

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

**Douglas, Tuesday, 18th March 2003
at 10.30 a.m.**

Present:

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

In the Council: The Lord Bishop (the Rt Revd Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Mr D F K Delaney, Mr D J Gelling CBE, 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 (Ramsey); Mr R E Quine OBE (Ayre); 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 Hon. P M Crowe (Rushen); with Mr M Cornwell-Kelly, Clerk of Tynwald.

The Lord Bishop took the prayers.

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Financial Supervision (Professional Investor Fund) (Exemption) (Amendment) Order 2003 – Approved	T828
Financial Supervision (Experienced Investor Fund) (Exemption) (Amendment) Order 2003 – Approved	T829
Value Added Tax (Financial Services) (Amendment) Order 2003 – Approved	T830
Marking and Cattle Records (Amendment) Order 2003 and Cattle Passports (Amendment) Order 2003 – Approved	T831

Legislative Council – Congratulations to Members Elected

The President: Hon. members, prior to consideration of the order paper, I would like, particularly this morning, to offer congratulations to Mr Lowey on his re-election to the Legislative Council (**Members:** Hear, hear.) and to Mr Singer on his election first time round to the Legislative Council. (**Members:** Hear, hear.) I am sure that both members will make a valuable contribution to the work of the Council when dealing with legislation.

Members: Hear, hear.

Welcome to Visitors

The President: Hon. members, I am also privileged this morning to welcome a party of students from Kirk Michael School, who are visiting us here today.

Bill for Signature

The President: We have one Bill for signature, hon. members, the Property Services Charges (Amendment) Bill, and if you are agreeable we will continue our business while it is being signed. It was not returned from the Lord Chancellor's Office in time for it to reach the order paper but Standing Order 22(4)(b) allows me, providing that you are content, to bring it so before you. (**Members:** Hear, hear.) Are you content, hon. members? (*Members agreed.*) In that case, the Bill will be circulated for signature.

Papers Laid Before the Court

The President: I call upon the Clerk to lay papers.

The Clerk: Mr President, I lay before the Court the papers listed at item 1 of the order paper:

Corporate Service Providers Act 2000 –
Corporate Service Providers (Fees)
Regulations 2003 [SD No 54/03]

Investment Business Acts 1991 to 1993 –

Investment Business (Fees)
Regulations 2003 [SD No 55/03]

Banking Act 1998 –
Banking (Fees) Regulations 2003
[SD No 56/03]

Income Tax Acts 1970 to 1991 –
Income Tax Exemption (Managed
Banks) (Fees) Order 2003 [SD No
57/03]

Building Societies Act 1986 –
Building Societies (Authorisation)
(Fees) Regulations 2003 [SD No
59/03]

Financial Supervision Act 1988 –
Collective Investment Scheme (Fees)
Regulations 2003 [SD No 58/03]
Financial Supervision (Professional
Investor Fund) (Exemption)
(Amendment) Order 2003 [SD No
81/03]
Financial Supervision (Experienced
Investor Fund) (Exemption)
(Amendment) Order 2003 [SD No
80/03]

Fees and Duties Act 1989 –
Planning and Building Control
(Search Fees etc.) Order 2003 [SD
No 93/03]

Town and Country Planning Acts 1934 to
1991 –
Town and Country Planning (Fees
for Applications) Order 2003 [SD No
126/03]

Government Departments Act 1987 –
Statutory Boards Act 1987 –
Waste Management Board Order
2003
[SD No 145/03]

Value Added Tax Act 1996 –
Value Added Tax (Financial
Services) (Amendment) Order 2003
[SD No 115/03]

Animal Health Act 1996 –

- Marking and Cattle Records (Amendment) Order 2003 [*SD No 66/03*]
 Cattle Passports (Amendment) Order 2003 [*SD No 67/03*]
 Importation of Carriers of Rabies (Amendment) Order 2003 [*SD No 125/03*]
- Provision of Lime (Amendment) Scheme 2003 –
 Provision of Lime (Amendment) Scheme 2003 [*GC No 7/03*]
- Dairy Industry (Emergency Financial Assistance) Scheme 2003 –
 Dairy Industry (Emergency Financial Assistance) Scheme 2003 [*GC No 8/03*]
- Student Awards Scheme 2003 –
 Student Awards Scheme 2003 [*GC No 04/03*]
- Social Security Contributions and Benefits Act 1992 –
 Social Security Administration Act 1992 –
 Social Security Benefits Upgrading Order 2003 [*SD No 116/03*]
- Social Security Act 2002 –
 Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 2003 [*SD No 117/03*]
 Social Security Administration Act 1992 (Application) (Amendment) Order 2003 [*SD No 118/03*]
 Social Security Legislation (Application) (No. 3) Order 2003 [*SD No 119/03*]
 Child Benefit (Tax Credits Act 2002) (Application) Order 2003 [*SD No 120/03*]
- Social Security Contributions and Benefits Act 1992 –
 Child Benefit (General) (Amendment) Regulations 2003 [*SD No 121/03*]
 Income Support (General) (Isle of Man) (Amendment) Regulations 2003 [*SD No 122/03*]
 Family Income Supplement (General) (Amendment) Regulations 2003 [*SD No 123/03*]
- Gaming (Amendment) Act 1984 –
 Controlled Machines (Prescribed Amounts) Regulations 2003 [*SD No 79/03*]
- Local Government Act 1985 –
- Northern Parishes Refuse Collection Board Order 2003 [*SD No 127/03*]
 Peel (Boundary Extension) Order 2003 [*SD No 110/03*]
- Report –
 Executive Summary of the Consultancy Review of the Isle of Man's Meat and Dairy Sector (February 2003) by Promar International.
- Note: The following items are not the subject of motions on the order paper:
- Currency Act 1992 –
 Currency (Harry Potter Crowns) Order 2002 [*SD No 616/02*]
- Social Security Pensions Act 1975 –
 Pensions Increase (Annual Review) Order 2003 [*SD No 62/03*]
- Insurance Act 1986 –
 Insurance (Amendment) (Fees) Regulations 2003 [*SD No 86/03*]
- Insurance Intermediaries (General Business) Act 1996 –
 Insurance Intermediaries (General Business) (Amendment) (Fees) Regulations 2003 [*SD No 87/03*]
- Customs and Excise Acts 1986 –
 Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2003 [*SD No 64/03*]
- Value Added Tax Act 1996 –
 Value Added Tax (Health and Welfare) Order 2003 [*SD No 68/03*]
- Burials Act 1986 –
 Burial Grounds (Maximum Rate) Order 2003 [*SD No 138/03*]
- Trade Marks –
 Trade Marks Act 1994 (Isle of Man) (Amendment) Order 2003 [*SI 2002 No 3148*]
- European Communities –
 European Community Secondary Legislation February 2003 [*GC No 11/03*]
 Fourth Amendment to the List of Persons, Groups and Entities Under the European Communities (Al-Qaida and Taliban Sanctions) (Application) Order 2002 [*GC No 10/03*]

Reports –

British-Irish Inter-Parliamentary Body. Report on the Twenty-Fifth Plenary Conference.

Financial information and miscellaneous accounts for the year ended 31st March 2002 additional to the published Government Accounts. Isle of Man Policing Plan 2003-2004.

Isle of Man International Business School financial statements for the year ended 31st August 2002.

Interception of Communications Act 1988 – Report of the commissioner for the year ended 31st December 2002.

Questions were taken at this point and concluded at 12.08 p.m. They are published separately.

Red Gap/School Hill, Castletown – Proposed Residential Development – Motion Carried

Item 3. The Minister for Local Government and the Environment to move:

That Tynwald -

- (i) *approves the Department of Local Government and the Environment incurring expenditure not exceeding £5,800,000 for the development of a site of 61 housing units; incurring expenditure not exceeding £5,800,000 for the development of a site of 61 housing units;*
- (ii) *authorises the Treasury to spend out of the Capital Transactions Account during the financial year ending 31st March 2003, a sum not exceeding £5,800,000;*
- (iii) *approves of and sanctions borrowing not exceeding £5,800,000 being made by government, such borrowings to be repaid within a period of 30 years; and*
- (iv) *approves the transfer of £5,800,000 from the Housing Reserve Fund to the Capital Transactions Account during the year ending 31st March 2003.*

The President: I call on the hon. member, the Minister for Local Government and the Environment

to move item 3. Hon. member for Rushen, Mrs Crowe. I think we have reached Red Gap, Mrs Crowe.

Mrs Crowe: Thank you, Mr President. You are moving on very swiftly today.

My department has acquired the 4.5 acre site at Red Gap in Castletown as a site zoned for residential development to address the identified need for affordable housing in the south of the Island. I am very happy, therefore, to bring forward this resolution today to provide 30 first-time buyer units and 31 public sector units in Castletown, in furtherance of the department's strategy for the delivery of more affordable housing.

The sum of £5,800,000 is being sought, and that represents the balance of the cost of developing the site following expenditure of the pre-contract costs, approved as part of my resolution in May 2002.

The first-time buyer properties will consist of two- and three-bedroomed houses to be sold to qualifying persons from the first-time buyer register. The range of prices will be from £118,000 to £130,000. They will be comparable with the provisions of the house purchase assistance scheme 2002, under which my department is able to offer financial assistance to residentially qualified people.

Mr President, I might add that I am delighted with the designs of this scheme and, indeed, the recreational aspects also. The public sector housing is proposed to be used initially as transit accommodation to facilitate the department's forthcoming major refurbishment of the Janet's Corner estate. The overall costs of development are in keeping with the other recent public sector housing schemes. The density of the development, at over 13 properties per acre, is an efficient although appropriate use for the site, and therefore the project will be good value for money to the department, to Castletown and to the south of the Island.

This means that this year we will have 170 affordable houses under construction, and the scheme will add to the further 170 houses that are due to commence shortly. I therefore urge hon. members to support this motion to enable work on the site to commence next month and provide much needed affordable housing. Mr President, I beg to move.

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

Mr Lowey: Thank you, Mr President. It gives me great pleasure to second the resolution and to reserve my remarks.

The President: Mr Speaker.

The Speaker: Thank you, Mr President. I welcome the proposal on the order paper from the minister and I am sure it will be very much welcomed by many in Castletown. Clearly the problems that we have had in relation to the provision of housing have been quite acute. Apart from small pockets of development within the town over recent years, there

has actually been little development on a scale like this to meet the need of the people of Castletown, whether they be first-time buyers or whether they be persons waiting for public sector housing units, that is, the normal public sector units. In fact it is not since the early 1970s that we have seen anything on this scale built within our town. That has caused serious problems and very much upset a number of people in terms of the lack of opportunity to buy within the town where many have grown up, and has resulted over the years in lost opportunities and many young people from Castletown having to live elsewhere on the Isle of Man.

As I say, I welcome this very much, and can I say that I also find it worth making the point that this problem has not been due to a lack of land. It has actually been due to a lack of availability of the land and the land being able to be successful in achieving planning approval for housing. We have two large sites in the town where we have had ongoing problems now for some 10 to 15 years and no result on those, so that is how important this development is to Castletown and the people of the town.

I welcome this, firstly because it will provide much needed first-time buyer housing for people within Castletown. I hear what the minister said about the persons being considered from the first-time buyers register, and whilst I understand that clearly that is an issue where the minister has an all-Island responsibility, I would hope that in fact an opportunity is taken firstly for an extensive promotion by the department within Castletown to make it clear to people that there are properties here that are going to be built and what the criteria are for them to get onto the first-time buyers' register. I do not mean just putting, with respect, a poster or a list within the Civic Centre, the Commissioners' Office. I mean house to house round the town because I do think it is that important. People will need time to consider whether or not they feel they can be in a position to purchase houses.

One of the biggest problems we have had in Castletown for many years because of the stagnation and lack of properties has been for persons in the age group of either late 40s or early 50s who, when they were young and married, could not afford to buy or could not find a house to buy, so they went into public sector housing and have become trapped within that sector of housing if they wish to stay in Castletown. They are now finding themselves in the position where their age works against their ability to get a mortgage. Again, the minister knows this; this is no surprise.

I have continually raised this issue in Tynwald with the minister and with her department outside of Tynwald about the problems of persons in the age group of 40 through to 50 to 55 who now have an income where they could actually get a mortgage but the only thing that works against them is their age because of the time span of repaying the mortgage. I seriously hope the minister will deal with this issue in relation to these opportunities that are going to be created at Red Gap.

So there is much to be welcomed, and I hope that also some preferential consideration will be given to persons who are going to be identified for these houses within Castletown, mainly because of the unique and difficult circumstances the residents of the town have found themselves in over a period of 10 to 20 years in the ability to find houses within their own town. We are curtailed by the airport in how development can happen and we are curtailed by the sea on the other side, and then of course the rest of the town spreads out into the countryside. That in itself creates natural boundaries which, of course, planners do not wish see development take place on.

Here we have a development going to happen within an area where residential development has already taken place but on land that was zoned and potentially available some 15 years ago, but for many reasons the land was not available and not able to be used for housing.

Again, I am conscious of the considerable effort by the minister and by the government in, firstly, trying to secure this land and, secondly, in actively progressing this important scheme for the town of Castletown and, of course, for the Isle of Man, because what benefits Castletown benefits the Island.

The second issue which of course is important to Castletown in relation to this development and shows it is important is, in fact, the issue of provision of some of these units for transit houses, as the minister has said, to enable the major refurbishment/redevelopment scheme for the housing estate of Janet's Corner, owned by the department, which needs to be implemented sooner rather than later. The majority of the Janet's Corner housing estate was built just after the Second World War. The older houses now suffer from severe and serious deterioration to the walls, roofs and windows, draughts and inadequate heating systems. There is no doubt in my mind at all that because of the substandard condition of many of these houses due to the deterioration that is happening – and quite rapidly happening – that in fact there are many children who suffer unnecessarily from colds and all sorts of illnesses that would be avoided if in fact the houses were able to be to the standard that we now expect in this day and age.

So again I am delighted that we this year supported £9.9 million in the budget for the refurbishment of the Janet's Corner scheme, that is the budget for 2003-4, and also that the department is actively working towards getting the Janet's Corner scheme underway. A lot of work there has to be done, but very importantly none of that can be started without the provision of transit houses to enable houses to be vacated. People can be transferred temporarily to them whilst the major redevelopment/refurbishment goes ahead in the Janet's Corner estate, something which is again to be welcomed.

I thank the minister and her department for progressing this scheme and for making it a priority. I think the provision of the development with adequate facilities for young people as well in that area is to be welcomed, and I am sure that the scheme, albeit

relatively small but large in Castletown terms, will play an important part in helping relieve the problems that we have had and will overcome what has been denied to many in the town: the opportunity to buy within their own town and of course to provide adequate and improved housing for my constituents. Therefore I look forward to seeing the completion of the scheme, as I am sure many people of Castletown do, and I would urge hon. members to support this valuable scheme because it has such a great benefit to people in the Isle of Man and especially the town of Castletown.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. I support the proposal that is before us, but I wonder could the minister clarify what the ultimate cost of this will be. Obviously there are some properties that are going to be sold and that is going to bring money back in again, so I wonder could the minister make it quite clear as to the actual cost of the land and of this development and what moneys will be paid back into the coffers.

The other thing is for those of us who are not as au fait as we might like to think; one of the explanatory notes to members did have a map on it but I have not got it and I think some of the members have not got it, so if we could have a map to see exactly where it is it would be very helpful. Thank you.

The President: Hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr President. Can the minister advise on the benefits of being on a first-time buyers list? Would she agree with me that being on the first-time buyers list does not give you any guarantee that you are going to be accommodated, with this development or any future development that might arise, and that such a list is merely a list of expressions of interest as confirmed by our officers in her department? Further, can she advise on what sort of pitch in terms of the price for buying such properties might be, given that the cheapest in Peel recently was £120,000, thereby excluding at least three quarters of those on the first-time buyers list? Further, does she not think it is time that people who are on such a list were given an idea of whether or not they have any hope in the future of being accommodated seriously? To remain on such a list, hopeful that you are working towards – you might be a single parent – being able to afford your own home in the future is rather discourteous and disloyal and untrue. People are actually hanging on this list; some have been on for over two years and they keep getting bypassed because their annual earnings, even taking into consideration the very generous support through the department in terms of the grant and loan system, will not give them a step into a new first-time buyers' house if they remain at minimum of £120,000.

I hate to burst the bubble but, further, I think it is important to ask and to put down on record, aside from

that but very, very important in terms of any proposed new development in the Isle of Man, has the minister, as the department is compelled to under law, consulted with the Water Authority in terms of their ability to supply water for drinking purposes to this or any other development that might come forward, particularly in the South where we have a real inability to provide and no future plan to be able to say we can provide in the future – nothing? Has she consulted with the Water Authority, and will she appreciate, and the hon. members of the Council of Ministers appreciate, that under the Water Act the Water Authority can legitimately object to new planning developments irrespective of whether they lie in the statutory area of supply or not?

Is the minister aware of that? Has she fulfilled her obligation and consulted? Has she had any idea from the Water Authority about their ability to supply the water for the 61 housing units that are proposed under this, because if she has not and the Water Authority cannot supply water, then Tynwald, I would suggest with all due respect, is wasting its time.

Mr President, would the hon. minister accept that I am not using this particular platform in order to score any points in terms of the rejection of planning consent – ?

A Member: Of course you are.

Mrs Cannell: But I am merely putting it down in this important place where policy is determined and expenditure approved or otherwise, that if there is a serious ability to supply any of the services that are required for any new development, then it should be considered as part of the consideration before members just blankly approve of this bubble of hope. I am sorry to be bursting the bubble, but let us get real here.

The President: Hon. member, Mr Quayle.

Mr Quayle: Thank you, Mr President. I rise in support of this particular policy and the provision of affordable housing for the 30 first-time buyer properties and the 31 public sector units for rent. The reasons for the provision of these have been very well outlined previously. However, during the measures that are outlined here it says that the public sector housing will initially be used as transit accommodation to enable the Janet's Corner refurbishment to progress. I am sure that is very much needed as well, but I am sure that my own constituency of Middle, along with others around the Island, has local authority housing which is in much need of refurbishment and has had an enormous amount of promises over the years to have some refurbishment. I would ask if the minister, in summing up, could ensure that her department may share with us perhaps a programme outlining her intended progress to achieve refurbishment not just of the Janet's Corner properties but of those around the rest of the Island.

A Member: Hear, hear.

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

Mr Karran: Eaghtyrane, I think today we have got no choice as far as this proposal in front of us. We have to support it. I am sure that I am not the only member who is driven to despair on a daily basis that people have got nowhere decent to live and are often in some awful circumstances as far as the fact that they have some awful liabilities, disabilities, even disabled children, but are unable to get on lists because of the gerrymandering and the hiding that has been done by this and previous administrations. The housing crisis is a cancer in our society. I think the fact is that no-one can not vote for this today – it has to be supported.

What I would like the minister, the shirveishagh to tell this hon. Court is whether the cost involved in this is £5.8 million. What other costs are on top of this that have not been included as far as the 61 houses are concerned? I believe that that is something that we need to check up. Are we being told in this hon. Court that this development is costing us, in total, £5.8 million for the site for the 61 houses? Is the cost of the land in that as well? Are there other sundry costs in that as well?

The concern I had was with the cost of the land originally. The problem we have in this hon. Court as a court is to get out of bed with the developers, (**A Member:** Hear, hear.) to stop them making the agenda, because this today is one of the reasons why we are seeing the taxpayer being ripped off. We have no choice in the matter; we have to support this proposal, in my opinion, even though it breaks my heart. The cost of us having to be ripped off over the cost of the site to start off with affects the space and size of these units. I have to say that I totally agree with the hon. member for Peel, who has raised the issues before. No wonder we are increasingly having social pressures within our society if people are expected to live in rabbit hutches and yet bring up families and have the space for people not to have the social problems. I would be interested to know what sort of size these properties are. I hope that they are not going to be under the department's size criteria as far as getting support for first-time buyers' houses. What sort of numbers of bedrooms are in these proposals? I do hope that the minister can tell us this.

I also agree with the member for Castletown; he is totally right as far as older people coming into housing and living in council houses. They have no choice. I do hope that we will see the part equity mortgage scheme that many of us have been wanting to see brought in over the years, because that is the only effective way we are going to get people who have been in the situation that the member for Castletown is on about with this issue.

May I just say that whilst I support this proposal, it is just very sad about the likes of my private member's Bill which if it would have gone through the Court would have had the houses that the department are now going to have to build on the same land and likely would have been more effective. Will the minister look at the issue of whether we should be

putting some restrictions on these first-time buyers' houses so that there is some binding restriction as far as the rental of these houses in perpetuity, in order to stop the absurdity that we have seen on far too many first-time buyers' developments? I look at the ones that the member for South Douglas did so much work for as far as Norwest Holst with all the work that was done for that. Something like 40 to 50 per cent of those houses are now in the private rental sector.

I believe that we have to address that issue as part of the equation as far as addressing the housing crisis. I do not want to see, in 15 years' time or 10, or even less in the case of that development, a sizeable chunk owned not for nests but for nest eggs. It is all right people talking about a free hand in the market. You, minister, like my colleague next-door and myself, can afford to fight your corner in the market, but the working people cannot.

I do think that in relation to this proposal we should be looking at the fundamental issues of getting certain housing for homes, for nests, not investments for nest eggs for people. Those houses should not be affected as far as the quality of their homes but will affect their quality as an investment opportunity. If we do not address that issue, we are going to be forever being the loser as far as the taxpayer is concerned. Can the minister give the full costs of this development?

The President: Hon. member for Michael.

Mr Cannan: I support this development, Mr President, because housing is an absolute priority, but I just inquire of the minister how she determines her priority of where housing should be in the Island? I say that because in October 1999, three and a half years ago, the hon. member for Ayre, Mr Quine, announced to this Court that he was preparing a development for service plots at Jurby – three and a half years ago – and still the minister has not come forward with anything. Planning has been approved; all the necessary requirements have been approved and yet still nothing has come forward three and a half years later. I would add, just like the member for Castletown has about the conditions of housing that need refurbishing, the Bretney estate is in serious, serious need of refurbishment. It is, in today's terms, substandard housing.

The President: Hon. member for Ayre, Mr Quine.

Mr Quine: Mr President, I do not want to draw us any further into a general housing debate. We have other business on the agenda when no doubt we will be expressing views on that. There are just two points that I think ought to be made at this juncture in relation to this motion. The first is, of course, the inordinate time taken in producing housing. I do not know whether there is yet a full recognition of what that timeframe is. I know that the minister knows it, but there is an extraordinary timeframe. The land which we are discussing today – I did the negotiations for that and that is some two years ago. You can see the timeframe

from that point until you reach this point where we are just putting forward a formal motion. This is just one small part of the whole, so this time factor is something really that, although we have visited it on more than one occasion, is still a critical factor.

The other issue that I would just like to focus attention on is the artificial in some ways, but frightening in other ways, market conditions in which we are now operating. We are talking of £6 million for 60 houses. I am sure that the minister will confirm that we have a prospect of recouping something around half a million pounds of that over an extended period of time. We are into very big money. Here we have 60 houses, and those 60 houses are going to take away one third of the housing fund that we have set aside, just like that. (**A Member:** Hear, hear.) There has to be a question asked somewhere along the road as long as we are in the laissez-faire approach to housing, and that is what can the community continue to afford? Is it realistic to achieve the housing numbers that we need in the present market conditions?

Those are the only two points I wish to make at this stage, but I think they do come out very strongly in relation to this motion. I am very happy to support this motion – it is housing that we need (**A Member:** Absolutely.) – but we are working in a market situation which quite frankly is frightening. I for one believe there are steps we could take to deal with it if we have the political will to deal with it.

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

Mr Bell: Thank you, Mr President. I rise really only to make one or two comments based on the comments of the member for East Douglas, the chairman of the water board. I fully support this proposition and by and large I agree with the comments which have been made by the hon. member for Castletown and, in particular, the hon. member for Ayre, who has just resumed his seat, about the problems and the urgency in getting these houses developed. There is undoubtedly still, in spite of our best efforts, a major problem with our community in finding the requisite number of houses to meet the current demands and immediate future demands with the growth in the economy. I am seriously alarmed when I hear totally irresponsible comments from the member for East Douglas, who masquerades as the chairman of the Water Authority, shroud-waving and deliberately trying to create alarm amongst the people outside who are genuinely looking for houses and, it would appear to me, deliberately trying to put obstacles in the way of the ongoing development of the government housing programme.

The hon. member is charged, as chairman of the Water Authority, to provide a service, a supply of water to our community. If in fact there are problems in doing that then the hon. member should have the common sense to come either to talk to the local government department itself or to other bodies of government to ensure that this problem is overcome. We are elected to resolve problems and smooth the

system to enable us to provide services, in this case housing, to our community, not to shroud-wave, not to point-score and not to headline-chase –

Mrs Cannell: We want a treatment plant; that is what we want – clean water.

