

REPORT OF PROCEEDINGS OF TYNWALD COURT (QUESTIONS)

**Douglas, Tuesday, 15th July 2003
at 10.50 a.m.**

Present:

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

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

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

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Deferment of Questions

The President: Before we begin Question Time, then, hon. members, may I inform you that the hon. member of the Council, Mr Delaney, has asked that answers by the Department of Local Government and the Environment to questions 23, 24 and 25 tabled in his name be deferred until the October sitting.

Mount Murray Inquiry Report – Initial Response and Further Action – Question by Mr Cannan

Question 1. The hon. member for Michael (Mr Cannan) to ask the Chief Minister:

Has the Council of Ministers studied the Part One of the Report of the Commission of Inquiry into Mount Murray, and, if so

- (a) what is the initial response to the conclusions and recommendations of the report; and*
- (b) will the Council of Ministers take the necessary action to implement the recommendations?*

The President: I now call upon the hon. member for Michael, Mr Cannan, to ask the question standing in his name.

Mr Cannan: Mr President, I ask the question standing in my name.

The President: I call on the Chief Minister to reply.

Mr Corkill: Thank you, Mr President, and in my opening remarks can I say that I am content to answer questions in this hon. Court in whichever sequence the Court determines.

The Council of Ministers, along with all other members, received this report on 1st July and therefore have only been able to have initial discussions on the report. The Council of Ministers is of the opinion that it will require in-depth study to consider all of the implications. During their initial discussions the Council has concluded that the 23 recommendations are already underway to varying degrees throughout the various component parts of government and we issued a position statement as at 3rd July to all members of Tynwald reflecting that fact.

It should be noted that the vast majority of these recommendations are rooted in the document entitled 'Modernising the planning system' which was put out to public consultation by the Department of Local Government and the Environment and provided to the commission of inquiry.

The commission of inquiry did not, in making its recommendations, have the benefit of the results of that public consultation. We do, and I believe that the opinions of the public freely presented and a consultative process should carry at least as much weight in our deliberations as the recommendations of the commission.

The Council also discussed their concerns as to whether the commission, in reaching the conclusions it did, had conformed with the provisions of natural justice. Of particular concern was the fact that there are no rules as to gathering evidence, methods of questioning witnesses, representation before the commission and that there is no right of appeal. These are matters that also need to be addressed in the future.

On this basis I will, on behalf of the Council, be moving an amendment to agenda item 13 that the report be received and that the Council of Ministers be obligated to report back to the October Tynwald. I believe this will allow the Council of Ministers the time which is required to study what is a voluminous report in much greater detail.

The President: Hon. member for Michael.

Mr Cannan: Mr President, will the Chief Minister address the issue of the conduct of ministers of the day as founded by the commission of inquiry, and will he agree that the Privy Council – the five most senior judges in the Commonwealth – stated in their recent report, and I quote, that 'the commission has carried out its affairs in a responsible and focused manner' and that 'the commission is approaching its task' – I repeat – 'in a responsible and focused manner'? Therefore by what criteria does he feel that he can say that there is no natural justice in the findings of the report?

The President: Chief Minister.

Mr Corkill: Mr President, I did not say that there was no natural justice within the report. I hope *Hansard* will bear out that what I said is that we had concerns in that particular area. I have no comment to make with regard to what the commission of inquiry has carried out. It has been set up by this hon. Court. It has been done with the knowledge of this hon. Court and it has been done, more or less, all in public, I believe, sir. So I do not have a problem with the way that the commission of inquiry has approached its task.

My answer refers to the recommendations in that report, of which there are 23; 21 are in relation to planning matters, and the point I have made, Mr President, is that I believe that many of those recommendations – and I may well be saying this again in other answers to other questions – are in hand. The consultative process which the Department of Local Government and the Environment have embarked upon as a result of the Crow report is public and well-known. They gave evidence, as they were asked to do and in a way that they should do, to the

commission of inquiry and I am pleased that they have taken up those recommendations in much the same vein as we see it as government. I think it is supportive in that area.

In relation to individuals criticised in the report, I believe there are other questions on the order paper, Mr President.

**Doctors' Surgery and Medical Centre –
Kirk Michael, Ballaugh and Jurby –
Failure to Provide –
Question by Mr Cannan**

Question 2. The hon. member for Michael (Mr Cannan) to ask the Chief Minister:

Do you condone the failure of the Department of Health and Social Security to make provision for a doctors' surgery and medical centre in Kirk Michael to provide primary healthcare for the parishes of Kirk Michael, Ballaugh and Jurby?

The President: Hon. member for Michael.

Mr Karran: Eaghtyrane, there are other hon. members wanting to ask supplementaries!

The President: Hon. member for Michael.

Mr Cannan: Mr President, I ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, the hon. member for Michael is aware that a review of the general medical services throughout the Island, including the area of Kirk Michael, Ballaugh and Jurby is being undertaken. This review includes the location and suitability of existing general practitioners' premises, and I believe this is the appropriate way forward rather than examining areas on an individual, one-by-one basis.

The President: Hon. member for Michael.

Mr Cannan: How does the Chief Minister square that answer, when the health services department has provided – or is in the process of providing – a new doctors' surgery and community health centre in Laxey, in Castletown, in Ballasalla, has already provided it in Rushen – all of which I support – and yet it appears not only to me but to my constituents that the North-West of the Island is being targeted? And will the Chief Minister tell us how long this review is going on? In previous answers he has stated that the review is ongoing. Is it ongoing for ever, Chief Minister?

The President: Chief Minister.

Mr Corkill: I thank the hon. member for his support for the across-Island initiatives that the Department of Health and Social Security is embarking upon. There is a need to modernise and have, I believe in certain areas, new GP practices. That is the work that the department is undertaking. It is not a simple issue, and in fact, with regard in particular to the north-west of the Island, Mr President, I know the department is looking at areas of potential population growth not just in Kirk Michael but in other villages and areas of the North-West and it has not yet come to a conclusion in that particular location.

Can I say, Mr President, that the review so far has highlighted the fact that many of our GPs' practices are in poor accommodation and in situations that are not something you would expect in this modern day, and so if you look at some of the capital schemes that have recently been announced, they have in fact been upgrading and replacement of existing busy GP practices that need better accommodation. Can I assure the hon. member for Michael that Kirk Michael is not forgotten in this situation but it has to be considered on an all-Island basis and not just purely for the village of Michael.

The President: Hon. member for Michael.

Mr Cannan: How can the Chief Minister justify his waffling reply and saying that it has to be on an all-Island basis when I have already explained to the Chief Minister about the new surgeries provided all over the Island? Will he give an assurance that he is not discriminating against my constituency – the sort of thing that was criticised in the Mount Murray report as corrupting practices?

A Member: Oh, rubbish! (*Interjections and laughter*)

The President: Chief Minister.

Mr Corkill: I am tempted to say, Mr President, that as the hon. member asks this particular question on a very regular and persistent basis of myself and of the Minister for Health and Social Security – and he writes many, many letters about the subject –

Mr Cannan: What is wrong with that?

Mr Corkill: – obviously he is very passionate about the subject and I believe, Mr President, that that is the very rôle of politicians. That is what we are here for, to represent the needs and serve our constituents. The hon. member is giving a fine example of that, and in fact I am sure other hon. members of this hon. Court past and present have been that persistent and done that very thing, (**Two Members:** Hear, hear.) Mr President, but have been criticised retrospectively.

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

Mr Earnshaw: Thank you, Mr President. There are, as the Chief Minister says, many calls from people around the Island to have a medical centre in their area. Will the Chief Minister agree with me that with the population approaching 10,000, Onchan should be a greater priority than Kirk Michael?

A Member: Hear, hear. (*Laughter*)

The President: We are not going around the constituencies, hon. members. Hon. member of Council, Mrs Christian.

Mrs Christian: Will the Chief Minister confirm his support for the Department of Health and Social Security in pursuing factual examination of the situation rather than succumbing to the rhetoric of individual members who no doubt are doing what they believe to be right for their constituencies but that it is the department's responsibility to look at the requirements Island-wide? And would the Chief Minister care to confirm that the fact that the surgeries in Castletown, Ballasalla and Laxey have been provided with facilities recently is because they have waited for long years (**Mr Lowey:** Hear, hear.) (*Interjections*) for improvements from intolerable conditions in certain cases, and that the branch surgery in Kirk Michael – albeit for a growing population – was attended by a minimal number of patients every week, which has resulted partly in the removal –

Mr Cannan: It did – because the doctors don't turn up!

Mrs Christian: – of some of the facilities to the branch surgery, but nevertheless that the patients in Kirk Michael still have available to them the practices in Ramsey and Peel and that, indeed, the distances which they have to travel are no worse than many other people in the Island have to travel to reach a primary care surgery?

The President: Chief Minister.

Mr Corkill: Mr President, if I can indulge the hon. Court by answering the hon. member Mr Earnshaw's quick supplementary, it would also be wrong of me not to represent my constituents in Onchan. As the hon. member said, it is a very large population and for many, many years we have existed with two branch surgeries. So, in that relation, Mr President, I can sympathise with the hon. member for Michael (**A Member:** Hear, hear.) that he has had a situation over the years where doctors from Ramsey and from the Peel area have served Kirk Michael on a very limited basis and that has satisfied the community for a long time, but obviously the withdrawal of the Peel service and the fact that the premises are not to be available in the longer term have precipitated a problem.

In moving to the hon. health minister, I can confirm everything that she has said, Mr President. There is a heavy task in that department to deploy the resources that are available to it – huge resources in that department – and they need to be applied throughout the Island on a fair and equitable basis.

So I would revert to the hon. questioner's original comment that he is supportive of those new developments around the Island and I would ask him to be patient in waiting for the conclusions of the overall review. There is a great deal of investment required in GP services which perhaps should have happened some years ago.

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

Mr Delaney: Thank you, Mr President. Will the Chief Minister, as he, the member for Onchan, and the member for Michael both have concerns about the medical facilities in their areas, consider getting together with the health minister before six months are up? The hon. members asked a similar question again and so they can both get some consideration of the concern of their constituents about the long-term medical health.

The President: Chief Minister.

Mr Corkill: I thank the hon. questioner. The fact is that it would be wrong of me not to highlight my own constituency. (**Mr Delaney:** Hear, hear.) That is a personal view in relation to our medical services there. I am not sure that it is one that is really shared by a great number of the population because the doctors there do a very fine job in both surgeries. So it is not something that constituents raise with me, but I would refer the hon. minister for health who has in the past circulated the number of patients who have attended in the Kirk Michael area and if we are talking about –

Mr Delaney: That was not the question, Chief Minister.

Mr Corkill: – all-Island resources, we have to be cognisant of that. We cannot provide every service everywhere throughout the Island when we have a population which is spread throughout the Island. There are always going to be centres.

**Firing of Military Test Projectiles into
Manx Waters –
Eskmeals Delineation –
Government’s Stance –
Question by Mr Henderson**

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Chief Minister:

Will you ask the UK Government through the appropriate offices to delineate the section of the Eskmeals firing range that lies in Manx territorial waters out of the range area, and reiterate the Isle of Man Government’s stance on objecting to the firing of military test projectiles into Manx waters?

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

Mr Henderson: Gura mie eu, Eaghtyrane. Ta mee shirrey kied yn eysht y chur ta fo my ennym.

The President: Chief Minister.

Mr Corkill: Mr President, I have arranged through the Clerk of Tynwald to have certain maps and information of the Eskmeals firing range placed on the desks of all members and hopefully that has happened. (**Mr Henderson:** No.) If it has not, I will ensure that it does circulate.

It can be seen from these maps that two sections of the extended Eskmeals range known as D406B and D406C do intrude into Manx waters. I have also circulated for members’ information – I had thought – the full co-ordinates of the firing range. I should perhaps say, Mr President, to remove any doubt, that the firing exercise that was scheduled to take place last month before being cancelled was only to use the parts of the range outside Manx waters and the Isle of Man Government was informed of this fact in advance.

However, as neither of the sections D406B and D406C have been used for a number of years, I can advise that my office wrote to the Department of Constitutional Affairs on 20th June restating the Isle of Man Government’s position of being firmly opposed to projectiles, either live or inert, being fired into Manx territorial waters.

The President: Hon. member Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. Could the Chief Minister answer the part of my question which requested that he, through the appropriate offices of the UK Government, ask that those parts of the Eskmeals range which project into Manx waters be delineated from the firing range co-ordinates out of Manx waters?

The President: Chief Minister.

Mr Corkill: Certainly this issue will be on our agenda of items to discuss with the new constitutional affairs department in the United Kingdom when we next meet them. I do not believe that there is any real urgency at this stage because they are fully aware of our stated objection. That goes back to, I believe, 1997, but certainly I will ensure that the issue that the hon. member is requesting is discussed with them. I do not believe that in reality there is a problem between the two parties.

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I thank the Ard-shirveishagh for his positive response to that but can he confirm that he will pursue my question properly – not just policies but the actual delineation – and also would he agree with me that that is an advance of our constitutional position with the UK which his government also supports?

The President: Chief Minister.

Mr Corkill: I would make the point, Mr President, that with regard to our external defence the United Kingdom Government has a responsibility towards us. This issue, which is a practicing issue, I am sure can be resolved mutually and, in fact, I believe was done so in 1997. However, I do not believe the message got to the right place at the right time, which is why the announcement was made, but because of our intervention that action did not take place in any event.

**Misleading of Tynwald or House of Keys
by Minister –
Consequences of –
Questions by Mr Gawne**

Question 4. The hon. member for Rushen (Mr Gawne) to ask the Chief Minister:

Do you agree that if an independent inquiry finds that a minister knowingly misleads Tynwald or the House of Keys the minister should either resign or be sacked?

Question 6. The hon. member for Rushen (Mr Gawne) to ask the Chief Minister:

Under what circumstances would you believe it to be appropriate for a minister who has knowingly misled Tynwald to remain in office?

The President: Now, hon. members, could I ask the hon. member for Rushen for his co-operation: if we would take both 4 and 6 together to avoid an overlap? Chief Minister, as long as you are happy in regard to

that, we will deal with those two questions at the one time now. Hon. member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane. Ta mee shirrey kied ny feyshtyn y chur ta fo my ennym.

The President: Chief Minister.

Mr Corkill: Yes, thank you, Mr President. I am happy to do that. If I believed that a minister had knowingly misled Tynwald or the House of Keys then I would agree that the minister should either resign or be asked to resign.

I do not believe that the status of an inquiry's independence necessarily reflects or correlates with the status of its judgments. Independent inquiries, like all inquiries, are of varying standards depending upon a number of factors including their constitution, powers, timescales and membership. This Court has always in the past considered the results of independent inquiries and we have each exercised our own judgement in determining our reactions to recommendations made or conclusions reached. I believe that is the correct way for a democratic government to act.

When dealing with matters of dishonesty – which is effectively what we are talking about here – I believe that we should apply the same standards of proof as apply in the courts when dealing with dishonesty. That is to say that in exercising our judgement we should ask ourselves the questions, 'Is it beyond reasonable doubt, based on the evidence provided, that a minister knowingly misled Tynwald or the House of Keys?' That is a very high level of proof which I do not believe has been met.

Mr President, in relation to question 6 my brief says quite simply, 'I do not believe that it would be appropriate under any circumstances for a minister who has knowingly misled Tynwald to remain in office.'

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

Mr Karran: Eaghtyrane, given the findings that the hon. member for Ramsey, Mr Bell, knowingly misled the House of Keys and given the letter sent out to hon. members last Friday by the hon. member for Ramsey, how does the minister square the fact that Mr Bell claimed that he had attached to his letter the whole notes of presentation, whereas it appears from the document being circulated for hon. members that Mr Bell omitted the highly relevant page 6, which makes direct reference to the famous buyers' guide? In light of such omissions from this letter to hon. members, does the Chief Minister find the Treasury minister's letter, in a word, 'misleading'?

The President: Chief Minister.

Mr Corkill: Obviously, Mr President, these are the sorts of supplementary questions which might well be better surfacing within a debate and –

Mr Cannan: Nonsense!

Mr Corkill: – certainly I can understand why certain members of this Court wanted the debate before the questions.

Mr Karran: Well, circulate them.

Mr Corkill: As I have said at the beginning, I do not have a problem in answering the questions in whatever sequence this Court determines.

In relation to the questions put, I think I have made it quite clear, Mr President, that if in my mind I believe a minister has knowingly misled not just the House of Keys or Tynwald but even knowingly misled the Council of Ministers then that is really a dishonest act.

I do not believe that has happened. That is the core of the situation. I believe that is the core of why we have a debate on our agenda paper, not the 23 recommendations that are already being enacted by government, which will put right the maladministration which occurred all those years ago. That is my belief: that there was maladministration of a serious order back in October 1991, but the fact is, having read the report twice and having spoken to my Treasury minister, Mr Bell, on a number of occasions, I have come to the conclusion that he has my confidence. That is quite a simple judgement for me to make because in my mind I do not believe that he has misled Tynwald or the House of Keys. Mr President, I will listen to the debate later on in this agenda paper and I would ask all hon. members to listen to points in the agenda paper item later, because I think it is after debate that we will be able to make that judgement that I was talking about earlier. We are expected to make a judgement on an independent commission's report, and I have views on that, as the hon. questioner who has asked the supplementary has views on this – the hon. member who started this process going.

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

Mr Gill: Thank you, Eaghtyrane. What parliamentary mechanisms would the Chief Minister consider when investigating a situation alluded to by my hon. colleague, Mr Gawne, in his questions 4 and 6 on today's question paper?

The President: Chief Minister.

Mr Corkill: Having spoken to the hon. questioner yesterday evening, Mr President, I know that in his mind he is talking about a standards and privileges committee. That was something I had not considered in all of this debate but I appreciate his view in this. I

prefer not to be drawn on something which is subjective at this stage. Under standing orders, the purpose of Question Time is to elucidate fact, Mr President, and I can see you nodding your head. I am not trying to avoid the question but I am trying to be constructive for this Court to make a proper judgment on an independent commission's report.

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

Mr Singer: Thank you, Mr President. Could I just ask the Chief Minister to elucidate a little on his first answer when he said that 'Independent inquiries are of varying standards (Mr Lowey: Yes.) – high standards and low standards – and you have to exercise your judgement'? Does he mean by that accepting the recommendations of inquiries with high standards and questioning the recommendations of those with low standards? And to follow on then from what he said, is he saying that the Mount Murray inquiry therefore, as he is questioning it, is of low standard?

A Member: Hear, hear.

The President: Chief Minister.

Mr Corkill: Well, the hon. member of Council was the first person to talk of low standards, Mr President, let me make that clear. What I said was that independent inquiries like all inquiries are of varying standards. I think that is a fairly –

Mr Singer: That means high and low.

Mr Corkill: – obvious comment to make in reality depending upon a number of factors including their constitution, their powers, timescales and indeed, their membership. That is a fact of life. I am not commenting at all on whether this particular report is of high standard or, as the hon. member of Council, Mr Singer, has just said and introduced the comment, of low standard. That is a matter of the judgement that we will make in the debate.

We obviously know where the hon. member, Mr Singer, is coming from in terms of his interpretation: he believes this report perhaps is of a high standard. (*Interjection*) But then I might be accused of putting words in his mouth like he tried to do with me, Mr President.

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

Mr Lowey: Thank you, Mr President. Following on from my colleague's question, again if I can ask the Chief Minister directly: since when have independent inquiries been grouped together with all inquiries, like he said in his report? Is the fact that we set an independent inquiry not putting it on a higher plain? Since when have we dined *à la carte* from the

recommendations from any independent inquiry in the past? It was with regret that I was unable to ask or get your attention, Mr President, on the first question about natural justice – would the Chief Minister not agree that where he drew attention to the fact that natural justice may have been denied of some people who appeared before the commission, were those objections made known to the commission while it was sitting? Or why has it been drawn to our attention now, after the commission's findings have been produced?

The President: Chief Minister.

Mr Corkill: I think there are two questions in reality there, Mr President. In relation to how we deal with these sorts of independent commissions of inquiry, I have no experience of dealing with a report such as this in the past.

