle at the time, the hon. member for Douglas South is not significantly implicated in the more serious findings of the report.

Now, I know that the hon. member for Ramsey, Mr Bell, refutes many, if not all, of the damning findings against him contained in part one of the report. Like many of the seven new members and, indeed, many of the old hands in Tynwald, I have no way of knowing which version of the events surrounding the Mount Murray development is correct – the commission's or Mr Bell's. Indeed, the only people who really know are those whose actions are found wanting by the commission.

In my mind, however, the only honourable course available for Mr Bell, no matter how innocent he feels himself to be, is to resign immediately and, if he feels aggrieved, to fight to clear his name as a non-ministerial member of Keys and Tynwald. If he is not prepared to act in this way, which would uphold the good name and reputation of both Tynwald and the Isle of Man, then the Chief Minister must ask him to go.

The arrogant disregard in which both of these hon. members have held both Tynwald Court and, more importantly, the Manx public over the past fortnight since the commission's conclusions were published must end now.

There are many reasons, of course, why a politician with a reputation tarnished by findings of irresponsibility and malpractice must go, particularly if that politician holds the second most senior position in the government. In outlining three of the more significant reasons why the hon. member for Ramsey ought to go, I once more would like to make it clear it gives me no pleasure in raising these points, which I believe leave Mr Bell's position untenable.

Firstly, the three members of the commission of inquiry were appointed by the Crown's representative on the Island following, as I understand it, a recommendation from the UK Lord Chancellor's Office. What message do we imagine the unrepentant

response of both the Treasury minister and Chief Minister is sending to those in the UK who are responsible for overseeing the good governance of the Isle of Man? This, of course, is made worse by the Treasury minister's at times contemptuous response to the commission both on the radio and in the press, which I believe seriously threatens the Isle of Man's current relationship with the UK.

Secondly, given the important rôle of Treasury, both in terms of economic development and international relations, it is clear that any Minister for Treasury should be of impeccable character and there should be no doubt over his honesty and political integrity. Rightly or wrongly, however, the commission's findings clearly place a very large question mark over the hon. member for Ramsey's honesty and political integrity and, by remaining in office, he undermines the credibility of the Treasury in both economic and international development.

Finally, Mr Bell's unwillingness to resign sends an unambiguous message to the civil service. It appears that in future anyone found to have acted improperly in the course of their duties can use the 'I am a simple Manxman working in the best interests of the Isle of Man' defence, which apparently excuses all.

What message does the weakness of our leading ministers' current positions send to the civil servant who might have to risk his job and personal wealth in upholding good practice and government integrity by standing up to the bully-boy tactics of any future unscrupulous developer?

Perhaps this quote from the commission's conclusions would help to remind us all of the grave doubt under which the Treasury minister's abilities have been placed: 'We appreciate fully the seriousness of our findings with regard to Mr Bell, but having looked with the utmost care at what he has said and what has been said on his behalf, we remain satisfied beyond any reasonable doubt that our findings and conclusions with regard to Mr Bell as set out in this report are correct.' It does not come more damning than that.

Mr Cannan: It does not.

Mr Gawne: Had the Treasury minister recognised his position is now untenable and followed the only honourable course of action and resigned, my contribution, as well as those of many other Tynwald members, would, I believe, have been much shorter and considerably less painful for all concerned.

Sadly, the Treasury minister clearly feels he can bluster his way through this, but what message is his intransigence sending to those seedy and undesirable developers who eagerly endeavour to corrupt our political system?

More importantly, what message does this send to the electorate who are already disillusioned with Manx politics? How can we expect them to take us seriously if we lack the political backbone to tackle malpractice, weakness and downright irresponsibility? Whatever

we think of the hon. member for Ramsey's personal or political integrity he is clearly linked to a serious case in which the political process and government administration was corrupted.

If we hope to maintain even a modicum of political credibility when next we face the electorate, our course of action is clear: we must accept all the commission's recommendations today and, importantly, for the best interests of the Isle of Man and indeed to allow him the space and the time to properly defend his case, the Treasury minister must go.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. I have listened very carefully to the debate today because I wanted to see whether my feelings when I first of all came into this hon. Court this morning would really play out with other feelings of members around the Court. I must admit that, during the day, my position has changed somewhat, because I have listened very carefully to what has been said. I have also very carefully read this report, which is 400 pages long – and because it is 400 pages long, and because it says things that are not terribly acceptable to us does not make it right.

There are many issues in here and the comments made by the member for Rushen, they detail many of them, but, in the end, the member says that we should accept the commission's recommendations. I do not think that anyone in this hon. Court today has said that these recommendations should not be accepted, but one of those recommendations is not that the Minister for the Treasury or that other people should resign. It does criticise, and it does criticise very clearly the member for Ramsey. It does criticise, to a certain extent, the member for Castletown and the member for Douglas South. It also criticises other people that I know, and members in this hon. Court know have the full confidence of most of us in this hon. Court. They were initially in the approval in principle when it was put to the planning committee. They are not in this Court and two of them have been in this Court, but we know them and we have the highest regard for them and for their integrity. (**A Member:** Hear, hear.)

I think they have been criticised in here quite unfairly. I think the Minister for Local Government and the Environment at that time is criticised in this report most unfairly and I think that the member for tourism has been criticised for doing – and this is not how I came into this hon. Court this morning – the job that he was given by the then Chief Minister to do – that was tourism. And I can honestly say to this hon. Court that I have known Allan Bell – and I do not always agree with him and I did not come into this hon. Court here today to support him – but he has always supported tourism, even before he was a member of this Court. He was the member for Ramsey Commissioners with responsibility for tourists in their

area and he supported it absolutely. If anyone was going to support a tourist application on this particular site it was that person. He was not going to support permanent housing. He is not like the member for Onchan, who supports housing for our people and certainly not then, when we had not got money, but my first . . .

