



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 2nd December 2003

Present:**The President of Tynwald (The Hon. N Q Cringle)**

The Attorney General (Mr W J H Corlett QC), Hon. C M Christian, Hon. P M Crowe, Mr D F K Delaney,
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.

Business transacted

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Legislative Council

The Council met at 10.30 a.m.

PRAYERS

The Chaplain of the House of Keys

[MR PRESIDENT *in the Chair*]

LEAVE OF ABSENCE GRANTED

The President: Now, Hon. Members, we have apologies this morning from the Hon. Member, Mr Gelling.

Questions for Oral Answer

HEALTH AND SOCIAL SECURITY

Magnetic Resonance Imaging machine

1. The Hon. Member (Mr Waft) to ask the Minister for Health and Social Security (Mrs Christian):

Will you please qualify the present position with regard to the Magnetic Resonance Imaging machine at Nobles Hospital?

The President: And so we turn then to our Order Paper. I call on the Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The President: Minister for Health and Society Security, Mrs Christian.

The Minister for Health and Society Security (Mrs Christian): Thank you, Mr President.

I can confirm that the magnetic resonance imaging (MRI) machine is fully installed within the hospital's Radiology Department, and has been operational since August this year.

Unfortunately, staffing difficulties – in particular the unexpected resignation of the consultant appointed to lead the MRI Diagnostic Service – as has been reported in this place on another occasion, has meant that the hospital is currently unable to offer a full service.

For the present, therefore, the service is confined to in-patients and a small number of out-patients, who, for clinical reasons, are unable to travel to the United Kingdom.

All other patients requiring MRI will continue to have access to the services at Clatterbridge under an existing contract with the Wirral Hospital NHS Trust.

I can, however, advise the Hon. Member that the Department has recently been successful in recruiting an experienced consultant radiologist, who is due to take up his post in January or February next year. The appointment, together with some additional radiographic support, should enable the local situation to improve significantly during the early part of 2004.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

This has been a concern over a number of years and it went into the hospital at great cost, and we are very grateful for that. Is the situation going to be improved considerably when we get the new staff, and when will it be fully operational?

The President: Minister.

The Minister: Mr President, 'fully operational' will depend on the appointment of staff. As I have said, we have managed now to appoint a consultant, who is a specialist in MRI techniques.

However, as the Hon. Member will be aware, it is not only radiologists that we need but radiographers, and, indeed, radiographers are more scarce than radiologists, so we are taking steps. We have been advertising for more radiographers. When we have our full complement of two more radiographers, then the full radiological services will be up and running.

In the meantime, computed tomography (CT) radiographers are being trained in MRI techniques so they can work flexibly within the Radiology Department.

The President: Mr Waft.

Mr Waft: Thank you, Mr President. Could I just ask for an explanation: are they being trained on behalf of the Isle of Man, within the service itself?

The Minister: Yes, Mr President. We are training our own CT radiographers in MRI scanning techniques so that they can work flexibly either on CT scanning or MRI scanning, within our own service.

Cancer-related illnesses Number of new cases

2. The Hon. Member (Mr Waft) to ask the Minister for Health and Social Security (Mrs Christian):

What is the present number of new cancer-related illnesses in the Island over the past 12 months?

The President: So we turn, then, to Question 2. Again I call upon the Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The President: Mrs Christian.

The Minister for Health and Society Security (Mrs Christian): Mr President, the Hon. Member may be aware that statistics in relation to cancer related illnesses are collated on behalf of the Island by the Mersey and Cheshire Cancer Registry (MCCR). The most recent year for which data is available is 1999, during which year there were a total 429 new cases recorded of Manx residents diagnosed with cancer.

The President: Mr Waft.

Mr Waft: Can I just ask, Mr President: have there been any diagnostic or technological advances that are able to find out our own information? If we are reliant on Mersey and District, and they can only give us evidence from 1999, I would suggest that, in this computerised age, we should be able to find out exactly what is happening on the Island and not depend on other areas of the United Kingdom for that information.

The President: Mrs Christian.

The Minister: Thank you, Mr President.

As part of our own cancer strategy, we are carrying out an audit of the accuracy and completeness of the data set, which is currently being undertaken by the Directorate of Public Health.

We hope that, as a result of this work, recommendations will be made to improve the manner in which cancer information is collected. It is likely that one such recommended improvement will be, depending on resources being available, the setting up of a local database, with the function of capturing and cleaning locally generated data, prior to its dispatch to the MCCR.