Mr Bell: And I think it is totally irresponsible to hear these sorts of comments coming out this morning when the government and the local government department in particular are trying so hard to resolve this issue in order to deliver housing to our people. What we need to hear from the chairman of the water board is possible solutions to the current problem which would enable the developments to take place as quickly as possible. He should not deliberately flag up possible objections to future developments; objections, which could in fact delay these schemes by some considerable time which in turn will exacerbate the problem throughout the Island. It is my understanding that as far as a water treatment plant in Douglas is concerned that the Water Authority was told well in advance that the scheme that it was putting forward was not acceptable for the site. At that point, the discussions should have taken place to identify an acceptable way forward which would have satisfied everybody and delivered the service at the same time –

Mrs Cannell: A point of order, Mr President. I think the Treasury minister should be warned that he may be erring into the area of sub judice if he proceeds along this line.

The President: Hon. member, the hon. member for Ramsey is perfectly in order. Continue, Mr Bell.

Mr Bell: I see, Mr President, I am more in danger of erring in the direction of common sense not sub judice and it would be gratefully received from the Water Authority if we had the same sort of response from it. We have heard a great deal about the need for corporate government, joined-up government, government working together to deliver the service to the public. That is what we are here for; that is what we are elected for –

Mrs Cannell: Well, why are you ignoring us then?

The President: Hon. member!

Mr Bell: You have, hon. member, the opportunity as well as a responsibility if you identify problems to talk to the relevant bodies; whether it is planning, whether it is the local government department or even the Council of Ministers to overcome problems as they arise. It is not in any of our interests to spend our time shroud-waving, headline-chasing and indeed putting deliberate obstacles in the way of developments which may take place to provide this desperately needed provision of increasing our housing stock. I would urge the hon. minister for local government –

Mrs Cannell: You put the obstacle there.

The President: Hon. member!

Mr Bell: Perhaps the minister for local government could identify what talks have in fact taken place between her department and the planners over not only this scheme but other schemes that are in the pipeline. I refer particularly to the five-year programme during which an estimated 1,200 houses, 600 first-time buyer houses, 600 commissioner's houses for rent are likely to be built. What discussions have taken place between the Water Authority and her department to ensure that there are no problems in the future and that the concerns expressed by the hon. chairman of the water board are fully met and addressed to enable all these developments to go ahead? It would be totally unacceptable if we found month after month after month as these schemes came forward, as they are likely to do now as they are all coming closer to fruition, that we still had a repetition of this shroud-waving which simply is going to alarm our people and indeed possibly hold up very positive, very constructive developments which are going to ease this very urgent social problem.

So, Mr President, I abhor the comments made by the hon. member. I think it is totally irresponsible in the present climate (*Interjection*) and I would urge the hon. minister to confirm what negotiations, discussions have taken place between her department and the water board and what positive solutions have been put forward by the water board to work alongside yourselves to deliver this much needed facility for the people of the Island.

The President: Hon. member for Council, Mr Waft.

Mr Waft: Thank you, Mr President. First of all I would like to congratulate the department on producing what Tynwald has asked for and that is to produce more houses. There are great debates about getting the bricks on top of one another, getting the houses off the ground and there was great debate about how much should be spent. However, we are going to see much needed houses being built and we should not lose sight of that. (**A Member:** Hear, hear.) Utilities should be put in place without any problem whatsoever. However, the concern I have is that problems have arisen in the past because no local authority housing was built at all. That problem has come back to 'bite' us. We cannot get away from the fact that we have had a crisis, but we are addressing that issue. The houses are up here and now and we have to pay the price.

Once this situation has been sorted out we should make sure that we get reports on, for instance, the social and economics issues telling us exactly how many people are going to be on the Island and how many private residences are built every year. Then we will know exactly the numbers of people on the waiting list and exactly what the situation is. Some members think that perhaps there should be more

people on the waiting list but they may not have the credibility to be on it. With reports we could establish the figures fairly correctly I should think. A formula could be arrived at by the department to make sure that this sort of situation did not happen again and that everybody was treated equally and that all the local authorities had reasonable access to the people who really need houses. I am living in hope that we are able to do that in the future. Thank you, sir.

The President: Minister to reply.

Mrs Crowe: Thank you, Mr President. I thank the last speaker, the hon. member for Council, Mr Waft, for the support. What we are trying to do in the department at this present time is push forward to make sure that the Island is never again in the situation that we arrived at. I do not blame anyone for the position that we are in today. We are progressing as swiftly as possible the need for affordable housing, and I will be bringing forward schemes almost on a monthly basis to this Court.

To answer the hon. member for Castletown who again supported the scheme, yes indeed we will do what we can to advertise. However, I would like to say that we have 54 persons on the first-time buyer list who have indicated their first preference for Castletown and 63 who have indicated their second preference. As I stated, we have only 30 homes, so I feel that there is a need for advertising. The first-time buyers list is well known but we will do all we can to further promote it. However, as you can see from the numbers I have already quoted we need more housing in the south of the Isle of Man. The houses are awarded without any political input at all, they are awarded on a very strict criteria pointing system, and that is why I am able to give you those figures today.

I thank Mrs Hannan, the hon. member for Peel, for her support. The hon. member for Onchan, Mr Karran asked for a breakdown of the financial aspects of this scheme and I will make sure that that is sent to all members, including a map that will show in detail what is going on the scheme. Mr Karran went further in his indication of the houses that are for nests and not nest eggs. I want to assure him categorically that these houses are all built to the department's specifications; they all fit within our first-time buyers' scheme. Included in that is a part equity mortgage called a low-interest top-up loan. Therefore not only can a first-time buyer get an £18,000 grant towards housing they can also have 30 per cent of the purchase price of that property as a low-interest loan. That would mean that something like a £90,000 mortgage would be required. I think the Isle of Man Government has done a great deal to help all those who wish to purchase their first homes and I hope that this continues.

The hon. member for East Douglas, Mrs Cannell, mentions the first-time buyers' list and states that inclusion on the list has no binding obligation on the department to provide housing. Well of course it does not; I cannot possibly do that. What we are saying is 'put your name down on the list and we will do our very best to make sure you get a home at some stage'.

However, she went on to describe the list as being 'discourteous', 'untrue' and 'disloyal'. I do not think those comments were really very helpful.

She did not want to burst the bubble that we might all be feeling that we are going to have some first-time buyers that are going to be accommodated, as well as having the transit homes for the very much needed refurbishment of the Janet's Corner estate. There were veiled threats regarding the Water Authority and the provision of water. Persons are being accommodated in these houses who are residents of the Isle of Man, and they are either taking a shower or flushing the loo in their parents' home or in rented accommodation at the present time. They will be moving on to their own home, so I feel that there will be very little difference in the supply of water if water management is the issue, and I just wanted to make that quite clear.

Once again I thank the hon. member for Ramsey, Mr Bell, for his support. As you know, I cannot comment on any planning issue but what I would say is that members of the department have met with the Water Authority and have offered help at all stages to help resolve any problems.

Mr Quayle, the hon. member for Middle, mentioned that of course he would like to have some priority shown in the Braddan area –

Mr Quayle: 'Across the Island', I said.

Mrs Crowe: Yes, across the Island, but Braddan's housing stock is in excellent condition and I congratulate the local authorities on keeping it that way.

The hon. member for Michael of course mentions Jurby, and I am *ashamed* that the Jurby scheme for self-build housing is not before this Court today. There have been some problems over the sale of land for self-build but I have in no way prioritised in the department. All these schemes are running together and they are putting the officers under a great deal of pressure. We did have a little hiccup in addressing the sale of that land, but I do hope that scheme will be before this hon. Court next month and I apologise that it is not here today. I would also comment on the local authority housing in your area, which is now beginning to receive the attention it has needed for so long. That situation did not arise in the last two years; that housing is in appalling condition, and I do hope that we can progress that very speedily.

I hope that I have not missed anyone's comments and I thank the Court for its support. I hope the Court will support our progress in putting even 30 young people into new first-time buyer homes and to be able to start what will be a major refurbishment providing even more homes on the Janet's Corner site. Thank you, Mr President.

The President: Hon. members, the motion I put to the Court is that printed at 3 on your order paper. Those in favour please say aye; against no.

A division was called for and voting resulted as follows:

In the Keys –

For: Mr Anderson, Mr Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Rimington, Mr Gill, Mrs Crowe, Mr Houghton, Mr Henderson, Mr Duggan, Mr Braidwood, Mr Downie, Mr Shimmin, Mrs Hannan, Mr Bell, Mr Karran, Mr Corkill, Mr Earnshaw, Capt. Douglas and the Speaker – 21

Against: Mrs Cannell – 1

The Speaker: Mr President, the motion carries in the House of Keys with 21 votes for and 1 vote against.

In the Council –

For: The Lord Bishop, Mr Lowey, Mr Waft, Mr Singer, Mr Delaney and Mr Gelling – 6

Against: None.

The President: Six votes for in the Council, hon. members; the motion therefore carries.

**Food (Emergency Provisions)
(Amnesic Shellfish Poisoning)
Order 2003 –
Standing Order Suspended –
Paper Laid Before the Court – Approved**

Supplementary order paper. The Minister for Local Government and the Environment to move:

(1) That standing order 2.4(1) be suspended, in order that the following business be considered:

(2) To lay before the Court –

*Food (Emergency Provisions) Act 1986 –
Food (Emergency Provisions)
(Amnesic Shellfish Poisoning) Order
2003 [SD No 149/03]*

(3) Food (Emergency Provisions) Order –

The Minister for Local Government and the Environment to move:

That the Food (Emergency Provisions) (Amnesic Shellfish Poisoning) Order 2003 be approved. [SD No 149/03]

The President: Now, hon. members, I am aware of the clock in relation to our procedures and I doubt if it is practical for the minister to complete the next item. I wonder if hon. members would be agreeable if I were to take the supplementary order paper at this stage. (**Several Members:** Agreed.) In that case, hon.

members, I call on the Minister for Local Government and the Environment, the hon. member Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I beg to move that standing order 2.4 (1) be suspended to continue.

Mr Houghton: I beg to second sir.

The President: Agreed, hon. members? (**Several Members:** Agreed.) I therefore call on the Clerk to lay the papers.

The Clerk: I lay before the Court:

Food (Emergency Provisions) Act 1986 –
Food (Emergency Provisions) (Amnesic Shellfish Poisoning) Order 2003 [*SD No 149/03*]

The President: Item 3 on the supplementary order paper. I call on the Minister for Local Government and the Environment to move.

Mrs Crowe: Thank you, Mr President. This order is made under the powers of section 1 of the Food (Emergency Provisions) Act 1986 and will prohibit the harvesting of scallops from within a small designated area off the south-west coast of the Isle of Man. The location of the designated area is illustrated in the explanatory note which has been circulated to hon. members. Amnesic shellfish poisoning toxin has been found in recent samples of the scallops taken within the designated area, and the department is of the opinion that there exists circumstances which are likely to create a hazard to human health through the consumption of this food. Consequently, it has been necessary for the department after consultation with the Department of Agriculture, Fisheries and Forestry to make this emergency order. The order came into effect at one minute past midnight on Saturday, March 1st and will remain in force until such times as two consecutive negative sample results have been taken at seven-day intervals. I am sure hon. members will recognise the need for this measure and will give their support to this order. Mr President, I beg to move.

The President: Mr Houghton.

Mr Houghton: I beg to second sir.

The President: Hon. member for Council Mr Delaney.

Mr Delaney: Thank you, Mr President. Obviously we will be supporting the minister in this, but can the minister be clearer than the briefing paper on exactly where the infection was coming from? Is there any chance of our compensating the scallop industry fishermen for any of this pollution? And can we have some reassurance that stricter controls on pollution of our scallop fields will take place?

The President: Hon. member for Glenfaba.

Mr Anderson: Yes, Mr President. Just following up on the same point: on the explanatory note we have a reference to the designated area as illustrated on the attached map. We do not seem to have that attached map.

The President: Minister for Agriculture, Fisheries, and Forestry, the hon. member for Rushen.

Mr Rimington: Thank you, Mr President. If I can be helpful to the hon. member from Council: I do not remember the co-ordinates off-hand but I believe is a five-mile box off Bradda Head in the south of the Island. Amnesic shellfish poisoning toxin has been spreading round the coast; its levels have increased as it has come from the west coast of Scotland into the Irish Sea. The origins of that shellfish poisoning or the cause of it is not fully known. There are a variety of views of where that has arisen: it may be high nutrients from agricultural run-off; it may be other forms of pollutants that mankind is putting into the sea; it may be none of those things and simply a result of climate change as the waters are generally warming up. These are all possibilities, but there is no definitive answer. However, it is affecting shellfish which are filter-feeders as it gets into the filters and creates the problem.

At the moment, there is no necessity for compensation for this particular closure as large areas of the shellfish fishery are still open. There are concerns with the shellfish fishery about the price of scallops in the marketplace at the moment, as it is very depressed. However, that is –

Mr Delaney: And now they will become more depressed.

Mr Rimington: Yes, well that is a wider aspect. The quantities of shellfish which come from Isle of Man waters are tiny compared to the whole marketplace and we have actually very little effect on that marketplace. However, there are serious issues relating to the shellfish industry and the fact that amnesic shellfish poisoning has been on the increase in recent years. We are exceptionally mindful of that and considering it all the time.

The President: Minister to reply.

Mrs Crowe: Thank you, Mr President. I thank my hon. colleague the minister for agriculture and fisheries for his explanation. Yes, that area is in the south of the Island. We of course regulate and monitor to make sure that the people of the Isle of Man are safeguarded against any poisoning in foodstuff. Thank you, Mr President.

The President: Hon. members, the motion I put to the Court is that printed at item 3 on the supplementary order paper: that the Food (Emergency Provisions) (Amnesic Shellfish Poisoning) Order 2003

be approved. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Observations by the President

The President: Now, hon. members, before we break for lunch I would just like to remind the hon. Court that it is the annual general meeting of our Commonwealth Parliamentary Association branch.

Can I say, it is pleasant to have seen hon. previous member Mrs Hanson sitting to keep us company this morning.

Several Members: Yes; hear, hear.

The President: Some members may not realise that we joined this hon. Court on the same day many years ago.

Similarly, hon. members, if I may just be permitted a personal note: it is pleasing for me to welcome into our public gallery also some form-mates of mine when I went to school. Sitting behind Mrs Hanson in the distinguished visitors' gallery we have Mr Walter Collister, who was our first form master in 1949.

Hon. members, the Court will resume its deliberations at item 4 at 2.30 p.m. Thank you.

The Court adjourned at 1.03 p.m. and resumed its sitting at 2.30 p.m.

DAFF – Whey Disposal Solution – Advance to Isle of Man Milk Marketing Association – Motion Carried

Item 4. The Minister for Agriculture, Fisheries and Forestry to move:

That Tynwald approves the Department of Agriculture, Fisheries and Forestry advancing to the Isle of Man Milk Marketing Association, by way of a grant, a sum not exceeding £700,000 for the purpose of implementing an interim whey disposal solution.

The President: Let us see if we can make good progress this afternoon now, hon. members. We have reached item 4 and I call on the Minister for Agriculture, Fisheries and Forestry to move.

Mr Rimington: Mr President, the waste from the creamery consists of excess whey from cheese production and some wash waters. This waste water has a very high biochemical oxygen demand which is equivalent in biological terms to a population of 100,000 people.

Currently this waste water is discharged to sewers and to the marine environment by the Conister outfall. The Department of Transport has been working with Isle of Man Creameries over a number of years to

develop a scheme to ensure that the waste water is removed from the foul sewer system, in order to prevent the flow from the creamery compromising the treatment processes at the Meary Veg sewerage treatment work.

A number of schemes have been thoroughly explored: consideration was given to building a complete effluent treatment plant at the creamery. This would have cost over £4 million, with annual operating costs of over £0.5 million, before tackling the costs of disposal of the sludge residue. It was rightly felt that this scheme was an unacceptable financial burden which the industry could not shoulder. Close consideration was also given to building a plant to process the whey, which is high in nutrient content, and turn it into a product called demineralised whey powder, which can be sold on the commodity market.,

Environmentally this would have been the preferred option: taking a waste product and turning it into a useful commodity. Unfortunately there are many other creameries with much higher throughput volume in the same marketplace. Our small volume creamery would not have sufficient volumes of whey to justify the capital cost and be able to compete in this commodity market. The capital costs were £7.5 million and it was considered that even with a high price in the commodity market the scheme could only meet annual operating costs at the very best, let alone repay the capital costs.

Therefore considerable work had been done by the DoT and the creamery to find a more cost-efficient solution with the least environmental impact. The request for assistance today is for one of two schemes which are broadly similar in intent: that is to discharge the whey effluent to the marine environment where it is not considered to be damaging, and it is a technique that has been employed elsewhere, notably Orkney.

The money being requested today is for the more expensive of the two options – option 1 – which has been carefully costed with a contingency allowance.

Option 2 would be the preferred option from a cost and an environmental point of view but awaits final results from the environmental impact assessment currently taking place at Port Erin Marine Laboratory.

The main objectives of the scheme are therefore to provide a means of managing the waste waters at the creamery which include: firstly, storage at the creamery to facilitate a controlled discharge to the existing sewer system; secondly, the management of waste waters from the creamery storage tanks to avoid odour; thirdly, discharging the waste waters from storage under controlled conditions into the Douglas sewer system; and finally, routing the waste water flows to sea via the Conister outfall or the Broadway surface-water outfall.

Once the works are complete it will result in the discharges from the creamery being diverted away from the Meary Veg sewage treatment plant and into the marine environment by the existing Conister or Broadway outfalls.

I will outline the two options currently being investigated by the design teams. Option 1 at the creamery would include: interception of waste-water

flows prior to the existing point of discharge to the sewer; creation of a pumping chamber to transfer waste waters to temporary storage; provision for onsite storage capacity for waste waters – the storage proposed comprises three silos each of 180,000 litres capacity with a total storage volume of 540 cubic metres; provision of a control system to allow discharge of these waste waters from storage at appropriate times; and at the Loch Promenade pumping station construction of a new manhole chamber adjacent to the Loch Promenade pumping station; installation of automated valves within the new manhole to divert the creamery flows and a small amount of night sewage flow into the end compartment beneath the bottle-neck car park; installation of an automatic valve to store the flows in the end compartment and release them to the marine environment via the Conister outfall at predetermined states of the tide.

For option 2 at the creamery: again we have the interception of waste water flows prior to the existing point of discharge to the sewer; provision of limited onsite storage capacity for waste waters – the storage proposed comprises a below-ground storage tank capacity in the order of between 100 and 150 cubic metres; provision of a control system which allows discharge of waste waters from storage at the required rate and/or at the appropriate times; operation of a pumping chamber to transfer waste waters to the Douglas surface-water sewer and discharge at the Broadway outfall at predetermined states of the tide. Outside of the creamery would be a construction of a dedicated pump main 1.5 kilometres long, to discharge waste from the creamery into the surface-water sewer in Broadway, which outfalls to the sea at the existing Broadway outfall.

The scheme will comprise of two separate contracts. The first covers the work at the creamery and is associated with pumping and storage; the second covers either the work at the Loch Promenade pumping station or is associated with the construction of a dedicated pumping main to connect from the creamery to the Broadway surface-water sewer.

It is proposed that financial provision for the scheme be through a grant from the Department of Agriculture, Fisheries and Forestry to the Isle of Man Milk Marketing Association which is not to exceed £700,000 and is to be subject to the Treasury's capital project procedure control.

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

The President: Hon. member Mr Shimmin.

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

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

Mr Delaney: It is quite obvious Mr President, that the options open all include works to be carried out on Douglas Promenade. May I, as one of the members

under the minister of the tourist department, ask that if any of the options are taken where work is necessary back on Douglas promenade this work is carried out in the winter and not in the summertime when we do have some tourists about? It is bad enough in the winter but at least we will not be offending more than necessary in the summer and I would request that undertaking from the minister this afternoon.

The President: Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you Mr President. I rise to support this motion on the order paper today, and in doing so would like to thank the hon. Minister for Agriculture, Fisheries and Forestry for jointly organising the presentation to hon. members of Tynwald which took place yesterday and which gave a very comprehensive order of proceedings and the various proposals that had been considered. I think for members who were not there they could be assured that the alternative to what we hope we can support here today is something costing in the region of several million pounds, so I think realistically this seems to be the best and most cost effective way forward and so I certainly give it my full support and hope that members of Tynwald will do likewise.

The President: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you Mr President. My question relates to planning permission. I think the hon. minister mentioned storage in silos and I would like to ask him do we need planning permission for these and if we do, do we have it? What will the visual impact be of these silos? And if we do not have planning permission at the moment, are we likely to get it?

The President: Mr Shimmin.

Mr Shimmin: Thank you Mr President. There may be other questions coming. I think most members seem to have caught your eye if they were going to speak.

If I could just explain from the Department of Transport's point of view, we are very conscious, as Mr Delaney is, about the works that have gone on on the promenade. Option 2 would not involve any works being done on the promenade, option 1 would all be underground rather than breaking into the surface. However, I do take account of the comments that have been made. This will not be a Department of Transport scheme; it is very much the responsibility of the creamery. However, it is in my department's best interests that we co-ordinate with them in order to try and minimise and reduce any problems.

With regard to the member for Onchan, Mr Earnshaw's comments: yes, there is planning permission issue involved and that is why this motion is here before the final completion of the two schemes. Dialogue is already taking place with Braddan

Commissioners and what is proposed even in option 1 is less than was originally discussed and was able to gather some support from that area. Certainly, we do need to get the approval today so the creamery can advance the planning application in order to make sure that this is reasonable. We are very conscious of the visual intrusion not least because it is part of my constituency that overlooks it, so I am aware of the concerns you would express. However, it is on the site of the creamery in an area which is pretty well protected from any visual intrusion that would be subject to the normal planning process.

Now that I have spoken there will probably be lots of other questions but I thank you, Mr President.

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

Mr Lowey: Thank you, Mr President. I too would like to thank both ministers for the presentation yesterday; it is a pity that more members were unable to attend. However, I have to come back to what is on the agenda paper and I notice the word 'interim' payment – 'implementing an interim whey disposal system' – and I really still have not got my head round whether it is an interim or the final solution.

Forgetting the history of why it was not thought out in the first place – 'we are here because we are here', I think the minister said yesterday and I recognise that and therefore we have got to have an alternative – I am just on my feet because the cost is £700,000, which is a lot of money. I was not impressed yesterday with the presentation by SLR, one of the people who designed it, because they had the figures wrong; it took a member to point that out and then they got apologies for it.

I made the point yesterday, and I am going to make it today publicly, I am putting the marker down, that the scheme has been thought through because it is going to be put into an old storm drain. To get it from the creamery out to downtown Douglas it will have to go down hills and up hills and I am sure there will have to be some pumping stations. The one thing I have learnt is that when you start forcing things through old pipes that were not built to have things forced through you are in for trouble. I wanted an undertaking yesterday – and I was given it yesterday – that you will not be coming back for more. We have got an awful habit in this Court of starting out and then when we have committed the money saying, 'Oh by the way, we did not realise the pipes needed to be reinforced by interform' or whatever form. Before you know where you are, we have committed £700,000 and they will be back for more.

I see in the paper that is before us that this is 'interim', hon. members; 'interim' means to me a short gap, an interim measure. What is the final solution, if this is not the final solution? And how much is that going to cost? And perhaps the minister may be able to help us on that.

I am forced to the conclusion that we have to support this, I thought both ministers yesterday gave very lucid accounts of where they are, where they are

coming from in the best interest, and I think the Court has got no other option but to do it. I do want it on public record that the people who are designing it are giving the right answers to the correct questions and they cannot hide behind 'we did not realise this at the particular time'. They do know the points that I raised yesterday and I am publicly putting them on record today.

I will be supporting the resolution.

The President: Hon. member for Ayre.

Mr Quine: Mr President, I have no difficulty in supporting the resolution but there has been a reference made by two members to the briefing that was laid on yesterday on this particular item. I rise simply to make an appeal to the minister for agriculture and to all other ministers: if we are going to have briefings then I think we have got to have a decent period of time and notice given to us to attend these briefings.

To lay on a briefing with three or four days' notice (**A Member:** Hear, hear.) on the Monday before a Tynwald is quite impractical. Even if he did not have any other slot, coming the day before Tynwald there are a hundred and one things to get ready for. It just seems to me to be quite within the capability of departments to give us two or three weeks' notice that these briefings are on, so we have at least an opportunity to attend these things. The next thing you know is there is a heated debate and we have ministers on their feet saying, 'and he did not even attend the briefing!'; (*Laughter*) you cannot have it both ways –

Mr Corkill: No-one said that.

Mr Quine: It is only simple courtesy, we should have the opportunity of having a decent timeframe in which to get these briefings in our diary and to attend them, sir.

The President: Hon. member for Council, Mr Waft.

Mr Waft: Thank you, Mr President, just a couple of small points. Years ago they used to have such a thing as a whey tanker and they used to take all the whey and distribute it around the farms for the consumption of the pigs now that does not seem a possibility because of the shortage of pigs these days.