My comments earlier in Question Time relate to the fact that out of the 23 recommendations, 21 of them relate to planning matters and 21 relate to a government consultative process which is out there in the public domain awaiting the response of the public in terms of how they feel about these changes to the planning system. Those came about as a result of the Crow report and I am quite pleased, if you like to put it that way, that the independent commission has picked up on those points.

That, at the end of the day is still a matter of judgement for this hon. Court, as most things are, Mr President. In relation to . . . if the hon. member could just remind me of the second part?

Mr Lowey: It was the –

The President: Natural justice.

Mr Lowey: – natural justice and why you are now mentioning it and why you did not mention it to the commission.

Mr Corkill: In the debate, since the report was published, that was the first indication I had that certain people criticised in the report were concerned about that, but in listening to what people have had to say in the interim period, it is clear to me and others that the amount of time that has been allowed has been fairly limited (Mr Delaney: Hear, hear.) in the way that they have responded, or had the opportunity to respond.

There again, I think this is a matter for the debate when we get to it, Mr President, as to this issue of natural justice. That is something that I know has been presented on legal advice by certain people criticised within the report and so it is out there to be judged.

The President: Hon. member Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. Would the Ard-shirveishagh agree with me that what has been presented to all hon. members and in our public

document is a very in-depth, very detailed independent report chaired by a highly respected QC from the UK, (**Several Members:** Hear, hear.) a man of integrity (**Mrs Cannell:** Hear, hear.) and a man of years and years of planning experience? Would he agree to that?

The President: Hon. members, we are in danger of going over ground which you know we will debate later. Chief Minister, you may respond, sir.

Mr Corkill: Well I think the hon. questioner reaffirms the point I have been trying to make which is that the recommendations relate to planning issues and obviously the hon. member, Mr Henderson, has picked up on the fact that the chairman of the commission has knowledge of those areas and so we will have the benefit of that, plus the benefit of the consultative document, plus the benefit of the Crow report but what I have been saying in my answers is, we also need to have the feedback on the consultation process –

Mr Henderson: Do you accept his integrity?

Mr Corkill: – and that will be the substance of my amendment for the debate where we are talking about the 23 recommendations.

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

Mr Delaney: Thank you, Mr President. Further to your answer in question 1, which I never got a chance to ask a supplementary on, and in this question, am I to understand or is the Court to understand that, on the amendment you are moving, that amendment has the support of the rest of the Council of Ministers to adjourn the debate on the Mount Murray report?

The President: Chief Minister.

Mr Corkill: I seek your guidance on this, Mr President, because I do not want to move the amendment now.

The President: Okay.

Mr Corkill: I have referred to it –

Mr Delaney: But you can tell me –

Mr Corkill: – but the amendment quite simply will say that the report should be received, and the recommendations that are contained within the report, that the Council of Ministers will be obligated to come back to the October sitting with an up-to-date assessment and a statement of the progress and of where we are at with those, and that will of course include the public consultation. That is what my amendment will be when we get to item 13.

Mr Delaney: Thank you, that clears it.

The President: Hon. member for Michael.

Mr Cannan: The Chief Minister in his answers has questioned the competence of the inquiry. Will the Chief Minister confirm that the commission of inquiry was called for by Tynwald, for which the Lieutenant-Governor appointed our people of the highest standard and who make their report in measured terms, and would he agree that, were these facts not known to a commission of this high standard, it could be called into question? Here we have a commission whose integrity . . . Is the Chief Minister querying the integrity of the commission?

The President: Hon. member, I want to make it plain that at no time during the Chief Minister's response did I find that he questioned the competence of the inquiry at all. Chief Minister.

Mr Corkill: If I could reply to that, Mr President: if I can just revert back to question 4 as the supplementary question refers back to, the question says, from Mr Gawne, the member for Rushen, 'Do you agree that if an independent inquiry finds that a minister knowingly misleads Tynwald or the House of Keys that the minister should either resign or be sacked?' – what I said was that if I believed that a minister had knowingly misled Tynwald or the House of Keys then I would agree that the minister should either resign or be asked to resign. Now that is a fairly straightforward thing, Mr President.

Secondly, though I said that I do not believe that the status of an inquiry's independence – because that was in the question, the words 'independent inquiry' – necessarily reflects or correlates with the status of its judgments. Those will be assessed in our debate, Mr President, later. I said that independent inquiries, like all inquiries, are bound to be of varying standards depending upon a number of factors, including the constitution, powers, timescales and membership. It could even be affected by the actual remit that this hon. Court gave it. That is the point I was making: that there are variables in this equation, Mr President.

The President: Hon. member, Mrs Cannell.

Mrs Cannell: Thank you, Mr President. Returning to the original question at 4 and also taking cognisance of 6, is the Chief Minister suggesting that he really does not believe that one of his ministers misled this hon. place? Is he really asking us to believe that he does not believe that it happened? Has he not read *Hansard* of the House of Keys, Tuesday, 7th April 1992 when a question was put to the then minister for tourism, who is currently his Treasury minister, a question was put in respect of Mount Murray and government moneys and part of the response was, and I quote, 'As I have said on many occasions, no application for government financial assistance has been submitted, nor has there been any

intimation that an application will be submitted in the future'? Bearing in mind the findings of –

The President: Do not debate; the question please.

Mrs Cannell: Thank you, Mr President. Bearing in mind the findings of the commission, would the Chief Minister agree with me that on several occasions within the commission of inquiry report they state that this minister knew by at least May 1991 – a whole year before the question was put and he denied any knowledge on it – and that is misleading the Court and gross misconduct, as in my view?

The President: Chief Minister.

Mr Corkill: Mr President, I am aware of a *Hansard* document that the hon. member of Council, Mr Delaney, circulated, which was an attempt to highlight the fact that the hon. member Mr Bell had misled the House of Keys, not this Court. That is a technicality because in terms of what is being alleged it is serious either way, and certainly, Mr Bell, in his response said, 'Mr Speaker, I am not a member of the planning committee. Any change of use on that site would be entirely in the hands of the future planning committee. As far as the tourism department is concerned, we have always fought for this site to be retained in tourism. That is precisely what this development is and I am very disappointed that suggestions are being made that it may, in fact, be used for other purposes.' That was on 7th April 1992, a few months after the planning decision was made in the October 1991.

I believe the hon. member, the Minister for the Treasury and what his intentions were at that time. However, as I said earlier, Mr President, I am quite happy to listen to a debate and let the hon. members make some of the judgements on these issues, and also, if I can use that term 'natural justice', allow the hon. member for Ramsey, Mr Bell, to contribute to that debate.

**Lord Bishop of Sodor and Man –
Appointment of –
Question by Mrs Craine**

Question 5. The hon. member for Ramsey (Mrs Craine) to ask the Chief Minister:

Are you in a position to advise the Court when the Lord Bishop of Sodor and Man will be appointed?

The President: Hon. member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr President. I beg to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Question 5, Mr President. The new Lord Bishop of Sodor and Man will be appointed when the due process has been completed, but I do hope an appointment will be made in the very near future. The announcement will be made public as soon as it is known.

I am sure that hon. members will be aware that this appointment, whilst members of Tynwald have had an input, is outside of our control. I am sure that if the hon. member takes up any additional queries with the Venerable Archdeacon Partington, who is also anxious to see the new Bishop in office, he will also be pleased to assist.

The President: Mrs Craine, hon. member for Ramsey.

Mrs Craine: Mr President, would the Chief Minister agree that it is important to maintain the Bishopric of Sodor and Man, illustrating as it does the historical unity of Man and the Isles and reflecting a vision of the Island within the Church of England today?

The President: Chief Minister.

Mr Corkill: Well, certainly, Mr President, when we have our constitutional debates in another place and in this hon. Court, the fact is that the position of the Bishop and the vote of the Bishop within the Legislative Council is often seen as a factor as to whether the bishopric will continue. That is a matter for other people. I am looking forward to the replacement of Noel Jones. I would like to pay tribute to the time that he spent in this hon. Court. (**Two Members:** Hear, hear.) I found his contributions very helpful in the Court and outside of the Court. He is an important element of what goes on in Tynwald and I look forward to that service to Tynwald continuing.

**Constitution for Europe –
Supremacy of EU Law –
Effect on Island's Status –
Question by Mrs Cannell**

Question 7. The hon. member for Douglas East (Mrs Cannell) to ask the Chief Minister:

(1) *Given that our Island's current economic prosperity has been achieved within the framework of two relationships, namely the constitutional relationship with the UK and the relationship with the European Union as defined by protocol 3, can you inform this hon. Court if negotiations are taking place to ensure that our independent status will not be eroded if the UK signs the treaty establishing*

a constitution for Europe in a form not dissimilar to that submitted to the European Council meeting in Thessaloniki on 20th June 2003; and

- (2) *will you please tell this hon. Court of the impact of the supremacy of EU law over UK law and on both of these relationships, and on our independence?*

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

Mrs Cannell: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Again, the reply is in the hands of the Chief Minister.

Mr Corkill: Mr President, I recall that I answered a similar question to this in another place in May of this year. As I said at that time, the Council of Ministers has not yet discussed the details of the draft EU constitutional treaty and its implications for the Isle of Man.

However, I can assure this hon. Court that the Council of Ministers takes the issue of the draft constitutional treaty very seriously, and it will be considering the possible implications for the Island and its relationships with the United Kingdom and the EU over the coming months.

Both the Chief Secretary's Office and the Attorney-General's Chambers are continuing to scrutinise developments and the Constitutional and External Relations Committee will be considering the draft treaty later this month.

I envisage, Mr President, reporting back to Tynwald early in the next session. As such, I think it would be premature for me to talk about the issues raised in either part of the question at this time.

The President: Hon. member, Douglas East.

Mrs Cannell: Thank you, Mr President. I thank the hon. Chief Minister for his response, but can he give us an assurance today in this hon. Court that he and his Council of Ministers has at least put in place all the processes necessary to ensure that we are well prepared for this challenge, as we were in 1972 when we had protocol 3 ready for the moment the United Kingdom signed the accession treaty?

The President: Chief Minister.

Mr Corkill: The hon. member refers to protocol 3, which obviously is a long-standing constitutional platform for the Isle of Man in its relationship with the United Kingdom and in particular the EU. Our advice so far is that the issue of protocol 3 is not to be changed in this convention process. We do not take that at face value, Mr President, (**Mr Delaney:** Hear,

hear.) because we understand the EU has such a large body of opinion, and variable opinion in that. That is why I said in my answer that we will continue to scrutinise the convention and report back to this hon. Court in October.

I think the real issue – and I have said this in the past – that we perhaps may have to face up to, is that protocol 3 may well remain as a plank of our relationship, but what we have to bear witness to is that the EU itself is very much a different entity compared to the 1972, as the hon. questioner alluded to, when the UK Treaty of Accession was signed.

So this is a watching brief over the next month or two, but as I have said, there is a commitment to scrutinise and a commitment to put down very clearly what the options are to this hon. Court in the not-too-distant future.

The President: Hon. member Mrs Cannell.

Mrs Cannell: Thank you, Mr President. Is the Chief Minister aware that the Isle of Man is actually named in the draft constitution, which is regarded as the final draft constitution, which has been out since the end of June, in that it states, 'The treaty establishing the constitution shall apply to the Channel Islands and the Isle of Man to the extent necessary to ensure the implementation of the arrangements for those Islands set out in the treaty concerning the accession of new member states to the European Economic Community and to the European Atomic Energy Community signed in January 1972'? Can he advise on whether or not he knows what is in the draft constitution in respect of the Isle of Man, or is he totally relying upon officers to advise him? If so, who is providing the advice and is he also getting advice from the Attorney-General? If so, which hat is the Attorney-General using? Is he our adviser or the United Kingdom's adviser on Island situations?

The President: Chief Minister.

Mr Corkill: Well, first of all can I defend the position of the Attorney-General, Mr President, who is a Crown appointment and has an independent advisory rôle in relation to the law of this Island and I respect that position.

I perhaps could be forgiven for thinking that the question was actually coming from behind me in the absence of Mr Quine. Some of those words do seem (**Mrs Cannell:** No, no.) the sort of thing that he would be testing and probing government over, but certainly there is no – and I tried to put this across in the opening statement – complacency whatsoever that the European Union is changing. We are fully aware that the Isle of Man is named in these issues. If we were not to be named then the protocols that we enjoy would not be able to be carried over to the new treaty.

There is still quite a long way to go on this situation, we are advised, because there are issues

within this treaty that are highly unlikely to be agreed to by all 15 member states.

**Standardised Complaints Procedure
Review –
Council of Ministers’ Report –
Question by Mr Singer**

Question 8. The hon. member of the Council (Mr Singer) to ask the Chief Minister:

At the December sitting of the Court, the recommendation of the Select Committee on Complaints of Maladministration by Mrs A E S J Pilling that ‘the Council of Ministers should undertake a full review of the current implementation of the standardised complaints procedure, including the training of staff in its use and of the desirability or otherwise of moving to a complaints régime supervised by an independent ombudsman, and report to Tynwald by the end of the current session’ was approved; why have the Council of Ministers not yet reported and when will they do so?

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

Mr Singer: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, I can only apologise to the Court that this body of work has not yet been carried out. There is a reason: in March 2002 the Clerk of Tynwald ceased to inform the relevant departments of government of decisions taken by this Court and I am sorry to say that the monitoring of votes and proceedings within my office failed to pick up this particular piece of work in time for it to be considered prior to the end of this session.

However, I can confirm that a subcommittee of the Council of Ministers was established in March 2000 to consider the case for the establishment of an ombudsman and is in the process of finalising its report to Council. I will ensure that the report addresses all relevant issues and that it is presented to this hon. Court at the earliest opportunity.

The President: Question 9 –

Mrs Cannell: Mr President, I indicated I wished to have a supplementary, sir.

The President: A supplementary to question 8.

Mrs Cannell: Thank you, Mr President. Would the Chief Minister like to explain to the hon. Court: at the same sitting of Tynwald Court in December last

year on the same agenda it referred to the Council of Ministers making a report on the petition for redress of grievance of Helen Margaret Hyde and reporting at the July 2003 sitting of Tynwald Court, which we have now arrived at; which officer or which department or who is responsible for the failing of that, sir, in bringing forward the Council of Ministers’ report? Those are two petitions, not one.

The President: Chief Minister.

Mr Corkill: If the hon. member had raised that with me before I would have been able to have an answer. I will find out what the situation is. As I have alluded to, there is a different process now whereby executive government picks up on decisions of this hon. Court, and that has not been without its problems. It is an area that we are now aware of and that monitoring of votes and proceedings is a much more mechanical and automated basis, so that we do not miss things.

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

Mr Lowey: A supplementary. Would the Chief Minister not agree that the annual report of government should at least have a mention of that? There is no mention at all of the reasons he has given for not pursuing that today in the report of government, the current year, the past year. Is it not an omission that should have been included in the report so we have a full picture of what government is up to or not up to, as the case may be?

The President: Chief Minister.

Mr Corkill: As I have said, historically this hon. Court would inform the Council of Ministers of certain decisions that had an impact on executive government and the duties that we had to then take those forward. That has ceased and it is now up to my office to ensure, by scrutinising the votes and proceedings, that decisions of this Court are taken up and we have, I think, exposed a situation where that monitoring has to be improved and has to be automated, and I think that is now in place. Unfortunately, the question relates to this particular recommendation which dates back and has simply been forgotten, and it is now going to be addressed.

The President: Mr Singer, hon. member of Council.

Mr Singer: Thank you. Could I just ask the Chief Minister: as the Council of Ministers has picked it up and is looking into the situation of the ombudsman, would not the correct decision have been to at least put an item on the agenda as a statement to say that it was being looked at, but it was not ready, rather than have nothing on at all?

The President: Chief Minister.

Mr Corkill: I totally agree with that, Mr President, but the fact is, it is not in the system for the reasons I have explained.

Mr Singer: You have been looking t it.

Mr Corkill: The committee has been looking at the ombudsman situation. When I became Chief Minister I saw a draft of a report that was coming forward, and I have to say that I did not particularly agree with the conclusions. I asked the committee to think again about the introduction of an ombudsman and they did take further evidence, including that from the former Chief Secretary, Mr Kissack, and all of that now will be reported to the Council quite soon.

So I do apologise to the hon. Court that this has fallen out of sight and that apology is well meant, but I hope the systems are now in place.

**Deception and Misleading of Tynwald,
Branches and Public –
Question by Mrs Cannell**

Question 9. The hon. member for Douglas East (Mrs Cannell) to ask the Chief Minister:

Are you aware –

- (a) that ministers have a duty ‘not to deceive or mislead Tynwald and the public;’ and*
- (b) that the making of a deliberately misleading statement in one of the branches of this hon. Court may be regarded as a contempt?*

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

Mrs Cannell: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, I am well aware of the duties of both members and ministers and of the various possible consequences of making a deliberately misleading statement to either Tynwald or its branches.

The President: Hon. member, Mrs Cannell.

Mrs Cannell: Thank you, Mr President. If the Island is to be a player on the world stage, how can the Chief Minister have confidence in his Treasury minister, found by an independent commission of inquiry to have knowingly misled the parliament, to have applied unacceptable pressure to officers, to have

questionable judgements, to have virtually surrendered his powers of sensible independent judgement and to have taken action which was not the action of a responsible minister?

The President: Hon. member, we have been down this road before. Chief Minister, do you wish to add to your previous – ?

Mr Corkill: Mr President, I would just say, and I refer hon. members to standing orders, that the hon. questioner is trying to extract from me an expression of opinion, whereas Question Time is on matters of fact, and therefore I tried in previous supplementaries to explain that, Mr President.

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

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that it is a matter of fact that I quote that: ‘The commission is approaching its task in a responsible and focused manner’? These are not the words of mine, this is a judgement of five of the most senior judges in the Commonwealth. Does he not agree with me that it is alarming that he has tried to soil the good name of that independent commission already in this hon. Court (**Mr Cannan:** Hear, hear.), and does he not also agree that since part one of the report has been published the government has responded in denial of reality? If so, does he not agree that the commission calls this ‘a mistaken sense of general satisfaction’ which ‘clearly still goes on in government today’? What more does the Chief Minister need as proof before he starts acting as a Chief Minister?

Mr Cannan: Hear, hear.

The President: I think what we all need, hon. members, is to take cool heads and for Tynwald to make a decision. Chief Minister.

Mr Corkill: Thank you for those guiding words, Mr President. I have not in any way denigrated this commission. These are words that are coming from other members trying to put them in my mouth. That is not the case at all. What I have attempted to say is that this independent commission report is not a government report, it is a Tynwald report, a matter for all the members of this Court, and I am prepared to listen to all the members of this Court and I will make my judgement on the recommendations and the conclusions within the report when that happens.

In relation to the Law Lords who made that comment, certainly they made it in relation to the way that the commission had attacked and approached the subject. I think that was possibly before they saw the recommendations and the conclusions, (**Mr Cannan:** Oh!), but I am quite happy to hear what Tynwald members have to say and I, on behalf of executive

government, will always respond to the wishes of Tynwald.

The President: Hon. member for Douglas East.

Mrs Cannell: Thank you, Mr President. Whilst the Chief Minister is considering what members of Tynwald have to say, quite rightly, and the deliberations which we may come to later on this day, will he have cognisance of the fact that the question referred to is based on the findings of Erskine and May, when he is listening and considering what members of this hon. Court are saying later on? Further, would he research before we get to the debate, the findings of misconduct of members or officers in terms of Erskine and May and what their findings are? Will he further consider that the actions described in the commission of inquiry, the Mount Murray report, the findings based on evidence suggest – strongly, I would put it – that his minister has misled and that it is a contempt? Will he read up on Erskine and May which states: ‘The House of Commons may treat the making of a deliberately misleading statement as contempt’ and that in 1963 that House resolved that in making a personal statement which contained words which he later admitted not to be true, a former member had been guilty of ‘a grave contempt’?

The President: Chief Minister.

Mr Corkill: Mr President, I also have briefing notes that refers to Erskine and May’s parliamentary practice, 22nd edition, at page 111 and I would concur absolutely with what the hon. member has just said.