I was away when this report came out. People talked about this and I said I cannot believe that Allan Bell would support this if it was permanent residential accommodation (**A Member:** Hear, hear.).

What has made me change my mind this afternoon is that the member for Malew and Santon – and I want this to be investigated – said people had put down a deposit for tourist accommodation on there and they were given their money back. That was sometime around about 1996 or 1997. I want that investigated (**A Member:** Hear, hear.) and it has got to be investigated and, if it is not, I will bring a motion to this Court to make sure it is investigated, because if that was the fact and the Gough letter went to the planners to say what is the permission that has been given on these particular houses and it was *only then* that it was said that it was permanent.

So I think we have got . . . and nobody seemed to know until that time. Was the Attorney-General asked for his opinion on that? Was it just Mr Vannan whose recollection was that this meant permanent? Was it a written application to the Planning Committee at the time that Mr Rodan was the chair of that particular planning committee, where concern was expressed?

This has got to be investigated because I think this hangs on what this is. It is all very well to say the minister must go, and I think in the best interests of the Isle of Man, when the majority of people in the Isle of Man have not read this report or not read the Crowe report, they say he must go, but they have not read it. And what they have seen is either bits in the paper or snippets that have been handed out at various public outings.

So I think it is those sort of issues that we have got to address. The other issue, I think, that has never been looked at here: Mr Lewin, who is described as an impressive witness, but Mr Lewin, it seems – and we all know Mr Lewin, who is an impressive person – did not say when he gave evidence, as far as I know, anyway, why Braddan Commissioners had got involved in a sewerage agency. Why had they got involved with a sewerage agency instead of looking at the planning? Half or the majority of this land was not zoned for planning. Why had Braddan and Santon – these are local authorities who want first-time planning – not come up with the concerns? 'This is outside of the area; should this not be called in, it is outside the zoning?'

I was there in the 1982 strategy plan that covered the whole of the Isle of Man. I was there. It was taken seriously at that time, and surely local authorities in these areas would have taken that – the same as some people did. Two or three people did flag it up, but why did not the local authorities? These are issues which

have not been covered by this particular report. (A Member: Hear, hear.)

Before I move on, if I could request members to look at pages 162 and 163 of the report; this covers the area which I am talking about, which is the background of the issue of when it was brought back to the planners and the planners were told that it was for residential.

The final paragraph on page 163 says: 'Whether the Committee was actually misled on this point in 1997 is not clear from the evidence, but what is certain is that the members were not told permission for permanent residential use had in fact been given many years before. Curiously, Mr Vannan's later letter to Gough and Co dated 4th July (1997) stands in some comparison to the clarity of the official minute and avoids an explicit reference to permanent residential occupancy being acceptable. It was apparently enough however to satisfy Gough and Co and J G Kelly Homes Limited completed their purchase of the Village area in July 1998.'

It is this particular area which has not – and if you turn the page – been carried on. It has not been further investigated. It leaves everything, you might say, up in the air, and I do think that that particular issue, along with the local authorities – why they did not follow this up at the particular time in 1991 – should also be considered.

We all know from people that have lived through this, that there were questions asked in the House about the Department of Transport's position with regard to the road and the roadworks there and I think there were quite a number of issues that were raised at that particular time.

Now there are a number of issues that I am not absolutely sure about, following from what people have said. The Chief Minister said, with regard to annex 6 of the Crowe report about the Department of Transport being involved with this estate.

If you look at 13.54 of the Macleod report, Mr Willers, I think it was, says, in relation to anybody else being involved in this estate, being a private development, there is no obligation on anyone other than the actual estate itself.

I do not know why annex 6 has then been brought into it, that the Department of Transport should be involved. So I should like that to be investigated as well.

I do think that the way to go ahead with this particular motion in the Court is for the Council of Ministers to take these recommendations back and consider them, but I would hope that the Council of Ministers would also look at these areas which I have also flagged up as being something that should be addressed.

But one of the issues in the recommendations is for the audit commission, and I am surprised that they have suggested that the audit commission should report to government. Government is responsible to Tynwald and I would have thought, to be independent and to be transparent, an audit commission,

Eaghtyrane, should report to this particular Court. I do not believe that it should report to government and therefore I believe that this particular comment, as a number of others, are incorrect in the Macleod report. I think anyone who has looked, not just here but all governments, it is the parliament that the audit commissions or audit people, public accounts report to the parliament and that is where I think it should be.

There are a number of other issues that I could go on about, but those are my main issues.

I do feel that in considering the particular issues – and this does not necessarily bear any relation to what is in the Macleod report or the Crowe report – but I do take issue with some members who have been on their feet today pontificating about their 'holier than thou' attitude in respect to relationships with maybe civil servants and some other areas, when they are on the telephone and they demand all sorts of issues from civil servants. I think we all need to consider how we address civil servants, (A Member: Hear, hear.) what we expect them to do for us and how they are supposed to answer to their ministers.

I know when I was a minister I had cause to tell my chief executive on a number of occasions that if members did behave like that when they telephoned, the officers should say 'I am very sorry, I cannot deal with this at the moment, I will have to pass you onto someone more senior to deal with you.'

I think it is beholden on us all, and I think within this area, I think there should be some training for civil servants to deal responsibly with members of Tynwald. I am not saying this in relation to the member for Ramsey, I am saying it in relation to other members.

So I agree with the member for Rushen, I agree that those without sin should cast the first stone, but I do believe that there are issues which we can all learn from. I think it is all very well for people to get up in this hon. Court and say someone should resign and maybe we would all feel better if that was in actual fact the case. I know, on a number of occasions, when I was a minister, and I think it will go on forever that there will be people who will be ministers and they will be asked to resign. It is just one of those things.

Sometimes a resignation does clear the air, but I would hope that before the press, before the members of the public and before other people get up screaming and shouting that government has let them down, Tynwald has let them down or whatever, they read this considerable document and they look at pages 162 and 163 and take into account that it is just left hanging there in the balance.