It is very nice to have these things on site from the creamery to be able to dispose of it and then a pumping station and so on. Is it not possible to tanker that whey and put it further away from the site of the Loch Promenade et cetera to a site that is not right in the middle of the promenade? From my own point of view I thought maybe you could move it along so it would not be in the middle of the tourist centre in the middle of the season. Thank you, sir.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. This does give me some concern I must admit. I did not attend the briefing yesterday; maybe the minister can clarify a number of points. Why does this need to happen now? Can the creamery not pay for this itself? Why is this being introduced at this time?

What concerns me is that we have a reducing number of producers; can we or they afford to be doing this? We are producing milk which is of high oxygen demand, it is translated into whey, which I believe possible makes it even higher oxygen demand, and then we are dumping it and we not getting very much for the cheese along the way – sorry about the pun! (*Laughter*) These are issues which I think should actually be considered.

It is all very well doing and coping with something such as this in this particular way, but if we or the producers cannot afford it in the future because of the reducing numbers, because of the higher standards which are being asked for, not just within the local government department, and the hygiene requirements but also the farm assured schemes, where because of the income that the farmers are getting it is making it non-viable to operate in milk anymore, I just wonder about – maybe the minister when he is winding up can explain – the thinking behind putting more money into fewer producers, they are getting less for their returns, we are putting more money in for them to produce more and so it is like a vicious circle.

The President: Hon. member Mr Corkill, the Chief Minister.

Mr Corkill: Just in trying to help the debate from government's point of view, Mr President, I think it came a year or so ago as a bit of a surprise, really, that this issue of whey disposal had not really been thought through too cleverly but it was an issue that has always been there and always been flagged up as something that had to be dealt with.

In relation to the comments from hon. member for Ayre, Mr Quine, about giving notice on presentations I take the comment from government's perspective on the chin – yes, hon. members should get more notice. But sometimes things work against that happening, things are busy and sometimes notifications do not go out early enough – for good reason – and therefore members get little notice. That is an aside, in a way; it is unfortunate.

However, I do believe the issue before us is a fairly simple one: what do you do with this whey? Sometime ago the creamery was invested in, we do have volume of milk and the cheese exports; that was decided upon along time ago and I have to say I think it is a worthwhile export. Okay, the value of cheese is not very good unless it has got value added to it but nonetheless it is an export and in return we receive money to the exchequer of the Island. It is a good balance of payments scenario in that anything that we can export for monetary gain is worthwhile attempting.

It is the by-product of all that activity that we are having to deal with and as the hon. minister has said, the whey product, if the Milk Marketing Association

was to take control of a whey processing plant onsite, it would be a very expensive process and we would be producing a product that nobody really wants. It is the old story with agricultural products, I am afraid, of producing more and more into a market which is more and more flooded (**Mr Delaney:** Hear, hear.) and therefore there is no value to some of the products that come out.

The reason for this being before us is simply because IRIS is here now. We have all seen the investment and the infrastructure and, as the hon. minister has said, this product that we do not really have a purpose for is the equivalent of 100,000 population in terms of its biological oxygen demand, so it has to be kept out of the IRIS system. It does not make sense to leave it in there; it has to be dealt with.

This option before us is the least cost option. In fact, I was alerted to this during the general election when I knocked on somebody's door and they said, 'Hey, this is a problem, what is happening?' – that was the first I had heard of it. So there has been poor communication, I think, in terms of dealing with this problem, but deal with it we now have to, because IRIS is here.

So we are dealing with a set of circumstances as Mr Lowey, member of Council has said. The issue is how much do you want to spend? And Mr Lowey, the hon. member of Council, is quite right to focus on 'interim solution'; it has been deliberately put in there, because this is not the ideal perfect 'Rolls-Royce' solution to this problem. It is a pragmatic reasonable cost – although it is a lot of money – solution and of the options the minister has gone through this is the one government favours, this is the one government is prepared to offer to the Milk Marketing in terms of grants subject to Tynwald approval. This was as far as Council was really prepared to go because there is great stress on the capital programme, and to have the perfect solution which we often strive for in this hon. Court would have meant a great deal more money.

So the interim solution it is, because in years ahead it might be that different people at a different time may decide on the 'Rolls-Royce' solution, there maybe a requirement to do it, and that could still happen at that time. This really is a diversion measure which is dealing with a very practical problem, because obviously in terms of treating the Island's sewerage, i.e. IRIS, we want to get that system up and running and operating to the benefit of everybody as soon as possible.

With regard to the infrastructure that is existing, where does this whey go at the moment? It goes down the sewers and that is what effectively we are saying should continue but under a controlled mechanism. So really what is being done is not a great shift or a great change but it is allowing IRIS to progress, which is to the benefit of our whole community and is the implementation of this hon. Court's policy.

The President: Hon. member Mr Anderson.

Mr Anderson: Thank you, Mr President. I would like to thank the former speaker for his words; I was

going to cover a few of the points myself. The industry itself is very supportive of this option and in fact Mr Findlay Macleod from the creamery was part of the team that gave the presentation at yesterday's presentation.

It was disappointing to see that not all the facts were correctly represented, and that seemed to be SLR's weakness yesterday as opposed to Arup's, which is a very professional firm; it is good to see they are on board. I think the point needs emphasising as the Chief Minister has just mentioned that whey is presently going out to sea and is not having a detrimental effect on the marine life and in fact it might have a positive effect.

Can I just say, it was good to see that both departments working in tandem yesterday, and I thank them for the presentation. Unfortunately it did not stretch to the organisation of hot lunch which seemed to fall down between the departments, but all in all I think it was a worthwhile presentation and I thank the two departments for that presentation. I will be supporting.

The President: Mr Speaker.

The Speaker: Thank you Mr President. I am really brought to my feet because I think it is important just to clarify a number of issues that have been raised here this afternoon, especially the points made by the Chief Minister who – and I am not blaming him – by indication has been advised about this late on and said it came as a surprise. Well, I have to say that it was certainly no surprise to the Milk Marketing Association that they were going to have to do this. I was Minister of Transport and they were certainly advised of it a number of years ago – I could not exactly say when – 1) that it was their responsibility to dispose of the waste because they created it; 2) that it would be acceptable to be pushed into the sewer system any more because the IRIS scheme was not designed to take such waste; and 3) that they should in fact provide a proper facility on the site to dispose of this waste.

I went to the creamery whilst I was minister, I was invited to have a look round – I think they call it lobbying – and I made it clear when this issue was raised with me that it was their responsibility, it was not government's responsibility, and furthermore that the new sewerage Act which was being developed at that time would enable the department to refuse to accept the waste and that it was likely that the department would not accept the waste because of its implications to the whole of the IRIS scheme.

So it certainly was not a surprise to them. I certainly made it clear that I felt the way forward was to apply for a grant either from the Department of Trade and Industry or through the department of agriculture. So whilst I can understand that now, and I accept what the Chief Minister says, this is suddenly coming up on the government I have to say there are people who are well aware of this, and I think one of the problems we tend to have is that at the end of the day it will be all right because government will sort it

out. The reality is, whilst we will support and I certainly support the agricultural industry in the Isle of Man because I do see the benefits for it, I think they also have a responsibility to accept their responsibilities and to properly work with government and for government to properly work with them to ensure that whatever is done is done properly and is done in the most cost effective way.

So it is no surprise – I accept what the Chief Minister says, but I do believe it is worth just putting the record straight – parties were well aware of this and it must be at least four to six years ago.

The President: Minister to reply.

Mr Rimington: Thank you, Mr President, and I thank members generally for their support. Going through the lists I think there are some items in relation to the promenade at best were answered by the –

Mr Delaney: No, they were not answered; we do not know which way you are going.

Mr Rimington: No, the appropriate answers would be best coming from him as you will appreciate my skills of managing the works on the promenade are fairly low –

Mr Delaney: I agree with you there! (*Laughter*)

Mr Rimington: But I do accept the point that you made on that. Yes, and the issue about planning has been covered and full planning does have to be applied for on that.

The question from Mr Lowey on 'interim' is a valid point; I suspect 'interim' to be quite a long interim rather than a short interim, I have to be honest about that. Ideally, I think we all would agree that that whey which does have a nutrient content should be used to some beneficial effect (**Mr Delaney:** Hear, hear.) rather than being dispersed into the sea. The costs involved with that at the moment are prohibitive. Perhaps in future times those costs may be less prohibitive and/or technology may have improved (**Mrs Crowe:** Yes.) such that we can use it in a more beneficial manner and the industry may be in a stronger position to finance such moves. I would hope in the long term that that would be possible because putting something which – and this is in slight contradiction to the Chief Minister – something which does have value into the sea cannot be good.

The demineralised whey powder, which would be the product of such a plant as stands, ranges between £500 and £800 per tonne on the commodities market. If they were getting £800 per tonne for it then they would be just over breakeven cost in terms of operating such a plant but without actually financing the capital cost, so they are considerably short on that.

In relation to – and again I hope my knowledge of the drainage system stands up to scrutiny – the two options and pumping through old storm sewers, as I understand, and I did discuss this with the chief executive yesterday, option 1 – going to the Loch

Promenade – is gravity feed and does not require pumping, but option 2, which would be going to Broadway, would require pumping, but then that would be a dedicated new pipe for that purpose to the point where it could then –

Mr Delaney: You have still got to dig the place up.

Mr Rimington: There would be some digging up obviously, if the a pipe has got to be laid for 1.5 kilometres although that pipe would not be on the promenade but it would certainly –

Mr Delaney: You have still got to dig it up to put it there.

Mr Rimington: It would still have to be dug up and put there; yes, quite right.

I must apologise to hon. members and take the point that the hon. member for Ayre, Mr Quine made: yes, it was short notice, I think it was a week, but again that is short notice and we did fall down on getting that out to the members to give them chance to get it into their diaries and we did fall down on the hot lunch as well, which was very disappointing for myself and others too, but there we go! That did not make that little bit of corporate government shine – each of us thought the other one had organised it, but unfortunately not.

The hon. member for Council, Mr Waft mentioned pigs and yes, a small portion of the whey is used for feeding pigs. I have looked at that and, mindful of the issues of the meat plant and wanting greater throughput, I thought ‘Well, could this be an opportunity for an enlarged pig industry on the Isle of Man?’ and we did give it some careful consideration. Unfortunately the enlarged pig industry would be absolutely massive, and we would then be faced with a problem of disposing of what comes out from the pigs at the other end, we would still have quite a big waste disposal problem!

Tankering was looked at as an option, but the quantities are so large per day that you would have had quite a big environmental impact by the number of tankers trundling through the streets, and it was unrealistic in economic terms. It may well have to be utilised as a short-gap intermediate measure between completion of the options, whichever option is taken forward, and the actual time to switch on IRIS, so tankering may well be there for the odd month or so but hopefully no longer than that.

We can appreciate Mrs Hannan’s concerns, although the number producers has gone down the volumes of milk have not gone down to that extent, they have reduced by a factor of, say, 10 per cent recently, but are again stabilising. It is true to say that the industry, because of all the issues that have been discussed at length before, does not have the finances to support this particular cost, and obviously if the industry was in a better financial state I am sure that government would legitimately be expecting them to shoulder that cost. However, financially they would

not be in a position to go to the bank and borrow that money at this point in time because of the particular state of the industry at the moment, commodity markets et cetera. It does have to be done now because IRIS is due to be progressed later on this year.

The point which we will be discussing later, possibly on two occasions: the Promar report did indicate that it is a viable strategy that they are undertaking and we do foresee in time to come – maybe not this year, maybe not next year – it will be in a much stronger position with the strategies that they are undertaking.

Lastly to Mr Speaker: yes, I think you made some valid points, sir, and you have put them on record.

I think that is all that should be said, and I thank members for their support.

The President: Hon. members, the motion I put to the Court is printed at 4 on the order paper. Those in favour please say aye; against no. The ayes have it. The ayes have it.

**Tynwald Members’ Pension Scheme
Management Committee –
Report Received –
Recommendations Approved**

Item 5. The hon. member for Castletown (The Speaker) to move:

That the report of the Tynwald Members’ Pension Scheme Management Committee be received and its recommendations approved.

The President: We turn then to item 5, the Tynwald Members’ Pension Scheme Management Committee, and I call on Mr Speaker to move.

The Speaker: Thank you, Mr President. This appears to be the first occasion that a report and recommendations have been prepared and brought to Tynwald by this committee. The committee was established under part 4 of the 1995 Members’ Pension Scheme and charged with the management of the scheme.

This report and its recommendations are chiefly the result of a small problem with regard to MHKs’ stipends, identified at the time of the 2001 general election. The technical problem is fully explained in the report and I will not therefore detain this hon. Court by going through it in great detail.

Briefly, however, it became clear at the time of the 2001 general election, that in certain circumstances there is an overlap between the provisions of the Payment of Members’ Expenses Act 1989 and the Members’ Pension Scheme. Under the Payment of Members’ Expenses Act, a member of the House of Keys receives his or her salary as a member for at least one month after dissolution and usually until new ministerial or other appointments are made. An exception to this would be the case of a member who

is not a minister, departmental member or chairman of a statutory board. Such a member would only receive payment until the return of the writ for that constituency following the election or following the member being elected unopposed.

However, if the member is also over pensionable age he or she would receive a pension under the 1985 Members' Pension Scheme or the 1995 Members' Pension Scheme, depending on which scheme the member belonged to from the day of the dissolution of the House of Keys.

As will be apparent, this means a member in such circumstances would in effect receive double pay: his or her salary as a member of Tynwald and a member of government and his or her pension. The committee is satisfied that it was not the intention of either the Payment of Members' Expenses Act or either members' pension scheme to create this double payment therefore the committee report recommends to Tynwald that the possibility of this double payment should be excluded by making the pension payable only when the stipend ceases.

This is achieved by a simple modification to the 1985 scheme, the details of which can be found in 6.1 of the report, and by the addition of a new clause N3 to the 1995 scheme, the details of which may be found in paragraph 7.1 of our report.

At the same time as making these amendments, the committee, in consultation with the Treasury, noted that another matter in the 1995 scheme needed to be clarified. This relates to the level of benefit received, which depends on the date a member joined the 1995 scheme. The wording regarding the difference in entitlement is not easy to follow, and the committee recommends that an expansion of clause D1 would assist in making the difference in entitlement clear. Details of the expansion of clause D1 will be found at 8.2 of our report.

The changes recommended affect only members of the House of Keys, the members of the Legislative Council being paid only to the exact moment that they go out of office, but the schemes in 1985 and 1995 were established by Tynwald and any change must be approved therefore by Tynwald Court itself, albeit that, as the title of the report recognises, the schemes as a whole cover members of each branch.

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

Mr Bell: I beg to second.

The President: Hon. member Mr Waft.

Mr Waft: Thank you Mr President. I just have one short comment, with regard to the report that has adequately been spoken of by Mr Speaker, the problem with the Legislative Council and the House of Keys does differ, there is an anomaly there. It needs to be looked at, probably not by this committee, but by some other body to tend to that. It is only when these elections come round every five years that this is highlighted and sometimes there could be a long length of time before someone is re-elected to the Legislative

Council. Perhaps somebody could look at that sometime.

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

Mr Karran: Eaghtyrane, I see these as small issues that need to be addressed as far as the pension scheme is concerned. As you know, the whole system of payments and pensions is not based on parliamentary service any longer, but a major factor is on the department, the ministers and how far you climb the pole as far as the executive club is concerned.

I hope that the chairman of the committee will go back because this is just another example of where you can be a hard-working backbench MHK who works just as hard as a minister and we have a situation where in the way the pension is now under the new scheme, it is not on parliamentary service any longer; it is on where you climb on the ladder as far as the pension is concerned. I do hope that the committee will take this on board.

I am not going to vote against this proposal, I think it is fair, but there are some fundamental issues that need to be addressed as far as the pension scheme, especially the new pension scheme. We have a situation where members can be in here years longer than other members – and I understand people say that some members work harder than others, but at the end of the day it is a parliamentary pension scheme, it is a scheme for being a member of parliament. It has been lost as far as I am concerned; what needs to be looked at is getting it back to what it was originally supposed to be.

The other issue that I feel needs to be addressed, whilst I will support the report, is I do think that we need to look at the six months' pay, which some of us argued about, and I remember on an election platform some members nearly fell out of their chairs for daring to say this at a meeting. I do think that that issue should be addressed even further. If we want people in this Court to do it without fear or favour what we do not need is people being absolutely destitute if they get thrown out at an election.

I do think that what needs to be looked at is the issue of how we help people – not so much single people like me as a member of this Court – but people who have got wife and kids. I believe that that issue needs to be addressed and I do hope that the chairman will take on board the two issues that I have raised with him.

The President: Hon. member for Michael.

Mr Cannan: I just want to say I fully support this. Obviously I am concerned that it has not been picked up in the small print before, but I would just like an assurance from Mr Speaker that no former MHK has ever tried to take advantage of this anomaly, which in effect gives them two months' salary for the final month of service.

The President: Mr Speaker to reply.

The Speaker: Thank you Mr President. In relation to the hon. member for Michael and an assurance that no former MHK has taken advantage of this, as far as I know – certainly that was the case in 2001 – I do not think there was anybody who took the benefit of this. Certainly, it was a member who was in that position who raised in the 2001 period and that was how it was highlighted to the committee and that is my understanding initially. As I am sure hon. members understand, this is a new structure committee now with new membership so regarding what went on before I really do not have enough background. As far as I know, nobody used that system to get double payment, but it was clearly identified in 2001.

If I move on then to the hon. member of Council, Mr Waft, he mentioned the anomaly between the divisions of Council and the MHKs. I think that Tynwald consciously made a decision because of the nature of how members of the House of Keys carry out their work and have a statutory period laid down where they are undertaking the work slightly differently – although there is not a big difference between Council members and Keys in terms of that work, but there was seen as a difference because of the issue with the writs and so on – and I think that the issue of not providing Council members in the way that the Keys are I think was actually done deliberately.

I think the only answer I can give to the hon. member is that I am certainly happy for it to be raised by the relevant committee. It is more, I think, to do with pay and conditions as against just the pension, but that is an issue that I will seek guidance on, and if it is a matter for the emoluments committee I will certainly at least have it referred there for consideration. If it is not then I will have it referred to the pensions committee, whichever is the appropriate body, so that they can be content as to whether or not there is a need to make any further changes.

I think we have to accept that these are quite complicated schemes and, in answer to the hon. member for Onchan, Mr Karran, clearly there is a difficulty with the scheme because of the nature of politics. The scheme itself is unique. It has certain conditions on that have to be met which would not apply outside in a normal pension scheme and those are time related. There are also certain rules and criteria that members have to meet to be able to get their service pension, so the whole thing is a bit of a mish-mash because of the nature of how politics works in a democracy and therefore the scheme has been developed to try and meet, as best it can, the needs of members in the longer term.

I think it is fair to say it was not a problem many years ago because in fact if we go back maybe 30 years, or a bit more, most members coming in here were usually either retired or actively ran a full business and had their own provision in that, whereas we all know that has changed today.

The issue that the hon. member Mr Karran raises may well be more for the emoluments committee, but again I will give some consideration to that and look at what if anything should be done and whether any further consideration should be given to the points he

raised. He mentioned the point about pensions not being based solely on the parliamentary service, and I can understand the point he has made there, but I think we have to be realistic. The basis of the structure of the payment to members, because of our parliamentary system, where we do not have a clear opposition and a clear government and two parties or three parties, whatever it may be, has meant a scheme has had to be developed to recognise all situations as best it can. Whilst it may not be perfect, I think it is realistic to say it causes some difficulties and the basis could be argued that in fact the level of the starting point of the pay also creates difficulties in relation to how that pension works for members in the long-term future.

So with that, I thank members for their contributions and I beg to move.

The President: Hon. members, the motion I put to you is printed at 5 on the order paper: that the report of the Tynwald Members' Pension Scheme Management Committee be received and its recommendations approved. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Standing Committee on Expenditure and Public Accounts – Review of Rôle – Debate Commenced

Item 6. The hon. member for Ayre (Mr Quine) to move:

That the Report of the Standing Committee on Expenditure and Public Accounts on the Review of the Rôle of the Committee be received and its recommendations approved.

The President: The hon. member for Ayre, please.

Mr Quine: Thank you, Mr President. The annual report of the Committee on Expenditure and Public Accounts made a reference to the need to review this committee's remit. Members of Tynwald, in debating the annual report, also raised the matter of the committee's remit and its capacity to undertake the allocated tasks.

From an initial examination by the members of the Public Accounts Committee, it became apparent that the starting point should be to identify in functional terms what is broadly accepted as parliamentary scrutiny.

Paragraph 4 of the report before hon. members identifies the four principal facets of parliamentary scrutiny and those are: enactment of primary and secondary legislation; development of policy; probity of the budgetary and financial administration; and the effectiveness and efficiency of government. The Public Accounts Committee is presently concerned, of course, with the later two facets.

The committee determined to establish the extent and form of scrutiny in other jurisdictions in the

British Isles and a very useful summary is at annex B, for which we are indebted to Miss Trudi Thompson, the Tynwald Research Officer. Now, it is not suggested that the level of scrutiny undertaken by some of the jurisdictions mentioned in this annex is appropriate to the Isle of Man; some of them are substantially larger. Nevertheless, the specimen jurisdictions do provide a very useful point of reference and base for comparison.

The committees then proceeded to look at the structural approach to the task of parliamentary scrutiny in other United Kingdom jurisdictions with the focus being on membership, remit and resources. This information is summarised at annex A including the resources dedicated to PACs in those jurisdictions which are listed.

Other research material has been examined by the committee inclusion of which in this report would be somewhat impractical, but that said, we have included a recent report by a Commonwealth Parliamentary Association working group, which is entitled 'The Overseers: Public Accounts Committees and Public Spending', and this report reflects a broad span of opinion and specifically dwells on PACs and auditors-general.

In paragraph 9 of this report, we offer some explanation of the position on the Island and of a comment on the relationship between external auditors these will be the auditors-general. A direct line of comparison, of course, cannot be drawn.

It then proceeded to evaluate the Island position in the context of parliamentary checks and balances, in which regard parliamentary scrutiny is, of course, a key consideration.

In summary, and indeed in substance, the position can I think be summarised as follows: primary legislation – the scrutiny of primary legislation is largely met by the existing by legislative system, and I do not think I see a need to say any more about that.

In regard to secondary and delegated legislation, this varies from 'laid before' instruments and, of course, those subject to a formal vote.

In substance, no parliamentary scrutiny takes place on 'laid before' instruments; similarly delegated legislation, including draft EC legislation, is not subject to parliamentary scrutiny or a formal Tynwald vote.

On development of policy, there is no system of standing committees for parliamentary scrutiny of government policy, legislation and activities. Such parliamentary scrutiny as takes place rests with questions and motions. Debate in Tynwald is, as we are all very much aware, limited and often superficial.

Probity of budgetary and financial administration, in parliamentary terms rests with the Public Accounts Committee and is very limited, the present Public Accounts Committee rôle is limited and the resources even more so.

Then I come to the effectiveness and efficiency of government: questions and motions offer a degree of scrutiny but on a very selective basis. The Public Accounts Committee can investigate effectiveness and

efficiency where there is a linkage between policy and expenditure.

There are two standing committees of Tynwald: the Constitutional Matters Committee and the Economic Initiatives Committee. These are small but important specialist areas and the product of these committees is, as is known to members, limited.

In paragraphs 22 to 25 of this report, we deal with the present position of the Public Accounts Committee. Again the position is clear: a limited rôle and limited resources.

To sum up, Mr President, parliamentary scrutiny of government is fragmented and limited and in large part does not extend beyond formal proceedings in Tynwald and the branches. Such scrutiny as can be undertaken by the Public Accounts Committee and the ad hoc treatment offered to the constitutional development and economic initiatives committees, is in itself very small indeed.

It is the view of the members of the Public Accounts Committee that there is a need for parliament to take a holistic view of parliamentary scrutiny. Until the foundations are laid in this way it is difficult to take a definitive view on the rôle of the Public Accounts Committee.

Accordingly, in regard to the rôle of the Public Accounts Committee, it is recommended in this report that at present it remains unchanged, at least, as I say, for the time being.

It is recommended, however, that the following changes be effected: firstly, the membership of the Public Accounts Committee be amended to accord with Tynwald decision to exclude members of the Treasury and that is a matter of course which Tynwald determined some little time back; secondly, that the Public Accounts Committee discuss with the Tynwald management committee the matter of obtaining additional staff and resources, that is at paragraph 36; and thirdly, that Tynwald establish a select committee to examine and report on the most efficient and cost effective way to create an auditor-general facility, or capacity, if you wish. These three matters are the recommendations referred to in the motion.

Paragraphs 38 to 40 of the report identify a number of matters outwith the primary remit of this report, which Tynwald may see fit to action. Members may recall that in 1993 Tynwald approved the principle of the setting up of a scrutiny committee on delegated legislation, but this was never implemented, as the additional resources required were not authorised. Therefore our report invites this hon. Court to establish a select committee to consider the proposition that the Legislative Council should have the task of scrutinising secondary legislation.