**Mount Murray Inquiry –
Named Persons –
Dismissal and Exclusion of –
Question by Mrs Cannell**

Question 10. The hon. member for Douglas East (Mrs Cannell) to ask the Chief Minister:

The Commission of Inquiry into Mount Murray states –

‘2.4 *It was possible for these matters to happen as they did, not simply because of the weakness in the individuals involved, but also, and importantly, because of the lack of transparency in government systems which have direct effects upon the general public, because of some defective government systems, and because of the absence of any effective system of ensuring compliance with appropriate conduct and probity through the government departments. It was also substantially aided by a mistaken sense of general satisfaction*

by officers and politicians in the quality of the government systems they were operating. In reality these systems were materially defective.’

and goes on to say –

‘Regrettably the mistaken sense of satisfaction remains apparent today among politicians active at the time.’

Will you accept that the Commission of Inquiry into Mount Murray has clearly identified such persons by name, and will you give an understanding that all such persons will be dismissed and excluded from future public office?

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

Mrs Cannell: Mr President, I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, the Commission of Inquiry into Mount Murray makes many statements and expresses many opinions. I have already indicated that the Council of Ministers is content to receive the report and consider its recommendations. However, it is for members of this Court to exercise their independent judgement as to whether or not everything within the report should be accepted wholesale.

While I appreciate that the post of Chief Minister carries with it the many duties and responsibilities, all of which I accept wholeheartedly, because of the privilege of holding that position I do not believe that it is within my prerogative to exclude anyone from holding public office; that is a matter for the laws of this land and the opinion of the electorate to determine and not for me.

The President: Hon. member Mr Cannan.

Mr Cannan: Quoting ‘in the opinion of the electorate’, will the Chief Minister acknowledge that at present it appears that the opinion of the electorate is to accept the report and its findings, bearing in mind its high status, and that the opinion of the electorate is that ministerial change should take place?

Several Members: Hear, hear.

The President: A matter of opinion. Chief Minister.

Mr Corkill: The opinion of the electorate is always important, it is always of high order, Mr President. I would remind the hon. questioner that it is this Tynwald Court who sanctioned this

commission and has this report before it. It is for Tynwald members to make a judgement on it –

Mr Cannan: The public paid for it.

Mr Corkill: – and I have always said quite clearly I will always respond to the wishes of Tynwald, whatever that global decision is. I leave it at that until I hear the debate.

The President: Hon. member Mrs Cannell.

Mrs Cannell: Thank you, Mr President. Would the Chief Minister agree with me that the indication he has given that his Council of Ministers are content to receive the report would be an insult to this commission of inquiry (**Mr Cannan:** Hear, hear.), bearing in mind that the chairman appointed to preside over the commission was sought through the Lieutenant-Governor and was forthcoming by recommendation through the Lord Chancellor's Office? Is he aware of that? And that just receiving is a total discourteous act (**A Member:** Hear, hear.) towards the Lord Chancellor's Office and could pose further constitutional problems –

Mrs Crowe: Oh, come on!

Mrs Cannell: – for us in the future if he behaves like that? And further, would he agree that to receive is not to accept and that is an insult?

Turning to the question on the paper: can the Chief Minister give us an idea of how he is going to eradicate the same ethos which prevails within government systems within his government which led to all the fundamental wrongs which occurred during this particular inquiry that the commission have come up with? It is not just a planning matter, minister, it is an ethos and a culture which prevails in your government. How are you going to eradicate that (*Interjection*) and in what way?

The President: Chief Minister.

Mr Corkill: Right. Mr President, an ethos and a culture of a planning decision made in 1991; let us make that clear, Mr President.

Mrs Crowe: Exactly. Absolutely.

Mr Karran: Nothing has changed today.

Mr Corkill: With regard to the recommendations within the report, 21 out of the 23 are to do with planning matters. Therefore I would argue that progress is being made, albeit too late, and it is of course very easy to make recommendations with hindsight.

So, the hon. member also said it is an insult to receive a report; that again is in the hands of hon. members. This is not a collective government line on

an independent report that was produced at the request of all members of Tynwald.

Mrs Cannell: You just said the Council of Ministers is content to accept that.

The President: Hon. member!

Mr Corkill: The hon. questioner talked about me excluding people from public office. I do not have that ability or power and would not want it. (*Interjections*) Excluding people into the future –

Mr Delaney: From government positions.

Mr Corkill: – that is something that is not in a democratic process that I am ever aware of. These processes are so important to the way parliament orders its affairs and for me to be so presumptuous as to exclude any member of this hon. Court because I feel that that is the right thing is not the right way forward.

The hon. member asked, 'What has government done?' Well, I think when we get into the debate we will see that.

Mrs Crowe: Absolutely right.

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

Mr Earnshaw: Yes, thank you, Mr President. Whatever the outcome of all this about excluding people, would the Chief Minister agree with me – and I am sure Capt. Douglas, the member for Malew and Santon, will agree with me – that before you throw the cook overboard, it is wise to ensure someone else knows how to work the galley? (*Interjections by Mr Cannan, Mrs Cannell and Mr Delaney and laughter*)

The President: Chief Minister.

Mr Corkill: The hon. member refers to the fact that as Chief Minister of the executive, I have a duty to make sure that things are in good order and I always endeavour to do that, Mr President.

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

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that his responses up to now are more the responses that you would expect from a Chief Minister in the continent of Africa and not the continent of Europe?

The President: Hon. member, that is certainly not a supplementary question.

**Mount Murray Inquiry –
Part One Report –
Acceptance of Findings –
Question by Mr Karran**

Question 11. The hon. member for Onchan (Mr Karran) to ask the Chief Minister:

Do you accept that the findings of the Commission of Inquiry into Mount Murray, as published in its Part One Report, are final, or do you support the subsequent embarrassing denials and protestations made by those severely criticised which have undermined the credibility of your administration?

The President: Hon. member for Onchan.

Mr Karran: Eaghtyrane, I beg to ask the question standing in my name.

The President: Thank you. Chief Minister.

Mr Corkill: Just in response to the previous supplementary, Mr President, it is the hon. member who seeks to bring in outside agencies to run the government of this Island and therefore he should ponder his nationalist credentials.

In relation to question 11, Mr President, I accept that the findings of the Commission of Inquiry into Mount Murray are final so far as the commission is concerned. It is now the responsibility of this Court to examine the report in depth and determine what, if any, actions are required as a result. That is the function of this Court – to exercise sound and impartial judgement as to the validity or otherwise of the matters that come before it and, as I have said on that basis, I, on behalf of Council, will be moving the amendment that is being much talked of at Question Time.

It is clearly the opinion of the questioner that members should abrogate all responsibilities for making judgements on behalf of the people of this Island to unelected appointees. That is a position I cannot accept –

Mr Cannan: What about the Legislative Council?

Mr Corkill: – and I hope other members cannot either. I am content to make judgements on the basis of all the evidence before me, including the commission's report, the Crow Report and the appendices of the commission's report. I am not bound to concur with the judgments of the commission, and I support the right of everyone in this Island, whether the subject of criticism or not, to make independent judgements also and to voice those judgements if and when they feel the need.

I am an advocate of free speech and always have been. I have great difficulty in reconciling the questioner's constant demands for openness, fairness and transparency alongside his attitude that those

subject to criticism should not be allowed the right of reply.

Mrs Crowe: Yes.

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

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that it is a sad reflection that this hon. Court has to get the Lieutenant-Governor to get an independent inquiry (**Two Members:** Hear, hear.) to get the truth out in this Island at this present time and the shame is on him and his administration as far as that is concerned? And why has the Chief Minister failed to take the leading rôle in responding to the detailed findings of the commission of inquiry, which reflect so badly on the senior members of his administration? And why has the Ard-shirveishagh not immediately reassessed his authority to dismiss those who have been severely criticised in part one of this report?

The President: Chief Minister.

Mr Corkill: The hon. member talks about truth. The fact is the previous administration –

Mr Karran: That you were part of.

Mr Corkill: – set an instruction to Professor Crow, who produced a report in very good faith to the Isle of Man Government. Most of that report has been agreed with by the commission, so for him to say that government has done nothing, I believe, is an untruth. So for the hon. member to say that he has to go off to the Lieutenant-Governor in order to extract the truth –

Mr Karran: It is a sad thing.

Mr Corkill: – I do not believe is a fact that this Court needs to be too concerned about.

Mr Karran: The report is a fact.

Mr Corkill: The fact is the hon. member stood on his feet – I remember the time well – and made allegations of corruption. Those who voted in favour of the report were quite clear that they wanted such an allegation cleared up. I supported and voted for this commission of inquiry and the expenditure of public money, as the hon. member Mr Cannan talked about, I supported that expenditure. I do not have a problem with that because this report talks about the fact that no corruption has been found –

Mrs Crowe: Absolutely not.

Mr Corkill: – but I do know that hon. members voted in order to clear up that issue. There is a debate

which we are going to have later about the dictionary with regard to the definition of 'corruption' –

Mrs Crowe: Absolutely right.

Mr Corkill: – but there is one part of this report which says there is no corruption, despite what some people might like to find and are now using this report in that light.

So let us have the truth in the debate, Mr President. I am happy to listen to the truth from all corners. In relation to his comments about my authority, my authority is vested in this Court alone.

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

Mr Lowey: Thank you, Mr President. Would the Chief Minister not agree when he says that he is quite happy to listen to the Court and have its views expressed to them, that the Court was denied the full Crow Report (**Mr Cannan:** Hear, hear.) so we could only debate part of that report? We now suddenly have the fifth amendment of that report.

Mr Corkill: And you know the reasons why.

Mr Lowey: And would he also agree that the report actually mentioning corruption does not deal with that in that where it says that there was no corruption in the accepted sense that money changed hands, the interpretation of the word 'corruption' was not a sentence or a paragraph but a whole chapter of this report, spelling out what the commission felt was –

Mrs Crowe: The definition.

Mr Lowey: – actually being proposed in this Court? So the independent commission has found that the word 'corruption' was not implied as the Chief Minister has implied that it was in this Court.

A Member: Hear, hear.

Mr Cretney: They were not in the Court at the time.

The President: Chief Minister.

Mr Corkill: Thank you, Mr President. There is no doubt that maladministration did occur in the lead up to the planning decisions that were taken in relation to the Mount Murray. That was clear in the Crow report, with or without appendix 5. I did want to publish appendix 5 at that time, and I think that I invited any hon. member who wanted to see appendix 5 to actually read it. (**Mrs Crowe:** Yes.) However, I am not sure that message came across very strongly. Certainly all the Council of Ministers of the day, the last administration, saw appendix 5.

The reason it was not published is quite clear: Professor Crow did not want it to be. He had taken evidence on a confidential basis. Some of the people who gave evidence to him had only done so on the basis that it was a confidential report. It was entitled 'Staff Matters'.

Hindsight, again, is a wonderful thing but Professor Crow did not want it to be released. It has been released subsequently, quite straightforwardly because I always wanted it to be more widely known by members of Tynwald, and Professor Crow and the previous Chief Minister have agreed to that as have those people who gave evidence to it.

So I think it paints a picture of maladministration, which is now echoed in the latest report, the inquiry, which I believe relied heavily on the Crow report in structuring its process.

The President: Hon. member for Michael.

Mr Cannan: In relation to the question itself, how does the Chief Minister see the international community, with whom we do so much business, judging matters? Will they accept the commission of inquiry as a solid document or will they listen to the state of denial which is apparent from the Chief Minister in his answers to date?

The President: Chief Minister.

Mr Corkill: I have no state of denial at all, Mr President. I am aware that everything I say has a potential for negative impact of this Island as well as positive impact of this Island. It is something that all members of Tynwald should consider when framing their comments and so I leave that comment with the hon. questioner.

The President: Hon. member for Onchan.

Mr Karran: Eaghtyrane, a supplementary: has the Ard-shirveishagh seen the statement of Professor Crow to the commission of inquiry and would he have a read of it and the relevant information? I think that he might be misled as far as that is concerned. And would the Ard-shirveishagh not also agree that it is very worrying for a Chief Minister to try and misquote the findings of five of the most senior judges in the Commonwealth when he has made these statements in this Court again as far as the corruption is concerned?

Mr Cannan: Hear, hear.

The President: Chief Minister.

Mr Corkill: The hon. member talks about the corruption in his final phrase and leaves it hanging there. We have a report, which we have spent a lot of money on and hon. people have spent a lot of time making happen, for this hon. Court to make its judgment on, as I have said in previous answers.

Therefore the sooner we have the debate, the better and I have read Professor Crow's contribution to the report, because I have read the whole report on more than one occasion. He drops in the word 'misleading' again, so it is easy to hang on the odd word. I am interested in the debate. As I have said before, I shall be listening for proof that someone did mislead the House of Keys or indeed this chamber.

**Mount Murray Inquiry –
Part One Report – Legal Costs to Public –
Question by Mr Karran**

Question 12. The hon. member for Onchan (Mr Karran) to ask the Chief Minister:

Further to the commission of inquiry issuing its draft findings to those individuals to be criticised in its part one report, have any public funds been made available to enable such individuals to seek legal advice to make representations and, if so –

- (a) *which individuals have benefited in this way; and*
- (b) *what costs to the public purse have been incurred in respect of such advice to each individual concerned?*

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

Mr Karran: Eaghtyrane, I beg to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, it is widely known that all individuals issued by the commission with draft findings are entitled to be indemnified by government for that legal advice. The cost incurred to date for such advice has totalled £1,187. Until such time as all remaining invoices are received and processed, it is not possible to fully identify which individuals have benefited in this way. However, to date the following persons have, as I understand, chosen to take legal advice using public funds and they are: Charles Guard, the hon. David Cretney MHK and the hon. Allan Bell MHK.

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

Mr Karran: Is it the case that we now find ourselves in the absurd situation where taxpayers' money has been used to fund the Mount Murray inquiry and because of your administration's denial of the findings, taxpayers' money has now been provided to ministers in your administration to rebutt those draft

criticisms and will public money be made available to enable ministers, past and present, to dispute the commission's findings of fact still further?

The President: Chief Minister.

Mr Corkill: I referred earlier in answers, Mr President, to natural justice. I have heard this hon. member in the past talk about the rights of individuals in these sort of circumstances where they are being questioned about wrongdoing. I refer to my earlier answers about natural justice.

The hon. members, perhaps in moving the original motion, which has incurred a lot of cost, as I have said, I have supported that motion, but I think I was aware when I supported that motion that we had an open-ended situation with regard to costs; we did not know how long the inquiry would go on for and we did not know how much legal aid – if that is the right expression – legal support which people who were to be criticised were going to be entitled to. The matter as to whether people were entitled to support legally was a matter for the chairman of the commission, (Mrs Crowe: Yes.) someone whom I do respect, regardless of what the hon. member may allude to.

The President: Hon. member Mr Karran.

Mr Karran: Eaghtyrane, would the Ard-shirveishagh explain then how any member of Tynwald would be entitled to legal aid anyway? And would he also not agree that after the findings and the right of the individuals to make their representation on those findings to then allow a further situation, once the judgment has been passed, to use public money in order to prevaricate over the affair is wrong and an abuse of using the public's money? No member of Tynwald would be entitled to legal aid.

The President: Chief Minister.

Mr Corkill: I meant aid for legal purposes, not the normal meaning of 'legal aid' which is available to the community – let us make that clear. The hon. questioner has a point of view to make. He feels that those criticised should have been exposed to the commission of inquiry without any help whatsoever, despite the fact that on the other side those questioning had a tremendous amount of resources. (Mrs Crowe: Yes.) So I leave it with hon. members to consider what is reasonable.

The President: Hon. member Mr Braidwood.

Mr Braidwood: Thank you, Mr President. Would the Chief Minister agree with me that in this hon. Court on 18th June 2002, it was agreed that 'reasonable legal costs should be given to witnesses called to give evidence to the inquiry' and that the commission chairman had said that 'in accordance with the requirements of natural justice, witnesses

should be entitled to legal representation. It is further decided that those likely to be the subject of significant criticism should be able to receive legal costs at public expense. This is consistent with current practice in public inquiries in the United Kingdom? That was agreed, Mr President, on 18th June 2002.

The President: I am sure the Chief Minister will agree.

Mr Corkill: I believe the hon. member for Onchan, Mr Karran, supported that motion.

**Mount Murray Inquiry –
Part One Report – Release to Members –
Question by Mr Karran**

Question 13. The hon. member for Onchan (Mr Karran) to ask the Chief Minister:

- (1) *Can you provide the Court with a full account of the mysterious circumstances by which the release to all members of Tynwald of Part One of the Report of the Commission of Inquiry into Mount Murray was delayed from 30th June to 1st July; and*
- (2) *can you confirm whether the part one report was sent to all members of Tynwald*
 - (a) *at the same time; and*
 - (b) *before being seen by the local media?*

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

Mr Karran: Eaghtyrane, I beg to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, these are not matters for the Chief Minister to answer, as the Mount Murray report is not a government report, but in the interests of openness and transparency, I will do my best.

There are no mysterious circumstances as to why the release to all members of Tynwald of Part One of the Report of the Commission of Inquiry into Mount Murray was delayed from 30th June until 1st July. I am advised that the Attorney-General had asked the chairman of the commission if he was satisfied that the report could not be challenged as contravening the rules of natural justice. This was with particular regard to the process followed for consultation with those criticised in the report.

The chairman of the commission considered the position and agreed that extra time should be offered to enable those concerned to submit additional responses.

In the event, this offer was declined and the report was therefore circulated.

So far as the second part of the question is concerned, again, it is not a matter to be dealt with by the Chief Minister, but again in the interests of openness and transparency, I will do my best to answer.

The report was delivered to the Clerk of Tynwald's Office at 10 o'clock on 1st July and immediately distributed to all Tynwald members into their pigeonholes. I myself did not receive a copy until I returned to the office that afternoon, as I was in attendance at St John's with the Old Comrades of the Manx Regiment.

So far as the media is concerned, I do not know how and when they received copies of the report, although I am clearly aware that they were familiar with the contents prior to the document becoming a public document on Thursday, 3rd July. That is a matter which is of considerable concern to me and should be of concern to all hon. members.

However, I can only reiterate that this is not a government report and that I am not aware of any official copy of the report being seen by the local media prior to being seen by members.

A conspiracy theorist might conclude that the questioner is simply putting down a smokescreen as it is he who has a motion on the order paper which was submitted before the report was available. Leaks are a matter for members to consider individually and also the aspect of the security of printing is a matter for the commission in this case.

The President: Hon. member Mr Karran.

Mr Karran: Eaghtyrane, do you find it curious that the hon. member for Ramsey was mentioned by name in the letter to me by the Clerk of Tynwald on 30th June but it was mysteriously not mentioned in either of the two letters from the Clerk of Tynwald's that were on the subject to hon. members? Can the Chief Minister assure this hon. Court that the separation of power between parliament and the executive is there?

The President: Chief Minister.

Mr Corkill: Well, Mr President, it certainly feels like it this morning that the separation is there –

Mr Karran: There is only one of me!

Mr Corkill: – and can I say once again this is not an executive government report and those matters are for Tynwald and the individuals involved to determine as to whether the report was kept confidential or not. Certainly I have done my best to answer with the knowledge that I have.

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

Mr Delaney: A supplementary, Mr President: bearing in mind the answer given by the Chief Minister, rightly, that it was the Attorney-General that approached the chairman of the commission of inquiry, could I ask if it is possible for someone – possibly the Attorney-General, our learned Attorney – to give us his summary of the actions that were taken on this and his concerns with the national justice that might be involved here?

A Member: A question is coming up.

The President: Chief Minister.

Mr Corkill: Well, I was just going to say, Mr President, I am aware the Attorney-General wishes to make a statement when we have the issue of the debate –

Mrs Cannell: There is a question later.

Mr Corkill: – I just make that point for information.

Mr Delaney: Can we have it now, so that we know where we are?

The President: Mr Attorney.

The Attorney-General: Yes, thank you, Mr President. I do have, of course, a question to answer from the hon. member for Michael, Mr Cannan, at item 18 on this question paper and perhaps, Mr President, with your leave –

Mr Delaney: Thank you.

The Attorney-General: – it might be appropriate if the hon. member were to ask me that question now and I would do my best to respond.