Such a database would allow us to estimate incidence much more promptly than at present, and we are not very happy with the time lag in getting information from Merseyside.

This will also assist in the improvement and quality of our local data, which we believe not to be very good at the moment.

The President: Mr Singer.

Mr Singer: Could I ask the Hon. Minister, is that 429 worked out as a statistic, as a proportion of the population compared to the Merseyside figures, or does that relate to the actual figures that are known on the Island?

The Minister: Mr President, that is actual cases. It is not worked as a proportion of the population. It is 429 new cases during that period.

However, it may be helpful for Members to know that, over the period 1994 to 1999, there is a declining trend.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Would the Minister agree that it is important from the Island's health point of view to find out exactly the state of the health of the Isle of Man for statistical purposes, and indeed for policy purposes within Government, to find out exactly where we are, and where we going and what is happening in between?

The President: The Minister.

The Minister: Mr President, I entirely agree with the Hon. Member.

The Department has had concerns about its inability to gather accurate data for some time. Our whole strategy for health will be based on data collection in the first instance, from which we will gather our baselines. But, historically, the

Island, in general, has not been good at collecting data. Part of our strategy, as I have indicated, in particular in relation to the cancer strategy, is to take steps to try and set up our own local database with regard to cancer numbers and types.

The President: Mr Singer.

Mr Singer: Could I ask the Minister: are those 429 cases which are identified for 1999 split down further into the types of cancer that are identified and, therefore, do they show any type of trend in the increase or decrease of different types of cancers?

The President: The Minister.

The Minister: Mr President, I do not have that data available to me. There will be going forward, obviously, an improvement in that situation, because we will seek to identify the types of cancers in particular. I do not have that information available in relation to the types.

We do have some more up to date information, but it is not complete, in respect of more recent years, which might be helpful to Hon. Members, in that most people are sent to Clatterbridge. So we have asked Clatterbridge for statistics, and, in the year to October 2003, this recent year, 76 patients attended Clatterbridge for in-patient treatment and 81 attended for out-patient treatment. We believe that the majority of those out-patient cases will be in-patients who are attending for follow-ups. So that might give Members an indication of the sort of numbers which are involved.

The President: Finally, on Question 2, Mr Waft.

Mr Waft: Just on provision of a database: I asked a similar question to this some years ago, and it was the intention then to provide a database to try and identify the state of the health of the residents of the Island. Has it been a financial problem, or is it technological problem?

The Minister: We always have financial problems! However, in the meantime, probably since I last answered the Hon. Member's question, we have been working on developing a total cancer strategy, involving voluntary organisations as well as hospital services, and a part of that strategy is this refinement of a database, and in my answer I did refer to resources being available. The other issue is that the information technology strategies of all Government Departments hinge around the central Government strategy, which, in some cases, I believe, holds up the work. But I can understand the reasons for it.

Cancer-related illnesses

Off-Island visits to specialist hospitals

3. The Hon. Member (Mr Waft) to ask the Minister for Health and Social Security (Mrs Christian):

How many off-Island visits have been made to Specialist Hospitals in the UK specifically for cancer-related illnesses in the past 12 months?

The President: We will turn to Question 3, and, again,

it is in the hands of Mr Waft. I think we are in danger of straying onto it, anyway. So, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The Minister: Thank you, Mr President. The Hon. Member asked about off-Island visits to specialist hospitals. Our patient transfer database records a total of 439 patient referral episodes to United Kingdom hospitals for cancer-related treatments up to October of this year.

That data, which refers to both in-patient and out-patients, is reliant upon the recorded diagnosis and assessment provided by the referring clinician to the transport services, and the records do not identify how many individuals are concerned.

The President: Mr Waft.

Mr Waft: Mr President, I would just like to congratulate the Department on the transfer arrangements, when people do have to contact that Department. It is an excellent service that is provided.

Mr Singer: Can I ask the Minister, who actually refers the patients to these specialist hospitals? Do they have to go through the oncologist, or can they be referred direct from a doctor who had an interest in oncology?

The Minister: Mr President, a number of consultants can refer them. They do not have to be specialist oncologists; they can be referred by consultants in different departments if they believe it is appropriate.

I think we need to remember that most general hospitals, such as our own, do deal with cancer cases, but, in many circumstances, it is felt appropriate to refer them to specialist centres, such as Clatterbridge.