Secondly, we suggest that this hon. Court creates two standing committees for the scrutiny of policy development and the effectiveness and efficiency of government, one centring on economic development and the other on social affairs.

Thirdly, that the rôle of the Public Accounts Committee be added to, to vest in this committee responsibility for the management and co-ordination of parliamentary scrutiny overall, but quite clearly that

recommendation would be contingent on further motions in relation to the two matters I mentioned prior to this.

These matters – that is, those embodied in paragraph 38, 39 and 40 – are included to afford hon. members an opportunity to offer comment. Subject to this debate, one or more motions could then be placed before Tynwald court on another occasion by any hon. member seeking to progress these propositions, but I would stress that the substance of the recommendations today is simply the three matters referred to in paragraph 35. I beg to move.

The President: Hon. member Mr Gelling.

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

The President: Hon. member Mr Shimmin.

Mr Shimmin: Thank you, Mr President. I count myself fortunate in my first term of office in this Court that I was blessed with being appointed onto the Public Accounts Committee, the Standing Committee on Constitutional Affairs and the Standing Committee on Economic Initiatives, so I do feel at least I have some relevant recent involvement in scrutiny aspects as we have at the moment.

None of those three committees in my view were perfect and some of them at times were far from it, and I am not at all surprised to see the current chairman of the Public Accounts Committee coming forward with recommendations along these lines. We all know that the member for Ayre has spent much of his parliamentary career concerned with the issue of due scrutiny of the government by the parliament. The committee, when I was on public accounts, lacked a purpose, it lacked a direction, it certainly lacked resources and it was, in my view, underperforming from what most of us as parliamentarians would expect of the Public Accounts Committee. We selected occasional issues, we looked at internal audit reports but there was no real focus of the purpose. Therefore I can fully understand why there is an attempt to try to improve matters.

During my time as a member of Tynwald, I have yet to come across anybody who does not believe that there is a due place within our process for scrutiny. The Chief Minister of today, his predecessor and the Council of Ministers all regard scrutiny as being a necessary and beneficial part of our process. The question has always been in a small parliament, how do we achieve that scrutiny without making it into a government/opposition relationship?

With regard to this report before us today, I would ask for certain clarifications in the text and then go onto the recommendations. Certainly, within paragraph 18 on page 4 I do believe that the external auditors for the Isle of Man Government would consider themselves to be compromised, were they to be accused of not being independent of the government of the day. So I think that has been sneaked in as if this is some form of hand-in-glove relationship with the

external auditors and certainly no professional body, in my view, would take on such a rôle. So the chairman may wish to comment upon whether he agrees that the external auditors, whoever they may be at the time, are actually in the glove with the government.

At the bottom of page 6, paragraph 30, it refers to the external auditor operating under the Audit Act 1983 and ‘by virtue of the narrow remit, does not fill the rôle of an Auditor-General.’ I do not know whether the committee looked at whether the rôle of the external auditor could actually be changed to accommodate something closer to what the committee were looking at but just to say that it does not, in my view, argue in favour of the necessity of an Auditor-General being as a natural consequence of that position.

At the top of page 7 – Internal Audit Division – this comes down to trust, but it has been reported to me that the Internal Audit Division and the Value for Money Committee are not subject to any Treasury direction and that they do operate as independent bodies without a political direction. Now, that depends on individual members’ views of whether they trust the Treasury or not to have any direct involvement in the control over internal audit. I personally choose to believe that as the reality. However, maybe a separation is desirable.

Mr President, I then come to the recommendations. Recommendation 35 I believe is non-contentious. The presence of members of Treasury on the Public Accounts Committee in my time was a benefit; however, Tynwald had already resolved that that is not to be the case. Therefore recommendation 35 is effectively status quo and implementing Tynwald policy – no concerns there.

Item 36, recommendation 2 regarding the funding and the resourcing, the recommendation is perfectly reasonable. It is doing what I would have thought the committee could have done anyway which is approach the Tynwald Management Committee in order to actually resource it more adequately. Therefore there is nothing contentious there.

I would bring hon. members then to the sting in the tail and I am after clarification from the chair of the committee and possibly members of the committee because the writing of this recommendation can be interpreted two ways. That is my concern. It states that: ‘Tynwald establishes a select committee to examine and report as to the most efficient and cost-effective way to create an auditor-general or equivalent entity.’ Now at one level that would appear to me to give Tynwald’s approval to the appointment or appropriate establishment of an auditor-general or an equivalent entity and I am not supportive of that as a case has not yet been fully made. There is enough information lacking to make me say that that recommendation . . . If a select committee is to come and report back as to the appropriateness then I could support it but I have heard already in this hon. Court how people will use motions and recommendations and votes of Tynwald to basically achieve what they want and then cite the recommendation which has been approved by Tynwald in March 2003. You have accepted tacitly that we will create an auditor-general

or equivalent. I do not believe that the committee have yet established that that is by nature the best way of going forward, although I do think it is a worthy consideration which is warranting further investigation.

So I do have a difficulty with that final recommendation and the interpretation of it. I will look to the chair and members of the committee to explain whether they feel that by supporting this report we are in actual fact approving and giving approval to the establishment of an auditor-general or equivalent. I certainly would agree and support any select committee investigating that matter. I do not at this point give approval to it because I will require more information.

The clarification I want I hope will be forthcoming, as it was in items 38, 39 and 40 where the chairman was very helpful in saying that at a later date member individuals could come forward with motions along those lines. As current minister of DoT, I am delighted with the scrutiny, but in paragraph 39 we cease to be actually under any scrutiny and I am not sure whether that is an omission or you have so much confidence in the DoT that we do not require to be involved. (*Laughter and interjections*)

So, Mr President, useful report, yes, we can improve it. Bear in mind, hon. members, we are a small parliament and the further we go down the road of establishing formalised scrutiny committees the ability or the potential for duplication of effort, tying ourselves and officers of all departments to ensure that adequate scrutiny is given, the more it requires adequate information to be provided. That can only come from officers and politicians; therefore, I do not wish to see this go round the houses forevermore, tying ourselves in every increasing knots, but a level of scrutiny should be supported. Clarification on item 37 will determine whether I will support the report, sir.

The President: Hon. member Mr Corkill.

Mr Corkill: Thank you, Mr President. I would like to echo some of the comments of the previous speaker because I, too, in reading the recommendations – they are carefully worded recommendations, I found the report quite interesting – would not wish to be put on a hook with regard to paragraph 37. The way I read and interpret that, in my reading of it – and this is the way I would wish to cast my vote at the end of this debate – is that a select committee examine and report the most efficient and cost-effective way to create an auditor-general's scenario. Now that in no way in my mind accepts the principle of it at all and I think I just want to make that clear. Like the hon. Minister for Transport, I would like the chairman to make it clear how he sees that recommendation because there is ambiguity there and I would wish the hon. mover of this motion to make sure there is no ambiguity when hon. members come to vote.

I, too, picked up on this comment in paragraph 18 on page 4 about 'neither the external auditors, the Internal Audit Division or the Value for Money

Committee are independent of the government of the day' and I think it is quite wrong to put all of those entities into the one sentence. The Value for Money Committee is a function of Treasury at the behest of this hon. Court – it was a motion to Tynwald to say that Treasury should have a Value for Money Committee. It has a political chairman and yes, I would agree that within Treasury there is the ability to talk about that report effectively before it goes public. Certainly in my time in Treasury, there was one particular issue with regard to the Value for Money Committee where the then chairman and myself – the late Norman Radcliffe and I – disagreed on something and it made for an interesting time.

Obviously professional external auditors, the Internal Audit Division, they have a separate rôle and I think we must be quite clear that they are independent and I think it is a throwaway sentence which is not becoming, I would say, of a report to Tynwald.

There is one major reason, though, that I got to my feet on this issue – I agree wholeheartedly with the previous speaker but he did not make reference to it – which concerns me. If you look on the first page, paragraph 4, development of policy is the second bullet point. Now, I know the hon. mover has views on this and I think this is something that hon. members would do well to focus on. Do we expect the Public Accounts Committee to focus on development of policy issues? I do not. I make it quite clear. I think that is government's rôle to try and cast policy. It is the rôle of Tynwald to change, agree with and influence that policy; that is what happens and I think that is very important.

I think the evidence in this report, Mr President, actually backs up my comment in as much as if you look at the appendix, which is very useful and very helpful in this report, where there are references made to the United Kingdom and to Jersey in the appendices – annex A. If you look at the UK Public Accounts Committee., it definitely says there, 'The committee is not concerned with policy, only whether policy is carried out efficiently, effectively and economically' but not this comment 'development of policy.' Scrutiny of policy is fine but my concern is – and this has already been alluded to – that in this particular structure that we have on the Isle of Man where we do not have party systems, we do not have party boundaries, there is the danger that this becomes an opposition grouping to the government of the day. I think that detracts from the purpose of a Public Accounts Committee, which is to scrutinise whether what was meant to be done has been done.

Certainly in my rôle of Chief Minister as things are at the moment, the benefit that government can receive from the Public Accounts Committee I would say is limited and to that extent I agree with the report. We should do better with our scrutiny and we are all trying to improve that scrutiny but I do believe we are in danger of going down the wrong alley with regard to developing this angle where development of policy is a key part of the function of the committee.

It is a natural thing to lean towards, I think, when there are no party systems in place, but nonetheless I

do not think it would be helpful in terms of aiding executive government getting it right on behalf of everybody.

In fact if you look at page 55, the rôle of the PAC is discussed there in this helpful document that we have, but I do not believe there is any reference there either to the issue of development of policy and Jersey, of course, has gone through this process of restructuring only recently. I have actually seen fit to make a definite comment, 'no policy.' So they have obviously looked at this recently.

Coming onto the conclusions, as the hon. previous speaker said, the first one is easy enough to go with at 26 because we are limited and there are a number of reasons why we are limited. The structure may be one, but at the end of the day we are only so many members. And certainly one of the things that worries me in terms of setting up many, many scrutiny bodies is that there is actually no indians left, as it were, to do the work. That is not politically correct, I know, Mr President, but you will know the expression that I refer to.

Mr Karran: As long as it is not Tibetans.

Mr Corkill: With regard to 27, I understand what the report is saying about resources. (*Interjections by Mr Houghton*) With regard to item 36 under the recommendations – (*Interjections by Mr Houghton and Mrs Hannan and laughter*) No, I wish to address my comments to paragraph 36, Mr President: 'the members of the CEPA seek to maximise the committee's capacity by the advance reservation of dates for meetings.' Well, I really think to have this in a report where we are really talking about people getting their diaries together is indicative of the fact that the committee is not functioning properly. Maybe that is a resource issue but it is something that obviously needs to be straightened out.

As I said in my opening comments, 37 is the one where I see the ambiguity.

My final comments are: who takes ownership of the progress? This committee has done the work but they have left a number of issues over – paragraph 38, that Tynwald be invited to establish a select committee. Well, in my notes here I said, 'Who has to do this? Who is being expected to carry this forward?' The hon. mover has said, 'Any member of Tynwald.' So, I wait to see whether any member of Tynwald will move forward on paragraph 38; but I think it is unfortunate when a report comes forward that there is no definitive way identified as to how the committee wants to take these issues forward. It is really, I think, passing the parcel to some extent, and that also relates to paragraph 39 and the setting up of further committees.

So, can I say, Mr President, I do not have a problem supporting the recommendations, but it needs to be clearly underlined that in those recommendations there are really no acceptances of any point of principle in reality but if the committee is set up to have a look at this auditor-general post then there will be, I would suggest, a huge resource. However, I

should not pre-empt that; I am happy for a committee to come back and tell me what that resource might be but I can foresee in the slight amount of research I have done into this you are talking about an extra tear of resource that might be better spent somewhere else. I await the report into that before I come to a conclusion on it.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. Could I just refer to the comments made by the previous speaker? If members would like to turn to page 6, paragraph 28, I deals with the scrutiny of policy development and it says, 'scrutiny of policy development is in the main limited to Tynwald and its branches in approving or rejecting government-sponsored motions because of the timeframe within which these issues are dealt with. Such scrutiny is at best cursory.'

Paragraph 29 states, 'The exceptions in relation to policy development are the Standing Committee on Constitutional Matters and the Standing Committee on Economic Initiatives. The areas which they embrace represent a small part of government's initiatives overall.' Now, when members are considering – and I know there are a number of people in this hon. Court that have served on the Public Accounts Committee – policy, my understanding is that the Public Accounts Committee does look at how money is spent and whether there is a policy to back up the spending of that money. So policy does come into the actual workings of the Public Accounts Committee as well. Is there a legislative framework for the spending of that money? Is it a political policy developed within the department or not? Whether it is just somebody who has just decided to change their stance on one issue and go off on another issue, it does happen. So, unless these issues are actually flagged up by the Public Accounts Committee, nobody is actually looking at these sort of issues. This would be an area where an auditor-general or somebody like that would be able to look at the actual accounts and spending in a different way throughout government.

If we look at paragraph 18, all of these committees – and I cannot understand the Chief Minister saying that these are not government agencies; they are – the Value for Money Committee, he stated himself, is a committee of Treasury, chaired by a Treasury member (*Interjection by Mr Corkill*) with Treasury officers. The external auditors have a responsibility as external auditors; any internal audit division is, again, government and so these are not independent of government at all.

Mr Bell and Mrs Crowe: Of course they are.

Mrs Hannan: They are not. They cannot be seen –

Mr Bell: External auditors are independent.

Mrs Hannan: External audit is part of looking at accounts which are finalised which are put before. If you do not understand what external auditors do. . . They do not look at how the money is spent. They look and make sure that the accounts are done and formalised in a stated way.

I am on the Public Accounts Committee at the moment and what the Public Accounts Committee did look at – and I think we were brought to account, you could say, by a motion put down by the member for Rushen suggesting that we were not looking at issues in a formalised and structured way, because of the way that we report to this hon. Court – is how it operates itself and this is how we have reported to this hon. Court of our thinking on public accounts and how various areas within government are held to account and scrutinised.

Now, it is up to this hon. Court, really, whether the Court accepts the proposals that are put before you today and how these proposals are actually dealt with. You have to recognise that public accounts has a very limited structure of what it can look at as opposed to how an auditor-general or somebody like that would look at issues and report to public accounts reporting to Tynwald as well.

Therefore I would hope that members will support this report. We have looked at how scrutiny is carried on in other areas, and I think it is right and proper that Tynwald every so often looks at how scrutiny is carried out on Tynwald Court's behalf. I am sorry if some members do not understand exactly what scrutiny is all about in relation to this and how scrutiny should be separated from government. The issues that are mentioned in clause 18 quite seriously concern the Public Accounts Committee and we feel that we should have more assistance to look at the complex issues which are coming before us. Thank you, Eaghtyrane.

The President: Hon. member for Garff.

Mr Rodan: Mr President, I just want to make a couple of points. I welcome this report. I think the committee has approached this in a very rounded way. They have, as they say in paragraph 34 adopted a holistic approach, which looks at the general question of how government activities is scrutinised and they have done a very useful service in looking at other jurisdictions in the British Isles and drawn very useful comparisons. I welcome the approach they have adopted and the recommendations being made for the PAC in the context of the systems we have for government scrutiny.

Now, it is clear that it has been an issue that has been frequently raised that there is no systematic examination of scrutiny of policy in the way that there very well could be. We do have mechanisms in place for primary legislation, as described here. We do not have a mechanism in place for secondary and delegated legislation in a systematic manner. Policy development is sporadic in terms of the way it is scrutinised, and there are resource and other issues for budgetary and financial matters under the PAC.

Of course, with this lack of system in place, in a jurisdiction which is small and without the disciplines and inherent checks and balances of a party political system, what we resort to in terms of scrutiny of policy more often than not is select committees on particular narrow issues following a debate in Tynwald. As a consequence, as a parliament carries on and its life continues, we get a proliferation of select committees and members can find themselves landed on a number of select committees and to my mind that is not a particularly efficient system. What would be more efficient is to have a problem referred to the relevant standing committee for examination and that, indeed, is one of the conclusions under 'matters for further consideration' in this document. I welcome this in particular.

Not very long ago Tynwald in this Court we debated the report of a select committee which was examining the matter of the reduction in the number of standing committees, and I made the point then that there was a missed opportunity for that committee actually to recommend a reduction by setting up standing committees to replace some of the select committees.

Now, in doing this, of course, the point has been made again that if we are not careful everyone will be so busy scrutinising everyone else there will be no-one left to govern –

Mr Cannan: Well, the Isle of Man might do quite well!

Mr Rodan: Certainly where you do not have a system of standing committees that reflect party political opinion, as they have at Westminster – an in-built structure – that is an added difficulty. I certainly see that with this recommendation of establishing two types of standing committee, one centred on economic development, those departments of government concerned with wealth generation and the raising of income on the one hand and on the other hand a committee – it says here – on social affairs but to do with those departments responsible for the delivery of public services, social services and services to the public, there is scope here to have members carrying out both a parliamentary and a government rôle by ensuring that members who serve on particular government departments concerned with social affairs or public services were restricted to service on a parliamentary standing committee on economic development, for example. You could, notwithstanding the small numbers, actually make a good fist at least of staffing these committees.

So I welcome that particular proposal, and I see it is being suggested as a matter for Tynwald to debate on another day. As to who should initiate that particular discussion, I do have to say with all respect to the Chief Minister that as any instruction of Tynwald should be carried forward by the executive, I would have thought that was a perfectly reasonable matter for the executive to consider and for the Council of Ministers to consider in the interest of forming a better systematic means of scrutiny. I think

it is in government's interest to ensure that scrutiny of its activity is done in a systematic and meaningful way. Nonetheless, the matter is open for any member to initiate and we take that point.

All in all, Mr President, I do welcome the general thrust of this report. I think it is a very good, very thorough and very comprehensive one.

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

Mr Karran: Eaghtyrane, I find this debate quite surprising. As a member of the Public Accounts Committee, I felt it did not go far enough. I am somewhat surprised at some of the comments in here. I was surprised by the member for West Douglas saying there was no case for an auditor-general. I think there is a case for more auditing in this Court than there has ever been before and –

Mr Shimmin: What is it going to cost? What is the structure?

Mr Downie: How much?

Mr Karran: – in fact, he says, 'How much will it cost?' (**Mr Delaney:** Yes.) The issue has to be that we have to find a way of breaking the perpetual circle where the taxpayers look at us and say, 'Oh, not again! What has happened again? How have we managed to get ripped off again' on this subject or that subject?

In fact, I was surprised because the hon. member is not stupid and he is an intelligent man in that respect – (*Laughter*)

Mr Delaney: Are you sure? Shall we vote on it?

Mr Karran: – in the respect of academia. I do not know whether Mrs Cannell sometimes wants to turn the water off on him but I think she might be turning the oxygen supply off some of you in here if you think that we have nothing to audit within government at the present time!

I am afraid there are big shocks as far as this is concerned. I became a member of this Court before the economic boom. I remember when it was tough around here, and the point is what we have to do with this Public Accounts Committee is not have an opposition for the sake of an opposition; we do need to get away from our mutual admiration society in this hon. Court. We do need to get away from the, 'I'll have my white elephant; you have your white elephant' and the taxpayers outside despair.

I would say as far as the Ard-shirveishagh is concerned that one of the issues he was asking about is how you keep up with it. This is why I moved that motion about trying to have issues that have been raised in Tynwald as part of his policy debate. That is the sort of thing that should be part of the hit list because I have no argument. I think that he wants to be as committed to looking after the taxpayer's money as I do. (**A Member:** Hear, hear.) The problem is just that I wonder whether he is somewhere up on some high

mountain suffering from altitude sickness half the time with so many others in this hon. Court.

So I think that is the way of putting that rung on the ladder. Let us do what we asked to be done in this Tynwald Court – I think it was last December – and that is one way of keeping a check on things that come back and could be done.

We heard also that he said, 'Oh, auditors would not want to touch anything that could be politically sensitive!' Auditing is a business like anything else, and if somebody comes along and takes the legs from under you, it might affect whether you want to have them back at a later date. I know I do not question the integrity of the hon. member, the Chief Minister, but that is the reality of life as far as people are concerned.

I would suppose if you were St Francis of Acici you might be a little bit above doing those sorts of things. We have to accept that the problem is that our auditors have strict confines on what they have to do. We have seen that, speaking as an ex-chairman of the Water Authority, there were things that should have been sorted out that were not sorted out, were not picked up by audit and did not want to be known by other departments and I ended up having to try to sort it out by bringing management consultants in from outside. My good friend, Mr Lowey, was the Minister of Industry and he actually helped find some way to get sanity as far as some of the crazy things that were going on in the water board because I ran out of options within this Tynwald Court.

So I think the point is that the auditors have a set procedure of what they will look at. I think what we should do is maybe now and again to bring in the audit office from the United Kingdom to audit things like the hospital and a few of the other major policies. It is all right people tutting but the fact is, speaking as a former member for health, that is a heck of an indictment. I know that I would be sturred by the likes of a report but I believe I am big enough to take some criticism because we did not get it right.

The problem we have in this Court is too many who want to think they are St Francis of Acici but actually are far from it, and I think the point is that if we had some more accountability then maybe we would not have the taxpayer being the loser all the time.

So I do hope that when people say, 'Oh, we have these nice cosy arrangements with certain auditors', they see that it sometimes needs to come from outside the Island itself because sometimes it is that big that it needs to be so.

I believe that one of the problems that we do have and whilst one of the problems that we have not addressed enough in this report, in my opinion, is the need for more transparency and accountability. That is something that needs to be in it more. Information is far less available today as a member of this hon. Court than it was 18 years ago when I was first elected. It is harder to find out things. You get more abuse. You get a harder life and I think that needs to change. I think that means that unless that does change we are going to have to go further down the road towards what the

hon. Ard-shirveishagh does not want: where he ends up with an opposition.

Mr Corkill: We want more scrutiny.

Mr Karran: I think that is what is happening at the moment: people are treated like opposition and yet they are not opposition and they cannot get the information because they are classed as opposition.

Mr Corkill: More scrutiny; fewer alternative policies.

The President: Hon. members!

Mr Karran: So I think that is something that needs to be looked at.

I personally, as a new member of the Public Accounts Committee, am horrified that there is just *so* much work there. Yes, if you want to be nodding dogs, you are right: slip it in between an ecclesiastical committee and maybe going for a tea break somewhere. That is fair enough.

It is an important issue. It does need to have set times where they should be there, in my opinion, because what members must remember is that it is all well and good at the moment, times are good and there is money to throw at whatever problem you want and we can pander to the vanity of our individual sects within this government who are in different gangs with some crazy schemes, but those times are changing.

I would see this select committee as something that needs to be part of a programme of getting back – we have important things, as the previous speaker who was on his feet said, the hon. member for Garff, we have got student grants and loans. This is something that has grown big, something I am very proud of and I can pat the Chief Minister, the Ard-shirveishagh, on his back and the Council of Ministers for maintaining that policy that there are no tuition fees.

However, we must remember, there is a balance, there is only so much cake. So I hope that we will not see this as an attack on government. What we need to do is get a system where we are not like a quasi one-party state – that is what we are at the moment and that is not good for the taxpayer and democracy in the Island.

So, hon. members, I would recommend that one of the other things that we need is that members of the Public Accounts Committee should be full-time members of the committee. I cannot understand how you can be on two other decent-sized departments and have the time to do the job of public accounts. I see these reports and, as I say, at the end of the day I do not think there is anybody in this lower House who has had the sufficient training to be able to look through the variety of the reports we have got that come to the Public Accounts Committee, without having to seek advice from other parties to make sure that they are not being hoodwinked on certain things.

There are things: I have got a report at the moment where I have had to go and ask for specialist advice about insurance before coming back to the committee.

These are things that people do not realise. The Public Accounts Committee needs to be brought up the sphere of importance, as I was talking before about the pension scheme. As a full-time member of the Public Accounts Committee, you are 20, 30 or 40 per cent less well-off on your pension for doing just as important a rôle as being a member or a statutory board member, and I think these are issues that need to be addressed.

The President: Mr Speaker.

The Speaker: Yes, thank you, Mr President. I generally welcome this report. I think the argument about government being scrutinised by parliament is straightforward, really, and I do not think there is really any difference.

I think the problem I have, in reading the report, is what I find a little bit like being jumping out of a plane and not sure whether or not the parachute is going to open and I do not know where I will land. I think it is just really trying to put that together so that if this report is going to be of any use, we are actually going to go forward.

Now, I would just like to clarify a number of points in relation to the report. Recommendation 35 – of course, Tynwald has already agreed to that policy and I can advise hon. members that it is anticipated that the Tynwald Standing Orders Committee will report to Tynwald at its May sitting of this year to actually advise Tynwald of a change to our standing orders. So that is quite straightforward and I am sure that that is acknowledged.