I would like to know why we all assume that in 1991 it was all cast in stone, when, in actual fact, reading this particular document and the Crowe report, it seems it was not. We had to wait until 1997 for the smoke to settle and for the permanent residence to come and, therefore, if we are looking at 1991 I think we are missing the rabbit. The rabbit was in 1997 and I think that has got to be further investigated.

Thank you, Eaghtyrane.

The President: Hon. member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr President. This hon. Court is called a debating chamber. Unfortunately, that is not how it often operates. On something as complex as this inevitably members have prepared speeches well in advance of today's sitting and, as such, many of the comments that have been made have ignored some of the important issues which have been brought to our attention.

The Court is split into, for simplicity, three groups: those who were here at the time of the Mount Murray original planning application, those of us who came and lived through the beginnings of the realisation of the problems and those newer members who have just come in, in the last two years.

It is difficult for each of the different parties to look at that report with the same eyes. Some who lived through those days understand what was going on at that time, others have had longer to work with the main participants who are criticised, both as officers and at political level, and the newer members come in and look at what is a comprehensive and at times damning report.

We are further split within this Court into those who are very critical of government and will criticise and vote against government on every issue – and that is democracy and that is perfectly normal.

I was predominantly brought to my feet by what was, superficially, a very fine speech by the member for Rushen, Mr Gawne, who, having evaluated this report, having obviously listened to members of the public, members of the political situation on the Island, and drew his conclusions as we all must. When you do not know the character of the people involved and when you have not got the vision of hindsight, it is normal that we will make political judgements, which is what we are here for.

I think it is compelling to remember the words of the Attorney-General earlier today, who explained some of the circumstances which would raise question about the allegations and comments which have been made against the member for Ramsey in particular, and that aspect of it was fully discussed by the Attorney, for us all now to listen to.

I think it was also compelling to listen to the member for Ramsey in what some have criticised for his defence of his position, but, if you believe yourself to have been wronged, you have to find a way of defending yourself. **(The Speaker:** Hear, hear.)

The member for Rushen, Mr Gawne, in an ideal world, is right: walk, defend yourself away from the onerous responsibility of being Treasury Minister. But, in reality, the public and some of the politicians have already judged the member for Ramsey before this debate took place. The comments and the media attention was inevitably going to focus on Mr Bell and had he not defended himself in order to still be around today, to stand up and actually clarify the position, if he had walked, it would have been a witch hunt. Those

who are after a scapegoat would have found one and, yes, the debate today might have been somewhat easier.

But in reality those of us who have worked with Mr Bell for a number of years, have listened to the sincerity of what he said today – and I commend the member for Peel for having drawn this to our attention as well – for Mr Bell and many members of this chamber, our only driving force is to serve the Isle of Man.

As a relatively new minister in government, I can look towards the amendment in the name of Mr Henderson, and I am delighted to see a common sense approach which does publicly draw to the attention that the Council of Ministers accepts the need for change.

There is no doubt about it: the Council of Ministers is continuing to evolve, as is the operation of government of this Island and, yes, mistakes have been made and, having served nearly 20 months in my post, I am sure that I have made numerous mistakes. I am also, having gone through this report, aware that I have probably inadvertently misled the House on occasions, because the briefing that I have been given, such as Old Castletown Road or various other offers of what I believe and what I am told is likely to happen, fails to come to fruition. That is not deliberately misleading the House and I do not think many members here would criticise me for it, because I would say, yes, I am sorry, subsequently I have got more information and I would make that apology.

And hon. members have criticised and, more importantly, those peddling the edited highlights of this report around the Island are identifying that Mr Bell has misled the House as a most serious offence, with which he and I, and every hon. member would agree. He has said, and it is up to us to either chose to believe or disbelieve somebody standing up in this Court, and saying he did not deliberately mislead the House.

It was always going to be thus today: 400 pages – read it, soak in those bits you like, skirt over those you do not like, build an argument around those factors that suit your argument, come and make a good speech.

I congratulate the member for Onchan, Mr Karran, because he put this motion down, I would assume, before he had actually read the report and he had the confidence and the purity of saying whatever the report says, we will approve the report –

Mr Downie: He saw the report.

Mr Shimmin: – because the timing of it meant that he would not have seen it, but he said – and it is quite clear and straightforward – that he believed whatever an independent report was going to come out with he would approve and, therefore, he is being totally consistent in what he has said. Warts and all, good or bad, he was prepared to approve an independent report.

Most of us would also feel that our instinct is to say, 'an independent report, okay, they have no axe to grind', as mentioned by the member for Michael, 'therefore they must be right.'

I am sorry, hon. members, history has a catalogue of miscarriages of justice, whereby all the facts . . . and I congratulate Mr Karran for the well-worn tactics of repeating the same word repeatedly throughout the speech, which was 'fact.' 'This is fact.' If he said it once, he must have said it a hundred times to reinforce that he believes that all of the evidence within this report is fact.

I question some of the interpretations. The facts are fine. That is the evidence that they found from the information made available to them.

I was very surprised. My initial reaction, on reading the report, which I think, as we all did, we skirted it first and looked through some of the recommendations, some of the conclusions, but I was quite surprised by what I could describe, as an English teacher, the flowery interpretation of what I expected to be a clinical, legalistic document, and there was subjective evaluation of a number of conclusions that they came to.

Now that is fully within the rights and abilities of the authors of the inquiry. They will do as they see fit and they are far more experienced than I am in those matters, but I was surprised by the way in which some of the comments that were made appeared to be a judgement. Fine. That is judgement based by learned people giving forward their professional judgement.

I do not recognise some of the comments that have been made, and I do not recognise some of the criticisms and personal qualities that are evidenced within this report. I do not believe that to approve the 23 recommendations without having further investigation is sound.