But I would also point out that we sometimes refer them to general hospitals in the United Kingdom, simply because they may be nearer family or for other social reasons. It is not that we do not provide cancer services here; we do. We do not make all referrals to the United Kingdom to tertiary centres, some are to general hospitals for those social reasons I have outlined.

The President: Mr Singer.

Mr Singer: Sir, is the Minister saying that, therefore, people who are identified as having cancer do not necessarily see the oncologist on the Island, they can be referred direct across to another hospital?

And the other point is: does everybody who is identified as having cancer on the Island, do they have the opportunity to see the specialist oncologist that we employ?

The Minister: Mr President, I would imagine that the consultant who has determined that they have cancer, or believe that they have cancer, will consider what is the most appropriate move. If they consider that it is sensible to wait for the oncologist visiting the Isle of Man, maybe that is what they do. But I do not think they are obliged to do that; indeed, patients may prefer to be referred more quickly and go straight to a specialist centre on the advice and diagnosis of the consultant from the hospital.

TRANSPORT

Car parking

Contract/Corporation and shoppers' parking

4. The Hon Member (Mr Waft) to ask the Member for Transport (Mr Kniveton):

What percentage of car parking provided by your department is given over to contract/Corporation parking and what percentage is designated towards shoppers' car park?

The President: We turn then to Question 4. Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The President: I call on the Member for Transport, Mr Kniveton, to reply.

A Member for Transport (Mr Kniveton): Thank you, Mr President. The Department currently provides a total of 235 contract or pay-and-display parking spaces in Douglas. Thirty per cent of these spaces are for contract parking and 70 per cent are for pay-and-display parking.

The pay and display tariffs allow both short-stay and long-stay. As the Department's car parks in Douglas are not located within the heart of the shopping area, these car parks tend to be used more for long-stay parking by office workers.

The President: Mr Waft.

Mr Waft: Yes, thank you that, Mr Kniveton.

I wonder if you could, perhaps, enlighten the Members and the public as to the situation with the walkway over the Christmas period on the promenade: will that be in use or will it not?

The President: Mr Kniveton.

Mr Kniveton: Yes, thank you for that.

Mr President, I am very pleased to say that, following our Department meeting last week, I pressed for this walkway for the 14 days in the Christmas period. The Minister and the Members did agree and it will be open for shoppers, or whoever, during the Christmas period.

The President: Okay. Mr Lowey.

Mr Lowey: Would the Member in charge not agree that the new car park, which is opening at Shaws Brow, is doubling the number of short-stay spaces for this particular period?

Mr Kniveton: It could be so, but I am not familiar with Shaw's Brow parking.

The President: Mr Waft.

Mr Waft: Would the Member clarify the situation with regard to the Villa Marina when that opens - and hopefully it will be a success, I am sure it will - there will be call for

more parking in that area of the town. Have you got any ideas as to what could happen from your end of it?

The President: Mr Kniveton.

Mr Kniveton: Mr President –

Mr Waft: I am thinking particularly of Guild Week.

Mr Kniveton: Yes, Mr President, I am not, of course, responsible for parking within the Department; I only can listen to what I hear. I do not think there is to be any extra parking, but the parking in Chester Street is the one allocated for the Villa Marina and the Gaiety Theatre.

Temporary car parking: that must take its turn, as it comes. I believe an application will be made.

The President: Mr Waft.

Mr Waft: Thank you, Mr President. I take it that Guild Week will be considered favourably. (*Laughter*)

Members: Yes.

LOCAL GOVERNMENT AND THE ENVIRONMENT

Car parking

Shaw's Brow car park and spaces available

5. The Hon Member (Mr Waft) to ask the Minister for Local Government and the Environment (Mrs Crowe):

(a) Has your department entered into a written agreement with Douglas Corporation to underwrite any deficiency at the Shaw's Brow car park; and

(b) are you satisfied that the Corporation provide sufficient spaces for shoppers in the town and what percentage of these spaces are available for contract parking?

The President: Item 5, then, Hon. Members. And, again, Mr Waft to ask the Question.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The President: And this time I call on the Minister for Local Government and the Environment, Mrs Crowe to respond.

The Minister for Local Government and the Environment (Mrs Crowe): Thank you, Mr President.

In respect of the first part to the Hon. Member's Question, I can confirm that, in November 1999, the Department of Local Government and the Environment entered into a legal agreement with Douglas Corporation relating to the design and development of improvements to increase the capacity of the car park at Shaw's Brow.

