



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 25th November 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 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.

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: Hon. Members, we have apologies from the Hon. Member, Mr Delaney.

Questions for Oral Answer

HEALTH AND SOCIAL SECURITY

New Hospital Public phone boxes

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

How many public phone boxes have been installed at the New Hospital for use by patients or visitors?

The President: We turn, straightforwardly, then, to our Order Paper and deal with Questions, and I call on the Hon. Member, Mr Singer.

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

The President: I call on the Minister for Health and Social Security, Mrs Christian, to reply.

The Minister for Health and Social Security (Mrs Christian): Mr President, in answer to the Hon. Member's Question, I can advise that there are 16 coin-operated phones situated within the new hospital, two of which are wall-mounted in the main atrium, with the others being on trolleys on the wards. All bed heads in the hospital can be connected to these trolley phones.

In addition, approval from the Communications Commission is awaited for the installation of two wall-mounted public card-phones, one to be situated in the main atrium and the other in the Accident and Emergency Department.

The President: Mr Singer.

Mr Singer: Can I thank the Minister for her answer.

Can I ask the Minister: is she satisfied that we will then have enough? How many of those phones – of the public phones that she has mentioned – are for staff, are in staff

rooms, or staff generally, and how many are for the actual use of the public? Does she know that?

The President: Mrs Christian.

The Minister: Mr President, in any new situation we will be monitoring the requirement for phones, insofar as we are very conscious that, nowadays, the public use mobile phones much more than they used to. Most areas of the hospital are now such that mobile phones may be used. Nevertheless, we are monitoring the need for any further public phones. The staff and public may use the payphones which I mentioned in my answer, and, if staff have any difficulty in relation to phones, they have channels through which they can express their difficulties.

The President: Mr Singer.

Mr Singer: Thank you.

The Minister mentioned mobile phones: given the technology in the new hospital, would the Minister not agree with me that, other than in the most sensitive areas, such as ITU, there is no interference with equipment from mobile phones and, therefore, would it not be useful to allow the use of mobile phones in public areas of the hospital?

The President: I think the Minister already indicated that.

The Minister: Mr President, mobile phones are allowed (**The President:** Yes.) to be used in public areas; only in very limited areas, as you have indicated, is the use of mobile phones in any way constrained.

Mr Singer: So is this a change of policy, Minister, because I think, previously, in the other Noble's, mobile phones were not allowed to be used?

The Minister: That is so, Mr President, yes. That is the case.

Mr Singer: So, it is a change of policy.

The Minister: Yes, it is.

Mr Singer: Thank you.

New Hospital Snagging faults

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

How many 'snagging faults' have been identified for repair at the New Hospital?

The President: Question 2, and, again, I call on the Hon. Member, Mr Singer.

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

The President: Minister, Mrs Christian.

The Minister for Health and Social Security (Mrs Christian): Mr President, at the end of the 12 months' defects liability period, which expired on 27th October this year, a schedule of defects was drawn up by the lead architect and handed to Bovis Lend Lease, the management contractor, on 11th November. The number of contractual defects identified on this schedule total around 1,985.

We do have to recognise, however, that the majority of these are of a relatively minor nature, such as loose coat hooks, paintwork requiring touching up and adjustments to door closures.

Additionally, during the defects liability period, approximately 480 defects were identified. Of those, the defects which were deemed to be of a more critical nature, i.e. those which were perceived as posing a threat to the safe operational use of the hospital, were immediately addressed, with little or no interruption to the operational use of the hospital. Such defects included, for example, drainage works and the emergency generator.

The remaining non-critical items will be added to those contained on the schedule of defects referred to earlier.

The President: Mr Singer.

Mr Singer: Thank you. I thank the Minister for answering.

The Minister referred to us as being at the end of the defect period. Did she mean *by* the end of the defect period? What I want to ask her was: has Bovis to address all these defects and in what time – these 1900 defects – or has money been withheld, so that the Government itself will repair them?

The President: Minister.

The Minister: Mr President, the defects period is one year from the period of handover, that is the end of October this year. Handover occurred last year. The contractors are obliged to put right defects that have been identified during that one-year period, at no cost to the client. There have been monies withheld to cover defects.

Mr Singer: Can I ask a final supplementary? How long have they got, in fact, to complete the defects?