One of them, which affects the Department of Transport in regard to the road infrastructure in that area, I have some serious legal questions to ask as to what rights and powers government or the department actually have.

A Member: Yes.

A Member: That is right.

Mr Shimmin: We have, because of a debate where corruption was alleged, quite rightly asked for an inquiry. Every member in this chamber, I believe, hand on their heart, understood at that debate that there were allegations that the corruption being discussed was a level of impropriety which was dishonest or financial or something underhand (**Two Members:** Hear, hear.), and as soon as that allegation was a perception or a reality we had no alternative but to go down this road.

I believe that Mr Henderson, the mover of the amendment, which I will be supporting, began to realise sooner than many of us potentially where this was going. Others – it had dawned on them as we had

the Chief Minister coming back for more money – began to realise that once you have started on this path you have no way of getting off.

So we are where we are today – the parliament of the Isle of Man. It is up to the parliament of the Isle of Man to hold its head up and believe that whenever we cast our votes this evening, we have confidence that we can look our constituents in the eyes and say 'I voted this way for these reasons.'

That does not mean, to use an oft-used expression, that we are nodding dogs. We have a free vote within the Council of Ministers, we have our own integrity and our own standards, and therefore the fact that many people will disagree with others is a normal practice within politics.

But we have a decision to make. We can – indeed, it is likely that we will – come back in October, and start again.

Mr Delaney: Exactly right.

Mr Shimmin: The hon. member for Peel – I breathed in deeply when I heard her quite rightly identify those other areas which now potentially need investigation. And she is quite right because, with a 400-page report, there are going to be more issues brought to light that need to be clarified, if we need every 't' to be crossed and every 'i' to be dotted.

Or we can be pragmatic and say that the mal-administration which took place had already been evidenced, is being looked at, but as a minister of a department with some nearly 700 staff, I am sure that we get it wrong and will continue to get it wrong on occasions and, at both the political and senior officer level, our rôle is to try and ensure that any errors are done in good faith and any lessons are learned from those errors.

If we continue to revisit this, we will be here for two or three more years because there will always be more that we can investigate. We know the mistakes that have been made. We have the stage two still to come, so what are we talking about today? How do we move forward?

The areas have been fully – I would not say debated – spoken to this afternoon. I have enough confidence and knowledge in my friend Mr Bell, the member for Ramsey, that inevitably over the last month or six weeks since he became aware of these criticisms he will consider his position. He has not been doing anything other than that probably over the last four to six weeks. Does he need this level of personal attack when he knows, as many of us know, that his integrity is not in question? (**Mrs Crowe:** Exactly.)

But why, for the extra relative peanuts that he is paid for the responsibility that he has, would he continue to be a whipping boy for the majority of people publicly and politically, who see him as a soft target?

In politics there will always be a target. Let us be honest: for how many years has the Health Minister

been a target? Since the last election the DoLGE has been a target. Today it is the Treasury Minister as a target. Tomorrow it might be me as a target, and that is fine. We come into this world and we know that it goes with responsibility, with the power and authority that gives us, there is also a great deal of accountability and pressure which will be put on.

But I congratulate Mr Bell on having had the resilience to get to this debate today, still managing to defend his corner to allow himself in the proper Court where debates should take place to stand here and defend his positions, which most people will superficially have prejudged him on, and it was not an easy speech for him to make.

As for the rest of the Court, we have a decision. Receipt of this and the recommendations to be considered is the least we can do.

The other aspect of Council of Ministers which has had some criticism today, about the manner in which we operate and whether we have got the trust of the House and the trust of the people, is up to us to prove. If we do not, parliament has it within its powers, but I genuinely believe that the majority of fair-minded people would look at the Council of Ministers and consider that there are genuine efforts to improve and change. 'An open and transparent government' has become a mantra in this place and throughout the Island and is a target for all of us to aim for. It does not happen overnight and it does not come easily for some of the officers or some of the politicians, but the corporate government rôle which we have embarked upon forces ministers out of the bunkers of their own departments to share with other departments to try and work towards the common good.

Those changes will not be visible to the public overnight, but I would urge hon. members to consider, rather than coming here with the preconceived judgement based on what they have seen and read, but listen to what the learned Attorney has said and he, in my view, should be unimpeachable in the eyes of the members of this Court, therefore he has made his comments about the process and the different process here to get a fair hearing for the individual people who are criticised or commented upon.

Make your decisions, listen to what the member for Ramsey has said, believe him or disbelieve him, but that is the choice you are making. Determine which way you are going to vote and come back in October and let us look if we can move forward on the recommendations and the way of actually improving things for the Isle of Man, rather than continually naval-gazing and saying 'what more can we do to try and actually expose other mistakes that were made?' They were made. Lessons will be learned. Mistakes will continue to be made elsewhere in government and we will continue to learn, Mr President.

The President: Hon. member of Council, Mr Singer.

Mr Singer: Thank you, Mr President. My comments this evening are from what I have heard said today and I would just like to reflect on a few of those comments that have been made within this chamber.

I certainly this morning detected a nervous defensiveness, I would put it, on behalf of the Chief Minister at question time. I am not quite sure why, because he had no involvement in what occurred 12 years ago. But he did talk of varying standards of independent inquiries and that surprised me a little, because whilst he spoke about it, he did not say what he meant by it, nor did he say where he placed the standard of this inquiry and that might have been an interesting comment from him.

The hon. member for Michael, I think, was quite right when he said that if the inquiry by some means had said that everything in the garden was rosy, this report would have been accepted in its entirety, although we would still know and certain people would still know that things had been done incorrectly and were wrong.

Professor Crowe's conclusions were in parallel and confirmed by the independent tribunal so, despite not having annexes 5 or 6, why were there no apologies coming forward when the Crowe report was published, if it said the same things as it said now? Why have they only come forward now?

Mr Karran: We've got a one-party state.