In the agreement, the Department agreed to provide financial assistance to the Corporation by way of an annual

revenue deficiency grant contribution, equal to the amount of the additional low charges for the development, less any additional income generated by the additional car parking, together with the additional operating and maintenance costs.

The total approved capital cost of the project at the petitioner's stage in August 2001 was £7,900,000, and the Corporation borrowing for the project is to be written off by my Department over a 30-year period – although the Department and Corporation projections suggest that the Department's support could end in about half that time.

In response to part (b) of the Hon. Member's Question, I am certain that whatever spaces the Corporation allocates for shoppers will be very much welcomed. The redevelopment of Shaw's Brow has almost doubled the amount of total available car parking spaces, and the number of pay-and-display spaces will have been increased by approximately 183 spaces.

The new, redeveloped car park currently provides a total of 702 spaces, of which 346 will be specifically pay and display. Some will be for Town Hall use. This leaves a total of 306 for allocation to contract parking. Therefore, the contract car parking represents 44 per cent of the overall car parking at Shaw's Brow.

I can also confirm that 13 of the pay-and-display spaces have been allocated and sized for disabled drivers. The Department is having ongoing dialogue with Douglas Corporation and the Department of Transport, which is the Department responsible for car-parking policy, to review the use and the income from Shaw's Brow car park in future years to ensure that the interests of all parties are properly addressed.

The President: Mr Delaney.

Mr Delaney: Yes, thank you very much for that comprehensive reply you gave to the questioner.

Can I ask two things, one which affects the finances and the other affects the number of car parking spaces: can you tell me, of the Town Hall use, are they to have the same number of spaces on the new car park that were allocated them on the old car park before its demolition? And can you tell me: what is the percentage agreed to of the 'handling' charges by the Corporation, of the servicing and staffing? They usually have a 10 per cent charge; am I to understand that is the same figure, and is it 10 per cent of the turnover of that car park, or is it an agreed figure?

The President: Mrs Crowe.

The Minister: I do not believe I actually have the figure in the agreement that the Hon. Member referred to in his last comment, but I do, from memory, and reading the agreement, suggest that about £64,000 per annum will be discounted for the annual maintenance, and this will be increased by inflation.

I can, I am sure, find the absolutely correct amount, but I think £64,000 for maintenance and ongoing costs for staff will be discounted, and that will, of course, rise with incremental increases.

As for the parking allowed for Town Hall use, I am not actually sure of the figures that we are allowed prior to the development. I thought it was about 14 to 18, but there will now be 50 in the new car park for the use of the Town

Hall.

A Member: Fifty?

Mr Lowey: Yes.

The President: Mr Delaney.

Mr Delaney: Just before this gets outside of it; 50 spaces – well, surely, if they have got 50 spaces of the 702, that reduces the amount of income your Department will have from which to dispense, to pay the debts for the construction of it.

The Minister: That is quite correct, Mr Delaney. The figures were only available to me late last night. I have already asked the Finance Officer to look into it, to go through the agreement to see what was identified for car parking space for the Town Hall, because, as you are quite correct, if those 50 spaces were let at £1,000 per annum, as the contracts basis are, we are talking about £50,000 loss in income.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

The Minister might correct me, but I believe, in the Douglas centre area, the planning requirement for car parking for office space is 1 car park for every 50 square metres. If the developer cannot provide the car parking, he can ask the Planning Committee, and get their agreement, if they can make arrangements with a multi-storey car park to arrange to take blocks of car parking from that multi-storey car park to enable them to build their development. Have you done an audit – or could you do an audit, if you have not – on the provision of car-parking space actually available to the shoppers in the area at the moment, as a result of that policy?

The President: Minister.

The Minister: Well, what I can tell you is that, yes, I am fully aware that contract parking is, of course, very popular in Douglas, and rightly so, for office workers, but there are now 346 pay-and-display places at Shaw's Brow, which I think is more than doubled what it was previously. So whether that is adequate, only time will tell, but we have been very closely monitoring Chester Street car park of late to see if there was sufficient availability there for pay-and-display customers.

So we do have some data that we have collected in the last six months regarding car parking, certainly in the Chester Street area, because we were concerned at one time – that is the car park that is in my Department's control – that there was not sufficient space for shoppers.

The President: Mr Delaney.