As far as recommendation 36 is concerned, in relation to the adequate staffing of the Tynwald Management Committee, I think it is fair to say that as chairman of the Tynwald Management Committee I made it clear during the debate when the hon. member for Rushen, Mr Rimmington, raised the issue that, in fact, the resources required by any select committee or standing committee would be made available as long as the request was seen to be required and prudent. In fact, if a select committee or standing committee makes a request, it is *very* rare – in fact I do not know when – that any request has been turned down.

I would say that within the Tynwald Management Committee we are very conscious that the staffing of the Clerk of Tynwald's office is under considerable pressure for the amount of work that it has got to do and the work that is expected and I think it is fair to say that the – I will call it the Public Accounts Committee, we know what we mean – Public Accounts Committee, because it is doing its work in a more effective way and is in fact meeting on a more regular basis, in fact is putting an extra workload on the secretary to the committee and, of course, onto the office generally.

Now, that is not an issue that we should be concerned about. What we should do is welcome the point that we have a committee undertaking scrutiny and ensure that we are able to adequately service that committee. So I have no problems at all with that and, certainly as the chairman of Tynwald Management

Committee, I have given that undertaking before and I can assure you that as far as I am concerned, it is my ambition, along with my colleagues', to ensure that the Clerk of Tynwald's office is adequately staffed.

Now, parliamentary scrutiny of government is crucial. There is no doubt about that; that is why Tynwald is here. Government is answerable to Tynwald. Government is given its resources by Tynwald and therefore the departments, the Chief Minister and his ministers and members of departments – but especially the ministers and Chief Minister – are answerable to Tynwald Court for absolutely everything they do. They are able to do what they like as long as they act properly, prudently and do their job in the way that is expected of society and therefore of Tynwald Court. So there is no doubt about that, and if you take that as your base, you then say, 'How do we get to where we want to go?'

That is where I have a slight problem with the report. I believe we need to be realistic. It is not the first time I have said it; I have said it many times. We have to first acknowledge that we do not have party politics in the Isle of Man and if you start from that basis it means you cannot adopt a system that works elsewhere. We have to look at how we design a system to work for the Isle of Man.

We did that in 1986, when we determined that there should be a form of ministerial government. That was done in-house by ourselves and we set up a system which has changed but has worked and has focused more on individual members of this Court with responsibilities, who are a minority within the Court, but what it has also done – and was deliberately done – was that it said, 'You can have all this authority but you will be responsible for your actions. You cannot have it both ways and that responsibility has to be through this Court.' So there is no problem on that as far as I am concerned.

Now whether or not there should be an auditor-general, I think clearly the report says that that should be examined further, and I think that is right. I certainly know from a conference I attended recently regarding this issue of transparency, of ensuring there is no corruption – and I do not believe there is corruption within our system because we are so small and we would certainly know about it pretty quickly if there was, and I also believe that members act with the highest integrity and therefore that in itself is a strong point – one thing that was made clear at that conference was that many countries had what they called 'auditors-general' who were responsible to the parliamentary committees. They were not part of government, they were not outside bodies brought in. It was a person who actually carried out a function, and that remit was quite straightforward and quite clear.

What it costs is a matter for Tynwald and not a matter for government. That does not mean government does not have an input because, of course, the members of the government, the executive government, are here in Tynwald and they will have their say and have their view on it but the issue of examining whether or not the Isle of Man should have

an auditor-general, or whatever title we use, is clearly an issue that has now been identified and clearly the report says it should be examined further.

Now, I do have a problem, which I would be interested to hear the chairman respond to, because I have a slight problem understanding the logic – and that is the nicest way I can put it – in that it states in the report in paragraph 39 that the chairpersons of these two scrutiny committees – these are standing committees that the report is recommending – to be ex officio members of the CEPA.

That sounds quite straightforward, but then you have to understand where select committees come from and where standing committees come from. They are committees of Tynwald. They are not committees of another committee. So why the link? For example, whether or not as ex officio member of the Public Accounts Committee is irrelevant because of their responsibility – and they are only answerable to Tynwald Court; they are not able to discuss with another committee what actions they are carrying out so I do not see the merit of that link.

It is important that we keep this clear. There are defined lines of different committees of Tynwald. Those committees are answerable first and foremost only to Tynwald Court, not to somebody else and, in fact, members of committees are in breach of their appointment if they discuss issues outside their select committees or standing committees with another person, another committee or whatever. You cannot even ask a question of a select committee or a standing committee because they are answerable here to Tynwald Court.

So I think the committee has gone a little bit astray there because it is irrelevant whether or not they are tied to the Public Accounts Committee because they would be unable, under our procedures, the remit of Tynwald, to actually debate what is going on in one committee about another so I think we need to be clear on that.

I think it is important to try and see if we can move forward on this because clearly it is an issue which keeps raising its head. (**Mrs Crowe:** Yes.) It raises its head from the Public Accounts Committee; on occasions it raises its head within this hon. Court and in the other branches. We have matters that are raised that cause public concern and it seems to go nowhere. Therefore there is no comfort from Tynwald to the public to say, 'But we have a body that does this. We have a body that does xyz', whatever that xyz may be.

So therefore, I have put forward an amendment which has been circulated to members, which is quite straightforward. The reason I do this is because I am concerned that the recommendations and, more so, the matters for consideration are left up in the air. I do not know where they are going to go and to be honest, we need certainty. We need to know what it is we are doing.

We should not underestimate the importance of these matters before us. It is about how Tynwald Court functions. It is about how our committees carry out the work on behalf of the public, those committees not

answerable to government but answerable to us, the representatives of the public.

Therefore, what I am suggesting is that the select committee that is proposed in paragraph 37 should actually do a job for us and I would therefore propose, Mr President, that:

After the word 'approved' add –

'and that the select committee recommended in paragraph 37 of the report be required to consider the "matter for consideration" identified in paragraphs 38, 39 and 40 and report by the July 2003 sitting and that the said select committee shall consist of five members.'

The Speaker: The reason I do that is because I think it is important we move forward on this issue if we are going to do anything. I have to say that, unless we actually identify a way forward, I am a little bit lost as to what we should do with the report. What are we approving? If the report was being received with those paragraphs in, it would be okay because as the hon. member for Ayre says, somebody else could come along then and say, 'Right, I am going to pick up 37; I am going to pick up 38; I am going to pick up 39 and let us look at moving forward with those select committees or standing committees', but because it does not say just 'received' – it actually says to go a step further and 'the recommendations be approved' – I find it a slight contradiction.

We have this issue of matters for further consideration but nobody to do it – except we may set up committees and that is where we are stuck. I think it is important we move forward and we should say 'Don't set up a load of select committees. It is recommended in one of the recommendations that there be a select committee so let us ask that select committee to do the rôle of examining these matters that are still there for consideration.'

I believe that will take us forward. It will mean that we will get back a report to this hon. Court and hopefully we can move forward and tidy up these bits, these components, that we all, I think, really want to see advanced but it is just how we make that advancement. I therefore beg to move the amendment standing in my name.

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

Mr Rimington: Thank you, Mr President. I am happy to second the amendment in the name of Mr Speaker. I think it does move the situation forward.

Obviously I have got a few comments on the issues which they are raising in the report, which I do welcome, but I do believe it is incomplete and that we still have further to go to resolve how we are going to get the precise scrutiny that we would like and the right balance between parliamentary scrutiny and government activity.

It is always an area of conflict and always will be. It will never be fully resolved, but you will always try

to improve the situation. That is the nature probably of politics – or should be the nature of politics, indeed. Sometimes politics takes on other meanings in this hon. Court. I prefer it to be more focused on such issues. I think it would be more productive.

Going through the recommendations: 35 is really done and dusted, although it does say that 'the rôle of a CEPA remain unaltered for the time being' and now that rôle does encompass the amendment to its standing orders in relation to policy. So it does say, 'remain unaltered for the time being'; it does not cast that in stone, and I personally do believe that it should be primarily and totally focused on auditing, looking after accounts, and not from looking at policy.

Indeed, what the report is proposing in section 39, that perhaps there could be two standing committees, further gives you the opportunity to take any mention of policy out of the Public Accounts Committee because you have got two standing committees looking at the two broad areas of government, economic development and service delivery, and there would have to be within that an element of policy as part of that.

I take on the point by Mr Speaker about the two chairpersons being ex officio members of the CEPA. I think there is absolutely no need for that whatsoever that the Public Accounts Committee has a clear, defined rôle in looking at public accounts, and these other two committees have another clearly defined rôle and they get on and do that, and you do not want any correlation necessarily between them. I am sure there would be bound to be an overlap of membership as there is in so many other areas in our very small parliament, but you would not want it to be officially linked.

Likewise, in paragraph 40, that the CEPA becomes the superbody for scrutiny, I think, should not be so and I think that would be a very dangerous move if it became that. How could it do that without in fact forming what people do not want to see which is being the forum for political opposition? It should stick to its clearly defined rôle of public accounts. (**Mrs Crowe:** Yes.)

The prospect of having two standing committees to me is quite attractive. I can see obviously there may be shortfall, but again that would impose a discipline on members themselves (**A Member:** Yes.) in how they use the floor of Tynwald to bring issues which they want to see investigated because they think something is going wrong. You would not then expect to have such a plethora of select committees looking at x, y and z, but that standing committee covering that area may well encompass that terrain.

Obviously, there are areas where maybe it is a very specific interest or grievance which has to be dealt with on an ad hoc or one-off basis but there would be possibly some value in that. Also I do believe that trying to build that into our system means that the members of the Legislative Council have more work to do in terms of looking at secondary legislation. To me it has merit and I am glad I am not sitting up there. (*Laughter and interjections*) I think that is worthy of consideration.

I think the point about the external auditing has been made, but I think we should make that again. The very name 'external auditor' means you are having an independent, professional auditor. You are not saying to that person, 'Look, come and audit and by the way, here is a few bob, make sure it is all right, mate!' (**Mrs Crowe:** Exactly.) You are employing an independent professional and you have got to take that.

Mrs Crowe: With professional standards.

Mr Rimington: That is what you do. What would you do? Would you have another external, external auditor to externally audit the external auditor to get that further independence and so on? How far do you go? 'External' and 'independent' have to be recognised as that.

I could go on, Mr President, but I think I have got the main points that I am concerned about. Yes, the CEPA does need to have resources – any such committees have to have the resources – to do their work constructively. That is a difficult thing to be done to be organised, but it does need to be organised.

I will, just in closing, revert to what I have said many times before is that since my time in this Court I have not received much of value from the CEPA. I am still waiting for it; this is of some reasonable value but it is not actually looking at any public accounts. It is looking at ourselves again as we are prone to do repeatedly and that is what we need. We want constant reports on our public accounts. That is what you are there for. Thank you.

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

Mr Downie: Yes, thank you, Mr President. At the outset I shall be supporting the amendment that has been moved in the name of the hon. member for Castletown, Mr Speaker, and I think that a lot of the words he had to say about the report and the way in which it has been compiled and the best way to address it have really been welcome.

The report reflects moves which have been ongoing for quite a number of years to strengthen the parliamentary scrutiny of the executive. This can be seen in a number of areas including the increased number of parliamentary questions asked in Keys, the Legislative Council and Tynwald and, indeed, in the more aggressive approach of some individual questioners.

Scrutiny of the work of the executive is a fundamental principle of the parliamentary system of government and is key to democracy. I think we all accept that and that is the reason for, I think, some of the thought behind the speaker's amendment – he was of that opinion himself. It was of the utmost importance.

Having said that, it is very important that parliamentary scrutiny is not of such a level that it interferes with the legitimate work of the executive. As the level of scrutiny increases, departments and boards have to respond to this by deploying their already

limited resources away from the operational activities of the respective organisations to conduct research, compile information and to prepare briefs et cetera to defend themselves. For example, look at the time already spent in government to answer and deal with parliamentary questions.

By creating two committees of the PAC it is clear that the level of parliamentary scrutiny would increase considerably and therefore place a significant additional burden on departments and boards.

The type of work that is being promoted and the persons who are considered acceptable to serve on these committees would also be of some doubt because to spend five years of someone's political career sitting on one of these committees is not everybody's cup of tea and a lot of hon. members who come into this court like to get involved in government departments and other issues and I will be quite honest, I would not relish serving five years on a public accounts committee; it would drive me absolutely mad!

Mr Quine: Some of us have done 12!

Mr Downie: Well, look what it has done to him! (*Laughter*)

I think the issue that must be addressed here is about the level of parliamentary scrutiny which is legitimate in the circumstances of the jurisdiction. After all, we are only a small jurisdictions and we do have limited resources. Now, can we justify this increased level of scrutiny and the additional costs attached?

I was quite surprised to hear the hon. member for Onchan, Mr Karran – it is a pity he is not in the Court at the moment – who already highlighted what he thought were significant anomalies in the new hospital and saying that we should all come clean and he was as guilty as anything, being the member for health. Perhaps the chairman of the PAC can correct me, but I thought that the PAC was shadowing the development of the hospital. In fact, I well remember their employing specialist advisers and yet the last report we saw on the hospital was a two-liner. (**A Member:** Yes.) So are we spreading out attack too broadly? Are there too many issues to deal with or really should we not be focusing on particular issues?

The case for additional funding – that is why I am happy for the issue to go to a select committee. Maybe an auditor-general is the way forward, but in fairness I have been round here as long as some of the others. You are talking about the neck-end of £150,000 for an auditor-general, maybe more. (**Mrs Crowe:** More!) He needs supporting staff; he will have to be a suitably qualified person.

A Member: You wouldn't get an auditor-general for £150,000!

Mr Downie: When I have to run the gauntlet on an annual basis and appear before the Council of Ministers with my business plan and my budget, where is that money going to come from? Is it going to come from my budget or roads budget or somebody in

health? They are issues that need to be addressed, and I do not mind sitting and listening to the argument for an auditor-general but I think that if we are going to have growth in the parliamentary sector and we are going to want to put more money in I think we have to find a mechanism for the parliamentary system to make the arguments. Whether it is going to be in here and it takes precedence over everything else – well, that could be a matter that is resolved by this committee, and I think that there is an area that that can be considered. If the case is made, fine, I have got no problem voting for it. However, at the moment we are in an area where we are uncertain about what these things are going to cost and how they are going to operate.

The hon. member for Onchan said that since he joined this committee he was having to deal with a lot of complex issues, and from time to time he had to take advice. Now, I would like to know from whom is he taking advice? Is advice being given to him by *his* advisers? Is that on a confidential basis or is the advice being made available to all the members of the committee? A lot of the areas that this PAC deal with are matters which deal with confidential issues, and I know that some of the information that is given to the committee is given in confidence so we need to be absolutely certain that there are people with integrity on this committee, and we are not having government relationships with business and other people trotted out round the town. It does concern me that particular issue.

I think what is required is some confidence building. I am very saddened to see that on certain occasions hon. members in here will write to the Public Accounts Committee about a particular issue and there it is, plastered all over the newspaper – for example, somebody has had his hand in the till or there have been thieves in the night – ‘I am referring this to the Public Accounts Committee.’

I welcome the committee. I welcome the work that they do. They can provide us with a lot of very good, sound advice but at the end of the day they are not the Gestapo and they are not the alternative to government. So let us get the thing properly structured and be absolutely clear what their rôle is.

If there are anomalies in the system or there are areas where government money has not been spent wisely, I want to know about it. I want to be able to address the balance and deal with the issue. Let us not make out that we are setting up some sort of quasi organisation here that is an alternative to government.

I think if members want to support the amendment of the Speaker, I think that would do the job. I think it will progress the matter and we should have a report coming back to us in July, which at the least should give us costings and the way this whole committee should be structured. Thank you.

The President: Hon. members, I think it is an appropriate time at which to take a break. The Court will resume its deliberations at five minutes past five, when I will invite the hon. member, Mr Quine, to wind up.

Members: Hear, hear.

The Court adjourned at 4.40 p.m. and resumed its sitting at 5.05 p.m.

Standing Committee on Expenditure and Public Accounts – Debate Continued – Report Received – Recommendations Approved

The President: Hon. members, I call on the hon. member for Ayre, to wind up the debate on item 6.

Mr Quine: Thank you, Mr President. There has been, I think, some concern expressed about the marshalling of the recommendations. Indeed, I think there is some confusion between the recommendations and matters for consideration, and I think I would start by explaining the backdrop to that.

The members of the Public Accounts Committee debated their approach to the recommendations for the very simple reason that we were concerned about whether or not the Public Accounts Committee would be exceeding its remit by including recommendations that were not strictly to do with the PAC. That is why we came up with recommendations which are particular to the PAC and matters that flow on from that which we have referred to as ‘other recommendations’.

We could quite easily, of course, have given a long list of recommendations. However, I am sure members will appreciate that if that had been reflected – as it is today in a truncated way – in the motion so that we were then asking this hon. Court to approve the recommendations, there could have been problems, allegations and assertions that we were putting forward recommendations that were outside the business of the PAC. After all, what we were asked to do was to look at the remit and the membership et cetera of the PAC and come forward and make some recommendations in relation to that.

That is what we sought to do, but as we explained in this report, we had no sooner set out along the road to do that when it became quite clear that we could not do that in isolation; we had to take a holistic view of scrutiny across the board. We had to look at that and proceed to get that identification done before we could determine what was appropriate, by drawing lines of comparison, for a Public Accounts Committee. That is why these recommendations are distinct from other matters for consideration, so I hope that explains to members why it is in that form.

If I could come now to some of the comments made by members, I am most grateful to all members, of course, for their comments; I think there have been some very useful comments made. The hon. member for West Douglas, Mr Shimmin, referred to the fact that in his experience the PAC lacked focus and resources. I could not agree more with him, and that is why from time to time I have been quite critical of the

PAC in this hon. Court and other places. I have found the PAC at times quite dispiriting –

Mr Earnshaw: Not the members.

Mr Quine: Not the members; the members are always in high spirit. (*Laughter*) There are in fact two good examples: our last two agendas. We had one with 35 items on the agenda and one with 29. Now, I think that just illustrates that there has to be some honing, tuning, and further thought about what the PAC is about. At the moment, due to the amount of work being sent to the PAC – and some has come in from members – it has not got the capacity or resource to do anything other than basically take a very cursory look at it. So I have no dispute with the comments of the hon. member for West Douglas at all, and that is one of our starting points.

I am not at one with him with his comments about the external auditors and what he seems to be doing which is questioning the matter of the auditor-general. I think we all understand our position. We have external auditors and they have a rôle – and it is dealt with in this report, quite frankly, in two places. Their primary rôle is a statutory rôle and that is the provisions of the Audit Act 1983. On top of that they have secondary responsibilities in relation to other matters which they report on and those matters are in some cases reported along with purely financial reports to the departments. In other cases they are reported to the Treasury in a way that I would call ‘management matters’. Indeed, when I first went onto the PAC, the external auditors used to prepare a ‘management memorandum’ – it was a title something like that – in which you not only had the audit report produced in accordance with the Audit Act, but they also produced a memorandum which used to identify other management financial administration matters which were also, it has been suggested, should be looked at by Treasury and by the department.

I think those memoranda ceased when there was a change of external auditor, and I have not seen any of those administrative memoranda –

Mrs Crowe: They are always available.

Mr Quine: – for a number of years. The rôle of the external auditor is quite clear and it is not purely to do with the Audit Act.

There are matters which they work up in relation to Treasury and they go back to Treasury. More recently we have been having discussions with the chief internal auditor in relation to some matters which themselves have come from the external auditors, which would be management matters.

Now the external auditors, of course, do not answer to parliament and that is the key point. If you take the auditor-general in the UK: he answers directly to Parliament. He does not answer to Treasury, he does not have a contract with Treasury; it is to Parliament that he answers – and that is the nub of the matter. It is what this responsibility is, and whether or not this

political accountability exists, it is whether he answers directly.

In the case of our external auditors they do not answer directly; their contractual arrangement is with the Treasury – with a department of government, one of several that they are responsible for auditing. That is why my colleagues and I maintain that in the context of what you would expect of an auditor-general, you cannot describe the external auditors as being independent.

Then, of course, we have the internal auditors and we have the Value for Money Committee. There is no dispute here: they are part of Treasury. It matters not whether they follow very strict rules nor whether they are disciplined to think separately when they are dealing with Treasury nor whether they can keep their focus separate from the fact that the person they are auditing is their boss. The fact remains that they are part and parcel of Treasury.

There is a useful quotation in this accompanying report where it makes the point that ‘they are a management of tool of executive government.’ So, I am convinced in my own mind that this report is accurate in its reflection of the position of the external auditor, the internal auditor and the Value for Money Committee, albeit of course, we could not draw a parallel between the Value for Money Committee and whatever it is somewhere else because that is an Island device.

Mr Corkill said basically that he has no problem with paragraph 35 and the recommendation at 36. He felt that this is the matter of funding and the matter of meetings.

On the matter of meetings, first of all, of course this has been actioned, of course we are telling you nothing new, and we have said so. For some time now we have been doing just that and the report says that this is now being done but as it was raised by a member quite recently in comments in this hon. Court, we felt it should be reflected in this report. Of course it is being done; it has been done for some time.

Additional resources – it is a simple matter for us to go forward through the Tynwald management committee and seek those resources, and Mr Speaker is absolutely right. The Tynwald management committee, through Mr Speaker, who is chairman of that committee – and I think I am a member of it myself anyway – has made the point that if a case is made for resources the Tynwald management committee will lend its weight to the getting of those resources, whereas government view on that is a matter to be taken into account. There is a consultation process if you wish. It is not a decision for government. It is a decision for parliament, for this hon. Court.

And I think just one final point arising from Mr Shimmin’s comments, he was a little concerned I think that we had lost the DoT, that we had not included them in the proposed committees.

Mr Shimmin: Well, paragraph 37 by all accounts.

Mrs Crowe: He was very happy! (*Interjection by Mr Corkill*)

Mr Quine: I was just going to say – well there is no problem, this is just an indication of the line that could be taken by the select committee – but I assure you, sir, I will give it my personal attention. (**Mr Houghton:** Hear, hear.) (*Laughter*)

Coming back to Mr Corkill, I think his comment about the lack of clarity in 37, on reflection, I think has some substance. He said he did not wish to be put on a hook.

Mrs Cannell: He does socially.

Mr Quine: Well, I can understand that point of view because with the passage of time as he pointed out, these matters can be quoted or misquoted. However, the object of paragraph 37 or the intent of paragraph 37 is really, I would hope, quite straightforward and that is: ‘That Tynwald establish a select committee to examine and report’ – and I know it goes on to say, ‘the most efficient and cost effective manner to create an auditor-general’ capacity, and that could be read as inviting members to accept that the need has been established.

That was not the intent, because quite clearly this committee has not that need; the intent was that the select committee would look at this need. So I do not think there is any dispute between us as far as that is concerned.

The next point he raised is that he is concerned about the PAC being involved in policy. Well, this hon. Court has itself decided that the PAC, to a very limited extent, should be involved in policy and that is spelt out in this report. If hon. members will look at paragraphs 22 and 23 of the report, they will see that initially when the Public Accounts Committee was established in March 1983 it was ‘to examine the accounts showing the appropriation of sums granted by Tynwald to meet the public expenditure and such other accounts laid before Tynwald as the committee itself may think fit.’ That was a purely accounting responsibility. Then in 1996 this hon. Court enlarged the rôle of the PAC: in 1996 it was extended to include ‘any papers on public expenditure presented to Tynwald and such of the estimates that may seem fit to the committee and in particular, consider how if at all, the policies implied in the figures of expenditure and in the estimates may be carried out more economically and to examine the form of the papers and the estimates presented to Tynwald.’ That is the remit of the PAC. To that extent, and no further, the PAC is concerned with policy because this hon. Court decided it should be concerned with policy.

The fact that this hon. Court does not get a significant number of reports from the PAC which are policy orientated has to do with the resource element of the PAC, not the remit of the PAC; that is already in being.

Again, I do not want to go into this in too great a detail, but if hon. members will look at paragraphs 4 and 5, there are two fleeting references there which

also impinge upon this, about the actual matter of the linkage between the public accounts, the purely accounting rôle and responsibilities of the committee and the policy. We have made it quite clear there that there is a blurring of these matters and we have also made it clear further on in the report that, so far as the primary functions of the PAC are concerned, it is to do with the probity of budgetary and financial administration. That point is also made.

I find this repeated concern about ‘we do not want opposition groupings’ a little bit tiresome. There can be no effective opposition grouping unless this hon. Court decides that it is going to take that power, so I do not know what the concern is on that score.

Going on from there, the hon. member for Onchan, Mr Corkill, questioned whether there are enough members to do this. Well, again, I have my view and he has his. I have my view that there are more than enough members if they were doing a function, which is a political function, and not tied to department as voting fodder. It is a matter of opinion – his opinion and my opinion in this matter – but it is only part of the answer to his question (*Interjection*). The point is made here in this report, as has been made elsewhere in relation to small jurisdictions, that consideration should be given to the matter of lay membership. It is part of the proposals for Jersey, for the Channel Island places and it has been raised by us in this report as something that should be considered by the select committee. So if you take that into account as well, then I do not think there is any real basis for concerns about our capacity to deal with these matters.