Mr Singer: I accept fully the integrity of the independent inquiry and there is no reason at all to consider them biased or with a hidden agenda. I would that, while it does not appear to me that all members accept that, but I think that we have to accept that the people's reputations are impeccable, the people who are on that inquiry.

Now, backbenchers often feel that items referred to in the chamber of Council of Ministers will be edited, will be emasculated and they come back again as sanitised statements, and therefore I welcome the comment from the hon. member for Douglas West, Mr Downie, when he suggested that backbenchers be included in any deliberations on any committee that is set up and I hope that the Chief Minister would take note of that.

We all knew when we voted for this inquiry that it was looking at matters from 12 years ago so, at this stage, it is no good saying 'Oh, it happened 12 years ago' and dismiss it. The fact is that we asked for it, we have got the reasons, we have got the results and therefore we should accept the recommendations.

Now the hon. Mr Cretney said, and I accept this, that tourism development was the planning committee's clear policy and I accept his statement on that, but he does say that they were misled by professional officers, or a professional officer, and I accept, that. But did he ask why? Did he ever try to find out why that officer misled the inquiry? We know from the comments that it certainly was not done for

money or any matters of corruption, so perhaps that is a question that should have been asked.

The Chief Minister, when he was speaking, said that neither he nor senior officers knew of annex 6. Somebody sent into the inquiry annex 6, so someone knew about it, but not apparently those who *should* have known about it and, therefore, I hope that the Chief Minister would take that on board and thoroughly investigate. Again, there could well be the accusation of ministers not knowing what is going on within their own departments, not knowing what is going on by their officers, and certainly I would like to know why he was not aware or never made aware of annex 6 and yet it was forwarded to the inquiry.

When Mrs Crowe spoke, she said there is no doubt there have been mistakes, misjudgements, human frailties. Mr Rodan said it was a matter of putting mistakes right, but to me that was a very easy, bland statement.

Those people who made these mistakes, who made these misjudgements, who showed these human frailties, have blighted the lives of many people on the Mount Murray development, and 12 years later we have to acknowledge that those affected have been under a cloud and are still under a cloud. Will they accept that saying sorry is enough?

I was interested to listen to what the learned Attorney-General said about the definition of 'corruption'. He said: 'has the commission been fair, taking into account the definition of "corruption"?' And the Attorney-General made great emphasis on the ordinarily understood definition of 'corruption': it was as improper action for material gain. Now, to me that is a legal or the criminal definition.

I use the word 'corruption' and other people use the word in everyday use. When we talk about our computers – this has already been referred to. 'Corruption' is an everyday word, and I do not think that any hon. member within this hon. Court would take the definition of 'corruption' purely as being in the criminal sense.

Now, the inquiry in this report made it quite clear that the use of word 'corruption' that it put into the report, and I believe that the public, via the media, understand that the word is not used as in money passing between people or bribery in the case of this report.

We have had, as I say, reference to the Planning Committee being misled by an officer and I am still asking: for what reason and why? Is an officer being made a scapegoat for other persons' mistakes?

Mr Speaker also mentioned Mr Karran and that Mr Karran would not, even when pressed, give a definition of 'corruption' as he saw it, to Tynwald. However, the inquiry were quite clear in their deliberations what Mr Karran meant, and they have identified mal-administration and misjudgement and coupled that with the word 'corruption' in that sense.

I would congratulate the hon. member for Douglas East, Mrs Cannell, on her in-depth study of the report. It is quite clear she is aware of almost every page, and

the hon. member revealed items not previously identified, such as the treatment of Professor Crowe, attributing actions to him that were, in fact, incorrect, and I think that is a very important item that has come out in this debate today.

Mr President, you can be too close to a subject to see the whole picture. An independent view without preconceived ideas can be a great advantage. This report by an independent inquiry of impeccable high standards looked at the issues from that independent position, and I believe that we should acknowledge quite clearly that that is what has been done. Thank you, Mr President.

The President: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr President. I would like to speak to the hon. member for Douglas North, Mr Henderson's amendment, sir, because, obviously, I have already contributed to the debate.

The President: Yes, would you speak up, sir, please.

Mr Corkill: And I would like to say, Mr President, that I lend my support to the hon. member's amendment and, as a result, if I have the permission of my seconder, would wish to withdraw the amendment in my name, because I think what I was trying to do there was actually embodied in Mr Henderson's amendment and he has put more in there as well.

So I am happy to support his amendment and to make it easier for the process of this Court, sir, my amendment, because I see my seconder nodding, is withdrawn.

I would also, on the back of that, if I may, Mr President, and I will be brief . . . The hon. member for Peel raised the issue about something that needed to be investigated, and I had a telephone call last week from a resident who gave a lot of evidence to the commission of inquiry, and I do not think the gentleman will mind me using his name, Mr Vakil, who has taken a great deal of interest in this whole issue from day one, as one of the original people who came to live at Mount Murray.

The situation was that he rang me last week because we have unfinished business, he and I, because, on becoming Chief Minister and looking at the Crowe report, and the fact that there were certain recommendations that the former Chief Minister pointed out to me that we had debated in the Council of Ministers and it was unfinished business, I took it on myself to go and visit Mr Vakil, share a coffee and talk to him about the issues.

There was the issue of the residual issues committee that Crowe had suggested and was trying to make the best of the situation there, based on the recommendations in Crowe.

He still feels very aggrieved that he was not able to put forward his views into the planning process and he feels that he has been affected by properties that Crowe identified as not having had planning permission in the normal way. These houses have letters of comfort and valid planning in today's terms.

I have to say that I felt very sorry for him and a number of his neighbours, because I also feel that he was not able to have the input that we expect our citizens to have.

He telephoned me last week to say that he had read the report, he had participated in the report and he felt that there was nothing in it from his point of view that was actually going to make life better, as it were.