Mr Delaney: Just to finish off the piece about the amount of spaces they are asking you to supply, can I just ask the Minister if she would check up how many spaces are allocated in the old car park, and stick to that figure. As you

do the mathematical side of it, the situation with Douglas Corporation, because of their reduction in the amount of responsibility, is that the staff should not be increasing that much. They have moved the Library down into Victoria Street. So they do not need staffing at their end. It is down near the bottom.

I ask the Minister if she would be certain not to allow this, as it is the taxpayers who are going to have to foot the bill on these extra spaces.

The Minister: Certainly, Mr Delaney, I can assure you that I will not sit back –

Mr Delaney: Thank you very much.

The Minister: – and see the increase in car parking spaces, as you say, for staff or otherwise. I do believe the original car-parking spaces were for councillors. So we will be checking on that very carefully to ensure that we do not have a loss of income from designated spaces being offered to others.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Obviously with contract car parking, if they use the car parking sensibly, it can be an advantage, really.

But I sometimes think the contract car parking available is lying empty all weekend, because the people are not in there, but it is not available to the general public. And with regards to the Safeway car park, that policy seems to be changing quite often.

I wondered if, maybe, the Minister would look at the situation where there has been a recent edict from someone to say that if someone has a contract for a park, for instance a Civil Servant, and they are not using it for a week or whatever, they cannot give that availability to someone else to use. Although it is lying empty, they still have to continue putting pounds in the other car park. If there might be a sensible attitude to the way they treat the staff in that situation . . .

The President: Well I do not know about other Departments, but, certainly, in my own Department, we do have a degree of flexibility. If we have car parking spaces and there are members of staff that are on leave or extended leave, we do ensure that other people are able to take advantage of that, even though it may only be for a 1-week or 2-week period.

So, yes, certainly I will look into that and see. I think the Question has highlighted some issues that need to be addressed from within my Department, and for that I am grateful, because, of course, it is a substantial amount of money that Government is providing for this car parking at Shaws Brow. We need to make sure that we get value for our money.

Mr Waft: Okay, just to point out, Mr President, there is a very recent notice to the effect that they cannot transfer or let somebody into that space. So if the Minister might have a look at that. Thank you, Mr President.

Orders of the Day

Construction Contracts Bill

First Reading approved

The President: We turn then, Hon. Members, to Item 2 on our Order Paper, the Construction Contracts Bill, which is down for first reading. The Member in charge, Mr Singer, please.

Mr Singer: Thank you, Mr President.

I am pleased to be able to move this first reading of the Construction Contracts Bill 2003, which is promoted by the Department of Trade and Industry.

The Bill is intended to implement the findings of a working party, established by the Department of Trade and Industry, to examine changes introduced in the United Kingdom following the 1994 Latham Report on Procurement and Contractual Arrangements in the United Kingdom construction industry. Latham concluded that the contractual system, under which the UK construction industry operated, was defective in two main respects.

The first was that there was a need for a simple procedure for settling disputes over payments quickly and cheaply.

The second was that some common terms of construction contracts were unfair on small sub-contractors and should be outlawed.

Latham's recommendations were generally well received by the UK industry, and changes were implemented as part 2 of the Housing Grants Construction and Regeneration Act 1996, which came into force in May 1998 and is commonly known as the Construction Act.

The Isle of Man working party comprised representatives of the Department of Trade and Industry, the Treasury, private sector architects, the Attorney General's Chambers, and the Isle of Man Employers' Federation, and sought comment on procurement and contractual arrangements from all sections of the local construction industry.

The working party concluded that there was a general consensus of agreement in the industry, that a Bill should be introduced in the Isle of Man that followed the relevant parts of the United Kingdom Act, as it had been well received and was leading to the successful resolution of an increasing number of disputes, as the industry became more familiar with its scope.

The Bill before us today, like the United Kingdom Act, provides the basic framework for reform. The Bill will be supplemented by a detailed Construction Contract Scheme, to be set out in regulations made by the Department of Trade and Industry, and subject to Tynwald approval.

Draft regulations based on the United Kingdom equivalent have been prepared by the Department and were part of the working party's consultative exercise.

I would now like to explain some of the main provisions in the Bill.

The primary purpose of the Bill is to give the parties to construction contracts new rights, and to enable the scheme for the adjudication of disputes to be set up. The Bill gives either party to a construction contract the right to refer a dispute to adjudication as a quick and cheap form of dispute resolution, either under the terms of the contract or under a statutory scheme.