Where do we go from here? Well, I will come back to that because Mr Speaker has in fact moved an amendment and it is probably preferable if I end on that matter to avoid repetition.

I thank the hon. member for Peel, for her support and she underlined several of the references in the report which to a very large extent answered the queries of both the hon. member for West Douglas and the hon. member for Onchan, Mr Corkill.

Again the hon. member for Peel underlined this question of independence and the extent to which the external auditors, the Internal Audit Division and the Value for Money Committee could remotely be considered as being independent. So I thank her for that support and I thank her for making those points.

I appreciate the support that Mr Rodan has offered to the select committee report and I particularly welcome his view, as he has welcomed it, in fact. He said he would welcome a select committee to look into this matter of standing committees for scrutiny; I thank him for that.

He touched upon this but I would just make sure that members have picked this up in the report and that is, of course, when we are considered the extent to which additional scrutiny may be required in our parliamentary situation, the point made in paragraph 11 – and it was touched upon by the hon. member for Garff, Mr Rodan – I think is very important. You have to look at what is available to provide the scrutiny, and if you just take these two points made in paragraph 11,

we cannot rely on a party political structure to provide scrutiny, and to a large extent that is what jurisdictions with party political set-ups do. That is what that structure affords. Neither do we have the ombudsman system and those sorts of arrangements because we are small and it is something we have not yet come to terms with. So, again I thank Mr Rodan for that.

He also focused on the matter of how we advance issues and I thank him, but I will return to that because I think it has been overtaken by the amendment.

Mr Karran, of course spoke, as he has done on previous occasions, quite passionately about the need for an auditor-general. I think we all understand where Mr Karran comes from. We understand his conviction that this is needed.

In part he answered a point made by the hon. member for West Douglas, Mr Shimmin: 'how much would it cost?' I think that was basically a point made by the hon. member for West Douglas, Mr Shimmin. Well, how much is it costing us for not having this facility for scrutiny now? How much has it cost us over the years? I could quite easily list a significant number of investigations carried out by the PAC, which have identified many thousands of pounds of moneys wrongly spent.

Now if there was in place a system of scrutiny which got in at the estimate stage, which is what exists of course in some of the other jurisdictions, then I think there is a strong case to be argued that if we had that scrutiny we would perhaps not be misspending money, we would not be letting money go out on schemes that later are found wanting. There is no doubt about it, if you look in the not too distant past, we could list, as I say, a significant number of projects where that has been the case.

So I think that Mr Karran is right, he makes a point: how much would it cost? How much is it costing us by *not* having in place an adequate mechanism? That is an equally pertinent question. He says there is a pressing case for scrutiny and I agree with him.

He raises again the question of the National Audit Office and I think we have dealt with that or touched upon it in previous debates. There is no doubt that the UK National Audit Office has great expertise and great experience. I think that the position of the PAC at this time is that we recognise that that expertise and that that resource is there and we know as a matter of principle, because we have checked this out already, that the National Audit Office would be prepared to undertake certain work for us. It would be a matter of us looking at particular projects and deciding whether or not they were the best resource for that particular task. So there is no obstacle in our way in using the National Audit Office, and that is something that will be looked upon and examined as the need arises.

Again, I thank Mr Speaker for his broad endorsement anyway of the report. First of all, I think he is relatively happy with 35 and 36 and has spoken to those and has said that the resources can certainly be made available if the case is made to the Tynwald management committee. I agree with that. I have no problem with that.

In relation to the matter of the auditor-general, he has, of course, moved an amendment which is before hon. members; all I need to say is that I am perfectly happy to accept that amendment. One committee would be looking at all these matters and it would be going across the dividing line between matters that a purely PAC and matters which are the other side of the dividing line. We felt it necessary to keep that division in place because we were reporting just as a PAC on a PAC rôle. Mr Speaker, quite rightly, has been able to take a broader view on that, so I am perfectly happy with that.

He asked, in relation to paragraph 39 – if the select committee should recommend that the other standing committees be created – what the thinking behind having the chairmen of the two scrutiny committees as ex officio members of the PAC was. Well, I think the starting point is that amongst our research, we looked at the proposals for Jersey and Guernsey and essentially we have drawn to a large extent on the proposals there. The object of the exercise was to say, 'Well, it is all right having taken the Manx scenario.' You would have a PAC or whatever you like to call it, looking at the budgetary matters and those policy matters that only make sense in the context of estimate – policy relevant to estimate. That is one area of activity. If the scrutiny committee proposal were to find favour by the select committee, you would then have a group of people looking at policy and the effectiveness and efficiency of government in relation to those departments who are creating wealth – those involved in economic activities – and you would have one looking at those concerned primarily with social affairs.

The need that was identified in the Channel Islands was that, although that is fine, you would need to have co-ordination to make sure that you do not get these different packages falling down in between. The concept of having the chairman of the two scrutiny committees as ex officio members of the PAC was to provide that umbrella so that scrutiny as a whole could be discussed and we would not have loopholes or gaps in this. That is purely the rationale behind it.

The Channel Islands' proposals are founded very largely on independent input. Ours, in terms of this report, are purely political but it seemed to make sense to us and as we were simply proposing that it should go to a select committee as a matter to be looked at, that is why it is in this report in that form.

Again, I thank Mr Rimington for his broad endorsement. I hope I have explained his concerns about policy. He was concerned that the PAC should limit its rôle to purely budgetary matters and I have explained that the only policy is that which Tynwald has asked us to do by virtue of the 1996 amendment.

I do not share his fear about the Public Accounts Committee becoming, as he described it, a 'superbody', and I think I have dealt with that. The object of the exercise, which is not a matter that has been devised here on the Island, drawing on the Channel Islands' experience, is that it should be a co-ordinating body. Somehow it has got to be pulled together and there may be another mechanism – an

equally good or even a better mechanism – to provide that co-ordination but it does seem logical and sensible that there should be some co-ordination between what would in fact be three scrutiny committees. I think that is that matter.

I note Mr Downie's comments and he is quite right, of course: there have been some changes to the PAC over recent years. That is ongoing and hopefully that is going to be part of the process, but whether or not it is, is a matter for this hon. Court.

He has expressed concern that scrutiny should not be at a level to interfere with the executive. I do not go along with that; I think there is a balance to be struck. (**Mr Corkill:** Hear, hear.) You cannot go to such an extent with scrutiny that you are going to bring to a halt the progression of government policies and programmes. There has to be a balance struck, but I would not put it in such stark terms as those expressed by the hon. member for West Douglas, Mr Downie.

Inevitably in a democratic parliamentary set-up there is going to be 'interference', if you want to call it that, but that is part of the checks and balances and part of the scrutiny and that is what we live with. Without it we are not going to have a democratic system. If you are going to work to an arbitrary guideline then you can only involve yourself in looking at government affairs to the extent that you must not interfere with them. I do not think that is an acceptable tenet at all.

He asked about whether or not the PAC has or had a specialist adviser doing some work for them in relation to the hospital and the answer is 'yes'. I think it was for a period of two years, if I remember rightly, there was a specialist adviser doing certain work for the PAC at the hospital, but that was in relation to shadowing the works programme on site –

Mr Karran: A waste of money then.

Mr Quine: It certainly did not extend into what I would call 'policy issues'. No, he was not involved, he had no remit to involve himself in policy and I suppose the starkest illustration of policy would be whether or not – and now may be the time – there should be a wash-up of the concept of management contracting. Now that is a very important matter and it is a matter which, of course, was the whole foundation on which the contracts and the work for the hospital were progressed. If we are talking about this chap's involvement with the PAC then it was certainly not at that level; it was at the level of an expert in construction matters who was seeing what was taking place in the hospital and reporting to us on matters such as that. So, for example, information may be passed to the PAC about drainage systems and whether or not concrete had been properly laid and he was reporting on those matters.

If I could just finish on Mr Speaker's amendment, very, very quickly. As I say, I have no problem with the amendment; I think it is decidedly a step forward. Mr Speaker is saying that we should have the one committee which is in the third of the specific recommendations and that that committee should look at the other matters for consideration and then that

committee should look at and report on all those matters – four items – that are suggested here could be beneficially examined. I have no difficulty with that at all. I have no difficulty with the premise that there should be five members and I think that that approach of having one committee established, hopefully today, to look into these matters is equally acceptable to my colleagues on the Public Accounts Committee – indeed I have checked with them.

So I thank hon. members for the attention which they have given this matter and I trust that this report will find favour with hon. members. I would certainly advocate that they lend their support to the amendment in the name of Mr Speaker because unquestionably that would represent probably the most expeditious way to proceed with the lines of inquiry which have been identified in this report. I beg to move, Mr President.

The President: Hon. members, the motion that I put to you is printed at 6 on your order paper and to that you have the amendment circulated in the name of Mr Speaker on white paper.

Hon. members, if you are content with that, I propose to put to you the amendment. Those in favour of the amendment as moved by Mr Speaker please say aye; against, no. The ayes have it. The ayes have it.

The motion, hon. members, printed at 6 as amended. 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 Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Rimington, Mr Gill, Mr Houghton, Mr Henderson, Mr Cretney, Mr Duggan, Mr Braidwood, Mrs Cannell, Mr Downie, Mrs Hannan, Mr Karran, Mr Corkill, Mr Earnshaw and the Speaker – 19

Against: Mrs Crowe, Mr Shimmin, Mr Bell and Capt. Douglas – 4

The Speaker: Mr President, the motion as amended carries with 19 votes for and 4 votes against.

In the Council –

For: The Lord Bishop, Mr Lowey, Mr Waft, Mr Singer, Mr Delaney and Mr Gelling – 6

Against: None.

The President: With 6 votes for in the Council, hon. members, no votes against, the motion therefore carries.

Now, hon. members, we then turn to item 7 on the order paper –

Mr Lowey: Are we having a committee elected?

The President: Oh yes, we had better elect your committee, hon. members! (*Laughter*)

Mrs Crowe: It will take us until nine o'clock!

The President: We need a committee of five, hon. members, in line with Mr Speaker's amendment. I call for nominations.

Mr Corkill: I wish to nominate Mr Speaker, please, Mr President.

Mr Henderson: I second that, sir.

Mr Lowey: I propose the hon. member of Council, Mr Gelling.

Mr Bell: I second that, Mr President.

Mr Rodan: I propose Mr Quine.

Mr Braidwood: I propose the member for West Douglas, Mr Shimmin.

Mr Lowey: I second that, sir.

Mr Shimmin: Thank you, Edward!

Mrs Hannan: Mr President, I am happy to second Mr Quine's nomination.

Mr Shimmin: I propose the member for Rushen, Mr Grimington.

The Speaker: Grimington? (*Laughter and interjections*) You are right!

Mr Quine: I beg leave to propose the hon. member for Peel, sir.

Mr Karran: I will second that.

Mrs Hannan: Could I propose Capt. Douglas, the member for Malew and Santon.

Mr Shimmin: I second Mr Douglas.

Mrs Crowe: Could I propose Mr Earnshaw?

Mr Quine: I am pleased to second that, sir.

Mr Henderson: I propose nominations closed.

The President: At the moment, hon. members, I do not have a seconder for Mr Rimington.

Mr Henderson: I second it, sir.

The President: Okay. Are we content, hon. members?

Hon. members, we will have ballot papers distributed. When the ballot papers are in your hands

the Clerk will read out the names and you will be voting for five, hon. members.

Okay, hon. members. The Clerk will read out the names of those who have been nominated.

The Clerk: Mr President, the persons nominated are: Mr Gelling; Capt. Douglas; Mr Earnshaw; Mrs Hannan; Mr Quine; Mr Rimington; Mr Shimmin and Mr Speaker.

The President: Voting for five, hon. members. May I ask Mr Singer to ask as teller for the Council, hon. members? Mr Speaker.

The Speaker: Hon. member for Douglas South, Mr Cretney, to act as teller please.

A first ballot took place.

The President: Have everybody's papers been collected, hon. members?

Right, hon. members, the result of the ballot is that: Mr Gelling received 28; Mr Douglas received 15; Mr Earnshaw received 18; Mrs Hannan received 17; Mr Quine received 14; Mr Rimington received 15; Mr Shimmin received 10; and Mr Speaker received 28.

Hon. members, four members, Mr Speaker, Mrs Hannan, Mr Earnshaw and Mr Gelling are elected.

Hon. members, just drop one off –

Mr Shimmin: I think so! (*Laughter*)

Mr Lowey: A volunteer!

The President: Think logically, hon. members: the answer to this one, we have two sitting on 15 votes. However, we will drop off Mr Shimmin as having received the lowest votes in this particular instance and vote for the remaining position from the three.

Hon. members, voting for the one position from the three. The Clerk to read the names.

The Clerk: Mr President, they are: Capt. Douglas, Mr Quine and Mr Rimington.

The President: Same tellers please.

A second ballot took place.

The President: Hon. members, the result of that ballot is that: Mr Douglas received 5; Mr Quine received 11; and Mr Rimington received 13. Nobody was elected hon. members.

We will ballot again, dropping off the name of Mr Douglas on this occasion.

The Speaker: Can you just repeat the result, sir?

The President: Hon. members, I have been asked to read the result again for you. Mr Douglas received 5 votes; Mr Quine received 11 votes; and Mr Rimington received 13 votes. Nobody received the required majority, hon. members.

We will ballot again, dropping off Mr Douglas. You will be voting between Mr Quine and Mr Rimington.

A third ballot took place.

The President: Right, hon. members, the result of that ballot is that: Mr Quine received 8 votes and Mr Rimington received 21 votes. Mr Rimington is therefore elected.

Mr Delaney: Well done! (*Interjections*)

The President: Hon. members, for your information the committee now consists of Mr Speaker, Mr Earnshaw, Mr Gelling, Mrs Hannan and Mr Rimington.

**Corporate Service Providers (Fees)
Regulations 2003 – Investment Business
(Fees) Regulations 2003 – Banking (Fees)
Regulations 2003 – Income Tax Exemption
(Managed Banks) (Fees) Order 2003 –
Building Societies (Authorisation) (Fees)
Regulations 2003 – Collective Investment
Scheme (Fees) Regulations 2003 –
Approved**

Items 7, 8, 9, 10, 11 and 12. The Minister for the Treasury to move:

That the Corporate Service Providers (Fees) Regulations 2003 be approved [SD No 54/03];

that the Investment Business (Fees) Regulations 2003 be approved [SD No 55/03];

that the Banking (Fees) Regulations 2003 be approved [SD No 56/03];

that the Income Tax Exemption (Managed Banks) (Fees) Order 2003 be approved [SD No 57/03];

that the Building Societies (Authorisation) (Fees) Regulations 2003 be approved [SD No 59/02]; and

that the Collective Investment Scheme (Fees) Regulations 2003 be approved [SD No 58/03]

The President: Now hon. members I am aware of the clock. I was intending to continue, with your co-operation, until around 7.30 tonight at the latest, bearing in mind that we are back tomorrow; but I am in your hands, hon. members. I am prepared to sit until 7.30. (**Several Members:** Agreed.) (*Interjections*)

In that case, hon. members we will turn to item 7, and I have had the indication from the Minister for the Treasury, as you will be aware, that all the fees regulations are 7, 8, 9, 10, 11 and 12. The Treasury minister tells me he is prepared to move them as one,

hon. members, (**Members:** Hear, hear.) but we will vote separately on each item. Treasury minister. (*Laughter*)

Mr Bell: As usual Treasury always tries to help and I appreciate the long day that we have had and we are thinking about your interest always.

Mr Quine: I think we are all for scrutiny.

Mr Bell: Not yours I hope!

Mr President, the Corporate Service Providers Act of 2000, Investment Business Acts of 1991 to 1993, the Banking Act of 1998, and Income Tax Acts of 1970 to 1991 empower the Financial Supervision Commission after consulting the Treasury to prescribe fees, in particular those applicable to licence applications, changes to licensed activities, periodic licence fees and exemptions under the Acts.

The Building Society's Act 1986 empowers of Treasury to make regulations in order to prescribe an annual fee to be paid by a building society for the grant of and continuation of its authorisation by the Financial Supervision Commission.

The Financial Supervision Act of 1988 empowers the Treasury and the Financial Supervision Commission to make regulations in order to prescribe fees to be paid by different classes of collective investment schemes.

The Corporate Service Providers (Fees) Regulations 2003, the Investment Business (Fees) Regulations 2003, the Banking (Fees) Regulations 2003, the Income Tax Exemption (Managed Banks) (Fees) Order 2003, the Building Societies (Authorisation) (Fees) Regulations 2003, and the Collective Investment Scheme (Fees) Regulations 2003, which come into effect from 1st April 2003, all revoke and replace earlier fees regulations and an earlier fees order.

The new fees prescribed are in accordance with the schedule of revisions applicable to all licence holders which has been provided for members with the explanatory memoranda. There have been no changes in the methodology, merely to the level of individual fees. The specific changes applicable under each regulation and order are as follows: the Corporate Services Providers (Fees) Regulations 2003 prescribe an increase in the applicable fee, the annual licence fees and the fee payable on the grant of a licence.

The Investment Business (Fees) Regulations 2003 prescribe an increase in the application fee and some annual fees payable in relation to certain categories of investment business activity. In addition they reflect changes to the definition of a category 3 licence as introduced by the Financial Resources Reporting Code which came into effect in September 2002.

The Banking (Fees) Regulations 2003 prescribe an increase in the application fee, annual licence fee and the fee payable on the grant of a licence and reflect the increase in fees payable in relation to their investment business activities.

The Income Tax Exemption (Managed Banks) (Fees) Order 2003 prescribes an increase in fees payable on application, issue or renewal of exemption.

The Building Societies (Authorisation) (Fees) Regulations 2003 prescribe an increase in the annual fee payable.

The Collective Investment Scheme (Fees) Regulations 2003 prescribe an increase in fees payable on application for a scheme to be authorised, recognised and also an increase in annual fees.

Mr President, as the Financial Supervision Commission's policy is to review the level of licence fees bi-annually, the licence fees were last revised in April 2001. To reflect the level of inflation over the period, a fee increase of 4 per cent plus rounding is sought. This takes into account the increase in the retail price index over the two-year period 2001-2. In addition, the application fees under the Corporate Service Providers Regulations have been increased to more closely reflect the cost of processing licence applications.

As the majority of existing Corporate Service Providers' businesses have submitted their applications, the application fees and category 2 licence fee are now being increased to bring them more closely in line with the investment business application fees, creating a level playing-field.

Mr President, I beg to move items 7, 8, 9, 10, 11 and 12.

The President: Mr Gelling.

Mr Gelling: Yes, Mr President, I beg to second items 7 to 12 inclusive on today's agenda and reserve my remarks, sir.

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

Mr Karran: Eaghtyrane, I would just like to ask the mover what consultation there has been with the industry. Has there been any consultation as far as the fees being put up? And I do hope that it is not seen as a reflection that it is not as important when all the fees put up are moved as one item, because this is the backbone of our economy.

Mr Quine: Hear, hear.

The President: Minister.

Mr Bell: Mr President, these are bi-annual increases and inline with the increases of fees that we apply to any other or most other elements in government. As far as I am aware there has been no consultation, nor any need for consultation.

The President: Hon. members, I put to you the motion printed at item 7 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Again, hon. members, I put to you that printed at 8. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, 9, that the Banking (Fees) Regulations 2003 be approved, those in favour please say aye; against, no. The ayes have it. The ayes have it.

Item 10, hon. members, those in favour please say aye; against, no. The ayes have it. The ayes have it.

Item 11 – that the Building Societies (Authorisation) (Fees) Regulations 2003 be approved – those in favour please say aye; against, no. The ayes have it. The ayes have it.

And, hon. members, item 12, those in favour please say aye; against, no. The ayes have it. The ayes have it.

Planning and Building Control (Search Fees etc.) Order 2003 – Withdrawn

Item 13. The Minister for the Treasury to move:

That the Planning and Building Control (Search Fees etc.) Order 2003 be approved. [SD No 93/03]

The President: Minister for the Treasury.

Mr Bell: Mr President, the order prescribes a fee of £40 for a planning search, building control search or letter of comfort issued by the Department of Local Government and the Environment.

A 'planning search' means a search made by the department in its records to ascertain whether any planning approval has been granted and the terms of any such approval.

A 'building control search' means a search by the department in its records to ascertain whether any plans of proposed work in respect of a specified property have been deposited with the department in accordance with building regulations and whether any such plans have been passed or rejected.

A letter of comfort is sent as a result of a request from the owner of a property, a prospective purchaser or an advocate acting on their behalf, where minor development has taken place some time in the past without the benefit of planning permission. In such cases if the department is satisfied that the development is not detrimental to the public amenity or that of a neighbour then a notification is issued by the department that it does not intend to take proceedings in respect of a specified breach of planning control or a specified contravention of a breach of building regulations.

Mr President, the proposed fees are meant to cover the administration costs involved when such requests are received. In recent times, both the planning committee and the building control section have indicated the need for such fees to be introduced, as officers are now spending an increasing amount of time responding to such requests. The department has

therefore recommended that a fee of £40 should be introduced.

Mr President, I beg to move.

The President: Mr Gelling.

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

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

Mr Cannan: Mr President, I have one particular query on this. From time to time, members, in the course of their constituency work – certainly myself – have cause to ring the planning department of the local government department and ask certain questions about a planning application which may require them to look in their records. Are members of Tynwald going to be charged £40 to carry out a normal constituency service that has gone on for a very long time? If that is the case and if the minister says it also applies to members of Tynwald then I am going to vote against it (**The Speaker:** Hear, hear.) and I suggest all members think carefully. If you want to do your constituency work properly there may be one, two, three, four or five times in a year, maybe fewer. Are you going to be able to do that and then pay £40? You ring up the planning department and say, ‘When application’ whatever ‘was approved six months ago, what were the conditions?’ – it has now started six months or a year later. Are they going to tell you, ‘£40 up front or you get no answer’? Hon. members, mark my words, you will, have cause in your constituency duties to do that and I want to know whether the Treasury minister is going to charge members, which is a penalty on members carrying out their constituency work.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: I thank you, Eaghtyrane. I would not have thought that this particular order had anything to do with members of Tynwald. I would have thought that it is a statutory responsibility that everybody else passes on charges for this particular, whether it is a search, a building control search or a letter of comfort, and usually it is advocates, and I would have thought that if these costs are being passed onto customers or clients I do not see why government should not pay for some of these particular issues.

Could I ask the Treasury minister regarding the £40 for a planning search, building control search or a letter of comfort – obviously the research has got to be done, and this information has got to be of a correct nature – does this mean that the department is doing it at cost? Is there any profit made out of this or is it deemed to be at cost? I see in the explanatory memorandum that we have got before us that Douglas Corporation are able to do it for £38, Onchan District Commissioners are able to do it for £50 and Peel Town

Commissioners, for some reason or other, cannot do it for anything less than £75! (*Laughter*)

A Member: It keeps the rates down!

Mrs Hannan: I wonder if maybe Public Accounts can go in to find out (**The Speaker:** Hear, hear.) how they actually spend this £75, or whether it is so difficult in Peel to find out anything to pass on? (*Laughter and interjection*) I really would like to know whether there is a profit to be made, but I find it quite alarming that Douglas does it for nearly half what Peel charges. Thank you.

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

Mr Karran: Eaghtyrane, my concerns are the same as the hon. member for Peel, to start with. When it says it is only to cover the costs, either the staff are very well paid, or they are very slow – one or the other, Eaghtyrane, as far as the £40 for a letter to give somebody a letter of comfort! I see this as a back-door way of taxation, in my opinion. It is yet another way of clawing money out of people and I totally agree with the hon. member for Michael. I have had this nonsense, of ‘Oh well, everybody else has got to pay, why should MHKs not pay?’ when they are doing their job, trying to sort things out for their constituents. So, I do think that the hon. member for Michael is quite right to raise the issue because otherwise I can see yet another hurdle being put in the place of people who are not part of the club.

I am concerned that the cost will not just be absorbed by the advocates, it will be passed on. I have to say that I understand completely the situation in Peel, Onchan and Douglas because at the end of the day their ratepayers are having to subsidise this service that is provided free for all the other local authorities. That is the real glaring anomaly that I would have liked to have seen in front of us today – that the ratepayers of Onchan are disadvantaged because they do their own building by-laws, I can assure hon. members of that. So, you could almost sympathise with the local authorities which have this service which are at a disadvantage: because of being progressive and doing the right job, they are being penalised.

I believe it is wrong for government to be charging as far as this issue is concerned. If it were a rateable authority there would be an issue there, but at the end of the day, I see this as taxation through the back door. I see that all it is going to end up as is an extra charge for people who are purchasing the property. The advocates will not absorb it. It will be passed on, and that is what will happen in my opinion, Eaghtyrane.

The President: Mr Speaker.