Obviously during the commission of inquiry process I broke off, I wrote to Mr Vakil and said there could be no more dialogue between myself and him while the independent commission was functioning. But, of course, that has come to a conclusion now and I received his telephone call last week and, out of the blue, he said to me, 'Of course, I feel very sorry for the hon. member for Ramsey, Mr Bell, because I can well remember', he said, 'looking out of my window there was a meeting amassed outside the show house in 1997', I think he said it was – and this is what brings me to my feet because the hon. member for Peel has made reference to this date – and the week after that the show house was closed.

His view, his interpretation on what he saw, not on the paperwork, was that at that moment the tourism element of what was proposed at Mount Murray died. And a few months later, a well-known building company, J G Kelly, started to build on that site and that is what a resident there saw with his eyes, and what he said to me last week. I think that is important for this hon. Court to know because certainly when the dust has settled on this report and when we have got the benefit of the recommendations, I still feel obligated to speak with the residents in that area to ensure them that their rights have been upheld under the planning process.

Now, I know that there has been a government legal view that, in fact, there is no redress, and that is a matter for Mr Vakil to have to come to terms with, but, nonetheless, I felt that there was an obligation to have that dialogue. So in terms of defending, if you would like to call it that, my Minister for the Treasury, that is something that a genuine member of the public conveyed to me last week and I have no reason not to believe the gentlemen that, in his view as an observer from his front room window, the tourism element stopped about 1997 and the 100 per cent residential component kicked off from that time. That is what he saw on the ground.

The President: Hon. member of Council, Mr Lowey.

Mr Lowey: Thank you, Mr President. I hope to brief.

I said when we set up this commission of inquiry that it was the worst inquiry that I had ever had the misfortune to have to read – the Crowe report – and now it has got to be the second worst report because this, I think, supersedes it.

I do so not surprisingly. When you set up an independent report, I said I remember the week after, when the money vote came when we were debating it. I also said at the time that I wanted an inquiry that would clear the air outside and inside this Court.

Now we set up this independent inquiry – or the Governor did at our request – and I think everybody agreed at that time that these gentlemen were independent (**Mr Delaney:** Hear, hear.) and suitable for the job – not suitable, highly suitable for the job. Now when they give a report at the end of a year-long . . . Unlike the hon. member for West Douglas, I read the report and I was quite impressed with its clinical, analytical formula. Perhaps as a school teacher he has seen more text books than I have, but I was quite impressed with the way (*Laughter*) in which it was presented to me. I read it. I could follow it and the references were at the bottom of the page and I could check.

Now, I say that, and I come to the Chief Minister, because Chief Minister, you did say this morning at questions that you were prepared to listen to this debate. Well, I hope you have been listening, sir, because perception is a lot.

I certainly have known the hon. member for Ramsey a long time before he came into here, like the hon. member for Peel; I remember him from commissioners, so I have known Mr Bell for a long time, and I would endorse every word she says. He is a man that fights for his corner, really knows how to do the job 100 per cent, and those are the strengths and weaknesses of the man. (**Mrs Hannan:** Yes.)

So I have no doubt that he would put 100 per cent effort into whatever he was asked to do and having, if you like, preceded him in that cauldron as tourism, as chairman of tourism – we were not exalted in those days to ministers, but I was Chairman of the Tourist Board – I know the state of industry and the way in which things are not as they are now, with film industries bringing in business and all the rest of it and business industry coming in as well. We did not have that particular pleasure at that time. So I know all the difficulties that he faced, because I had tried to manage them for five years just prior to him.

Then I also had the privilege of taking over from him in trade and industry. As he rightly said he had two jobs at the one go and I took over at trade and industry and I took over from trade and industry, so I know about the situation there and, of course, it is important for this Court to remember the scenarios that we were operating in then.

Now, that being said, I have to say that what you do with the report when you get it is what you do when you go to a doctor and the doctor gives you some medicine and you do not like it. The taste is nasty and you are told you have got to take the medicine because

it will be good for you. Now this should interest the Chief Minister, being a chemist, (*Interjection by Mr Corkill*) he knows all about nasty medicines. The nastier, I was always told, the better it was for you, so you took it and grinned and bore it.

I have to say that I am of that school of thought, Chief Minister, that having set the report up, you have to accept the report in its entirety. I do not think you can pick the bits and pieces that you want out of it. I think that you should.

And, in fairness to the Council of Ministers, I think that they have said that 21 of them are already not in contention; they are in train and will be produced. All right, 10 years late, but at least they are being addressed.

I think for those odd pieces – and I take Mrs Hannan’s view, the member for Peel, that the audit commission should report to Tynwald but that is a detail as opposed to the principle –

Mrs Hannan: No, it’s very important.

Mr Lowey: – so I think we can get over that, no difficulty at all.

But I think we do, as a parliament, have to be prepared when we set up an independent report that we have to accept that report. I do not doubt at all the sincerity of the ministers that have spoken here today. The two ministers and Mr Speaker are able politicians and were able to give robust defences and I think quite acceptable defences of their corner.

That still does not, in my view, deny me necessity to support this resolution, because let me just again put my cards on the table. I am not a closet supporter of the Chief Minister. I am up in your face, open about my support for the Chief Minister and for the Treasury Minister. I have a vested interest in them being successful, because if they are successful, the Isle of Man will be successful and therefore I have no wish to do anything that will damage.

Speaking as a friend of them, I do believe that we have to accept that report in its entirety. I really do, because it is perception internally – when I talk about internally, I talk about the Isle of Man – and externally is equally important.

This debate has been a good debate. I think that Tynwald Court has shown its strengths today. It does mean that we can talk about thorny problems that directly affect individuals in this Court and the Isle of Man’s position in the outside world. We can do it without rancour, and I think every contribution this afternoon and this evening has had a content that was worth listening to, and I think it just goes to show that you can have thoughtful dialogue and get to the right decisions.

I hope the right decision for this Court will be to accept the report in its entirety and the recommendations of Crowe would, in my view, be acceptable to everybody at the end of the day.