In relation to the wider issues on the question of the debate, I think I would prefer to leave my contribution to that to this afternoon's proceedings.

Crow Report – Annex 5 Publication – Question by Mr Karran

Question 14. The hon. member for Onchan (Mr Karran) to ask the Chief Minister:

Why, when the Council of Ministers has consistently refused to publish annex 5 of the Crow report since December 2000, has it decided to publish it after all in July 2003?

The President: Hon. member Mr Karran.

Mr Karran: Eaghtyrane, I beg to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, annex 5 of the Crow report was not published at the request and on the recommendation of Professor Crow, author of the report. However, the publication of Part One of the Commission of Inquiry into Mount Murray has covered all of the issues raised in Annex 5 and therefore little could be served in it remaining confidential.

On my instruction, Professor Crow was contacted and he has agreed that it should be released at the current time, as has the Chief Minister of the day, Mr Gelling MLC.

The President: Mr Karran.

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that the true reason that the actual Crow report, including annex 5, was not previously published is because it exposed part of the truth behind the Mount Murray affair and implicitly criticised senior members of the Council of Ministers? Does he not think that that would be a very worrying situation if he was sitting in my chair instead of his own chair, as far as being a back-bench member of this hon. Court?

A Member: Hear, hear.

The President: Chief Minister.

Mr Corkill: Mr President, at the time that this was discussed I was the Treasury minister and I remember the discussion about appendix 5, that it was confidential and I remember that the major criticism was of a senior officer in government who has since left government and that was where the matter lay.

The debate was in relation to whether there was any purpose in making that appendix public in relation to the criticism of that senior public servant, but overriding all of that was the fact that Professor Crow did not want it to be published for reasons I have already explained, and the Council and myself under questioning remained loyal to his request.

Crow Report – Remaining Items to be Published – Question by Mr Quayle

Question 15. The hon. member for Middle (Mr Quayle) to ask the Chief Minister:

In relation to the Crow report, now that annex 5 has been published, are there any remaining chapters or annexes that are yet to be published?

The President: Hon. member Mr Quayle.

Mr Quayle: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, when the Crow report was published in 2001 certain material was omitted at the suggestion of Professor Crow. The report had been structured by Professor Crow in such a manner to enable those parts of it which related to specific individuals or matters to which no resolution had been found to be left out of the published document. This was to ensure that those involved were treated fairly.

Since the publication of the report of the Commission of Inquiry into Mount Murray, the information, as I have said, in annex 5 has been widely aired and so the motivation for withholding its publication is no longer relevant. In the interests of transparency, in order that the full information was available to hon. members and the public, the Council of Ministers decided – and I referred to this in the other answer – to publish annex 5, subject to Professor Crow’s approval.

In relation to this question, Mr President, I do not recall ever having been aware of annex 6 to the Crow report, prior to the publication of the detailed ruling of the Privy Council. It is not mentioned in the minutes of the Council of Ministers and I have never heard of it being discussed.

Having read the ruling of the Privy Council and also after discussion with the hon. member for Middle, I caused enquiries to be made and I have now authorised the release of annex 6, which is a single page memorandum, to all members of Tynwald. The memorandum details a matter which had not been resolved during the course of the inquiry, as Professor Crow had been unable to contact the relevant individual for clarification and he did not consider the matter to justify delay in his submission of the report. The issues raised in that memorandum will be added to the list of residual issues to be considered.

In a covering letter to professor Crow’s submission of the report, he wrote and I would like to quote: ‘Had I been able to get evidence from the individual concerned, or even if I had been able to contact him on any of the working days between Christmas and the New Year, it is not impossible that the problem detailed in annex 6 could have been resolved. As it happens, I am sorry to leave this detail at a loose end, but I did not judge it worth delaying my reporting.’

So I can only apologise to members that this single page was not released at the same time as annex 5 as it was clear that the intention of the Council of Ministers was that the full unabridged version of the Crow report be circulated.

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

Mr Quayle: Thank you, Mr President. In thanking the Chief Minister for that reply, I have to express my incredulity (**A Member:** Hear, hear.) that we could have a reprinted Crow report dated July 2003, and now we have Annex 5, without referring in any way to annex 6. Could I ask him how it could be possible that no members of the government or the civil service were aware of annex 6 and that it took some of us to look at the judgment of the High Court of Justice, the Law Lords, where they clearly said that the Crow report consisted of five chapters and six annexes? Four of the annexes at that time had been published, two of the annexes had been kept confidential. As we know annex 5 has now been published, we obviously look forward to seeing annex 6.

The President: Chief Minister.

Mr Corkill: Well, first of all I would like to thank the hon. member for Middle, Mr Quayle, for drawing this to my attention and having picked up on it in his reading of the Law Lords’ report and drawing it to our attention and it was when that was done that I set the wheels in motion to make sure that there was no annex 6, because I am not, as I have said in my opening answer, aware that it existed, but it was there on the file of the former Chief Secretary. It has got missed as an issue because it is an unresolved matter, which in the opinion of Professor Crow was not sufficiently important to hold up the publication of his report.

As part of the debate I will make sure that this is available for hon. members, and I do not believe that it does have any substance of importance, but that is a matter for the members of Tynwald to decide upon.

So I apologise that this has not been available. As I said, in the last administration and up until recently I was not aware of this annex 6. As far as I was aware and all the members of Council and senior management were concerned, there was only appendix 5 that had been kept confidential and that has been resolved.

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

Mr Delaney: Thank you, Mr President. In his answer to this excellent question from the hon. member, Mr Quayle, can the Chief Minister indicate which person he is making reference to in that small, but very important piece of information? Secondly, can he give his assurance – I know it is difficult – that all relevant documents are now being seen by the Council of Ministers and that we will eventually see everything that they have seen?

The President: Chief Minister.

Mr Corkill: I will circulate, as I have said, annex 6, it is here in my hand. It is not a matter of just the Council of Ministers seeing it, (**Mr Delaney:** Thank

you.) it is a matter of all members of Tynwald seeing it to make sure they have the complete report. I regret that it has not been in the system and in relation to the individual that Professor Crow was unable to contact, I will leave hon. members their opinion on that –

Mr Delaney: I protest, Mr President, I have asked a specific question in the chamber.

Mr Corkill: – to determine from this annex 6 as to what relevance it has.

The President: Hon. member, Mrs Cannell.

Mrs Cannell: Thank you, Mr President. As I am in possession of the said letter quoted by the Chief Minister to the Chief Secretary dated 30th December 2000, having done my homework also, would he agree with me that the individual named – whose name the member of Council is trying to ascertain, which I am not going to repeat but the member will get to know when he gets a copy of it –

Mr Lowey: How do you know?

Mrs Cannell: – from whom Professor Crow was trying to take evidence may, had he been able to take evidence, give an explanation as to tax matters in respect of the Crow report, which were evidently omitted from the Crow report, but indeed are going to be covered by the commission of inquiry? Bearing in mind that the Chief Minister was the Treasury minister at the time, why was he not aware of this and why was he not aware of annex 6?

Further, is he aware, now having looked at the evidence, which is all available to everybody within the Isle of Man in the commission's own library, that Professor Crow when giving evidence to the Commission of Inquiry said himself that he has yet to see the report which is in his name? (*Laughter*)

The President: Chief Minister.

Mr Corkill: Well, obviously that last comment is a matter for Professor Crow, Mr President. (*Interjection by Mrs Cannell*) This annex 6 relates to the maintenance and management company, and Professor Crow makes comment that he was not wholly satisfied that adequate provision was made for the proper funding of the principle management company at Mount Murray and that was the matter that he was trying to resolve. It was on the basis of the fact that it was a planning matter that he was investigating, and he did not see that it was an issue for slowing up his report.

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

Mr Lowey: The Chief Minister, Mr President, seems to be apologising a lot this morning – not of his

own making, I may add, either – but could he explain to the Court how it was that the Privy Council or the Law Lords were presented with a complete picture of the facts of the Crow report, including, now we know, annex 6 and he has not been made aware of it as Chief Minister of the Island? Those papers must have been presented to the Privy Council by someone, so perhaps he could find out.

Could I ask, further to an earlier question or supplementary of mine, where he said that he was of the opinion that all members of this Court had been given information that they could have seen the Crow report or section 5 of the Crow report which was not made public, my recollection is quite clear: having asked the previous Chief Minister for a sight, which he refused, when I asked you, sir, it was refused and when I asked whether it could not be seen by members on a confidential basis, you said you would consider it, sir? No, to the best of my recollection I was not – and I do not know whether any other member of the Court were – actually informed that we could come in and see it after that was given on the floor of this Court.

The President: Chief Minister.

Mr Corkill: Well, certainly on that last point, Mr President, and it dates back to when I was first elected as Chief Minister, I was conscious of the fact that the Crow report had a number of outstanding issues and I took it upon myself to try and draw a line on the Crow report to make sure that the recommendations that were still outstanding were being progressed.

I was asked about it in the Court as the hon. member has put it, and certainly I had an opinion in my own mind that I had made that offer. If it did not come over that way and it was not communicated that well, then that stands. Certainly that was my intention at that time.

Not to make it public was the issue and on the basis that the Council of Ministers, individual ministers from the previous administration, some of whom were no longer ministers, had seen it, it struck me that it was not unreasonable for members to be able to scrutinise it, but in confidence.

In relation to annex 6 itself and why I do not know about it, I do not have an answer for that. I am surprised by it. All I can say is that, in terms of any documentation that has gone to the inquiry or has gone to the Privy Council, I would have absolutely no involvement in that process and nor should I.

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

Mr Earnshaw: Thank you, Mr President. With regard to annexes 5 and 6 would the Chief Minister like to express his view that if the Crow report had been released last spring, if Professor Crow could have been persuaded to allow it to be released last spring, it would probably have removed the need for the

subsequent inquiry to take place (**Mrs Crowe:** Hear, hear.) with the consequent saving of a million pounds?

Mrs Crowe: Yes.

Mr Delaney: He has just joined the Treasury, it would be useful!

The President: Chief Minister.

Mr Corkill: Well, certainly, hindsight is a wonderful thing, Mr President, and I have said this already. That could be the conclusion that some members might have come to, but if I remember the debate about setting up the inquiry, it was about allegations of corruption. It was about the fact that Professor Crow had got insufficient powers to look into the matter in great detail and it was these allegations of corruption and it was these lack of powers that Professor Crow had that I think convinced members that they should go down this particular route.

If the hon. member, having read appendix 5 feels that he might not have voted for the independent commission, then all I can say is maybe one or two would have felt the same, but I do know a great number of hon. members in here would not have been satisfied by that.

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

Mr Delaney: Thank you, Mr President. Can I ask – and I understand the difficulty of the Chief Minister this morning – what the reluctance is? We have not seen this piece of paper, which is going to come to us, but we are going to debate the Crow report. It might well be it was outside their jurisdiction, but is the past Treasury minister aware that the financial regulations in being even then – we are going back to 1991-92 – might have some bearing on how a multi-million pound builder was actually engaged on a tourist development without any inquiry as to their ability to carry out such an operation?

The President: Chief Minister.

Mr Corkill: In relation to the hon. questioner, Mr Quayle, member for Middle, we set the wheels in motion to uncover this annex 6 and I only came across it late on yesterday. There has not been the time, hon. member, to distribute it and I am making sure that my office delivers that to hon. members as soon as possible. It is as simple as that.

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

Mrs Cannell: Thank you, Mr President. Would the Chief Minister agree with me that the description of the Mount Murray inquiry costing a million is a

gross distortion of the action truth (**Mr Karran:** Hear, hear.) and can he advise on what it has cost to date, and further would he agree with me that following the Privy Council's findings, which were published last week, we may well be able to recoup somewhere within the region of £300,000 to £800,000 bearing in mind that they dismissed the appeal and initially awarded costs, later agreeing to consider a share of costs, so the million is untrue?

The President: Chief Minister.

Mr Corkill: It was not me that made that comment, Mr President, about the cost – (*Interjection by Mr Karran*)

Mrs Cannell: But you answered it!

Mr Corkill: – but the fact is that we made certain votes in this hon. Court to pay for this inquiry. If there is a requirement for more funding to finalise the situation, as the barometer of money climbs, then I would, on behalf of us all, be the person to move that motion as I have done on two previous occasions to make sure the funds are available for the wishes of this hon. Court.

I have not got the figures before me as to what the current cost is, but the hon. member also refers to tax matters and I think that takes us into the realm of debating potentially part two of the report before we have even seen it and therefore –

Mrs Cannell: I did not mention taxes in the question.

Mr Corkill: Well, some hon. member mentioned taxation issues in relation to annex 6 and so we really are going to get too far down the road on this particular debate through this particular question. In terms of actual cost I can endeavour to find out what the current total expenditure has been.

The President: Hon. member for Onchan.

Mr Karran: Eaghtyrane, a supplementary: would the Ard-shirveishagh not agree that it is somewhat surprising for us that this rumour of annex 6 has gone about in the street for some time and does it not reflect that if we had more transparency in the government systems we would then be able to find out what is the truth as far as not just the Council of Ministers, but members in this hon. Court who are supposed to, as parliamentary duty, scrutinise the actions of his government, which we do not do?

The President: Chief Minister.

Mr Corkill: If the hon. member is saying that he had knowledge of annex 6 earlier than I have, then it is a great shame he has not raised it with me, because I would have done what I have done in relation to

Mr Quayle's question which is to unearth it, quite transparently, but if I do not know about it how can I act? So if there have been rumours I am not aware of them. If the hon. member for Onchan, Mr Karran, has been aware of them, who has he told. Perhaps he told the commission of inquiry and I have missed it. I do not know.

The President: Hon. member, Mr Gill.

Mr Gill: Thank you, Eaghtyrane. Could the Chief Minister advise us how long it would take to photocopy one sheet of paper 33 times (**Members:** Hear, hear.) and distribute it?

Mr Delaney: We have not got a photocopier.

Mr Gill: If that is a question he feels uncomfortable with, could he confirm that that could be done within an hour and a half, i.e. before the office hours this morning and the start of this sitting?

The President: Chief Minister.

Mr Corkill: In terms of how long it takes to photocopy things, Mr President, I am certainly aware that certain members copied the whole report inside that time on that particular Tuesday morning when it became available. These copies –

Mr Karran: You should have given us them free.

Mr Corkill: – are coming to hon. members. Whether it is the fact that my office has not found our new headquarters of Tynwald . . . I apologise. It is coming.

The President: A final supplementary, hon. member, Mr Quayle.

Mr Quayle: Thank you, Mr President. Having become aware from the copy of 8th July of the Law Lords' decision, I realise it said five chapters and six annexes, their lordships said four of the annexes had been published, two had not. Could I ask the Chief Minister if he feels it would be appropriate, as they must be of the understanding that that is still the position – that four of the annexes have been published, two remain confidential – to advise their Lordships that within a matter of time we will now have received the final annex to the Crow report, having received annex 5 some days ago?

The President: Chief Minister.

Mr Corkill: Yes, the question is about openness, Mr President; I do not have a problem with that under these circumstances. These issues are not confidential, therefore they can be publicly circulated because of events. In relation to the comments, they were made at a time when annex 5 had not been made public, and

can I make the point that in the commission of inquiry report the chairman and the commission agreed with Professor Crow that it should remain confidential, but on examination of the report from the commission, government no longer felt that it was sensible for that to appertain, because we had a feeling that hon. members would request it in any event, so that was why it was made public.

**Remembrance Sunday –
National Service of Remembrance –
Question by Mr Quayle**

Question 16. The hon. member for Middle (Mr Quayle) to ask the Chief Minister:

Will you liaise with all relevant people and associations in order to consider for the service held each Remembrance Sunday at 3 p.m. to be declared as a national service of remembrance?

The President: Hon. member for Middle.

Mr Quayle: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, there has been ongoing liaison with all relevant people and associations, in particular the British Legion, since May 2002 with regard to whether or not any particular service should be declared a national service of remembrance. The latest consultation took place on 30th June and Council is due to consider the matter again in the very near future.

**Foreign Policy and Security –
Ceding to EU –
Protection of Isle of Man's Position –
Question by Mr Quayle**

Question 17. The hon. member for Middle (Mr Quayle) to ask the Chief Minister:

(1) Given that under the present constitutional arrangements, the UK represents the Isle of Man in most international matters, what steps are being taken to prepare for the circumstances that will arise if the UK Government signs the treaty in a form not too dissimilar to that submitted to the European Council meeting in Thessaloniki on 20th June 2003, thereby ceding to the European Union all matters of foreign policy and security; and

(2) *what action is being taken to ensure that the Isle of Man's position is fully protected in the course of negotiations with its European partners?*

The President: Hon. member, Mr Quayle.

Mr Quayle: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Chief Minister.

Mr Corkill: Mr President, it appears to me that this question covers much the same ground to the earlier question from the hon. member for Douglas East. I will therefore give essentially the same answer. We are scrutinising developments and the Constitutional and External Relations Committee of the Council of Ministers will be considering the issues raised by the draft EU constitutional treaty and we will do this later this month. I certainly would hope to be able to report back to Tynwald early in the next session. In the meantime, I believe it would not be helpful to speculate on what challenges the proposed new treaty may or may not bring until we have had a chance to give the matter full and thorough consideration.

The President: Hon. member Mr Quayle.

Mr Quayle: Thank you, Mr President. I would just ask the Chief Minister, bearing in mind his comments, does he share my concern that it does seem to accelerate the situation to a 'United States of Europe' when it comes up with its own anthem, flag, motto, national army, president, foreign minister and whatever else is next to come forward in the future?

The President: Chief Minister.

Mr Corkill: Well, I thank the hon. member for making clear his views on a federal and united Europe. It is a serious issue because the Europe we know and that we are connected with through our protocol 3 is changing and with enlargement is set to change beyond any vision, I believe, that was there in 1972, when our particular protocol 3 and the UK accession to the EU came about. So it is very appropriate at this stage that we look at these issues. As I have said, there is no protocol 3 threat as we understand it, but I do believe that we are in a changing world and that should come as no surprise to any hon. member that we are all aware that the EU is changing. In relation to the issues the hon. questioner has put forward about the federalism of Europe, then certainly that is a matter for the EU states and no doubt we will hear in due course.

**Mount Murray Inquiry –
Part One Report –
Withholding of Publication –
Question by Mr Cannan**

Question 18. The hon. member for Michael (Mr Cannan) to ask HM Attorney-General:

Can you confirm that you requested the chairman of the Commission of Inquiry into Mount Murray to withhold publication of the part one of the report on Monday afternoon 30th June, and if so, on whose behalf were you acting?

The President: Hon. member for Michael.

Mr Cannan: I ask the question standing in my name, sir.

The President: The Attorney-General.

The Attorney-General: Thank you, Mr President. In order that I may respond fully to the question raised by the hon. member for Michael, it is necessary that I should refer not only to the relevant events of Monday, 30th June, but also to those which occurred at the meeting of the Council of Ministers on 26th June and on the afternoon of Friday, 27th June.

Mr President, at the meeting of the Council of Ministers on 26th June, concern was expressed by the Treasury minister, the hon. member for Ramsey, that he had been treated unfairly by the chairman of the commission. The particular item of concern was that the minister had not been given sufficient time to respond to the detailed criticisms of him within the report.

Ministers generally were concerned about this. Reference was made to the terms of the Tynwald resolution passed on 9th February 2002, and in particular to the fact that His Excellency had been requested by Tynwald to appoint the members of the commission, and that the commission's report was to be given to His Excellency, with a copy to be laid before Tynwald.

In those circumstances I was asked by ministers if I would make contact with His Excellency to mention the concern which had been expressed about the unfair treatment suffered by the hon. member for Ramsey and possibly by others.

I accordingly asked the hon. member if he would arrange for his lawyers, Messrs Cains, to write to me outlining the particular concerns which the hon. member had. This would enable me to make a meaningful contact with His Excellency.

I subsequently spoke with the partner dealing with the matter at Messrs Cains and explained that my concern was to ensure that the report of the commission should not be undermined by a suggestion that witnesses had been treated unfairly. On the afternoon of Friday, 27th June I received a letter from

Messrs Cains which included an analysis of the evidence relied upon by the commission, prepared by counsel of Blackstone Chambers in London.