The Speaker: Yes, thank you, Mr President. I have a real problem with this one. If somebody wants a letter of comfort because they have undertaken works

to their property which have resulted in them not applying for planning permission but in fact after the event require a letter of comfort so that they can sell their property, I do not have a problem with them being charged for that service. In fact, I would say they should be charged equivalent to what it would have cost if they had applied for a planning application. (**A Member:** Yes.)

However, I have a real problem with regard to planning searches and building consent searches. These are public issues and we are not a business. We are not a bank which says, 'If you want us to find that out for you, here is a bill.' We are there to serve the public, and if the public raise an issue and for example, somebody who is interested says, 'I am sure Mr Jones at 35 Knock Street, Castletown, has done this work without planning permission', and a search is undertaken and then he is written back to and told yes, that is the case, or no, it is not, he then gets a bill. That is what the order is saying, or at least my reading of the order – maybe the Attorney, if necessary, could clarify that – but the order seems to me to be that as soon as you write back to the person, telling him yes, it is right, or no, it is not, a person can get a bill.

I think that Tynwald and government departments have got to be careful where it charges the public for services. There are services and services. Some services are there and you pay a fee because you are doing something for your own benefit, but some of the services government provide are because a member of the public rightly raises an issue of genuine concern, and if this is going to say that person is going to be charged £40, then I have to say I will be voting against this order because I do not agree. I think it sets a major step forward in principle.

I do not care whether it is an MHK charge or not, because we all know, with respect, whatever charges are on – whether it is getting hold of an Act or getting hold of a document – if an MHK or an MLC asks for it then it is sent to them and there is no charge sent. However, where there is a genuine concern that somebody feels there may have been a breach of planning, or a breach of building control I do not believe they should be charged for saying I believe this and then the department does a search and writes back to the person and says, yes, you are right, or no, you are not.

I would ask for clarification on that and I would ask if the Attorney could clarify because I think it is very important to get this absolutely right. If I am wrong, fine, but if I am right in the reading of the order, then I would like to know whether or not, as soon as the department does that search on what I would call a complaint, and the department writes back to clarify to that individual, yes or no, whether or not they are going to be charged under this order.

The President: Hon. member for Rushen, Mrs Crowe.

Mrs Crowe: I am sure the hon. Treasury minister knows all the answers, (*Laughter*) but in an effort to be

helpful, I wonder if I could perhaps clarify some of the queries.

I think, first, that what Mr Speaker was talking about would be a query to the planning office and that would be dealt with in the same way as the hon. member for Michael has already said. That is not an official search for the sale of property which advocates request from the department all the time and is in fact charged for by Douglas Corporation, Peel Town Commissioners and Onchan. This would be a similar charge. The charge relates only to the administrative costs. These are very detailed searches that are carried out for the sales of properties and do take a great deal of time.

However, planning queries in the normal course of the day which are received many times from MKHs, members of the public and all sorts of people would be answered in the normal way and indeed no charge would be made. That is my understanding of it.

Mr Cannan: It should have been put in that way.

The President: Would you like to add to that, Mr Attorney?

The Attorney-General: Yes thank you, Mr President. Perhaps I can just explain my understanding of these enquiries. I would imagine, Mr President, that in 99 per cent of the cases they will in fact be raised by advocates acting for purchasers in standard conveyances, and, of course, it is part of the advocate's duty to ensure that the property has the benefit of the necessary planning approval or, indeed, that it is subject to planning restrictions and so on. At the end of the day, the advocate certifies title and certifies the planning searches to his client.

Now, Mr President, it follows that there is an assumption of a risk on the part of the department because the department must answer those queries honestly and carefully. (**Mrs Crowe:** Yes.) I put it another way: if the department makes a mistake and gives wrong information to the advocate, the advocate the reports back to the client who completes a transaction on the faith of the information given by the department, the department could in fact be sued in negligence of that very fact, although I understand that there is an exclusion clause of a kind which is contained on the planning search so that is a way in which the department seeks to exclude liability. However, on the face of it the department is going to be exposed to a risk.

So I would have thought it was entirely reasonable that the department should in principle be able to charge for the service, as indeed, all local authorities do and have done for many years.

Now, to get back, Mr President, if I may, to the specific question raised by the hon. member for Michael, which is an important one, I think that if one of the hon. members of Tynwald makes an enquiry of the department, he or she does so on behalf of his constituent, not with view to creating a legal obligation between the department and the requesting member, but simply for information. There is no intention to

create legal relations between the requesting member and the department, so if the department were to issue wrong information, I doubt very much that the requesting member could sue the department. That would be the difference, and therefore I do not think it would be at all appropriate for the department to charge where there is no intention to create legal relations.

Mr Cannan: It does not say that here.

The Attorney-General: The wording which is in the order actually is wide enough, though, to cover that. In other words, the order could be construed as meaning that whenever a person requests a search then the department is entitled to charge, but I would have thought, Mr President, that there would be an element of discretion on the part of the department in respect of hon. members doing work for their constituents, provided it is made absolutely clear that the request made by an hon. member is not with the intention to create relations.

Otherwise, I quite agree that the department is entitled to charge and I think that Mr Speaker has also put his finger on an important point of principle. I think the department will exercise discretion properly to cover that situation.

The President: Mr Speaker.

The Speaker: Yes, just a point of clarification, Mr President. The hon. member for Rushen, Mrs Crowe, the Minister for Local Government and the Environment, said that this would only apply to the sale of properties. I cannot see anywhere in the order that says that (**Mrs Crowe:** No.) and if it does not and if that is the intention of the department then should not the order be quite specific? And if it should, I would hope the minister would withdraw it until next month.

The President: Mr Attorney.

The Attorney-General: Mr President, Mr Speaker is absolutely right, the terms of the order are not restricted to searches on new planning matters. It would cover a situation where the officer within the department searches back on a planning matter that has been dealt with several years before.

The President: Hon. member for Michael.

Mr Cannan: Just for clarification: as this is so important and as it is a legal document and a legal charge, would the Attorney not consider it appropriate that the order was withdrawn and re-presented at the next sitting of Tynwald in three weeks' time, when there could be no doubt on the matter as to who was to be charged and who not to be charged and for what purposes?

The President: Do you wish to comment on that, sir?

The Attorney-General: Well, I am not entirely sure that that is the sort of thing I ought to answer, Mr President. (**The President:** No.) It is a matter really for Treasury, but I hope I have been helpful in suggesting that the order would be construed sensibly by the officer of the department.

The President: Hon. members that is a decision which the Court will make. Hon. member for Ayre.

Mr Quine: Yes, I just feel uncomfortable about the thought that, if I understand the Attorney correctly, in a strict reading of the law, we have one situation but because it is not qualified as perhaps it should have been qualified we are now being invited to accept it at a level which we would not normally accept in the belief that there is going to be some administrative arrangement that is going to make this workable. I do not think that that is how we would ordinarily be expected to look upon these orders with the passage of time – and there could be some passage of time. Individuals are going to change, administration is even going to change and I feel quite uncomfortable, having heard the Attorney's advice that this is going to be the situation that we are led into. We are expected to take this in good faith and accept that an administrative arrangement will be put in place but according to the letter of the law that is not what it says.

The President: Chief Minister.

Mr Corkill: Thank you, Mr President. Certainly, I would thank hon. members for the scrutiny on this order. When we reviewed this legislation at the Council of Ministers stage we were fully of the opinion that it was re-running the existing situation that the description that the Attorney-General has advised us of, and perhaps I can invite the Treasury minister to actually withdraw this item (**Mr Cannan:** Hear, hear.) for this month. I think we can all live with it for another month (**Mrs Crowe:** Exactly.) and maybe the hon. Minister for the Treasury might consider doing that so that we are comfortable with it the next time around.

Mr Cannan: Hear, hear.

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

Mr Gill: Thank you, sir. I welcome that. I was just going to raise the issue, which is perhaps not dissimilar and I am sure I am not alone in having experience of, in the arrangement that the learned Attorney has described where discretion and common sense would be applied. We have seen very little of that – well, certainly, I have seen very little of that – when dealing with constituents who have difficulty under the 'know your customer' principle, where customers of banks who have been there for decades (**A Member:** Hear, hear.) have been required to send passports and driving licences and goodness knows what, so it is – (*Interjection*) Well, the Chief Minister is quite right:

that is contrary to the principle of the advice that the Attorney is giving. It is no way to run a business to say 'Well, we will do it like that but it will be a bit of a nod and a wink.' So I welcome the withdrawal of this and just flag up that this is an example of a practice that we have seen too much of recently and I hope that the Chief Minister will be as accommodating in addressing some of the issues around the 'know your customer' arrangements, which are failing people in this Island.

Mr Houghton: Hear, hear.

The Speaker: Banks' policies.

The President: Treasury minister to reply to the debate.

Mr Bell: Mr President, I have absolutely no problem with this at all. I am simply moving this because it is a fees items. It has got absolutely nothing to do with Treasury whatsoever (*Laughter*) other than the fact that all fees have to be moved through Treasury, so if members feel that they have failed to understand it then that is your prerogative and I am quite happy to bring it back next month. (*Laughter*)

A Member: Hear, hear.

The President: I take it, sir, that you are withdrawing and will bring it back next month.

Mr Bell: If that is what members want, yes.

The President: Now, hon. member, you are the member moving this particular piece of legislation. I need to know if –

Mr Bell: Yes. I will bring it back next month, Mr President.

The President: Thank you, sir. (*Interjection*) In that case, hon. members, we will not take a decision on item 13, in line with the Treasury; it is withdrawn.

Town and Country Planning (Fees for Applications) Order 2003 – Approved

Item 14. The Minister for Local Government and the Environment to move:

That the Town and Country Planning (Fees for Applications) Order 2003 be approved. [SD No 125/03]

The President: Minister for Local Government and the Environment.

Mrs Crowe: Thank you, Mr President. This order replaces the Town and Country Planning (Fees for Applications) Order and introduces revised fees for

planning applications to benefit those people who may wish to erect a small extension or conservatory. The rate set for the enlargement of an existing dwelling includes a threshold to accommodate much smaller applications.

In addition, the charge due for the erection of, or extension to a building other than a dwelling or agricultural building is set at the rate per 20 square metres rather than per 80 square metres. In the main, the fees have increased approximately in line with inflation. Mr President, I beg to move.

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

Mr Henderson: Gura mie eu, Eaghtyrane, I beg to second, sir, and reserve my remarks.

The President: The motion, hon. members, that I put to you is that the Town and Planning and Country Planning (Fees for Applications) Order 2003 be approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Waste Management Board Order 2003 – Approved

Item 15. The Chief Minister to move:

That the Waste Management Board Order 2003 be approved. [SD No 145/03]

The President: The Chief Minister to move.

Mr Corkill: Thank you, Mr President. In March 2002, Tynwald approved the Waste Management Board Order 2003. The principal effect of the order was to establish a new strategy board to be named the Waste Management Board with effect from 1st April 2003, thereby implementing the policy of this hon. Court to remove from the Department of Local Government and the Environment operational responsibilities in relation to waste management and leaving the department as regulator of these functions.

The separation of these functions has established government policy and gives the public confidence that any breaches will be policed effectively to protect the environment and the quality of life of Island residents.

Can I also say, Mr President, that assurances were also given on behalf of the Isle of Man Government at the public inquiry into the development of the all Island energy from waste facility which is now under construction.

Also, Mr President, at the January 2003 sitting of Tynwald it was resolved, and I quote: 'that for the financial years 2003-4, local authorities would receive a 90 per cent rebate on the £100 per tonne waste disposal charge; that a moratorium until 1st July 2003 be introduced on the increased charges for both commercial and household waste from the private

sector; and that the department report to the June 2003 sitting of Tynwald on the progress of consultation on the implementation of charging, together with detailed measures for the implementation of charges and proposals for the introduction of a charging régime.'

The Department of Local Government and the Environment has now considered the implications of the Tynwald resolution and considers that it would be premature to effect the establishment of the board in April 2003, prior to reporting back to Tynwald in June. Moreover, it has been recognised that additional resources are required by the new board, but whilst the 2003 budget has made allowance for this, they will not be in place for several months.

The department believes it is most important that the board be able and equipped to exercise the full range of its proposed statutory functions in an effective and professional manner with the full backing of this hon. Court.

The order before hon. members today defers the operational date of the board from 1st April 2003 to 1st April 2004. However, as the energy-from-waste facility will not be commissioned before April 2004, the undertakings previously given that the board will be established in advanced of commissioning can still be honoured.

Also, under the Waste Management Board Order 2002, the functions of the Department of Transport in relation to the knacker's yard and slaughterhouses were to be transferred to the new board with effect from 1st April 2004. A possible delay in the new animal waste processing plant makes it appropriate for this date to be postponed until 1st April 2007.

The deferral of the operational date to 2004 will also allow a complete appraisal of the budget and staffing requirements of the new board to be progressed in a professional and timely manner and to allow for full consideration of any recommendations and directions of Tynwald, following consideration of the report due to be considered by this hon. Court in June.

Mr President, I would like to take this opportunity to thank the chairman designate, as we have come to know him, of the proposed board, the hon. member of Council Mr Lowey, for all his hard work and enthusiasm in what has proved to be a very difficult task. He has worked tirelessly to effect the constitution of the new board and has led the current round of consultation in a very dedicated manner and I thank him for that.

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

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

The President: The motion, hon. members, I put to you is that printed at 15 on the order 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 Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Gill, Mrs Crowe, Mr Henderson, Mr Cretney, Mr Braidwood, Mr Downie, Mr Shimmin, Mr Bell, Mr Corkill, Capt. Douglas and the Speaker – 16

Against: Mr Duggan, Mrs Cannell, Mrs Hannan and Mr Karran – 4.

The Speaker: Mr President, the motion carries with 16 votes for and 4 votes against.

In the Council –

For: The Lord Bishop, Mr Lowey, Mr Waft, Mr Singer, Mr Delaney and Mr Gelling – 6

Against: None.

The President: 6 votes for in the Council, hon. members. The motion therefore carries.

Financial Supervision (Professional Investor Fund) (Exemption) (Amendment) Order 2003 – Approved

Item 16. The Minister for the Treasury to move:

That the Financial Supervision (Professional Investor Fund) (Exemption) (Amendment) Order 2003 be approved. [SD No 81/03]

The President: We go onto item 16, and I call on the Minister for the Treasury to move.

Mr Bell: Mr President, the Financial Supervision Act of 1988 empowers the Treasury to make orders to amend the statutory requirements imposed upon professional investor funds. The Financial Supervision Professional Investor Fund (Exemption) (Amendment) Order 2003, which comes into effect from 1st April 2003, amends the 1999 order by removing the requirements to include certain disclosures in the constitutional documents.

The statements will continue to be included in the offering document of the fund, which investors must confirm that they received and read and which is approved by the licensed manager or administrator.

The specific disclosures affected are to include a statement that no application shall be accepted and no subscription or transfer effected unless and until the participant or transferee has signed a statement contained within the funds application form, namely that they confirm that they are a professional investor and they have read and understood the arrangement for the custody of the assets and other prescribed statements.

In addition, the Financial Supervision (Professional Investor Fund) (Exemption)

(Amendment) Order 2003 formalises the requirement for the annual report of a professional investor fund to be audited. The Fund Management Association requested a relaxation of the disclosure requirements under the order and indicated that these requirements may be restricting the growth of the fund administration industry in the Island.

The Financial Supervision Commission considers that there would be no investor protection concerns as a result of these changes. The measure has sought to reduce the administrative requirements and to reduce the related cost of establishing a professional investor fund.

In relation to the formalisation of the audit requirements under the Professional Investor Fund régime, whilst in practice the annual report and accounts of professional investor funds will be audited, there is no such requirement in the professional investment fund order.

The 'Domicile of International Schemes, including Professional and Experienced Investor Funds, Guidance Notes 2002' sets out the criteria that administrators should consider in reaching a decision about the suitability of a jurisdiction for the establishment of overseas schemes. This includes the consideration of the legal requirements to produce annual audited accounts.

All professional investor funds that have been notified to the Financial Supervision Commission are subject to audit as required by the constitutional documents. The Financial Supervision Commission has notified the Fund Management Association of its intention to formalise the audit requirement and no objections were lodged. The measure will bring the Professional Investor Fund requirements in line with the auditing requirements imposed upon the experienced investor funds. The auditing requirement is beneficial for reputation of Isle of Man PLC and is in the interest of the investors. Therefore I beg to move item 16, Mr President.

The President: Mr Gelling.

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

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

Mr Karran: Eaghtyrane, can the Shirveishagh Tashtee just clarify why this has come about? Has the industry itself made representations and from what sections has it made representations?

The President: Minister to reply.

Mr Bell: Mr President, during the budget debate I did highlight a specific initiative which Treasury had taken in relation to fund management activities on the Island and announced a series of changes which it was my intention to bring in, in the time ahead. This is the first tranche of these measures now which we are bringing in on that basis, Mr President.

Several arms of Treasury have been working very closely with the Fund Management Association over the last few months to once and for all identify what was deemed to be the main obstacles in the fairly slow growth in the level of fund management on the Isle of Man in comparison to competitor jurisdictions. We believe, and indeed the Fund Management Association, believe that we have identified the causes of these problems and these steps are being taken with the full approval of the Financial Supervision Commission and the Fund Management Association themselves. They warmly welcome these changes and believe they will lead to an enhanced level of business being generated through the Isle of Man, which ultimately will generate more revenue for government.

The President: The motion I put to you, hon. members is that printed at 16 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Financial Supervision (Experienced Investor Fund) (Exemption) (Amendment) Order 2003 – Approved

Item 17. The Minister for the Treasury to move:

That the Financial Supervision (Experienced Investor Fund) (Exemption) (Amendment) Order 2003 be approved. [SD No 80/03]

The President: We turn to 17 and again, I call on the Minister for Treasury to move.

Mr Bell: Mr President, the Financial Supervision Act 1988 empowers the Treasury to make orders to amend the requirements imposed upon experienced investor funds. The Financial Supervision (Experienced Investor Fund) (Exemption) (Amendment) Order 2003 which comes into effect from 1st April 2003 amends the 1999 order by removing the requirements to include certain disclosures in the constitutional documents. The statements will continue to be included in the offering document of the fund, which investors must confirm that they have received and read and which is approved by the licensed manager or administrator.

The specific disclosures affected are to have in a prominent position the definition of an experienced investor and to include statements to the effect that no application shall be accepted and no subscription nor transfer effected unless and until a participant or transferee has signed a statement, contained within the funds application form, confirming that they are an experienced investor and they have read and understood the risks associated with an investment in the fund.

The Fund Management Association requested a relaxation of the disclosure requirements under the order and indicated that these may be restricting the

growth of the fund administration industry in the Island.

The Financial Supervision Commission considers that there would be no investor protection concerns as a result of these changes. The measure is sought to reduce the administrative requirements and to reduce the related costs of establishing an experienced investor fund in this Island.

Mr President, as with the previous item, this has been developed in close working relationship with the Fund Management Association, various arms of the Treasury and the Financial Supervision Commission. It has the wholehearted support of all three elements and it is believed it will help facilitate growth in the fund management business on the Island. I beg to move.

The President: Mr Gelling.

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

The President: the motion, hon. members is that printed at 17. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Value Added Tax (Financial Services) (Amendment) Order 2003 – Approved

Item 18. The Minister for the Treasury to move:

That the Value Added Tax (Financial Services) (Amendment) Order 2003 be approved. [SD No 115/03]

The President: The Minister for the Treasury.

Mr Bell: Mr President, this order amends group 5 of schedule 10 of the Value Added Tax 1996. Schedule 10 specifies what types of goods or services are eligible for exemption from VAT.

Item 9 of group 5 of schedule 10 prescribes the type of investment fund, the management of which is exempt. Item 9 is replaced in full, with note 6 to group 5 amended, and the new note 7 added.

The order has the effect of extending the scope of exemption from VAT to the management of both experienced investor funds and professional investor funds.

These types of fund are a sub category of international schemes. International schemes are provided for under section 11 of the Financial Supervision Act of 1988. The management of other types of international scheme, which were formerly called restricted schemes, is already eligible for exemption from VAT.

The amendment note 6 to group 5 has the obsolete term 'restricted scheme' replaced by 'international scheme'. The new note 7 added to group 5 defines 'experienced investor funds' and 'professional investor funds'.

Once again, Mr President, this is a continuation of the work that has been put in by the three elements I referred to earlier and has their full agreement.

If I could just as an aside, Mr President, say how pleased I am with the very close co-operation which has taken place between the Treasury and in particular the Financial Supervision Commission, Customs and Excise and the Fund Management Association, it is an excellent example of what can be achieved in the Isle of Man through developing a close working relationship between government and the private sector to hopefully generate new business, which will ultimately provide future revenue streams for government. I would like to congratulate all concerned.

A Member: Hear, hear.

The President: Mr Gelling.

Mr Gelling: I beg to second, Mr President.

The President: Mr Karran, hon. member for Onchan.

Mr Karran: Eaghtyrane, I think that the hon. member is quite right. This seems to be a good move in the right direction and credit should be given where credit is deserved.

I think that the Treasury and the Council of Ministers have come up well as far as this issue is concerned, and I think it is something that we as parliamentarians should give credit to because anything that can diversify the economy and make things stronger in different areas has to be applauded. I think the minister has done something good, as far as this is concerned.

The President: Do you wish to add to that minister? (*Laughter and interjections*)

Mr Lowey: Just sit down!

Mr Bell: I just thank him for his praise, Mr President. (*Laughter*)

The President: When you are winning, stay ahead!

Right, okay. The motion I put to you, hon. members is that the Value Added Tax (Financial Services) (Amendment) Order 2003 be approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Marking and Cattle Records (Amendment)
Order 2003 and Cattle Passports
(Amendment) Order 2003 – Approved**

Items 19 and 20. The Minister for Agriculture, Fisheries and Forestry to move:

That the Marking and Cattle Records (Amendment) Order 2003 [SD No 66/03] and the Cattle Passports (Amendment) Order 2003 [SD No 67/03] be approved.

The President: Now, hon. members the Minister for Agriculture, Fisheries and Forestry has indicated to me that in fact 19 and 20 are inextricably linked insofar as if one falls they would both fall. So on this occasion, hon. members, I propose to ask the Minister for Agriculture, Fisheries and Forestry to move 19 and 20 jointly. Let me be plain on that, hon. members: in fact, we are *jointly* moving 19 and 20. Agriculture minister, please.

Mr Rimington: Mr President, the Marking and Cattle Records (Amendment) Order 2003 and the Cattle Passports (Amendment) Order 2003 deal with different aspects of the same topic. Both orders deal with the traceability of cattle.

The present amendments set a date of 1st June 2003 by which to bring the last remaining description of cattle into my department's system of ear-tagging and issue of cattle passports.

Dealing with cattle traceability by means of two orders which cross-refer to each other seems a slightly cumbersome way of covering it. Once we have passed 1st June when all cattle have been brought into the system my department intends to bring all the provisions more conveniently together in a single order.

Since 1998, farmers have been applying ear-tags to both ears of all calves born in the Island. They also have to apply for cattle passports in respect of those calves. Animals are not allowed to be moved from the holding until passports have been issued.

My department issues ear-tag numbers and passports and holds a record of them in the Bovine Identification and Traceability System (BITS).

Imported cattle must be already duly marked when they arrive and must be accompanied by their cattle passports. Their ear-tag numbers and passport details are also recorded in my department's cattle database. It is this data which is at the heart of BITS.

Cattle born or imported into the Island before 1st January 1998 do not come within the requirements of the cattle database system. These were cattle which had been tagged with a single ear-tag under an earlier order. They are not required to be re-tagged in both ears, as provided under the new order.

However, it was recognised that at some future date my department would have to come back to these cattle so as to incorporate them in the BITS system. That time has now come, Mr President, and this order is the means of achieving it.

Old style passports were issued up to 28th September 1998. These contained a record of the movements of the cattle but it was not a requirement that these be reported to the central database. Those old style passports are now to be replaced with the normal modern style passport. The movements of animals will have to be reported centrally.

Farmers must also obtain passports for cattle for which no passport has previously been issued. The new order recognises that slightly less detailed information is available in respect of these animals but sets out the minimum details which have to be given.

In order to promote itself to its best advantage, the Island's agricultural industry has to embrace the highest standards to assure markets of its quality. In terms of farm quality assurance, the Island will be in a position to say that all its cattle are fully traceable thanks to their coming under the BITS system.

Cattle traceability is an important international obligation. The Island's agricultural industry has opportunities to trade off-Island in cattle, meat and dairy products. However, it must be able to trace everything back to source if it is to take advantage of those opportunities.

I know that some farmers have said that their particular animals are not expected to go off-Island. They see the new requirements as an unnecessary imposition in their case.

However, whilst at first glance there may be some sympathy with that way of thinking, it is, I feel, taking the narrow view. The situation is that it is not just animals who go off-Island which need to be traceable. All contact animals, as well as all animals passing through the meat plant, or supply dairy products, need to be traceable. If they are not, we do not meet our international obligations. If we do not meet our international obligations we lose our opportunities for off Island trade in cattle, meat and dairy products.