With regard to payments within a construction contract,

a party will be entitled to stage payments if the work is to take 45 days or more. There will be agreed procedures for determining what payments are due, and when, and how they are calculated. The right of a party to withhold payment will be restricted, and he must notify the amount withheld and the reason for doing so, not later than a fixed period before the final payment date. A party who has not been paid in full by the final date for payment will have the right to stop work until paid.

The Bill will outlaw the 'pay when paid' clause in contracts, under which a contractor is not bound to pay a sub-contractor until he has been paid by the client. This particular clause is one that causes so much pain and suffering to many of our smaller sub-contractors, and the industry will be well rid of it.

Parts of the Building Regulations will cover the very technical detail of administration, including definitions of construction operations, the types of contract to which the Bill applies, the precise nature of adjudication, and the various timescales within which actions must be taken.

Hon. Members will, no doubt, wish to note that contracts with residential occupiers are specifically excluded from the Bill, the rationale behind this exemption being the avoidance of inclusion of small building contracts with residential occupiers, which, in most cases, would not be operating within formal industry conditions of contract, and to require such contracts for this type of work would be neither appropriate nor practicable.

The Bill passed through another place, I am pleased to say, without amendment, and I trust Hon. Members will support this Bill, which is the most important step forward for the local construction industry.

Mr President, I beg to move that the Construction Contracts Bill will be read for a first time.

The President: Mr Kniveton.

Mr Delaney: Second.

The President: Mr Kniveton.

Mr Kniveton: Thank you, Mr President. I am very pleased to second this first reading.

As a past member of the Department of Industry, albeit for a short while, I soon learned of the disputes within the construction industry regarding contracts, particularly involving subcontractors. Now, I do not propose to go through all I had prepared because Mr Singer has certainly put it forward very well, but, in summary, the provisions are parties to construction contracts will have new rights to enable adjudication of disputes to be set up. Also there will be the right to refer a dispute to adjudication. As far as the subject of payment is concerned, the question of stage payments for work of 45 days or more will be taken into account.

As I say, I do not propose to repeat all that the mover has said, so, with that, sir, I repeat I am happy to second the first reading.

The President: Mr Delaney.

Mr Delaney: Yes, Mr President. I would have gladly seconded this, but my colleague has done so. As a past person involved in subcontracting on building sites, it was

easier to go across a minefield than to go onto building sites, and it was getting worse in the Isle of Man – as it was on the mainland.

The important part, I believe, of this Bill, which is welcomed by the industry, is the payments section, that is, sections 6 to 10.

The milch-cow of any contract in the Isle of Man was the sub-contractors. You could all apply to work on sites and then you spent the rest of the time off-site praying that somebody would honour the part of the agreement where you had a 28-day payment or 31-day payment. It did not happen – in a few cases, it did not happen. The situation was that they found it convenient to ensure that, if they had any problems, they kept your money and it was making interest for the main contractors, and everyone around this table, I am sure, in some way or other has been either in receipt of complaints from people or involved in problems on building sites because of that problem.

This does not solve all the issues that will arise in the future, but it goes a long way to giving us some recompense and I congratulate the Department and the people in the Attorney General's Department in the drafting of the Bill. I believe it will solve an awful lot of disputes in the short term and it will give some hope to those people who are tradespeople on this Island who are prepared to go and subcontract, but now do so at their peril: they also do so, increasing the cost of their subcontract, which is eventually passed on to the client, because of their worries that they may not get their payments on time.

I think that is a very, very big issue, because it is the client at the end of the day that usually pays for the increased cost of any dispute between sub-contractors and the main contractor.

The President: Mr Lowey.

Mr Lowey: Yes, Mr President. I warmly welcome the Bill and I can concur with the mover of the resolution when he said something about it being a minefield.

Having been a Minister of Trade and Industry, and done a review of the building industry terms and contracts, a 'minefield' is a mild term to be used for it.

I remember taking a complete review with our late colleague, Mr Norman Radcliffe, and thought we had a definitive answer; anything but. For every one we thought we had resolved, there were another two problems created.

So I welcome the Department's move with the industry, and I think it is just as well we remind ourselves that the building industry has undergone some really radical and major changes to its working practices –

Mr Delaney: Still doing so.

Mr Lowey: – and still are, which are added costs. I believe, if we have got an agreement and this legislation meets their agreement, I think the Department are to be congratulated.

I will be, obviously, supporting the Bill and hope that what we are putting into legislation assists the parties concerned to meet what I would call a fair resolve to the problems that will undoubtedly arise from time to time.

The President: Mr Waft.