The President: Minister.

The Minister: Mr President, we will expect them . . . they have been given a schedule during the year of works to carry out and, as I indicated, serious works which might have impacted on the safe running of the hospital have been dealt with first.

Those which have become apparent more recently obviously are going to be dealt with in a timely manner, which does not interfere too much with the current work of the hospital. They have to get on with these defects as rapidly as possible, in order that *they* can release themselves from the responsibility of staying here and carrying it out.

We will be monitoring the process and the procedures that they are following in relation to completing these defects.

New Hospital Laundry

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

Are all soiled articles laundered in the new hospital laundry and, if not, what alternative arrangements have been made?

The President: Question 3. Mr Singer.

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

The President: I call on the Minister for Health and Social Security to reply.

The Minister for Health and Social Security (Mrs Christian): Mr President, in responding to the Hon. Member's Question, I should perhaps explain that hospital laundry falls into two main categories: 'fouled' and 'soiled'.

All items that come into contact with patients, staff or the processes operated in the hospital are deemed to be soiled. Fouled laundry is that which is contaminated with body fluids, much of which is disposable and is dealt with as part of the clinical waste process.

I can confirm that the non-disposable fouled laundry and all soiled items are processed through the hospital laundry, apart from a very small number of minor exceptions, such as the baby clothes in the Special Care Baby Unit (SCBU), and personal clothing of any long-stay patients and other similar small items.

The President: Mr Singer.

Mr Singer: Could I ask the Minister: is everything dealt with in the laundry at the new hospital, or is any dealt with at the old hospital; and is the Minister, therefore, saying that no laundry is sent away from the hospital to be dealt with?

The President: Minister.

The Minister: Mr President, no laundry was ever dealt with at the old hospital. The Department's laundry has been at Ballamona for many years. The Department, of course, has to prepare itself for any breakdown at the laundry, and, therefore, it does have a contract with providers in the northwest of England in the event that there are breakdowns, and we have to ensure that our supply of laundry is sustained.

The President: Mr Lowey.

Mr Lowey: Would the Minister confirm that the only local laundry – Clucas's Laundry – has ceased to operate?

The President: Minister.

The Minister: Mr President, we did have an arrangement

with Clucas's Laundry until such time that it ceased to operate. As you may be aware, many of their staff have come to work now at our laundry and we now undertake all the work in our laundry, with the exception of minor items, which I referred to and, in the event of a breakdown, when this contract from the United Kingdom comes into play. That was also in place when Clucas's carried out some of the work.

The President: Mr Singer.

Mr Singer: Can I ask a final supplementary: have we, in fact, had to use the facility yet – you say in the north of England – across in England? Have we had to use this, and is the laundry, as built, adequate, otherwise than from breakdown, to cope with everything that we are anticipating for the future?

The President: Minister.

The Minister: Mr President, the facility in the United Kingdom has been used for a two-day period during the last 12 months, when a piece of ironing machinery broke down. The affected items were sent to England and returned the following day.

The provision in the laundry is adequate for our needs. If we need to replace or upgrade machinery, then obviously we will do so.

New Hospital Prosthetics clinic transfer

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

Why did the Prosthetics clinic transfer to a smaller area in the New Hospital?

The President: Question 4. Mr Singer.

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

The President: Again, I call the Minister for Health and Social Security.

The Minister for Health and Social Security (Mrs Christian): Mr President, the area identified within the new hospital for the Prosthetics Clinic was based on an enhancement of the accommodation that existed at old Noble's and the projected service requirement at the time the hospital's Rehabilitation Department was being planned.

During an interim period, prior to the move, and in response to an increase in a demand for service, the Department was able to provide, on a temporary basis, additional space for that clinic.

Hon. Members will be aware from my answer to a Question submitted to the October sitting of Tynwald, that problems have been encountered in achieving optimal care for patients within the facility available at new Noble's Hospital, and I can confirm that, in order to address this issue, the prosthetics service has been relocated to accommodation at old Noble's.

The President: Mr Singer.