It seemed to me, Mr President, that there was prima facie evidence that the commission's conclusions in respect of the hon. member for Ramsey might be open to criticism. The opening paragraph of that analysis of evidence, which can be found at paragraph 304 of the report, was sufficient of itself to warrant concern about the procedures adopted by the commission.

I quote from page 304 of the commission's report as follows, Mr President: '(1) The criticisms of Mr Bell amount to adverse findings of fact and it is clear that the standard of evidence required for the commission to make such adverse findings of fact must be very high, particularly where the evidence of witnesses has not been tested by cross examination on behalf of Mr Bell, thereby reducing the weight that the commission can attach to that evidence.'

I was also particularly concerned that the hon. member for Ramsey did not appear to have been given sufficient time to respond to the criticisms of him in the report. The concern was expressed to me in some detail by Messrs Cains, but I will restrict myself to the concluding paragraphs of the letter as follows, and I quote: 'In our opinion, Mr Bell has been given nothing like a fair opportunity to respond to the criticism of him contained in the report because of the severe time constraints imposed upon him by the commission, and we consider that this amounts to a breach of natural justice.'

'It would, of course, have been open to Mr Bell to make an application to the High Court for more time to respond to the draft report, but news of the application would have become public very quickly, inevitably leading to gossip and speculation about why such an application was being made. Mr Bell was therefore in an impossible situation and one which we consider he should have not been placed in by the commission.'

Having read that letter from Messrs Cains, I spoke with the Chief Secretary by telephone and it was agreed that I should contact His Excellency, who was then off the Island, to raise these concerns with him. This I did and I read to His Excellency over the telephone part of the letter from Messrs Cains which summarised the criticisms of the commission.

I made it clear in my conversation with His Excellency that I was not representing Mr Bell and that I was concerned that the commission's work might be undermined by allegations of procedural irregularity. His Excellency shared those concerns and indicated that whilst he was keen that the report should be published as soon as possible, it was not essential, so far as he was concerned, that the report should be published in time for debate at the July Tynwald; rather it was important that the report should be published as soon as possible, consistently with fairness to those who had given evidence and who might be dissatisfied with the procedures.

His Excellency suggested that it might, in the circumstances, be appropriate to publish the report in September. His Excellency, however, made it clear that he did not wish to interfere and that he wished to remain neutral throughout. His Excellency suggested that I should approach the chairman of the commission to discuss these issues to see if he might wish to consider in the circumstances a revised timetable for publication.

Mr President, at about 5.15 p.m., following my conversation with His Excellency, I made contact with the secretary at the commission and asked to speak with the chairman, Mr Macleod. I was told that Mr Macleod was not available and I therefore asked that he might phone me as soon as possible on Monday, 30th June. I telephoned the Chief Secretary to report the then current position and I read the file supplied by Cains over that weekend.

At about 9.25 a.m. on Monday, 30th June I received a telephone call from Mr Macleod. I told him that I had received a file from Cains, which I had read, and that as a result of my telephone conversation with His Excellency on Friday, 27th June, His Excellency had expressed concern that the value of the report should not be undermined by any procedural irregularity.

I stressed to Mr Macleod that His Excellency was neutral as to the merits of the criticism of the commission, as indeed I was. I did explain that so far as His Excellency was concerned there was no necessity that the report be published in time for the July Tynwald. The report could be published during the summer in time for debate in October and this would enable Mr Bell and others who felt that they had had insufficient time to respond, to supply a response to the criticism.

Mr Macleod was, in my view, quite adamant that Mr Bell's correspondence had not raised anything new. I mentioned that Mr Bell's concerns were supported by Messrs Cains and by counsel in London. Mr Macleod commented that the commission was well aware of this and had considered the matter very carefully.

Mr Cannan: Mr President, could I ask the hon. Attorney-General to speak up a little bit please?

The Attorney-General: Sorry.

The President: Speak up, sir.

The Attorney-General: The report had already been printed and was with the Clerk of Tynwald's Office. I invited Mr Macleod to add a further annex to the report with any additional information which Mr Bell and others might wish to provide.

I indicated that the question of any postponement of the publication was a matter for him as chairman. Mr Macleod stated that Mr Bell's letter of 25th June would be published as part of the report and that he would send me a copy of the commission's response to Mr Bell.

Following on that conversation, I spoke with the Chief Secretary at about 9.50 a.m. to report the outcome and indicated that in my opinion His Excellency should be advised of the developments. At about 2.30 p.m. later that day I received a copy of the letter of 30th June, written by the commission to Mr Bell.

Significantly, the final paragraph of that letter states that, and I quote: 'Following representations to the commission on your behalf by the Attorney-General, following discussion with the Lieutenant-Governor at the request of the Council of Ministers, the commission will allow you until 4 p.m. on Friday, 1st August 2003 to make any further representations which you may wish to make to the commission.

Shortly after receiving that letter, Mr Macleod telephoned me and confirmed that the report would not be published until Mr Bell had had an opportunity to respond as he wished. Mr Macleod stated that he had taken account of the fact that His Excellency had not stipulated that publication must be in time for the July Tynwald. The report would be kept under lock and key in the meanwhile, and had not been passed to the Clerk of Tynwald.

I should point out at this stage that I was not making representations on behalf of the hon. member for Ramsey alone, nor as an advocate might on behalf of a client. My concern was that not only the hon. member, but also any other person who had been criticised in the report and who felt dissatisfied with the procedures adopted by the commission, should have an adequate opportunity to respond to the criticism.

Mr Macleod, in fact, stated that he would like to know who, in addition to the hon. member for Ramsey, was concerned about the procedures. I said that I would prefer that any such persons be given the opportunity to contact the commission directly.

I then telephoned the Chief Secretary at about 2.45 p.m. to report the outcome and the Chief Secretary stated that she would update His Excellency. I then telephoned Messrs Cains at about 2.55 p.m. to report the then current position and I was advised that in fact the hon. member for Ramsey might not wish the publication of the report to be delayed. I indicated that I had not made any suggestions as to an extended time limit within which the hon. member should be asked to respond. The suggested date of the 1st August was the commission's idea, not mine.

At 5.15 p.m. on 30th June I received a telephone call from the Chief Secretary to say that the hon. member for Ramsey, having taken legal advice, had decided that he did not wish to make any further representations to the commission. The Chief Secretary invited me to contact the Chairman of the Commission to make him aware of this, and I contacted the hon. member's advocate to check the reasons for this decision. It was confirmed to me, Mr President that in light of the response which the commission had given to the hon. member, the hon.

member did not see the point in pursuing the matter any further.

I then telephoned Mr Macleod and advised him of the current position. He stated that so far as he was concerned, the report was therefore immediately available, and he asked that I should contact the Clerk of Tynwald's Office to make it clear that the report could be published, which I did. Mr Macleod recognised that from a practical point of view this would mean that the report would be available first thing on Tuesday, 1st July.

Mr President, I do apologise for the length of my response to the question raised by the hon. member, but I do think that it is of vital importance that I emphasise the reasons for my contact with the chairman of the commission, Mr Macleod and to indicate the concern as to the fairness of the procedures adopted by the commission had been expressed not only by the Council of Ministers, but also by His Excellency. I was also motivated by my own concerns following upon my reading of the letter of 27th June received from Messrs Cains.

The President: Hon. member for Michael.

Mr Cannan: Can I express my thanks to the Attorney-General for answering (**Mr Delaney:** Hear, hear.) the question in such a full and open manner. Thank you.

The President: Hon. member, Mr Karran.

Mr Karran: Eaghtyrane, would the Attorney-General not agree that he has confirmed that he had conversations with the chairman of the commission on 30th June? You stated that you were speaking with the knowledge of His Excellency and the Council of Ministers. Further, can you confirm the full extent of the Council of Ministers' involvement in this issue, of how this issue got involved so much as far as affecting the agenda paper of this hon. Court? I would be interested to know what else was involved as far as the Council of Ministers is concerned.

Mr Rimington: Oh, it is conspiracy.

The President: Mr Attorney.

The Attorney-General: Well, Mr President, I should like to make it clear that so far as I am concerned and so far as I am aware, the decisions and deliberations of the Council of Ministers have no direct input or effect on the agenda paper and the items which hon. members are able to raise in this hon. Court.

I think, if I understand the point correctly, the hon. member is concerned that I may have been guided by the Council of Ministers into taking a certain course of action. I would wish to make it perfectly clear, Mr President, that I do indeed wear several hats. I advise the Council of Ministers; I advise his

Excellency; I try to give objective opinions as to the law in this hon. Court. Mr President, in no way was I pressured into making any contact with the commission chairman; I acted entirely on my own volition.

**Mount Murray Inquiry –
Part One Report –
Treasury Minister’s Response –
Question by Mr Cannan**

Question 19. The hon. member for Michael (Mr Cannan) to ask the Minister for the Treasury:

How do you respond to those parts of Part One of the Report of the Commission of Inquiry into Mount Murray that relate to you personally?

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

Mr Cannan: Mr President, I ask the question standing in my name.

The President: Hon. member, the Minister for Treasury, Mr Bell.

Mr Bell: Than you, Mr President, I believe the allegations made in the Mount Murray inquiry report based as they are largely on assumptions, impressions and circumstantial evidence, frequently taken out of context, are completely without foundation and I will be expanding on my response during the proposed debate later in the agenda.

**Personal Accident Insurance
for Government Employees –
Question by Mr Houghton**

Question 20. The hon. member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

Does the government maintain a personal accident insurance policy to indemnify its employees who are exposed to risk of disablement or death whilst undertaking their official duties?

The President: Hon. member, Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr President. I beg leave to ask the question standing in my name, sir.

The President: Minister for the Treasury.

Mr Bell: Thank you, Mr President. A personal accident policy is held by Treasury. This policy is used by government when appropriate to obtain

reimbursement for the moneys it has paid to government employees in accordance with their terms and conditions of employment in the case of an accident at work. It is therefore an insurance policy for the benefit of government, not the employee. Employees’ entitlements are set out in their terms and conditions of employment.

The President: Mr Houghton.

Mr Houghton: Thank you, Mr President. May I ask the hon. Treasury minister if he can further elaborate on what he has just told us in order that clarification can be sought as to the employee of government who is injured, seriously injured or otherwise, and has to leave his service? Will he be covered by government, through this insurance, without having to sue that government department which was his former employer?

The President: Minister.

Mr Bell: Thank you, Mr President. If I can just enlarge slightly on it according to the information I have. In the unfortunate situation where an employee has an accident at work, then the employee can claim the benefits he is entitled to under his employment contract and the rules of the superannuation scheme. This is on a no-blame basis. Should the employee consider that his accident was as a result of the employer’s negligence, then he can take out a legal claim for damages against the employing department. In this case the claim would be dealt with under the government employers’ liability insurance policy.

The President: Mr Houghton.

Mr Houghton: Thank you, Mr President. I thank the Treasury minister for his answer, but I am still not happy with what he is actually saying, when he says that it would be for the former employee to make a legal claim for damages. Can he be more explicit in what he means by that? Does that mean that that person has to sue the government? Do they have to sue the government through the High Court for compensation in respect of his injuries or indeed, like it would normally happen with a proper ordinary personal accident policy, that a claim would be assessed on the injuries and the payment made without legal action?

The President: Minister.

Mr Bell: Mr President, my understanding of the situation is that the policy which is held at present is, in effect, to reimburse government on any payments which may be made on claims against them, rather than the employee himself being insured. I will follow up the point the hon. member has made, but my understanding is that if a claim is necessary then it is necessary for the individual to take action against

government, rather than to be covered by this particular insurance policy. I will get more detailed information hopefully to give the answer the hon. member wants during the lunch-hour and I will give it to him this afternoon if it is acceptable.

The President: Mr Houghton.

Mr Houghton: Thank you, Mr President. I thank the hon. Treasury minister. If he could actually look at it, review this matter, I am quite willing to discuss with him again on the matter, but if he does see that there is a shortfall in this matter as far as personal accident cover is concerned for employees of government, would he ensure to look into this matter in order to review the matter and put right the necessary circumstances, in order for it to be a parallel scheme to what everybody would understand as a personal accident scheme and one which indeed did exist within the Treasury up until 1995, sir?

The President: Treasury Minister.

Mr Bell: Mr President, yes, I have to be a little bit careful about what I say on this issue, because I have actually been involved with a constituent on exactly the same problem, and I would simply say to the hon. member, I have a great deal of sympathy with the position that he comes from.

However, I would also just state that, subject to Tynwald approval, there has been a petition presented to Tynwald at Tynwald Hill on 7th July on this particular issue and as long as it gets the adequate approval it will be there for a member to take up in the autumn once we come back. So the issue is a live issue and one which will, I am sure, merit some further in-depth consideration.

If I can give the hon. member that assurance and I will just further check the points he has raised during the lunch-hour and give him some further clarity this afternoon, Mr President.

Mr Houghton: Thank you.

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

Mr Singer: Can I ask the Treasury minister, is it not a fact, certainly in relation to the case that we are both aware of, that the personal accident insurance policy indemnifies the employer and not the employee and this is the thing that needs to be looked at and very quickly?

The President: Minister.

Mr Bell: Yes, the hon. member is absolutely right on this. I would rather not get to the stage though, Mr President, of speaking about personal, individual cases. It could be a bit compromising.

**Road Safety and Congestion –
Braddan and Marown
Primary Schools –
Question by Mr Quayle**

Question 21. The hon. member for Middle (Mr Quayle) to ask the Minister for Transport:

What measures are being contemplated by your department (in conjunction with the Department of Education if necessary) to enhance safety of parents, children and road users, and to alleviate the problems relating to congestion, for –

- (a) *Braddan Primary School, as it is located on the main road to the new hospital; and*
- (b) *Marown Primary School, as it is located on a road that has insufficient pavements and has now been designated as a haul route for a proposed landfill?*

The President: Hon. member for Middle.

Mr Quayle: Thank you, Mr President. I beg leave to ask the question standing in my name.

The President: Hon. member Mr Shimmin, Minister for Transport.

Mr Shimmin: Thank you, Mr President. The hon. member will be aware that in relation to Braddan Primary School my department, in conjunction with the Department of Education, has arranged a 20-mph speed limit outside the school at the start and end of school, controlled by illuminated speed-limit signs with flashing amber lights.

In addition, my department has recently imposed a temporary 'no waiting' order to prevent the parking of cars in the highway, to remove this road safety issue when children are crossing the road. This has been further clarified, by a letter I instructed to be sent yesterday, that the order will allow for the loading and unloading of children arriving or leaving school. I have spoken to the headmistress and the chair of governors, confirming that this arrangement was as discussed at a meeting held on 13th June involving a member of my department, Mr Andrew Douglas, and Mr Bruce Hannay, Highways Director.

My department is monitoring the situation and will subsequently consider the merits of making a suitable permanent order. Vehicle counters have been in place prior to the opening of the new hospital and are currently still operating in order to assess the scale of the change. My department also provides a school crossing patrol to assist children crossing the road.

Further discussions with the Department of Education are ongoing to mark out car spaces in the parking area and my department has advised the Department of Education over a further enlargement of

the car park and is in discussion with the Planning Division of the Department of Local Government and the Environment.

In relation to Marown School, in an attempt to enhance safety my department has previously been in discussion with the Department of Education on the issue of children arriving and leaving school by car and subsequently the Department of Education has increased the parking capacity on two separate occasions in recent years. Firstly the car park in front of the school was greatly enlarged and more recently the Department of Education have arranged for an overflow car park on hard sports pitches. After allowing for staff spaces and school visitors, there are now 36 parking spaces for parents.

My department is conscious of the safety issues relating to the lack of footways near the school, particularly in the light of Glen Darragh Road being used as a route to the Archallagan tip facility, subject to planning. Information provided to the department, however, indicates that a number of such movements during the critical morning and afternoon periods should be kept to a minimum.

Mr President, my department is still concerned about the heavy on-street parking outside the schools in question and indeed a number of schools around the Island and is in further discussion with the Department of Education.

With regard to children walking to and from the school in Marown from the Peel Road, I am sure the member for Middle will be aware that there is a continuous footway from the school to Peel Road. At this point the school crossing patrol person assists children crossing Peel Road, where another footway extends to link with Ballagarey Road and Glen Vine Road.

Mr President, none of the above should be interpreted as satisfactory in these areas, because I would point out that many of our schools around the Island are very congested at arriving and leaving times. There is a responsibility on my department, the Department of Education and also I would suggest, the parents, to ensure that they are timely in their proceedings in bringing children to or collecting children from school. We will be working with the Department of Education and schools in question to see if we can enhance the safety any more, sir.

The President: Hon. member for Middle.

Mr Quayle: Thank you, Mr President. Could I thank the hon. minister, but in addition could I ask him then: how on earth did his department ever consider that the road from Glen Darragh to the Braaid was suitable as a landfill route, when there was a school in the vicinity which did not appear to receive consideration and it is effectively one-way traffic at particularly the afternoon times, and would he give an undertaking to redirect heavy goods vehicles via another route to avoid passing Marown School, should

the proposed landfill facility at Archallagan receive the necessary approval?

The President: Minister.

Mr Shimmin: Mr President, my department is well aware of the concerns expressed by the hon. member and indeed others in the area. We are somewhat ahead of ourselves; we have yet to see the full planning approval to be granted to that site and certainly I know from the Department of Local Government and the Environment, the numbers involved on that route are expected to be minimal. We are, however, keeping a close eye on it because as has happened with development throughout the Island it does have an impact on areas of use for whatever purpose.

**Ballure Road Works –
Completion and Costs –
Question by Mrs Craine**

Question 22. The hon. member for Ramsey (Mrs Craine) to ask the Minister for Transport:

Will you please indicate –

- (a) the length of time the Ballure road works were originally estimated to take;*
- (b) the original intended completion date;*
- (c) the original estimated cost and the actual cost to date; and*
- (d) when the works will be completed?*

The President: Hon. member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr President. I beg to ask the question standing in my name.

The President: Minister for Transport.

Mr Shimmin: Mr President, the original scheme was scheduled to take nine months from commencement, which was to go only up to Dunluce. When the scheme was extended to the MER crossing the programme was extended to take 11 months.

The completion date up to the MER crossing was late April 2003. This has obviously overrun. The delay was occasioned by several factors, such as delays in pipeline delivery for the statutory services, discovery of an old culvert under the road along the proposed IRIS pipeline, and the discovery of a Victorian flushing chamber at the head of the foul sewer. The original budget was £500,000 to take the work up to Dunluce. However, during the works up to Dunluce

the decision was taken by the department to extend the work up to the MER crossing. This, as well as costs associated with the additional work services and delays, resulted in an increased budget of £810,000. The cost to the end of June is £667,236.

As to the final part, it is considered and I hope that the works will be complete by the end of July 2003.

The President: Hon. member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr President. Would the minister agree that it is both frustrating and irritating to have prolonged periods of time when no activity on the works is apparent (**Mr Houghton:** Hear, hear.) and that to tolerate the repeated digging up and temporary re-laying of this road has required those who live on it and those who use it to have the patience of Job?

Mr Houghton: And more.

The President: Minister.

Mr Shimmin: Yes, Mr President, it goes with the territory of the Department of Transport. By doing actions we always cause a reaction and certainly our works often inconvenience members of the public throughout the Island and we are grateful for their tolerance and we do apologise for the ongoing problems in certain areas.

There are certain locations in which this figures highly, where unidentified obstructions or problems are encountered when with best intentions we intend to go in and do work, but we then find that the statutory services or indeed the under-surface facilities are not what we had expected. The people in the area deserve better. It is frustrating when delays are caused by bitmac production or delivery of pipes, it appears to have no work being carried out and my department does not under estimate the impact and inconvenience and the general frustration of the public when they see road works without anybody there. We are attempting to improve that matter. However, it is not within the control of the operators working on site and it is something my department has to try and improve.

I can only say that in this area and others we do hope to get to a completion and it is my intention that works will be started, proceeded with and completed as quickly as possible and we will learn lessons from what we have experienced in Ballure Road.

The President: Now, hon. members, as I indicated earlier, questions 23, 24 and 25 have already been moved on to the October sitting by the hon. member of Council, Mr Delaney. Can I suggest that the remaining questions be subject to written response?