You may very well say . . . you have listened to my very good friend, the learned Attorney, and his

erudite explanation of his interpretation, but I have to say it, and I say it with the due deference as the only thing we share is that he went to Ballasalla School, and look where it has landed him, and I went to Ballasalla School – oh, and the Chief Minister went to Ballasalla. It has got a lot to answer for! We all went to Ballasalla School and look where we have all landed up.

But when the learned Attorney gives advice, it is just that and is that at the end of the day not what we have been discussing here today? It is about advice. It is about judgement. And it is all right 10 years on saying, ‘would you do that?’ Everything is different. It is different today from last week, which was different from the month before which was different from the year before, which was . . . and all of us, if we could re-live those moments, perhaps might do those things a little differently.

I think the Minister of the Treasury has been big enough to say that he may have got it wrong. He has already admitted that with his telephone call and perhaps those words should not have been used. I think he has gone more than half way towards accepting . . . I do not think he is in denial, to use that much-abused phrase, but I do think when we come as a parliament to vote on this that I will be voting to accept the report in its entirety.

The President: Hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr President. When this debate started nearly seven hours ago, I had a fear that it would degenerate into a squabble, into factions, some camps would want the knives out, there would be blood-letting and a few would want heads on plates. Although some members have called for Mr Bell to fall on his sword, I think it has been a reasonable debate.

One of the most telling statements was that of the learned Attorney-General, in his contribution, when he explained the powers of the commission of inquiry and explained the legal definition of corruption, and I have to disagree with the hon. member of Council, Mr Singer, when he says ‘corruption’ is an everyday word and the public know what it means.

In actual fact the perception of the public is the way I look at ‘corruption’ and that is that it is the passing or receiving of pecuniary gain or other consideration in return for actions taken or not taken. I have talked to two former deemsters and asked their advice on the terminology which was used by the commission of inquiry into corrupt practices, and they felt it was an ill-advised statement.

I honestly believe – and although Mr Gawne, the hon. member for Rushen, has said that Mr Bell has to go to defend the reputation of the Isle of Man – that definition of corrupt systems damages the reputation of the Isle of Man and would be used by our competitors.

Mr Corkill: It already has been: the Celtic League.

Mr Braidwood: Mr President, I have to congratulate the hon. member for Ramsey, Mr Bell, in his sincere explanation and how he defended his actions when he put forward his submission a few hours ago and he explained why – I can understand, any minister would. He would be pushing for his department when he knew that tourism was going down the pan, as we could say, and he was doing his best.

In the report – and this was in a letter to the commission – the simple fact is that I believe that the development was a resort village concept as described in the ‘Notes of Presentation’, which the hon. member has explained, whereby the properties were individually owned and the bed spaces there, and were leased back to the hotel management company for additional tourist use, but the property owners did not have the right of permanent residence.

That way, if the properties were rented for some periods, the loss fell on the owner and not on the hotel management company. This is not uncommon, for example, in relation to apartments at ski resorts.

He also goes on, ‘I never believed that the properties would be used as permanent residences, as is clearly demonstrated by my comments at a meeting of the Isle of Man Tourist Board on 4th August 1992, when I confirmed that the Department of Tourism would object to any application for change of use regarding the accommodation units at the development to prevent permanent accommodation.’

So that was after he answered the question to Mr Delaney, now the hon. member of Council, which was April 1992. So I believe that he did not intentionally mislead this hon. Court.

Mr President, we have been talking about 12 years ago in the report and even in Professor Crowe’s report, issued in December 2000, he says ‘nine years after the event nobody’s memory can be regarded as wholly reliable, especially when evidence is sought as to something that may not have happened. As a general point, I am conscious, moreover, that in inquiries such as this it is all too easy to find that memories point to a potential scapegoat for what has manifestly gone wrong when, in reality, the blame, such as it is, may better deserved to be shared. Moreover, while criminal culpability, however late in its discovery, should never be ignored, to apportion blame of a lesser order after many years have passed is, in my opinion, an invidious exercise. Nevertheless, I have attempted to find facts where necessary in order to fulfil the remit of the inquiry.’

And I honestly believe that, looking at this commission inquiry, it has been a fuller explanation of the Crowe report. They have had those additional powers, they have had the money there to ask witnesses to come in to give evidence and I also believe that, and it has been mentioned many hours ago, that it is a plagiarism on the Department of Local and the Environment’s recommendations. It has been mentioned that all those recommendations are being looked at now and that is one of the reasons I will be

supporting the amendment of the hon. member for Douglas North, Mr Henderson.

Mr President, I said in December 2002 when we were again looking at this inquiry or we were debating the Mount Murray inquiry, if we look at the Crowe report of 30th December 2000, Professor Crowe’s overview says, ‘I first of all must report that in the course of my inquiries I found no evidence to substantiate any charge of corruption against any of the officials concerned. This is not to say that none were made in the course of my talking to people to gather evidence; they were, and I followed them up and I found nothing.’

He finishes by saying ‘in this sad history, however, the officials concerned appear neither on the one hand to manipulate the Planning Committee to their point of view nor on the other to have faced up at that due time to an embarrassing and divisive issue. Rather they were content, as they perhaps saw it, to let the issue stay below the horizon and, in so doing, they were successful in keeping the momentum of what to them was a very desirable project, but, in so doing, denied to the committee’ – which is the Planning Committee – ‘and to government as a whole the opportunity of deciding for themselves whether the price to be paid for a very advantageous tourism development was worth the price to be paid in accepting a residential development contrary to established policy.’

Mr President, I do not want to go on. Your initial remarks at the start was not to repeat other people’s contributions (**Several Members:** hear, hear.) and therefore, Mr President, I have made my contribution. I hope I have helped in the debate, and I thank you.

The President: I call on the hon. member for Onchan to reply.