My department will continue to review the system periodically. The low level of inconvenience to the individual has to be weighed against the opportunities for the benefit of the industry as a whole.

However, I am pleased to say, Mr President, that the incorporation of old style passported and older non-passported animals into the BITS system, in line with these amendment orders, is already working well. So far, 52 farms have been completed.

Cattle keepers who have first hand experience of BITS have found it accessible and straightforward to get ear-tags and passports for these animals, as they have as a matter of course for their other animals since 1998.

Mr President, hon. members have been circulated with a letter by the Manx National Farmers' Union about these items. I am disappointed that the union has adopted this course of action. My department wrote to the Manx National Farmers' Union in June 2002. A half-page reply was received in early August. The view expressed was that the farmers union thought that the proposed measures were unnecessary.

The Chief Veterinary Officer and a colleague attended at the department's request a lengthy meeting last November, at which the process was explained in

detail. Since that time and prior to the introduction of this legislation we did not receive any further communication on what was being proposed from the union.

As hon. members will have seen from the recently circulated letter, the union's position appears to be the same. However, that is rather at odds with the practical approach adopted by the majority of farmers. Already, over half of the holdings in the Island have applied the double ear-tags and got passports for their cattle or are in the process of doing so.

The union's letter speaks of the excessive workload and bureaucracy involved in this instance. However, my department's experience is that the industry members involved – over half already, as I mentioned – have not expressed any adverse comments.

This time of year was chosen so as to minimise the handling. The policy has been to target beef herds first. They have been overwintering. The opportunity has been taken to tag them now before they are turned out onto grass and handling them would be more difficult.

The dairy herd is handled twice a day so it is more amenable to the process. The Manx National Farmers' Union suggest that there is a lot of paperwork involved. My department has deliberately kept this minimal.

The letter talks of cattle being re-identified and having to change registration certificates of pedigree cattle. Pedigree cattle are identified by a number of methods which include tattooing and forms of ear-tag. Any current identifiers used by the pedigree societies will remain in place. Nothing in these two orders affects that position.

As part of the consultation process, my department has, in fact, discussed the position with some of the pedigree societies, which have confirmed that there is no problem and this information has been relayed to the union.

My department's view is that if the Island is to have a healthy and thriving off-Island trade. It has to comply with the necessary international obligations; whether or not other places try to, or perhaps even do, get away with things is not relevant. Neither Jersey nor Guernsey has a trade in meat products, but the Island has a heavy reliance on the UK market, exporting over half its output.

To put it simply, this is what we have to do and in fact what we should have done already. The industry itself is embracing the provisions of these orders in a practical way. We are already over halfway there. I very much regret that the union has chosen to register opposition at this very late stage. However, I repeat that it is something that we have to do if we wish to retain our free access to the UK market for our cattle, meat and dairy products. Further delay is not a practical option. Thank you, Mr President.

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

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

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

Mr Anderson: Thank you, Mr President. I can agree with the hon. minister that items 19 and 20 are inextricably linked, but I do take a difference of opinion with quite a few things he has said in his opening remarks.

Mr Cretney: Is he in the union?

Mr Anderson: The introduction of cattle passports was brought in on 1st January 1998 at the same time as double tagging started, and this order seeks to introduce passports to cattle born before that date and the industry has no problem with that.

However, what the department is seeking to do here, is asking to put a different numbered ear-tag in these cattle, therefore changing their identity. This is the route the department has decided to go down, which is different from what has happened in the UK, and we see no reason why the department did not go for the option the UK have gone for: the ministry in the UK wrote to farmers asking them for a list of the ear-tags of the animals that were born before 1st January 1998, they then issued them with double tags for those animals and created a passport for them. This had the effect of not changing the identity of that animal.

The way the department is seeking to do this, Mr President, is creating a lot more paperwork for farmers than is necessary. The minister touched upon pedigree registrations and not having any effect to them. I have had a letter from a breed society already that, in order to comply, they will have to have a list of the original ear-tag numbers and the new ear-tag numbers relating to these animals.

The minister seems to indicate that this is no problem. It is no problem to the breed society, but it is creating extra work for the farmer because, Mr President – and you will be well aware of this – it is not just that animal that we are talking about; these animals will have had several progeny and therefore their passports will need changing as well to reflect the registration of that animal. In many cases the registration of the animal is linked to that ear-tag number.

Mr President, the farmers have registered cattle movements since the introduction in about 1990 and at each visit for TB or brucellosis testing the vet conducting the test would take the top copy of every page for the department's records. We genuinely believed that these were being put onto a department's database system and I must ask the minister: what has happened to these records for the last 12 to 13 years?

A Member: Back pocket.

Mr Anderson: Farmers were filling these forms in in good faith that the traceability was being

achieved. Can the minister confirm that this has been done, or have the farmers been filling in these forms and yet we have no traceability at all?

As I said, in the UK, these older cattle have had passports issued but with their original ear-tag number. Surely, the easiest thing to do, which would save the changing of the identity of these animals, would be to keep that original ear-tag number? It seems to be a problem for the department to raise these ear-tag numbers for these cattle.

Going down the route of changing the identity, as I have highlighted already, creates unnecessary work especially to the pedigree sector.

The department has consistently used the threat that if we do not comply we are not able to export our animals or agricultural products. It is clear here they have gone over the top again. They have not done what has been done in the UK and we are having to jump through a higher hoop.

There are other ways of complying with the EU regulations. We seem to delight in creating paperwork on the Island. We all know the industry is going through a very tough time at the moment and the industry is very grateful for the support of this chamber over the last couple of years. However, it is not just financial support we are looking for; we are looking for practical support. This order does nothing to help farmers; in fact, it creates more paperwork, whereas if they had accommodated the views that are put down in that letter that members will have received it would have helped considerably.

It is probably worth also pointing out in guidance notes for changing this order it quotes, 'For the introduction of an improved identification system to be accepted, it is essential not to impose excessive demands on the producer in terms of administration formalities. Feasible time limits for its implementation must be laid down.'

I am afraid I cannot support this because I think the department has gone over the top. The minister has said that so many farmers have conformed already but that is only because they have been told they have to and they have no option.

Mr President, I believe there was another road the department could have gone down and it is time the minister listened to the industry rather than listening to the civil servants every time and try and give us some credibility.

The President: Hon. member for Middle.

Mr Quayle: Thank you, Mr President. I, too, rise to actually give support to the contribution just made by the hon. member for Glenfaba. I would start my remarks by saying that the cattle keepers on the Island accept the principle of animal identification and documentation of successive animal movements, but are concerned at the excessive workload and bureaucracy involved in this particular instance.

I have spoken repeatedly about the bureaucracy that appears in the Isle of Man which we seem to slavishly follow; usually it comes from the EU, it is transmitted over to the UK and then we tend to have

double belt and braces over whatever the UK does, and actually have further regulations and an inherent desire to actually make life more difficult for the people on the Isle of Man than in other parts of Europe. Certainly in other parts of Europe, they do not seem to be quite so zealous as the Isle of Man is in bringing forward regulations.

It is not that anybody should disregard rules or regulations, it is a case of making sure that they are appropriate and not over the top and burdened down with more bureaucracy than is necessary.

As I understand it, the Manx National Farmers' Union did not receive the draft of the legislation until some days ago. So although the minister alludes to the fact that they were in consultation, certainly the information that I have is that the legislation before us here today was only available for comment within the last few days.

I do also have to say that in terms of the United Kingdom, this seems to be one case where we have not actually followed their example and maybe that would have been something to have considered.

In terms of other islands, it does seem as though Jersey is a case where they have not complied with the EU requirements as regards animal identification, whereas the Isle of Man has broadly followed all EU regulations. Unless the situation has changed, I think it would have been wise to have looked in a little more detail at Jersey, Guernsey and the United Kingdom and to come forward with something, in discussions with the industry, which would be more suitable, rather than burdening the industry with excessive bureaucracy.

So apart from the fact that there does seem to have been a lack of consultation, although it would appear there has been some, in effect it then ends up in the department, unfortunately, dictating to the industry what will be done and threatening them that if it is not proceeded with then it will jeopardise exports. Now, I patently do not think that is the case in this particular instance.

So, in conclusion, Mr President, I would hope that the minister will at this late stage withdraw these proposed regulations. They do seem to be inextricably linked and I would hope that he could withdraw them, in order to have further discussions with the industry and in order to hope that they can collectively come up with something that will satisfy the department's aims and the industry's concerns.

The President: Hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr President. I think the hon. member for Glenfaba and the hon. member for Middle covered this fairly extensively, but I think there are a couple of questions that I would put to the minister.

The minister has said, and no doubt quite rightly, that this is what we have to do. This is a requirement and we have to meet it. That does seem to be the case, although he has not explained really why it is that other part and parcel of what is normally accepted as the UK jurisdiction have not complied with it, and I

think we should have an explanation as to why that is the case. Saying that this is what we have to do is one thing but what is not said is that this is the way that we have to do it and it is the way that we have to do it that is the issue.

If it was feasible – and it was feasible, it was acceptable for the MAFF, for the UK authorities – to achieve this objective through a much more streamlined system, as I understand it. In effect, lists were sent to them for their verification as essentially that is what it boils down to, and if there was no requirement there for re-tagging, then why are members of our industry being required to go through this system?

Compared to what has happened as an administrative process in the UK, ours appears to be an overkill – absolutely. It is a ‘Rolls-Royce’ solution again, and I think there should be an explanation for that.

If that requirement – the same requirement that exists in the UK that had to be met and the requirement that we have to meet here – is the base from which we start then why do we have to have this more expansive process? Why do our people have to go through all this additional cost and inconvenience? There is no explanation offered for this at all other than, one would assume, that it represents an arrangement, a scheme, that has been drawn up by members of the department who certainly are not hands-on farmers. They seem to have little understanding of just what is involved, and if we are expected today to support this order, then I think we require an explanation for that.

The hon. member for Glenfaba also mentioned this question of the progeny of these cattle that are going to be processed. Now, it has been explained to me – indeed, last night I had a farmer on the phone explaining to me – that this is not apparently taken into account in our system; it is only an afterthought again. I will need a great deal of explanation and it is going to have to be an explanation that stands scrutiny before I could support this order. It just does not make sense.

If the other side of the water can meet a requirement in this streamlined fashion, then why can our farmers not have the benefit of a similar streamlined procedure? Why have they got to be dragged through this ‘Rolls-Royce’ approach to it? I can only assume at the moment on the information I have got is because the department as usual says, ‘father knows better; father is going to prescribe. We have got something better than you have got.’ Well, that is all very well but somebody else is paying for it. Somebody else is picking up the bill.

I think this is a most unsatisfactory situation and it is not an isolated situation. We have had now two or three instances that come to mind immediately where the department really have said, ‘Well, yes, I hear what you are saying but we are not going to take any notice because this is the way we want to do it and you will follow us. This is the arrangement.’ That is not acceptable in this day and age, and it is certainly not acceptable in relation to the problems that the industry has to face. It undermines all the other good work that has been done and the support that has been bided in

other areas. It undermines all of that and unnecessarily so because with a little bit of thought and consideration, with some proper consultation, it could have been avoided.

The President: Hon. member for Malew and Santon.

Capt. Douglas: Mr President, the other speakers, I think, have basically covered many of the points that I would like to have further knowledge on.

There are a number of other questions, however, that do arise. For instance, is there an extra cost for the tags? I would ask the minister to let me know about that. Has the minister advised the ministries on the adjacent islands of our change of situation? And is there any other cost for the cattle-keepers that we do not know about? I am very concerned that there is an allegation made that the DAFF database is perhaps not in good order. That concerns me, and I would also point out that the farmers or cattle-keepers do fully accept the principles of animal I.D. There is no difference of opinion there. I am quite sure of that and I think, just echoing the hon. member for Ayre’s statement, that perhaps a little bit more consideration should have been given to discussions. I know it is quite often we do come across these circumstances where people forget they have been perhaps consulted. I will say, Mr President, in conclusion that I cannot support either of these orders without further information. Thank you.

The President: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. I am slightly at a loss to why these orders are being introduced. In the explanatory memorandum on both of these it says, ‘Traceability is also important after carcasses enter the food chain.’ Can I ask whether all of the animals that are now being tagged and being given a new passport will now be able to enter the food chain? I do not know whether it has been explained by the minister or not whether that is the case because that is what it says in the marking and the Cattle Passports (Amendment) Order says ‘traceability at all stages of their life and after they have entered the food chain is important international obligation.’ I accept all of that, as the minister that introduced double tagging and passports and the database – and I apologise if it is not working so well, maybe it is a bit overloaded – but I would like clarification on those because I am not absolutely sure why it is actually being changed.

If we are not doing the same as other places – and sometimes we do not do the same as other places because we are not the same as the other places – could I ask the minister if it is because we are considered a third country? Is that why we have been told that we have to do it this way as opposed to doing it in some other way?

Obviously, if we want our animals over 13 months – because I assume that they are over 13 months – to enter the foodchain they have got to be

treated in this way. They have got to have double tags and passports. They have got to be traced and the traceability has got to be followed right the way through. So I would just like clarification on that, because I might have missed it, but I was not sure about why the changes were needed, other than getting them into the food chain.

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

Mr Delaney: Obviously everyone in this Court will have more knowledge of this particular order than I will –

Mrs Hannan: You have read this, you see, so that is how you know all about these things. (*Laughter*)

Mr Delaney: Yes, and I am sure that you have digested everything in it but what the public, who are not on the agricultural side, cannot digest is why it is the regulations are poured upon us and we act so quickly we do it even before the civil service in Brussels. They say to us as ordinary people who do not understand it, ‘Why do we have to do it so quickly? Why do we comply and other people do not comply?’

So I want the minister to tell me why it is – I know some of the answer is because we are on different relationship within Europe et cetera, and the export of our product onto the mainland, but I am fascinated about why we are moving so fast on this particular order when we have not even got over the hump we had to go through when the problems of agriculture were here with us and we had to pay out all the compensation.

I would like to know why we are not working closer with this very small community of agriculturists to make sure that it is working for our benefit rather than just somebody outside. All we seem to be doing in this Court every month, month after month is pouring more and more money into agriculture and then asking the farmers to produce more and more paperwork to justify the money that we are pouring into them every month, when we should be saying, ‘How do we improve?’ – as I keep saying and I am glad to see a report which we are discussing later. Our job is to make the market more impressive out there so that we can sell the product. All we are doing is just making a mountain of stuff we cannot get rid of and a mountain of paperwork for the farmers to produce to justify the mountain that we cannot get rid of.

That is all I am asking the minister for: tell us where this is all taking us, because I cannot see it taking us very far across the water in getting rid of the product into a market that we can sell into.

A Member: Free milk for pensioners.

The President: Minister to reply.

Mr Rimington: Thank you, Mr President. And I thank members for their interesting contributions and support.

I think part of the problem has come about through the consultation process and so you arrive on the floor of Tynwald and then you end up with what is, in effect, a little mess. All sorts of questions are being asked on what is actually a very complex area. If I could speak like the chief vet, it would lose you quite quickly, in terms of regulations and ear-tagging! (*Interjections and laughter*)

A Member: He doesn’t know the answer!

Mr Rimington: It is quite a difficult area and not one that is easy for people to understand or, indeed, explain in detail on the floor of this hon. Court.

So the question is: did consultation take place? And I have to reaffirm this and I shall reaffirm it most strongly that it did and that a letter of intent of what was intended to take place was sent in June last year. A half-page letter was received in reply, which was basically saying, ‘we do not want it’ and with the opinion that it was unnecessary. Then at the department’s request, and it had to be requested more than once, a meeting was set up on an evening in November so the department – or its chief vet and a colleague – could go and explain what was intended to take place. Apparently it was quite a lengthy meeting.

However, it was lengthy because of the nature of the subject, but I have to report that it was not lengthy by the nature of the comeback from the union at that point saying, ‘We do not like this; we do not like that’ or ‘Can you do it another way?’ – i.e. there was not the response from the union in relation to the matters which were being progressed nor did a response come after that point.

They obviously had the legislation when it was signed by myself, as they said in their letter, not just a few days ago, Mr Quayle. Yes, they did not have the draft legislation to comment on as such but they had had a lengthy meeting saying what was going to be taking place which is, okay, identified in the legislation. There is no discrepancy between what they were told over that lengthy meeting and what is in the legislation. It was not like a piece of primary law or a lengthy Tynwald scheme.

Now, there are weaknesses and I am afraid I have to say this. There are weaknesses in the process of consultation with the industry, and I accept that there may well be an element of weakness of the department, and I have to accept that sometimes we can be better. However, I am sorry, but I will have to in this case say that the weakness in the majority sense lies with the industry in actually formulating their opinions and their issues and making sure that they were there at an early stage because they cannot be dealt with with any integrity on the floor of this Court because of the nature of the subject. I will try and answer some of the points that have been raised.

Yes, we do have records. I have not and I am presuming you are not expecting me to have gone round and inspected them but yes, the records, I presume will be there. They will not have disappeared.

Mr Anderson: And the database?

Mr Rimington: The allegation about the database, I presume is absolute nonsense but if you felt that was an appropriate allegation and an issue then you should have investigated that before and not come out on the floor of this Court at this particular point in time.

Mrs Hannan: Why not?

Mr Rimington: There is a responsibility to act in a clear and concise manner, and I say that to the hon. member for Ayre – ‘Oh, yes, I was talking to somebody last night who said this, that and the other.’ Well, you are in a technical area, did you contact the officer of my department to discuss that issue? *(Interjection by Mr Quine)* In an area like this it is the usual thing you need to do **(Mr Cretny: Hear, hear.)** because talking about progeny and tagging and so on is not an area of clarity for the floor of this Court, I am afraid, unless you are asking for things which are unlikely to happen. *(Interjection by Mr Cannan)*

Yes, there is bureaucracy involved with this but that is unfortunate. At least the farmers do not have to suffer the Data Protection Act or some of the financial regulations that are involved elsewhere. Bureaucracy to an extent is unavoidable. However, it is my intent and it is my department’s intent that bureaucracy should be eased by the actual completion of the BITS system and that we will in future – I cannot give you a starting date on that but that is the intention that – we will be issuing information now to cattle owners saying, ‘These are your cattle numbers; can you tell us of any changes’ to improve that system. We do have an obligation to go down this way.

To Mr Delaney, the speed at which we are operating on this relates to the original European order of 1999. We are three and a half years past that. It did get held up in the UK. Obviously it got held up with foot-and-mouth and that subject put a big hole in the middle of that process but it is the 1999 order which we are getting to now. So we can hardly be accused of rushing something in and something that is already there.

Regarding the comparison with the UK that Mr Anderson made, I cannot comment on detail on that but what I do notice from the discussion or debate in the chamber that what Mr Anderson described was then followed on by the hon. member for Ayre and he was explaining something different than what Mr Anderson was talking about. I think he was latching onto that particular item and having an opportunity to stir the pot, rather than actually having the knowledge of the issue which I do accept that the hon. member for Glenfaba does have on these matters, *(Interjection by Mr Quine)* being a working farmer. *(Laughter)*

There again if we want to stir the pot I think we need to stir the pot with accuracy –

Mr Delaney: It is unbelievable!

Mr Rimington: – and that is a responsibility there on those members. *(Laughter and interjections)*

In relation to Jersey and Guernsey, which the hon. member for Middle is talking about – which I did explain, but obviously he might not have been wishing to listen because he had his prepared agenda – neither Jersey nor Guernsey has a trade in meat products. Shall I say it again? Neither Jersey nor Guernsey has a trade in meat products –

Mr Delaney: You already said that!

Mr Rimington: – whereas the Island has a heavy reliance on the UK market, exporting over half of its output. That is the significant difference and that is the other parts of the UK that we were referring to.

Mr Delaney: Take 100 lines! *(Laughter)*

Mr Anderson: Now it is the UK!

Mr Quayle: Those that mentioned the UK.

Mr Anderson: I did not mention the UK.

Mr Rimington: Well, the hon. member for Ayre did mention the UK.

I am not aware of the cost issues. I presume that any extra cost would be either nil or minor, but I would have to come back on that.

I have no doubts that the integrity of the database is still there. However, I do not have a working knowledge of that data base and that is not part of my day-to-day remit to have that working knowledge, so obviously that is an issue that can be addressed.

It is not because of a third country that we are doing it differently. The intention of the department – the animal health division – was to try and devise a system for the Isle of Man which would cause, believe it or not, the least impact and that was their intention and to an extent I think that is true.

Obviously, yes, there are concerns that it has not worked or there are concerns in certain specified areas, for example, the pedigree breeders, which they have looked at and do not feel that those concerns are there. That obviously is still an ongoing issue but that is as the hon. member for Ayre just said, it is not the principle, it is the method of doing it, it is the mechanics.

If you reject this order you are not just rejecting the mechanics, you are rejecting the principle; and rejecting that principle –

Mr Cannan: No, rubbish!

Mr Delaney: Come back with another one! *(Interjections)*

Mr Rimington: – would be a very dangerous step indeed.

Mr Quine: Come back with it right next time!

Mr Cannan: Come back with it.

Mr Rimington: It is not my intention at this point to say I am going to come back with something on the basis of a last-minute letter from the union, which I feel is actually inappropriate (*Interjections*) and reflects that they have not been properly consulting with the department on this issue. It is probably too little, too late. But now maybe it will happen.

The very last point I would like to make, Mr President, is in respect of Mrs Hannan and the food chain and older animals. At the moment, obviously, those older animals do not go into the food chain because they are covered by the over-13-month rule. However, there is a decision impending on the United Kingdom – because they are under pressure, I am advised, by the European Union – to change that 13-month rule and to actually take older animals into the food chain, but one of the conditions of doing so was that they would have a fully-compliant cattle passport system. That would be part of it. So there is obviously the relevance of that item. That is yet to come, but it is considered to be in the near-to-medium future not the distant future.

I appreciate that people feel that we are imposing an unwieldy system, but if you dissect the issues that have been raised, they are, in fact, minor and to do with the mechanics and not the principle. The principle is there and has generally been accepted, but if that was to be rejected, I do feel that you would place the industry, not just my department, in a difficult position. At least half the industry are involved actually doing this process already and generally quite satisfactorily, and to actually go back halfway through that and to say, ‘Well, because of *x*, *y* and *z* we want a change’, I think you will find will be exceptionally more disruptive than it will be if we carried on. Thank you, Mr President.

The President: Hon. member for Peel.

Mrs Hannan: A point of order. Is it right that these particular orders are before us today? The minister more or less said in his winding up that there was no need for virtually debate or anything to do with this and I just wonder what the position is.

The President: How the minister wishes to reply is entirely up to him, but the motions on the order paper are perfectly in order, hon. members.

The point I make to you now, yet again, as we started at the debate, is that the minister pointed out to me that they were inextricably linked at the start and it is my intention to take the two with the one vote. If you wish to vote against, hon. members, you should make it perfectly plain, but as far as I am concerned the minister gave me the indication in note that, ‘They stand or fall together’ – those are his words – and he said they are inextricably linked.

Hon. members, the motion I put to you is that printed at 19 and 20 on the order paper: that the Marking and Cattle Records (Amendment) Order 2003 be approved and that the Cattle Passports (Amendment) Order 2003 be approved. 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 Rodan, Mr Rimington, Mr Gill, Mrs Crowe, Mr Cretney, Mr Braidwood, Mr Downie, Mr Shimmin, Mrs Hannan, Mr Bell, Mr Karran, Mr Corkill, Mr Earnshaw and the Speaker – 14

Against: Mr Anderson, Mr Cannan, Mr Quine, Mr Quayle, Mr Houghton, Mr Henderson, Mr Duggan, Mrs Cannell and Capt. Douglas – 9

The Speaker: Mr President, the motions of 19 and 20 carry in the House of Keys with 14 votes for and 9 votes against.

In the Council –

For: The Lord Bishop, Mr Lowey, Mr Waft and Mr Gelling – 4

Against: Mr Singer and Mr Delaney – 2

The President: With 4 votes cast for and 2 against in the Council, hon. members, the motion therefore carries.

Now, hon. members, I did indicate to you that I thought a sensible time to cease would be 7.30 p.m. I think that we will close at this particular juncture and we will resume our deliberations at item 21 at 10.30 in the morning, hon. members.

The Court adjourned at 7.40 p.m.

CORRIGENDUM

Tynwald Court (Debates and Other Matters), Wednesday, 22nd January 2003, page T616, column 1, after ‘National Anthems – Amended Motion Carried’ please insert:

‘Item 27. The Speaker to move:

- (1) *that the ‘Manx National Anthem’ should be known as the Island’s National Anthem and that it should be used at all official occasions and within our schools; and that the anthem ‘God Save the Queen’ should be known within the Island as the ‘Royal Anthem’ and should only be used on official occasions when Her Majesty, members of the Royal Family or His Excellency the Lieutenant-Governor are present; and*
- (2) *that the government should forthwith take the necessary and appropriate action to implement Tynwald’s decision.’*