**Waste Disposal –
Western Civic Amenity Site –
Advertisement re Photographic Evidence
of Identity –
Question by the Speaker**

Question 26. The hon. member for Castletown (The Speaker) to ask the Minister for Local Government and the Environment:

Can you confirm that the advertisement that appeared in the Isle of Man Examiner on 1st July 2003 under the heading ‘Western Civic Amenity Site’ advising that due to the introduction of waste disposal charge, the public may now need to provide photographic evidence of their identity, such as a driving licence or passport, when disposing of waste at the site is a genuine notice to the public, and can you confirm that it was issued by the Western Civic Amenity Board and, if so, why?

Answer

The advertisement in the Isle of Man Examiner on the 1st July 2003 under the heading ‘Western Civic Amenity Site’ was placed in the paper by the Western Civic Amenity Site Committee, operators of the site.

With the introduction of the revised waste charging régime on the 1st July, the western committee needs to ensure that only persons who live in the parishes of Peel, German, Marown, Patrick and Michael, who contribute to the operating costs of the site, use it.

The costs of running the civic amenity site are rate-borne with contributions from each parish based on rateable value. The Western Civic Amenity Site, by issuing the notice to the public, is endeavouring to ensure they are not paying to dispose of waste from other areas of the Isle of Man.

It is a matter for the operators of the civic amenity sites to decide how to ensure that only those who are entitled to use the facilities do so. Some operating authorities have issued residents’ permits to be displayed in vehicle windscreens, but the western committee has opted for a different solution.

**Local Government Reform –
Reasons for and
Fundamental Features of –
Question by Mr Gawne**

Question 27. The hon. member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

Bearing in mind your recent moves to open up debate on local government reform, will you briefly summarise why you believe such reform is necessary

and will you list the fundamental features which your department feels should be at the heart of any newly-formed local authorities?

Answer

In seeking to answer the hon. member's question, I am acutely conscious of the weight of business before this hon. Court at this sitting. However, before addressing the specific question about how we might move forward, I think I should give a very brief summary of the background to local government reform on this Island.

The subject of local government reform has been on the political agenda since at least 1965. However, I do not propose to go back quite that far.

In 1987, following a debate in this hon. Court, the then Executive Council was asked to consider and report on the issue of reform. This resulted in Tynwald being advised in April 1991 that a review was being undertaken to consider the future of local government on the Island. At that time, Tynwald accepted that my department would need time to consider the matter properly before bringing forward proposals for reform.

The Department of Local Government and the Environment established a working party to look into the subject of reform and this led to the 'Time for Change' initial report which proposed the reform of local government on the basis of six district authorities. I believe it is a matter of public record that, generally speaking, the larger authorities were in favour of a restructuring along these lines but that some smaller authorities were opposed and preferred to retain their separate identities.

In December 1992, the department presented an interim report to Tynwald in order to stimulate a wide ranging debate on the future of local government. A one-day seminar was held for all local authority members and the views of authorities were then requested by the end of April 1992. What emerged from that consultation process was fairly positive in that a number of authorities indicated that they would be prepared to consider a 'middle road' involving amalgamations of parish authorities along a sheading basis.

On 15th December 1992, this hon. Court approved a recommendation that my department be authorised to discuss further with local authorities how restructuring might take place adopting this 'middle road' approach.

The 'Time for Change' second interim report was issued by my department in July 1993 and advocated a reduction to 12 local authorities. The proposal at that time was that certain local authorities would take on some new responsibilities, recognising that most authorities needed to be given a more meaningful rôle. The reaction to this revised proposal was again mixed. The larger urban authorities were supportive of reform but not happy about the revised approach. By contrast, the smaller rural authorities remained unenthusiastic about reform at all but indicated a preference, if reform

was to take place, for an amalgamation of the parish authorities.

The 'Time for Change' final report was issued in February 1994 by my department and recommended a structure of 13 local authorities. It represented a very minor refinement of the earlier proposal and this final report was received by Tynwald on 22nd June 1994.

After the 1996 general election, the issue of reform of local government was again considered by the department as an outstanding remit given to the department by this hon. Court. Then, in October 1997, the department issued a report titled 'Securing a Future for Local Government' which embraced a number of the previous proposals.

The department organised two seminars for local authorities and then invited their views, which in summary can be said to reflect very closely the views submitted by them in response to previous consultation exercises.

The department continued with its efforts to find a formula which might command broader acceptance and established a new working party comprising existing and former chief executives and clerks to local authorities. They were asked in particular to examine the possible establishment of four new area authorities with Douglas remaining as a separate borough authority and with all existing 24 local authorities retaining their identity as 'district authorities'. The thinking behind this was that the area authorities would function largely as the present combination authorities do and would assume responsibility for the major areas of public service activity such as housing, environmental health, building control, waste collection, swimming pools and libraries. The department believed that this would bring about a more cost effective régime, as the rationalisation of the rate burden would ensure that the rates levied would be more equitable and directly related to the provision of facilities and services for ratepayers. Inherent in this approach was that the proposed area authorities would be of sufficient capacity in population and rate income to maintain the efficient and cost effective provision of those services which might be better delivered at a local level. However, central to the thinking throughout was a reaffirmation of the principle that the strong and effective rôle of the local government on the Island was vitally important and would be best achieved by enabling the second tier to play a more meaningful and stronger rôle.

I do not believe there can be any doubt that the reform of the present local government structure is absolutely necessary. Indeed, I believe hon. members of this present Tynwald Court and their predecessors have acknowledged as much over the years. The difficulty has always been in finding the best way to achieve that reform in the interests of ratepayers. My department's business plan for 2003-6, under the heading of providing democratic government which is effective and accountable, highlights its responsibility to ensure that public finances are managed in such a way as to ensure value for money and financial

probity. Under this heading, the department has indicated that it intends to evaluate the options for rationalising local government in order to improve its effectiveness and accountability.

In summary, therefore, whilst it would be premature at this stage to indicate precisely what proposals the department will decide upon, what I can say is that I shall be meeting with all local authorities this September and will be publishing a consultation document to identify some of the options and to set out the justification for them. The fundamental features will reflect what I have said about the principles embodied in earlier attempts to reform local government. Essentially, these will reflect the desire to improve services, reduce costs and provide ratepayers for better value for money.

I should like to place on record a personal note of thanks to my hon. colleague Mr Earnshaw for all the work he has undertaken over the last year in meeting all local authorities in an effort to devise a formula which takes account of their views and might be capable of broad acceptance.

Policy Decisions – Waste Collection – Consultation on – Question by Mr Gawne

Question 28. The hon. member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

- (1) *Do you agree with me that it is important that government engages in meaningful consultation with all parties affected by departmental policy changes and that it is important to reflect the views expressed in such consultation in final policy decisions?*
- (2) *With this in mind, will you explain to Tynwald, in response to your department's recent consultation on waste collection services, how many local authorities favoured (a) an all-Island collection service; (b) four area collection services; and (c) the status quo?*

Answer

In response to the hon. member's question, whilst I cannot speak on behalf of government, I can confirm that my department does acknowledge the importance of engaging in meaningful consultation with all parties likely to be affected by policy changes. Moreover, the views expressed by the parties who write to us are considered very carefully before the final policy decisions are made.

As regards part (2) of the hon. member's question, I should like to make a general observation before responding to the specifics. My department has found that the persons who are consulted do not always give

full consideration to the particular proposals upon which views are sought and often find it difficult to appreciate the wider picture or the advantages of the policy changes.

More specifically, my department asked all local authorities to consider the current waste collection services and to decide whether they felt that a better and more cost effective service could be provided either by four regional area collection services or one all-Island collection service. Before inviting them to respond, a presentation was given to representatives of all local authorities in March 2003, during which the shortcomings of the present arrangements were identified and the need for rationalisation explained.

To summarise the responses, 2 local authorities favoured an all-Island collection service; 8 favoured four area collection services; 12 wanted to stay as they were; and 2 did not respond.

Waste Disposal Charges – Calculation of – Question by Mr Gawne

Question 29. The hon. member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

Will you provide a detailed, full description of how your department calculated the £100 per tonne waste disposal charge and in doing so explain all the figures including the costs and tonnage involved in this calculation?

Answer

The true cost of waste disposal on the Island is determined by adding the costs of the infrastructure required to implement the waste strategy, which determines the loan charges to be paid by the department, to the other operational costs that have to be borne by government. The total costs are then divided by the tonnage of waste delivered to the government's landfill sites and then related to the average waste arisings per household and business on the Island.

The tonnage figures are obviously changing all the time but for the last three years the average tonnage delivered to the Wright's pits is 100,000 tonnes (in round figures). At 31st December 2002 the capital projects totalled £61.5 million, generating a loan charge of £6,678,900. This, when added to the total cost of the department's Waste Operation Management Unit for the forthcoming year, totals £11,761,800. Dividing this total by the 100,000 tonnes gives an actual cost (rounded) of £118 per tonne.

The introduction of charging will encourage the reduction of the amount of waste delivered to the department for disposal, and stimulate the private sector to provide their own legitimate solutions, such

as private, licenced sites for the deposition of non-incinerable waste materials.

The department decided that a round sum of £100 per tonne (approximately 84.7 per cent of true cost) would be reasonable to pass on to the producer of the waste under the 'user pays' principle accepted by this hon. Court as part of the Island's waste management strategy. Of course, in the case of household waste, the department decided to apply a 90 per cent rebate and this, as will be recalled, was subsequently endorsed by this hon. Court.

**Radioactive Discharges –
Nuclear Sites and Radioactive Substances
UK Bill –
BNFL – Question by Mr Gawne**

Question 30. The hon. member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

Do you welcome the recent publication of the Nuclear Sites and Radioactive Substances Bill by the UK Government and can you –

- (a) confirm that the recent request from the UK Environment Minister, Margaret Beckett, that BNFL halt the discharge of technetium-99 into the Irish Sea for nine months will lead to a complete cessation of such discharges in the short term;*
- (b) outline what steps you and your officers intend to take to ensure that the BNFL plan to discharge large quantities of currently stored technetium-99 into the Irish Sea will not be allowed to proceed in nine months' time; and*
- (c) explain what you and your department have done in the past eight months to ensure discharges of radioactive material from Sellafield cease?*

Answer

The draft Nuclear Sites and Radioactive Substances Bill was published on 24th June 2003 and details the UK Government's proposals to clean up Britain's redundant nuclear facilities, including those at the Sellafield site. The main purpose of the Bill is to establish a Nuclear Decommissioning Authority (NDA), which will not become fully operational until April 2005. However, it already exists as a shadow organization and is known as the Liabilities Management Unit. The Nuclear Decommissioning Authority will have as its principal objective the decommissioning of the UK's civil nuclear sites, including Sellafield. The ownership of redundant nuclear plants at Sellafield will be transferred to the

Nuclear Decommissioning Authority which will assume all liabilities to undertake a safe and secure clean-up programme. This will take many years.

The Isle of Man Government supports fully the central aim of the draft Bill to create a new organisation dedicated to the safe decommissioning of nuclear sites and the safe disposal of radioactive wastes. The ultimate responsibility will remain with the UK Government. We feel this is the safest option as only central government could finance the estimated £48 billion to be spent over the 15 to 20 years. The operational management of the site will still remain with a restructured BNFL for a few years.

Significantly the draft Bill does provide for the possibility of decommissioning contracts being placed with third parties following competitive tenders. This means a foreign company could be contracted to clean up parts of the site or the entire site. Such a course of action would give us cause for concern, but the UK Government has made it clear that competitive tendering will only take place after full consultation with both the nuclear regulators and all stakeholders. This consultation would include the Isle of Man Government. My department will be monitoring the progress of the Nuclear Decommissioning Authority once it becomes operational but, as I have said in this hon. Court on previous occasions, decommissioning of nuclear sites is a long-term process.

I turn now to part (a) of the hon. member's question regarding the request by the UK Environment Secretary for BNFL to have a voluntary moratorium on technetium-99 discharges. Such a moratorium could only be enacted by BNFL if they are given an authorisation by the Nuclear Installations Inspectorate, who have the ultimate responsibility for all activities on the Sellafield site. The inspectorate is presently examining the moratorium proposal submitted by BNFL together with its implications for the safe storage of radioactive waste containing technetium-99. The environment secretary cannot unilaterally sanction this moratorium. The Nuclear Installations Inspectorate has the final say on whether or not a moratorium can take place and has not yet made a decision. The moratorium would suspend discharges of technetium-99 to the Irish Sea to allow BNFL to develop a new technology and this would enable on-land storage of the technetium-99 waste. Of course, we hope the moratorium will be sanctioned and that the technical solution allowing on land storage will be successful. The moratorium will deal with the major activities on the site but the discharges will never be zero until Sellafield is completely closed and dismantled. There has been, and always will be, a small amount of effluent containing some technetium-99 from overall activities at the site, such as surface water run-off from contaminated buildings and roads and laundries.

Moving on to part (b) of the question, the assumption is being made that the discharges of technetium-99 will recommence after a nine-month period. We have no reason to believe that this is inevitable and the research is still ongoing. We must

await the outcome of the technical work before we can respond to the UK's final proposal for dealing with this radioactive waste, which already exists in tanks on the site.

Moving to the final part (c) of the question, I am pleased to confirm that, during the past eight months, my department has been using all available channels to progress Isle of Man Government policy regarding Sellafield issues. I have made our policy quite clear at the British-Irish Council (Environment Sectoral Group) in London as recently as January 2003. At that meeting I secured agreement that the United Kingdom would prepare two discussion papers on Sellafield issues for presentation at the next meeting to be held in the Isle of Man on 20th October 2003. The topics deal with high-level waste and storage of plutonium at Sellafield. Also within the British-Irish Council forum, my department has continued to develop a joint discussion paper with the Irish Government entitled 'Sellafield and Radioactive Waste'. Discussion of this paper has been unavoidably delayed due to legal actions between Ireland and the United Kingdom. These now seem to be nearing completion. My department has also maintained representation on both the Sellafield Local Liaison Committee and the British-Irish Contact Group on Radioactive Matters. These links are very important to us as a major source of detailed, up-to-date information on new developments at Sellafield.

You may be aware that my department is making arrangements for several hon. members to make fact-finding visits to Sellafield which will give them the opportunity to ask their own questions of BNFL management. As I have stated previously, in this hon. Court, we are on a long road to achieving our ultimate goal of complete closure of the Sellafield site and all our activities are important steps along that road.

**Mount Murray Inquiry –
Part One Report –
Braddan Plan –
Question by Mr Karran**

Question 31. The hon. member for Onchan (Mr Karran) to ask the Minister for Local Government and the Environment:

Given the references in the Part One Report of the Commission of Inquiry into Mount Murray to the draft Braddan Plan, will your department now reconvene the Braddan Plan Inquiry so that these matters may be reconsidered by the inspector?

Answer

The independent inspector appointed to conduct the inquiry into the draft Braddan Area Plan held that inquiry from Monday, 16th June to Friday, 20th June 2003. He was aware from the evidence

submitted by the department, as well as representations from various objectors, of the existence of the Commission of Inquiry into Mount Murray. In its opening statement on the first day of the inquiry, the department referred to the representation and legal submissions made by the hon. member for Onchan, Mr Karran. The inspector was also advised that the Part One Report of the Commission of Inquiry was scheduled to be laid before Tynwald on 15th July 2003 and that it had been *contended* that the report might contain references which might have a bearing on the draft Braddan Plan.

The inspector sought views on this matter from the various parties present, both on the opening day of the inquiry and when matters relating to Mount Murray Country Club representations (and the responses to these from various local residents and other parties) were considered later in the week. At the end of the week, the inspector decided that he would close the inquiry. However, he made it clear that, if any parties wished to make further representations to him in respect of the stage one report of the commission of inquiry, they should do so in writing to reach him before the end of August 2003, by which time he anticipated he would have concluded his report on all the other matters in the draft plan. Arrangements are in hand to advise those who made representations in respect of the Braddan Plan to be advised of this decision and how to make any further representations, if they wish to do so, in the light of the commission's part one report.

**Archallagan Proposed Landfill Facility –
Costs of Road Improvements –
Question by Mr Quayle**

Question 32. The hon. member for Middle (Mr Quayle) to ask the Minister for Local Government and the Environment:

In relation to the proposed landfill facility at Archallagan, you have previously confirmed that associated road improvements will cost £1.15 million, will you clarify exactly what is provided for within this amount, and explain why a figure of £440,000 appeared to be used for necessary road improvements, at the recent planning inquiry?

Answer

The original proposal for the Archallagan plantation showed an access to the site along the southern boundary of the plantation and the roadworks were more extensive than will now be the case. However, the department's decision to take the access through the eastern boundary of the plantation, in response to representations it received from interested parties, has resulted in less expensive roadworks. The re-routing of the access, following the public exhibition held in

Foxdale last year, may have caused the confusion on the costs apparent from the hon. member's question.

I should like to thank the hon. member for giving me this opportunity to remove the confusion concerning the amounts quoted, both in the original draft scheme and in the final application before the special planning inquiry. The original figure of £1.15 million was in respect of only the off-site road improvements then envisaged when the access was to be on the southern boundary. The figure of £440,000 quoted at the Inquiry by Mr Tom Green, the department's highways specialist, was the cost of only the off-site road improvements now that the access to the plantation is proposed to be along the eastern boundary. In addition to those off-site costs for road improvements agreed with the Department of Transport, a further sum of £707,000 (in round figures) is the estimated costs of infrastructure works *within* the plantation.

I hope what I have said helps to clarify the matter.

**Noble's Hospital –
NHS and Private Surgery –
Waiting-List Figures –
Question by Mr Singer**

Question 33. The hon. member of the Council (Mr Singer) to ask the Minister for Health and Social Security:

What are the waiting list figures for (a) National Health Service and (b) private surgery at Noble's Hospital at present? Please give figures for each speciality.

Answer

In seeking to answer this question, I would refer the hon. member to sections 5 and 6 of the annual report to Tynwald on hospital activity, which was circulated to all members with their papers for today's sitting. The information contained in the document relates to the National Health Service.

I regret I am unable to provide information on private surgery which is not available to the department.

**DHSS – Noble's Hospital –
Private Surgery –
Question by Mr Singer**

Question 34. The hon. member of the Council (Mr Singer) to ask the minister for Health and Social Security:

- (1) *How many theatre operations were carried out at Noble's Hospital for the 12 months commencing June 2002;*
- (2) *what percentage of these were private operations; and*
- (3) *what percentage of operating sessions are permitted by the department for private surgery?*

Answer

To take the first part of the hon. member's question, I can advise him that for the 12-month period to 31st March 2003, being the most recent period for which collated data is available, there were a total of 8,305 theatre procedures carried out at Noble's Hospital.

865 operations listed as private patient procedures, representing 10.4 per cent of the total.

Turning to the final part of the question, all consultant medical staff are contractually entitled to undertake private practice. There is no restriction on the use of operating sessions other than that the ability to do private work should not impact upon a consultant's National Health Service commitments.

**Surgery – NHS and Private –
NHS Cancellation/Postponement
in Favour of Private –
Question by Mr Singer**

Question 35. The hon. member of Council (Mr Singer) to ask the Minister for Health and Social Security:

- (1) *During the 12 months commencing at May 2002, what percentage of*
 - (a) *National Health Service; and*
 - (b) *private operations;**were either cancelled or postponed;*
- (2) *is the minister aware of the statement by the medical officer of health that 25 per cent of the National Health Service workload in some cases was either postponed or cancelled in favour of private surgery, and if so, which specialists were mostly affected, and by what percentage; and*
- (3) *what sanctions can you apply to a surgeon who cancels National Health Service surgery in favour of private surgery during contracted National Health Service time, using National*

Health Service facilities and National Health Service staff?

Answer

I can confirm in the period 1st May 2002 to 30th April 2003, a total of 7,109 National Health Service operations were listed, of which 491 or 6.9 per cent were cancelled or postponed. In the same period, a total of 754 private patient operations were listed, of which 26 or 3.4 per cent were cancelled or postponed.