Mr Waft: Everything within this Bill was discussed

– or certainly very similar – under the Public Accounts Committee's remit, under the chairmanship of Deemster Luft, as it was at the time.

We interviewed many, many contractors and the Employers' Federation, the Department of Trade and Industry and a large group of people. We examined all the information from the UK and we did come to recommendations at that time and there was consideration as to the size of the building that was going to be built as to how the contracts were issued, and I think, as a result of those deliberations, the hospital progressed as it did under the arrangements for contractors and sub-contractors.

So there have always been problems with sub-contractors, especially with payments, and the withholding of payment leads sub-contractors into very great difficulties at times. So, I would welcome the Bill, Mr President, and hope it is a move in the right direction.

The President: Mr Singer.

Mr Singer: Thank you, Mr President.

Can I thank Mr Kniveton for his support and for seconding the Bill. Can I thank Mr Delaney for his support and for seconding it also – and other Members who have just spoken.

As I said, this Bill is not before time, and the Department believes – and I think is correct in believing – that this Bill will ensure that small Manx businesses will be able to remain in business. As has been mentioned, there has always been a risk, and, hopefully, when we go through the clauses and Members are aware of more detail, I hope then that they will agree that, and will be able to support it. As I say, we believe it is a move in the right direction.

So I wish to formally move the first reading.

The President: Hon. Members, the motion that I put to Council is that the Construction Contracts Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Fireworks Bill

Conference on Council amendments Three Members elected as deputation

The President: We turn then to Item 3 on our Order Paper, which is the Fireworks Bill.

Now, Hon. Members, as you are aware, we understand that there is likely to be a deputation from the House of Keys for a conference on Council amendments to the Firework Bill and we need to elect three members to form a deputation to meet with the House of Keys at that conference.

In your hands, Hon. Members.

Mr Delaney: Can I nominate Mrs Crowe.

Mr Waft: Mrs Crowe, yes.

The President: Mrs Crowe is nominated by both Mr Waft and Mr Delaney, so I will take it as proposed by Mr Waft, seconded by Mr Delaney.

Mr Lowey: Can I propose Mrs Christian.

The President: Mrs Christian.

Mr Waft: Second.

The President: Seconded by Mr Waft.

Mrs Crowe: I will propose Mr Singer.

Mr Lowey: I will second that.

The President: We have three members, Hon. Members. Do you wish to say that those three are elected? Are we content with that?

Members: Agreed.

The President: Thank you.

Procedural

The President: Now, Hon. Members, as you are aware, Mr Gelling is absent this morning and I have been in conversation with the Hon. Member, with reference to the Protected Cell Companies Bill, which is to come forward, as I understand it – it should move from the Keys to us within today, probably, or it will certainly be available for us to start to deal with it.

I understand from the Treasury that there is some element of urgency on this Bill. We will be sitting next week in Tynwald and thereafter, as agreed, we would be sitting on 16th December. Now, we could take all three readings on 16th December, or, conversely, what we could do is have a special sitting of Council next week, either before or immediately after the conclusion of Tynwald to deal with, possibly, the first and second readings of the Protected Cell Companies Bill.

If that meets with your favour, Hon. Members, it would mean that we would spread it over the two weeks, rather than having the . . . So if you are content, Hon. Members, (**Mrs Crowe:** Before.) and it seems to be that the feeling is that before . . . Would 9.30 be satisfactory, or earlier than that even?

Mrs Crowe: Is that sufficient time, Mr President, for two readings?

The President: Well, the alternative, as I saw it, and I am in your hands, Hon. Members, I think we ought to meet. There should be a special sitting; that is why I am raising it with you.

If Tynwald were to complete in one day next week, the Wednesday morning would be available for us, but –

Mr Lowey: Could I suggest –

The President: – we could have it immediately –

Mr Delaney: Wait until we meet on Tuesday.

Mr Singer: Well, can't we have it Wednesday, anyway?

Mr Lowey: No, well . . .

Mr Delaney: Well, let us see what happens on Tuesday.

Mrs Christian: Tuesday.

Mr Kniveton: First thing Tuesday.

Mr Lowey: I believe we should –

The President: Have it at the conclusion of Tynwald.

Mr Delaney and Two Other Members: No, come in Tuesday morning at 9.30.

The President: One at a time please, otherwise I will . . . Mr Singer.

Mr Singer: Mr President, if we are going to have a meeting, if you are talking about having one day, then we would be free at half past nine on Wednesday, wouldn't we? So we could come in at half past nine on the Wednesday.