Mr Karran: Eaghtyrane, hon. members, *Hansard* of today’s proceedings and this debate will be available to everyone who wishes to read a transcript of what was said here today –

The President: Hon. member, could you speak up, please.

Mr Karran: – and, most importantly, who said it. I have no doubt that the words of each and every hon. member will be fully considered, together with which way each and every one of us has voted on the matters before this hon. Court.

It was once famously stated that ‘it was with the importance of consequential events the whole world watches.’ Well, never has there been a truer word said than today in this place.

Eaghtyrane, hon. members, the Mount Murray Report Part One cannot be diminished or dismissed by the Ard-shirveishagh and his Council of Ministers with the use of platitudes and wishful thinking. This important and vital part one of the report stands as a

body of evidence based on facts and well thought-out recommendations.

The report was laid before this hon. Court after the most careful consideration and examination of the evidence by the commission, under the chairmanship of Mr Nigel Macleod QC.

Eaghtyrane, hon. members, those who have chosen to make disparaging remarks concerning the contents of this report will find that there will be no hiding places when the time comes to justify such remarks, and those who have chosen to make remarks about the commission, its chairman and the work of the commission in terms that any reasonable person would conclude as being unfitting and shameful. *(Interjection by Mrs Hannan)* They should consider that they have done the international reputation of this hon. Court, I should suggest that it has done nothing but harm to it.

Eaghtyrane, hon. members, I say again that the hon. Court owes a debt of gratitude to Mr Nigel Macleod, Mr Martin Bradshaw and Mr Solly for all the efforts on behalf of this hon. Court in discharging the task laid upon them by Tynwald. The Manx people should be thankful that in this commission of inquiry they have been well served.

The Manx people may wish to take particular note of those it elects to serve it and who have done nothing but attempted to pour scorn upon the commission's efforts and who have ignored the benefit to the people that this report offers, but have chosen to complain instead about the costs of the inquiry.

The public will remember this and it will also not forgive such rank hypocrisy from the individuals concerned either. They may be sure that the will will be with the people on hand to remind the electorate when the appropriate time comes, of the facts.

Eaghtyrane, hon. members, those of us in this hon. Court who have read the part one report have concluded that such a report together with the very important recommendations must be approved and acted upon urgently and are to be congratulated for discharging their duties to the people of the Isle of Man.

Those who have chosen to do differently and to do it in the full glare of the attention of the international press and to do so, oppose in the full force of public opinion, who this matter stands firmly against all efforts and have done everything to hamper the commission of inquiry to minimise the conclusions of part one.

A Member: Is there any evidence of this?

Mr Karran: Eaghtyrane, hon. members, in conclusion, I make again a plea for open, honest, transparent government. The commission of inquiry has delivered, in good faith, the part one report. By our public approval of it and our determination to implement all the recommendations, we are sending that message to our people – a message that can be to our people that we have open, honest, transparent

dealings between them and the government its elects. This is the heart and soul of the matter, as far as this debate today.

If we do not, then those individuals will earn the bitter reproach of the people and the people will, in the fullness of time, reject them for their failures.

Eaghtyrane, hon. members, this hon. Court stands rock-like upon a principle for more than a thousand years. It is as fundamental as this: we serve the people. Our duty is to serve them well. The Commission of Inquiry Report Part One has made a compelling contribution to the benefit of the Isle of Man. I trust that all hon. members can agree to do this and I beg to move the report and the motion as stands.

The President: Now, hon. members, having listened to the debate, the motion which I put to you is that printed at 13 on your order paper and to that we have the amendment moved in the name of the hon. member Mr Henderson and seconded by Mr Rodan. Hon. members, I will put to you first the amendment moved by the hon. member for Douglas North, Mr Henderson, and circulated to you on your white paper. Those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys –

For: Mr Anderson, Mr Rodan, Mr Quayle, Mr Rimington, Mr Gill, Mr Houghton, Mr Henderson, Mr Cretney, Mr Braidwood, Mr Downie, Mrs Shimmis, Mrs Hannan, Mr Bell, Mrs Craine, Mr Corkill, Mr Earnshaw, Capt. Douglas and the Speaker – 18

Against: Mr Cannan, Mr Gawne, Mr Duggan, Mrs Cannell and Mr Karran – 5

The Speaker: Mr President, the amendment carries in the House of Keys, with 18 votes for and 5 votes against.

In the Council –

For: Mr Waft, Mr Kniveton, Mrs Christian, Mr Gelling and Mrs Crowe – 5

Against: Mr Lowey, Mr Singer and Mr Delaney – 3

The President: With 5 for and 3 against in the Council, hon. members, the amendment therefore carries.

I put to you the motion at item 13 as amended. Those in favour please say aye; against, no. The ayes have it.

A division was called for and the voting resulted as follows:

In the Keys –

*For: Mr Anderson, Mr Cannan, Mr Rodan,
Mr Quayle, Mr Rimington, Mr Gill, Mr Gawne,
Mr Houghton, Mr Henderson, Mr Cretney,
Mr Braidwood, Mr Downie, Mr Shimmin,
Mrs Hannan, Mr Bell, Mrs Craine, Mr Corkill,
Mr Earnshaw, Capt. Douglas and the Speaker – 20*

Against: Mr Duggan, Mrs Cannell and Mr Karran – 3

The Speaker: Mr President, the motion as amended carries with 20 votes for and 3 votes against.

In the Council –

*For: Mr Lowey, Mr Waft, Mr Singer, Mr Kniveton,
Mrs Christian, Mr Delaney, Mr Gelling and
Mrs Crowe – 8*

Against: None.

The President: With 8 votes cast for in the Council, hon. members, the motion therefore carries.

Now, hon. members, we have had a good day, I think, today. I think it is an appropriate time at which we retire and come back refreshed in the morning. We will start at half past 10 in the morning with item 3 on the order paper, hon. members. Thank you.

The Court adjourned at 9.44 p.m.