Regarding the second part of the question, the hon. member has misunderstood the statement made by the Chief Medical Office. The reference to 25 per cent referred to an estimate in some cases of the proportion of overall work undertaken in respect of private practice. In fact, I can advise that during the year to 31st March 2003, a total of 8,305 theatre procedures were undertaken at Noble's Hospital, of which 863, or 10.4 per cent, were private.

On the final part of the question, I am not aware of any evidence which would indicate that National Health Service surgery has been cancelled in favour of private surgery. In all circumstances, the decision to cancel or postpone a planned operation, either NHS or private, is taken on clinical grounds.

In circumstances where a decision was taken to cancel an operation without regard to clinical considerations and the welfare of the patient, then the clinician concerned would be at risk of being in breach of his code of professional practice, which could lead to disciplinary action, including a possible referral to the General Medical Council.

**DHSS – Private Healthcare Policy –
Favouring Private Surgery over NHS –
Adverse Effects and Costs of –
Question by Mr Singer**

Question 36. The hon. member of Council (Mr Singer) to ask the Minister for Health and Social Security:

Would you confirm that the Department of Health and Social Security policy stated that 'private practice should only be permitted when surplus capacity is available and that it should not adversely affect the National Health Service in any way', if so, how does this policy fit in with –

- (a) *National Health Service operations cancelled or postponed in favour of private surgery; and*
- (b) *the extra costs incurred by the need for special initiatives to send patients off-Island for surgery to reduce the National Health Service waiting lists?*

Answer

I can confirm that one of the main principles governing the provision of accommodation and services for private patients is that this should not prejudice NHS patients.

Regarding the cancellation or postponement of planned operations, I can advise the hon. member that such decisions are taken for a variety of reasons. One of the most common is an urgent requirement to meet the needs of a patient admitted in an emergency situation, requiring immediate and necessary treatment. Decisions on which patients should have their operations cancelled are determined by the individual consultant, entirely on clinical grounds, irrespective of whether they are NHS or private.

Turning to the final part of the question, I can appreciate the point the hon. member makes concerning waiting-list initiatives. Nonetheless, I should make it clear that consultants are contractually entitled to undertake private work, subject to what I have said in relation to their NHS commitments. However, it needs to be appreciated that waiting-list initiatives are carried out to treat non-life threatening conditions, for example, joint replacement surgery. These operations tends to be lengthy, sometimes taking up a full theatre session in one procedure. In these circumstances, and bearing in mind the heavy demands on specialist staff, it is simply not possible to manage workloads within allocated time. For this reason waiting-list initiatives tend to be managed out-of-hours or by referral to specialist units in the United Kingdom.

I do not believe these arrangements breach the principles governing private practice. I am, however, aware of some concerns that have been raised over the management of private practice, and these are in the process of being reviewed. The new hospital will, of course, provide an opportunity for such a review, given the additional theatre facilities over and above those previously available, which to a degree, has dictated private practice arrangements.

**Secure Unit – Numbers Detained –
Question by Mr Houghton**

Question 37. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Health and Social Security:

- (1) *How many young people are currently detained in the secure unit, and*
- (2) *has the unit reached its maximum level of detainees at any time since it opened?*

Answer

On 10th July 2003 there were three young people accommodated in the secure unit. The unit can accommodate five young people at any one time. There have been two occasions when the secure unit has had five young people accommodated.

**White Hoe Adolescent Unit –
Non-Operation –
Reasons and Timeframe –
Question by Mr Houghton**

Question 38. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Health and Social Security:

- (1) *Why has the White Hoe Adolescent Unit been taken out of operation, and if so,*
- (2) *how long will it remain out of use?*

Answer

A number of difficulties have arisen recently with the operation of the White Hoe Adolescent Unit. They include damage to the property and difficulties with the mix of young people in the unit.

Following a series of meetings with Nugent Care, it was decided that the unit should close for a short period of time to enable the difficulties within the unit to be resolved. It is anticipated that the unit will reopen in August 2003.

**New Hospital – Waiting Lists –
Impact of Private Healthcare upon NHS –
Question by Mr Quayle**

Question 39. The hon. member for Middle (Mr Quayle) to ask the Minister for Health and Social Security:

- (1) *What is the current waiting list for hip replacements and other similar operations, and will the situation be improved with the opening of the new hospital; and*
- (2) *are you satisfied with the present situation concerning provision of National Health Service care and the impact upon services by the provision of private healthcare?*

Answer

In answer to the first part of the hon. member's question, I can advise that, as at April 2003, a total of

62 patients were on the list awaiting joint replacement surgery.

Increased facilities at the new hospital, including additional theatres, should prove beneficial in improving throughput in planned admissions, although progress in reducing waiting times is dependent upon additional specialist staffing.

Turning to the second part of the hon. member's question, I would wish to reiterate that all consultant medical staff are contractually entitled to undertake private practice. However, their ability to do so is on the basis that this should not impact upon their National Health Service commitments. I am aware of recent concerns over some aspects of private practice, and this issue is currently being discussed with medical staff.

**Prison – Education for Detainees –
Recommendations by
HM Inspector of Prisons –
Question by Mr Houghton**

Question 40. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Home Affairs:

What are HM Inspector of Prisons recommendations in respect of the provision of education to detainees?

Answer

The Chief Inspector of Prisons made a total of 131 recommendations in her report on the Isle of Man Prison. The following 6 relate specifically to the education provision in the prison:

The prison should seek specialist advice and develop a programme of education that can be delivered in the existing location.

The prison should carry out a thorough needs analysis before planning the physical resources in the new building. The prison should ensure the education and training accommodation is flexible, meets the needs of individual prisoners and is not just focused on classroom activities. Expert advice should be sought before planning goes ahead in this area.

The prison should focus on the needs of individual prisoners and develop a comprehensive education and training programme. A basic core curriculum that could be offered on a rolling basis and accessed by prisoners throughout the year should be a priority. The prison should explore the availability of nationally recognised qualifications.

The prison should agree a service level agreement with its sub-contractor and reinforce and formalise its relationship with the Isle of Man College. The prison should continue to seek expertise from other sub-contractors and investigate other ways of delivering education and training. Staff should be given time and

support to improve their understanding of education and training and to monitor prisoners' progress.

The prison should monitor progress and evaluate the success of the education and training being provided and the value of the learning to individual prisoners.

Training opportunities, such as catering, linked to qualifications, should be planned in conjunction with the prison education and training programme and be extended to other prisoners. This type of training opportunity should not wait until the new prison is built.

A full copy of the report and recommendations is available in the Tynwald Library.

**Prison – Education for Detainees –
Tuition Cuts – Reasons for –
Question by Mr Houghton**

Question 41. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Home Affairs:

Why has your department cut the level of education tuition at the prison from 32 hours per week to just eight hours with a consequential loss of 12 part-time members of teaching staff?

Answer

Following the publication of the chief inspector's report on the Isle of Man Prison last year, discussions took place with the Isle of Man College in order to increase educational provision at the prison. Work also began on establishing a service level agreement between the prison and college.

Unfortunately, the publication of the report came after the completion of the bidding round for funds for the 2003-4 financial year. Consequently, increased funding for education in the prison had not been identified for this year. A bid has been submitted for increased funding for 2004-5, which the Department of Home Affairs has submitted as a priority issue in its recent budget submission.

The Isle of Man College and the prison rapidly increased the provision of education classes and programmes in the prison during the latter half of the 2002-3 financial year. When it was realised that money may not be available this year to fund this expansion in provision, arrangements were made to curtail classes and programmes to fit within the budget available. However, the college, prison and department recognise the value and importance of education within the prison régime and discussions have been ongoing in recent weeks in order to preserve, as far as possible, the rapid improvements in the educational provision that have taken place. My department has agreed to underwrite, from existing funds, an additional £35,000 in order to provide the budget required this year.

The prison and the Isle of Man College are now working together to develop the educational programme for prisoners. This has been a temporary difficulty, which is regretted. Our long-term aim continues to be the development of a active régime for prisoners, geared towards improving offenders' understanding of their offending, meeting their education needs and improving their prospects of leading law-abiding lives on release.

**TT Races Period – Persons Arrested –
Prosecution Figures –
Question by Mr Earnshaw**

Question 42. The hon. member for Onchan (Mr Earnshaw) to ask the Minister for Home Affairs:

How many prosecutions have been filed against the 190 persons arrested for various offences during the TT period?

Answer

During the fortnight period of the 2003 TT motorcycling festival a total of 194 people were arrested across the island as a whole. This data was collected during the period from 00:00 hours Saturday, 24th May to 00:00 hours Sunday, 9th June. The means of disposal is as follows:

- 74 persons were charged with offences.
 - 18 persons were cautioned.
 - 13 persons were arrested for breach of bail conditions and returned to the court.
 - 41 persons were bailed for further enquiries pending a future decision to prosecute.
 - 48 persons were released without any proceedings – largely because they were arrested to prevent breaches of the peace.
-

**TT Races –
Obligatory Transponders
for Competitors –
Results Book –
Question by Mr Houghton**

Question 43. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Tourism and Leisure:

Why was a results book not produced after this year's TT races when all competitors were obliged to provide a transponder on their motorcycles at additional personal expense?

Answer

Each year the ACU produces an official results book, and these are sent to all competitors who took part in the TT. This year will be no exception. In addition, the competitors were able to collect results for every practice and race 10 to 15 minutes after the conclusion of that session.

Historically, the Special Events Unit has also produced and published an additional provisional results book immediately following the event. This was sold to the general public. However, this year the additional provisional results book was not produced for a number of reasons. Firstly, demand had been in decline for many years with 2002 sales being only 154. Secondly, the decline in demand and increasing production costs meant it was no longer proving to be cost effective. To some extent my department is a victim of its own success – which has possibly contributed to this decline in demand – given that all results are now posted on the internet and are therefore freely available to a world wide audience.

The introduction of transponder-based automatic timing has resulted in a major increase in data availability and the advent of concepts such as sector times and theoretical fastest laps. This information is interesting to both those involved – such as riders, teams, mechanics, media – and to the well-informed fan. Given the sheer volume and complexity of this information the internet represents the most effective publication medium – the customer can select the information that they actually want. Furthermore, the department has taken the decision to make all of this data available free of charge.

**Education – Ofsted-Style Inspections –
Plans for Future –
Question by Mr Earnshaw**

Question 44. The hon. member for Onchan (Mr Earnshaw) to ask the Minister for Education:

Following the recent conclusion of the Ofsted-style inspections of primary and secondary schools, what are your department's plans for future inspections?

Answer

The department recognises the need to ensure that the education experiences provided for children and young people need to be of the highest possible standard and quality and has decided to develop an Isle of Man Framework for School Self-Review.

The approach to school self-review will have two elements:

- (a) an ongoing process undertaken by each school, supported by the department's officers; and
- (b) an external evaluation which will validate the school's approach to self-review and the assessment of its strengths and weaknesses.

Both elements will be rigorous so as to ensure the process and outcomes support schools and the department's agenda for school improvement.

The department has explored the concept of the model for self-review with headteachers, and has established a working group of primary and secondary headteachers and officers, chaired by the deputy director to draft the framework and supporting materials.

The framework will look at the work of the school asking key questions which, when answered, will provide a detailed picture of the standards and quality achieved by the school in the following areas:

- (a) the standards achieved by pupils;
- (b) the quality and range of education which includes the quality of teaching and learning;
- (c) the care, guidance and support provided to pupils;
- (d) the ethos of the school which includes the character and atmosphere of the school and how pastoral systems support all aspects of the work of the school;
- (e) leadership and management at all levels.

The Framework for School Self-Review will be supported by a handbook which will provide schools with further detailed guidance and support materials on how to undertake the self-review process. These materials will be developed by the working group, and where possible trialled in order to assess their effectiveness and impact before moving forward with the final document.

The department will consult with schools and the professional teacher associations throughout the development of the framework and handbook, to ensure all those involved are fully aware of the department's intentions and are given the opportunity to comment upon the documents.

The department's officers will support the implementation of the self-review framework through programmes of professional development for schools.

Once the self-review process is embedded into school practice the department will invite tenders from suitably qualified organisations to undertake the cycle of external validations of the schools self-review process and resulting judgements. Reports will be produced following these validating reviews.

The school self-review cycle is planned to be introduced in the 2003-4 academic year, with the external validating cycle beginning in 2004-5.

However should the department have significant concerns about the performance of a school it will still retain the ability to commission a full external inspection of a school at any time.

The department continues to implement its own post Ofsted action plan following its inspection in June 2002. It is expected that the department will be inspected again in the next few years.

**EU – Draft Extradition Bill –
Implications for Isle of Man Residents
and Financial Services –
Question by Mr Cannan
for Written Answer**

Question 45. The hon. member for Michael (Mr Cannan) to ask the Chief Minister:

- (1) *What are the implications for the residents of the Isle of Man of the draft extradition Bill which is based on the European Union's arrest warrant presently being considered by the United Kingdom Government;*
- (2) *can you confirm that within the European Union the distinction between tax avoidance and tax evasion is different as between countries; and, if so*
- (3) *can you reassure the people working in the financial services industry that they do not risk arrest and extradition if they are suspected of acting against the tax gathering interests of the European Union or one of its members?*

Answer

- (1) It is the expectation of the government that the extradition Bill, when enacted, will be extended to the Island by Order in Council. The proposals to introduce a so-called fast track extradition procedure using the European arrest warrant apply to member states of the European Union and Gibraltar – category 1 territories. That procedure will not apply to the Isle of Man; it is expected that the Island will be treated as a category 2 territory with the result that an application for the extradition of a fugitive present in the Isle of Man will be processed by the political and judicial authorities on the Island. It is intended that the Island will in due course enact its own extradition legislation.

- (2) The issue of whether the authorities in a European Union country view a particular transaction or series of transactions as tax avoidance or tax evasion will be wholly dependent upon the taxation laws of that country. It is therefore highly probable that there will be a distinction as between countries. Only a careful and detailed examination of the laws, precedents and practices of a particular country would reveal what those distinctions are

- (3) The laws of the particular European Union country will determine whether or not an individual who is physically present in that country may be arrested for contravening the tax laws of that country. Where the individual is not physically present in that country and is physically present in the Isle of Man, my answer in part 1 indicates that the European arrest warrant will not apply to the Isle of Man.

**Professional, Consultancy and/or Project
Management Fees Paid 2002-3 –
Question by Mr Karran
for Written Answer**

Question 46. The hon. member for Onchan (Mr Karran) to ask the Chief Minister:

Will you provide details which identify (a) the individual recipients, (b) the amounts committed from the public purse, and (c) the relevant departments/statutory boards, in respect of professional fees, consultancy fees and/or project management fees contracted and/or paid during the last financial year, in all cases where the total of such amounts committed to any party exceeds £100,000 (ex VAT)?

Answer

Government Department	Company	Amount
Department of Home Affairs	Masons	£131,913
	Communication	£276,112
	Ithaca Solutions PKF (IOM) Ltd	£344,684
IPA	Watson Wyatt	£189,598
Personnel	Capita	£132,000
Treasury – ISD	Catalyst (IOM)	£161,100
	Skanco	£121,100
	Unisys	£102,300
Treasury – ISSD	Bell Pottinger Financial Ltd	£102,000

Dept of Education	Bell Burton Associates	£101,495
	Savage & Chadwick Ltd	£116,354
	Cornerstone Architects	£122,506
	Nias Training Products & Sales	£171,282
	Dalrymple Associates Ltd	£253,198
	Include	£330,822
Dept of Health & Social Security	Savage & Chadwick	£161,082
Dept of Transport	Ove Arup & Partners	£510,435
	Hyder Consulting Engineers	£345,869
	Burroughs Stewart Associates	£909,727
	Berrie Millar Cox	£118,075
	Jacobs Gibb	£291,560
Dept of Tourism & Leisure	Ellis Brown Architects	£100,031
Dept of Local Government & the Environment	McCarthy Ramboll	£270,768
	Ellis Brown Partnership	£167,031
	Cornerstone Architects	£174,672
	Berrie Millar & Cox	£113,383
	Cameron Hall	£125,265
	SLR Group Ltd	£247,681
Manx Electricity Authority	Herbert Smith & Co PB Power Ltd	£116,000 £298,000
Isle of Man Water Authority	Montgomery Watson (IOM)	£301,178
	Ove Arup & Partners	£142,241
	Hyder Consulting Ltd	£136,429
Chief Secretary's Office	Bell Pottinger Landmark (Commission of Inquiry)	£108,000 £206,211

**EU – Constitution for Europe –
Plans for Referendum –
Question by Mr Duggan
for Written Answer**

Question 47. The hon. member for Douglas South (Mr Duggan) to ask the Chief Minister:

Given that the largest independent opinion poll ever to be carried out in the UK the independent polling company ICM revealed 88 per cent of the population want a referendum to be held before the UK Government signs away many of its powers to Brussels by accepting the treaty establishing a constitution for Europe, do you have any plans for a

referendum on the Island concerning the choice the Island will be forced to make?

Answer

The draft constitutional treaty for Europe is concerned with consolidating the existing European treaties into a single text which describes what the European Union is; describes how it operates; defines the rôle and powers of their union's institutions and their relationships with the member states; and improves the union's ability to deliver practical benefits to Europe's citizens.

In relation to the Isle of Man, the text of the draft treaty replicates the current wording of article 29.9 of the EC Treaty concerning the relationship between Europe and the Channel Islands and the Isle of Man. The scope of protocol 3 of the UK Act of Accession therefore, remains totally unchanged.

In the circumstances it is not apparent to me that there is a choice the Island is being forced to make and for which it should hold a referendum. Indeed, the United Kingdom Government has also indicated its intention that there is no requirement for there to be a referendum on the matter in the UK. In addressing the House of Commons on 9th July 2003 the Foreign Secretary, Mr Jack Straw MP, stated: 'If the draft treaty entailed change in the fundamental relationship between the nation states and the union's institutions, then there would be a case for a referendum. But it does not. To a degree, the convention's draft tilts the balance towards the nation states and the principle of inter-governmentalism. As such, there is no case for a referendum.'

In all the circumstances therefore, I do not consider it either necessary or appropriate for the Isle of Man Government to conduct a referendum on this issue.

**Hospitality, Seminars, Workshops etc. –
Mount Murray Hotel and Others –
Government Revenue Spent 2002-3 –
Question by Mr Cannan
for Written Answer**

Question 48. The hon. member for Michael (Mr Cannan) to ask the Minister for the Treasury:

What has been the total amount spent by all government departments, statutory boards, the Office of the Chief Minister, the Office of the Clerk of Tynwald, the General Registry etc during the financial years 1st April 2002 to 31st March 2003, on hospitality, seminars, workshops and all other types of corporate business, hospitality and entertainment at –

(a) the Mount Murray Hotel; and

(b) *the next ten largest hotels in the Isle of Man by revenue amount?*

Answer

- (a) £62,352.25
- (b) Based on information provided by departments and other bodies, the following table shows the amounts paid to the ten other largest hotels by revenue amount in descending order of payments received from government departments, statutory boards, the Office of the Chief Minister, the Office of the Clerk of Tynwald, the General Registry etc during the financial years 1st April 2002 to 31st March 2003, on hospitality, seminars, workshops and all other types of corporate business, hospitality and entertainment.

Hotel	Amount
Hilton	£121,301.68
Sefton	£74,176.57
Empress	£51,427.80
Welbeck	£45,804.03
Castletown Golf Links	£37,836.43
Ascot	£18,437.44
Quality/Castle Mona	£17,112.80
Claremont	£16,029.75
Regency	£14,234.30
Admiral House	£13,677.72

**Reserve Funds – Values –
Question by Mr Cannan
for Written Answer**

Question 49. The hon. member for Michael (Mr Cannan) to ask the Minister for the Treasury:

What were the book value and market value respectively as at 30th June 2003 of the following reserve funds:

- (a) *Manx National Insurance Account;*
- (b) *Reserve Fund;*
- (c) *Hospital Estate Development Fund;*
- (d) *Manx Currency Account;*
- (e) *Public Service Employees' Pension Reserve; and*
- (f) *General Development Reserve?*

Answer

As at 30th June 2003	Book cost	Market value
	£ millions	£ millions
Manx National Insurance Account	344.0	317.3
Reserve Fund	225.1	215.0
Hospital Estate Development Fund	79.5	82.8
Manx Currency Account	50.3	50.6
Public Service Employees Pension Reserve	63.8	54.0
General Development Reserve	12.4	13.2

**Insurance –
Cover for Government Employees
at Work –
Question by Mr Houghton
for Written Answer**

Question 50. The hon. member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

What insurance cover currently exists to indemnify government employees whilst undertaking their respective work commitments?