Mr Delaney: Tuesday and Wednesday.

Mr Singer: Yes, but what I was going to talk about: this Construction Bill, in saying this is a matter of urgency, as well, with the delay over the Christmas period and we would like to get this in, because the regulations are . . . then get the regulations for approval, and I was hoping that, if Members agreed and there were no controversial matters, that we might, on the 16th, be able to complete this Bill as well.

The President: I take the point, Mr Singer, but I do not want to confuse the issue. Whilst I understand the urgency of getting regulations for the construction industry forward, my understanding is that the Protected Cell Companies Bill is more important than that, that, in fact, any opportunity for the Treasury as an income measure will be lost if we do not come back to Tynwald in this third week of January.

So it would be the end of January before we would be getting round to dealing with the Protected Cell Companies Bill, probably missing, then, getting on the Order Paper for the February Tynwald, which could very well mean that, if we slip too far, this would not reach Tynwald until the March Tynwald, by which time, I am told, the Treasury feel that we might have lost such opportunity as is available to us.

That is not to say that the Council should not give this proper . . . (*Interjections*) Right, Mr Delaney.

Mr Delaney: What I propose is that we meet at 9.30 on Tuesday, 9th December, and then we come back, if necessary, on Wednesday, 10th December at 9.30 and finish then, if need be.

The President: Mrs Christian.

Mrs Christian: Mr President, slightly in line with that, but somewhat differently: I would propose that we meet on Tuesday, 9th December, before Tynwald to deal with the first and second reading, but not clauses of the Protected Cell Companies –

The President: That is right, yes, that would be on 16th December.

Mrs Christian: – and if necessary the second reading, but not clauses of the construction industry Bill on that day, and then continue on 16th December with the clauses of the two Bills.

The President: Mr Lowey.

Mrs Lowey: I would agree with Mrs Christian on that. I think we have got to be always careful that, when we accommodate the Treasury, if there is such a rush, then I would have thought they would have rushed it through another place, which they have chosen not to do so. I think Council ought to be very conscious – and here am I taking the mantle, I mentioned the late Norman Radcliffe: if Norman was here, he would be saying ‘Not likely, Treasury or no Treasury!’

But, having said that, I think we have to be careful that, in accommodating departments – and the Treasury is a Department of Government – we have to be careful that, if there is a public requirement for consultation, we may raise things next week which are of public note and I think, if you try to rush it too quickly, we are defeating our whole role. We are not a rubber stamp and I do not think Mr President suggests that we ever are a rubber stamp, but it can be construed outside, or within Government, that perhaps we are all over too easy.

I think Mrs Christian has got the right balance. We are very conscious of the need for this legislation and I would agree with Mrs Christian that we should do it in the manner – *(Interjections)*

The President: Can I make it plain, Hon. Members, that the very reason that I bring it to Council this morning is that we do not get into the position of trying to deal with legislation three readings on the one day. I do think that, if practical, we ought to be prepared to spread it over a period for public consultation, as Mr Lowey has indicated. Mr Singer.

Mr Singer: I know it is ‘ifs’, but if we were to meet on the Wednesday morning, and if Tynwald had finished on the Tuesday, then we have got a little bit more time and I was going to suggest that, perhaps, if we did that, then I could . . . and we would not be rushing it, if we took the second reading and clauses of this Bill, if we had the time then, on Wednesday morning, and then we can do the third reading on 16th December, and that is not rushing the Bill, is it?

Mr Lowey: No, it is not.

Mr Delaney: Vote, Mr President.

Mrs Christian: Mr President, is that proposal, then, to meet on Tuesday, Wednesday and the following Wednesday? *(Interjection by Mr Singer)*

The President: Right, Hon. Members, if we are content, then I think what seems to be meeting with most – forgive me if I am wrong – consensus around the table is the suggestion that we meet on the Tuesday of Tynwald week, that is a week today at 9.30 to make such progress as we can.

Mr Singer: And the second reading of mine?

The President: Well, we will certainly take the start of Protected Cell Companies and see how far we can get and deal with that one. I cannot promise more than that, in all honesty. *(Laughter and interjection by Mr Delaney)* Okay, Hon. Members? **(Members: Agreed.)** 9.30 Tuesday next, then.

So the adjournment will be until 9.30 on Tuesday and I think, at this stage, Hon. Members, if we could have a quick word in private, if I may.

The Council sat in private.