Answer

The following insurance policies are arranged centrally by Treasury and extend cover to indemnify government employees against claims from third parties. All claims are subject to the terms and conditions of the particular policy in force at the relevant date.

- (1) Employers' Liability
- (2) Public Liability
- (3) Officials' Indemnity
- (4) Motor Fleet
- (5) Business travel

In addition to the policies arranged centrally by Treasury, some individual departments may have specialist policies relevant to the particular operations carried out by that department.

**Eskmeals Firing Range –
Location and Operational Details –
Question by Mr Henderson
for Written Answer**

Question 51. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Transport:

Can you indicate by way of a printed map, the location of the UK Eskmeals firing range showing its relationship with the Island and the UK coast and also illustrate approximately its boundaries and illustrate:

- (a) *where the shells are fired from in the UK;*
- (b) *whether it is a private firm or the military who practice firing on to this area of sea, or both;*
- (c) *what kind of munitions are used and whether they contain depleted uranium;*
- (d) *the approximate size and weight of such munitions;*
- (e) *approximately how many shells or other projectiles are used in an average practice firing session;*
- (f) *the distance from the firing mechanism used to the target area, how high into the atmosphere projectiles are fired and with what degree of accuracy; and*
- (g) *whether your department or the government is notified if any projectiles fall outside of the range?*

Answer

- (a) Eskmeals firing range is in Cumbria situated approximately 16 miles south of Whitehaven and midway between there and Barrow. Copy of chartlet attached showing details of the Eskmeals range in relation to the Isle of Man. (See TQ 407)
- (b) Qinetiq, a UK Government Agency, are now understood to run the Eskmeals facility carrying out government business and we would not be made aware of whether their clients were military or private.
- (c) We would not normally be advised of the type of munitions being used though up until 1996, only inert munitions had been fired into area D406C. Depleted uranium munitions were understood to only be tested on land at Eskmeals and not fired out to sea.

- (d) We would not normally be advised of the size and weight of munitions being used.
- (e) We would not normally be advised of how many shells would be fired in any practice session.
- (f) Please see enclosed chartlet (TQ407) which shows the practice range areas radiating out from Eskmeals. The projectiles may be fired up to 60,000ft within area D406; 50,000ft within area D406B and 50,000ft within area D406C. We would not be made aware of the degree of accuracy involved.
- (g) We would not normally expect to be advised of this.

Following a meeting at the Home Office in 1996 it was decided to send a delegation to Eskmeals to find out more about the activities that took place and to assess the adequacy of safety precautions taking place on the range. In January 1997 the then chief harbour master and the secretary to the Council of Ministers made a trip to Eskmeals and reported back to the Council of Ministers in February 1997.

Since that meeting, apart from being notified in May 1999, via a copy of a notam copied to Harbour Control and the more recent notification both of which were subsequently cancelled, we are not aware of any range testing having taken place to seawards from Eskmeals since the visit in January 1997.

It would appear that the recent notification to the Chief Secretary's Office indicated that firing would not take place into Manx waters but this was not in the notification received in Harbour Control.

On 20th June this year a letter was sent from the Chief Secretary's Office, to the UK Department of Constitutional Affairs reiterating the Island's position in not wanting any munitions fired into Manx territorial waters.

I would invite any member with a specific interest in this area to arrange to meet with my department so they can be made more fully aware of the history of this matter and discuss possible future representations or actions.

**Transport – Disabled Badges –
Alzheimer's/Confusional States Sufferers
and their Carers –
Assistance for –
Question by Mr Henderson
for Written Answer**

Question 52. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Transport:

What is your department's current policy on the issue of disabled badges to people who meet such criteria, and is there a list of medical conditions which qualify such a person, and if there is such a qualifying list is Alzheimer's/confusional states on this list, and in special reference for carers who are looking after a relative who suffers from such an illness, and having to transport them around and assist them to shop and other activities of daily living designed to help that person?

Answer

The Disabled Persons (Badges for Motor Vehicles) Regulations 2002 prescribes those people to whom a disabled persons badge may be issued as:

- (a) a person who receives the higher rate of mobility component pursuant to Regulation 12 of the Social Security (Disability Living Allowance) Regulations 1991¹ as they have effect in the Island²; or
- (b) a person who uses a motor vehicle supplied by the department or acquired or adapted with the aid of a grant made by the department; or
- (c) a person who is registered as blind under section 27 of the National Assistance (Isle of Man) Act 1951³; or
- (d) a person who receives a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁴ including such a supplement by virtue of any other scheme or order or under article 25A of the Personal Injuries (Civilians) Scheme 1983⁵; or
- (e) a person aged 65 years or over who is in receipt of a mobility premium as part of the person's income support under paragraph 17 of Part III of Schedule 2 to the Income Support (General) (Isle of Man) Regulations 2000⁶; or
- (f) a person who drives motor vehicles regularly, has a severe disability in both upper limbs and is unable to turn by hand, the steering wheel of a motor vehicle notwithstanding that the wheel is fitted with a turning knob; or
- (g) a person who has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

These badges are issued on behalf of the Department of Transport by the Department of Health and Social Security to those people who meet the criteria. Categories (a) to (f) are automatic, but (g) is

discretionary and decisions are made by social services based on information provided by the applicant's GP.

There is no list of qualifying conditions, and decisions made under (7) are made in light of the person's mobility and circumstances.

There are no provisions in the regulations for carers. The scheme has in the past been subject to criticism because of abuse and the number of people who appear relatively mobile. There are approximately 3000 people with disabled parking badges in the Isle of Man.

¹ SI 1991/2890

² GC 129/92

³ 1951 XVII p.1008

⁴ SI 1983/883

⁵ SI 1983/686

⁶ SD 26/00

**Southern Area Plan –
Draft for Consultation and
Tynwald Approval –
Question by Mr Gawne
for Written Answer**

Question 53. The hon. member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

When will a draft of the Southern Area Plan be available for consultation, and how long do you believe it will take to produce the final draft of such a plan for Tynwald approval?

Answer

The statutory procedures for preparing an area plan are set out in part 1 of the Town and Country Planning Act 1999.

The procedures governing the preparation of an area plan require the department to take such steps as will ensure that adequate publicity is given to the matters with which the plan will deal. Also that people are given an opportunity to comment on these matters. In practice this is done by the preparation initially of an issues and options report. After considering any representations arising from that report the department then prepares a draft plan.

In the case of the Southern Area Plan work has commenced on the issues and options report and this will be published in the autumn. A draft plan will then be prepared and this will be published in due course, probably in early 2004, as a consultation document.

In general terms, taking into account the statutory steps of initial publicity, draft plan, inquiry into the draft plan, consideration of the inspector's report, publication of modifications etc, it is likely to take two years for the department to progress an area plan

through to adoption and submission for Tynwald approval.

**Archallagan Proposed Landfill Facility –
Costs –
Question by Mr Anderson
for Written Answer**

Question 54. The hon. member for Glenfaba (Mr Anderson) to ask the Minister for Local Government and the Environment:

- (1) *Can you confirm that £500,000 into landfill site investigation shown in the Pink Book expended up till 31st March 2003 was outside the £9.644 million estimate cost of constructing a landfill site at Archallagan but included the costs of the planning application up until that date;*
- (2) *can you confirm that the costs to the department for the special planning inquiry at Mount Murray for Archallagan were £200,000, and are outside the £9.644 million; and*
- (3) *can you provide a breakdown of the £200,000?*

Answer

This hon. Court approved the £500,000 for landfill investigation shown in the Pink Book at 31st March 2003, when it approved the total 2002-3 budget. The vote was provided and spent on investigations into various sites across the Island that might be suitable to be used for landfill in the short, medium and long term. The investigations identified a selection of sites, some of which were thought, on preliminary assessment, to be worthy of more detailed examination for use in the short term and some that might be worthy of being developed in the medium to long term. One of the conclusions of these investigations was that a site within the Archallagan plantation should be shortlisted for a full environmental assessment to determine whether it was the most appropriate site for the next landfill facility. The department, as hon. members will be aware, subsequently concluded that the Archallagan site was its preferred location and that a planning application should be prepared.

I can confirm that the £500,000 for site investigation was outside the cost of construction of a fully engineered site which is shown in the current Pink Book at £9.644 million spread over the years 2003 to 2008 (and beyond).

I can also confirm that the costs of preparing the planning application to date are *not* included in this figure. The department was not in a position to

quantify the costs of the special planning inquiry in advance and by a motion before this hon. Court today is seeking £550,000 as a supplementary vote. The vote is required because, though there are no capital monies included in the Pink Book for 2003-4 for this project, it is imperative that the department has available the necessary funding to proceed quickly after the decision on its planning application. As is well known, the existing landfills in Bride have a limited life and my department, recognising that there is a national need, must be enabled to prepare for the future.

The £200,000 breakdown of the costs is as follows:

	£
Legal representation	30,000
Expert witnesses (Representation at the enquiry Witness Statements etc)	170,000
	200,000

**Legal, Salary and Administration Costs –
Douglas Town Council and
Local Authorities –
Question by Capt. Douglas
for Written Answer**

Question 55. The hon. member for Malew and Santon (Capt. Douglas) to ask the Minister for Local Government and the Environment:

- (1) *Can you advise if that in view of the nil returns supplied by a number of the local authorities and Douglas Town Council (as a result of my question tabled for written answer in the April 2003 Tynwald) were there any other occasions when legal costs were incurred by the result of any legal discussions/actions between any government departments and such local authorities or Douglas Town Council; and*
- (2) *is there any likelihood of the local authorities and Douglas Town council providing a separate breakdown of salary costs and administration costs (as requested in April 2003)?*

Answer

In reply to the hon. member's question, I would state that the department has sought recently to obtain returns from local authorities with regard to monies spent by them in obtaining legal advice against government departments. In order to provide the hon. member with the information detailed by him, each local authority was contacted and given a copy of his question and the replies have been collated into a

spreadsheet for reference. Some of the local authorities gave a total figure and some gave a breakdown of the various cases in which costs were incurred as the question did not ask for specifics. Such a figure should also appear in the accounts of the local authority which can be inspected by ratepayers of the district. The department has no reason to doubt that the local authorities have provided the correct information, as requested by the hon. member. Indeed, my department did circulate all other departments to see whether any local authority had taken action against them between the relevant dates. This resulted in a 'nil' return. What the responses do indicate, however, is that local authorities have interpreted the hon. member's question in different ways.

With regard to the second part of the hon. member's question there has been a difficulty by some local authorities in interpreting the phrase 'administration costs', whereby due to the size of the authority this can mean different elements, and further guidance may be necessary to obtain the exact information required. Also the staffing numbers vary from one in the smaller parish authorities to large numbers employed by the towns which can include staff contracted for a variety of tasks, so again maybe a more definitive question would produce the information which the hon. member seeks.

The department has written to all local authorities since it received notice of the hon. member's question for today's sitting and has requested further information from them, to be submitted within the next three weeks. Once that further information is received, I shall circulate it to all hon. members.

**Health Service – Private Fee Structure –
Question by Mr Henderson
for Written Answer**

Question 56. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Health and Social Security:

Can you give an indication of the breakdown of the private fee structure used by the Health Service in relation to the private healthcare it offers and especially to the following areas –

- (a) *what were the total private fees paid for the last five years in respect of private inpatient care at Noble's Hospital, including any surgical procedures;*
- (b) *what percentage are retained by or paid to the Hospital;*
- (c) *what percentage are paid to the doctors and surgeons performing the care/operations;*

- (d) *do medical staff retain these fees as a private payment to themselves, and additionally to their salary; and*
- (e) *are nursing staff in receipt of additional payments who attend such private sessions or bonus payments as in the UK and, if not, why not?*

Answer

To take each part of the question:

- (a) Private patient receipts in respect of in-patient and out-patient services at Noble's hospital are as follows:

1998/1999	£740,652
1999/2000	£695,129
2000/2001	£783,323
2001/2002	£777,246
2002/2003	£929,792

- (b) The private patient income set out at paragraph (a) relates to charges for accommodation and ancillary support services provided to such patients, and are retained in total by the hospital.
- (c) No proportion of hospital charges met by private patients is paid to the doctors and surgeons performing the care/operations.
- (d) A consultant's professional fees are separate from hospital charges. Such fees are determined by the consultant and charged direct to the patient by the consultant.
- (e) Nursing staff do not receive additional payments for the care of private patients, other than in terms of overtime in the event of out-of-hours work.

As regards the situation in the United Kingdom, my understanding is that where private practice is provided in a National Health Service facility, nurses are not remunerated separately outside of their NHS terms and conditions of service.

**DHSS – Free Respite Care Policy –
Number of Beds Available –
Question by Mr Henderson
for Written Answer**

Question 57. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Health and Social Security:

- (1) *What is the current policy of your department in respect of offering free respite care to those who qualify for it; and*
- (2) *has there been any change to this policy over the past five years;*
- (3) *what have been the available number of beds for free respite care over each of the last five years and in what areas these beds have been available; and*
- (4) *if there have been any reductions –*
 - (a) *what is the reason for this; and*
 - (b) *what can be done for people who are desperate for respite care for their relatives and cannot afford private care?*

Answer

The Department of Health and Social Security offer, through the Social Services Division, the following respite facilities:

- 11 respite places for older people in the Corrin Home, Peel, Southlands, Reayrt ny Baie, Cummal Moar and Glenside.
- 8 places are available at Radcliffe Villas for people with a learning disability.
- 8 places are available for respite/short-term care for children with a disability in Ramsey.
- 2 places are available for adults with a physical disability in the Leonard Cheshire Unit in Ramsey.
- 1 place is available for adults with a mental health problem at Derby Road.
- 6 places are available for older people with mental health problems (3 in Ramsey and 3 in Ballamona).

The Health Service division provide the following facilities:

- Ramsey Cottage hospital have four respite beds available.
- Newlands, up until two years ago, had no formal respite care beds but for the past two years there has been one bed available for those who need hospital type care. In the newly refurbished Newlands, there are none available with the emphasis being on intensive rehabilitation.

In terms of the department's policy with respect of offering free care, those who have respite provided in a hospital setting receive free care. Older people receiving care in an older persons home will either pay the residential rate for the services they receive or,

following a means tested financial assessment, will receive 'free care' (i.e. payment will be made via the benefits system). Those who have a learning disability or children will receive free respite care. Those with a physical disability are charged a service charge of £65 per week.

There have been no changes in the policy of providing respite care over the last five years other than at Newlands, as has been described above. In addition, the forthcoming transfer of older people with mental health problems from hospital care within Ballamona hospital to community residential units will also involve a change of policy. Existing users of respite services will continue to receive a free respite service but any new users will be regarded in the same way as users of respite care in residential homes for older people.

Long-stay residents within mental health services are not felt to need hospital type services but it is felt that their life can be enhanced by living in a residential care unit.

Anyone who cannot afford care will be able to apply for financial support through the Social Security Division to cover the cost of their care, following assessment of their financial position.

**Nursing and Residential Homes –
Review of Personal Allowances –
Question by Mr Henderson
for Written Answer**

Question 58. The hon. Member for Douglas North (Mr Henderson) to ask the Minister for Health and Social Security:

In a recent response to my Tynwald question regarding personal allowances for persons in nursing and residential homes, both state and private, you gave an undertaking to review the current amount payable and the adequacy of such payments, will you also give an undertaking to review the way in which these payments are made, so that they are separated from mainstream payments and not included in any payments for nursing or residential home fees, so that mainstream payments are raised to cover any fees, and the personal allowance can be used fully for the purposes it was originally intended?

Answer

At both the May and June 2003 sittings of this hon. Court, I advised the hon. member that the next review of all benefit rates would take place as part of the 2004 budget process. At the May sitting, I also advised him that I would arrange for an analysis of income support payments to persons in private nursing and residential homes to be undertaken.

For a resident in a private nursing or residential home, all benefits are paid to such a resident in accordance with his instructions (or instructions of a duly authorised agent), either directly into his bank account or by order encashable at a nominated post office. I fail to see what advantage to a resident would be achieved by splitting a payment to him in respect of income support into two payments, one in respect of fees and one in respect of personal expenses. The same total amount of benefit would be paid to him and he would still have the same total outgoings. It should be noted that under normal circumstances the department's legal authority to pay benefit is to the claimant, and the claimant, in this case a resident of a private nursing or residential home, is responsible for paying the fee due to the home, under the terms of the contract between the home and the resident.

**New Hospital –
MRSA Preventative Measures –
Question by Mr Duggan
for Written Answer**

Question 59. The hon. member for Douglas South (Mr Duggan) to ask the Minister for Health and Social Security:

Are you satisfied that adequate measures are in place to ensure that MRSA does not set into the new Noble's Hospital?

Answer

I can confirm that the control of Methicillin-Resistant Staphylococcus Aureus (MRSA) is part of the overall infection control policy for Noble's hospital. The policy is based on the latest, evidence-based, expert guidance from the United Kingdom and international research on infection control.

The local policy has been prepared by the hospital's infection control team who have trained staff in its operation, including a continuous monitoring on the application and effectiveness of it. The team has also provided an information leaflet on MRSA for patients and relatives.

The department is satisfied that the policy on infection control follows best practice guidelines designed to eliminate MRSA wherever possible and to prevent the spread of any remaining organisms. It is pleasing to report that due to the efforts of the infection control team, the Island has experienced a comparatively low level of MRSA. Staff at the new Noble's Hospital will continue to take all measures to ensure that the situation continues.

**Education –
Board Members' Attendance of
Official Meetings –
Revised Payment Strategy –
Question by Mr Houghton
for Written Answer**

Question 60. The hon. member for Douglas North (Mr Houghton) to ask the Minister for Education:

- (1) *What is the revised payment strategy for members of the Board of Education in respect of attendance at official meetings; and*
- (2) *how does the cost of the revised strategy compare with previous financial years?*

Answer

- (1) The Department of Education has not implemented a revised payment strategy for the Board of Education members, but has updated the level of payment in accordance with the scheme issued by Treasury, namely the Payment of Members' Expenses Allowances Order 2002. This was approved by Tynwald 1st October 2002 (effective 1st April 2002).

The order has been applied in line with regulations based on department policy whereby attendance allowance claims can be made for the following meetings:

- (a) All properly convened meetings of the Board of Education.
 - (b) All properly convened meetings of the following committees:
 - (i) Special Services Committee;
 - (ii) Youth and Community Committee;
 - (iii) Further Education Committee;
 - (iv) Primary Education Committee.
 - (c) All properly convened meetings of sub-committees of any of the above named committees and of the board or department, including meetings of managers and governors sitting as appointed committee.
 - (d) All properly convened meeting of the governing bodies of primary and secondary schools.
 - (e) All properly convened meetings of youth club management committees, including interviews for youth club staff.
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- (f) Governor training sessions organised by the department.

Additionally, travel mileage allowances are also payable in respect of specified meetings.

NOTE:

Members are paid £60.00 per meeting, subject to a maximum of £100.00 in relation to two or more meetings held during the same session.

(For the purposes of Payment of Members' Expenses Act 1989, 'session' is defined as 9.00 am to 1.30 p.m., 2.00 p.m. to 6.30 p.m. and 6 p.m. to 12.00 midnight).

- (2) The department did maintain the same level of committee meetings and the costs are as follows:

1999/2000 – £15,896

2000/2001 – £20,617

2001/2002 – £11,350

2002/2003 – £74,752

The 2002-3 figure partly reflects backdating of allowances at the new rate, and partly retrospective claims by members.

CORRIGENDUM

Tynwald Court (Questions), Tuesday, 17th June 2003, front page, question 3, for '(Mr Gawne)' please read '(Mr Singer)'; and page TQ329, column 1, for 'Question by Mr Gawne' please read 'Question by Mr Singer'.