Mr Singer: My Question was raised, Mr President, in relation to the Minister's answer and if I could just remind the Minister what she said:

'I did state that both the services'

– we were talking about another service as well –

'which have relocated to the old hospital have expanded since the plans were drawn up, and I have to reiterate, as I have said in the past, that I believe the plans which were drawn up at the time of the designing of the new hospital, were drawn up in good faith by the staff in those areas. For example, in relation to the prosthetic service, the area occupied at the old Noble's when the plans were drawn up was 22 square metres. The plans for the new hospital were of the order of 30 square metres. However, in the meantime, the service grew and took over an area in the old hospital of 40.5 metres, which was bigger than their original area, but smaller than that which was planned.'

What I am trying to get is, knowing that they needed 40.5 square metres in the old hospital, what on earth was the idea of transferring it to 30 square metres in the new hospital and then saying: 'Oh, this is not large enough, we will have to go back to the 40.5 metres'? That is what I am trying to have clarification on.

The President: Minister.

The Minister: Mr President, if I may reply to that.

The area they moved to in the old Noble's Hospital – which, as I say, was 40.5 square metres – was not an area that they *needed*, but it was a convenient area in which to place them. It does not mean that they needed to . . . obviously, everyone expands to meet the space that is given to them. **(Mrs Crowe: Yes.)**

With regard to the area at the new Noble's Hospital, the service providers during the transition and induction period and the training period, all visited the areas in which they were to work at the new hospital. There was no comment about the space at the new hospital from those service providers; no-one raised any concerns until they actually moved there and were working in that area and found it to be inadequate for optimal service to the patients.

That was when we decided that it would be appropriate to move back to the old Noble's Hospital, not in the original space they were in, but in the new ward block where the community services are now being provided in the old hospital.

The President: Mr Singer.

Mr Singer: Mr President, we had professional people going across, knowing where they were going to move to in the new hospital, and we are told that they could not judge that that was not large enough before they actually moved there, at a cost, then had to move back at further cost. It really does not seem to be value for money, certainly, and they should not have moved in the first place.

The Minister: Mr President, that is an opinion of the Hon. Member; one might say that is a reasonable opinion.

However, I am presenting to you the facts of the matter, that no-one raised any concerns, and I think we also have to recognise that there were a number of staff changes

during this period. Various people moved at various times and, indeed, the new person in charge of this area started in September this year, so all those factors need to be taken into consideration.

But I would repeat that there was no proposal received from the prosthetics team during that induction period and, visiting the site they were going to work in, and as far as I am aware, and have asked about this, no concerns were expressed during that training period.

The President: Could I, Minister, just for my own clarification, so that I have it clear as well, if I may, the prosthetics moved from the old hospital to the new hospital into bigger accommodation than what they left, and then, when they went back to the old hospital, they were in bigger still.

Mr Singer: No.

The Minister: No, Mr President.

The President: Oh, right, okay.

The Minister: The Prosthetics clinic started off in the old Noble's Hospital, with an area of 22 square metres. Plans for the new hospital were drawn up at the time when they were in that area of 22 square metres. They decided that, looking forward to the future, they needed a bigger area and planned in the new hospital for 29.5 square metres – a 50 per cent increase.

However, the demand on the service, whilst they were still in old Noble's, grew, and we moved them to a bigger area. Now, we did not say, 'how much exactly do you need?' We found an area that was suitable, that happened to be 40.5 square metres, so they were in a bigger area in old Noble's than the area they ultimately moved to in the new hospital.

But the point I am making is that, during that transition, no-one said: 'This area is not going to be suitable, or big enough, for our operation.'

The President: The fact remains that they did move from a 22 to a 29 – whatever it was originally – then back to the old hospital at 40. Okay.

The Minister: I do not know what the old hospital area is frankly, Mr President, it is not necessarily 40. They have not gone back to where they came from!

The President: Mr Gelling.

Mr Gelling: Just another supplementary, Mr President.

Was it not the case that the patients that went there were very upset about the environment, rather than the room, because there were no windows and the atmosphere was such that it was very depressing and they could not stay in there very long?

Those were certainly the complaints that I got from people using the new . . . One was the environment: having no windows or anything, it was just a blank room.

The President: Minister.

The Minister: Mr President, yes, the rehabilitation area in the new hospital and the rooms which were dedicated to

the prosthetics service were in an interior part of the hospital. It was deemed also to be smaller than they required and also the technicians' room was considered to be inadequate in terms of ventilation and so on and so forth.

So, the practical answer to that was to move them back to an area which they felt was suitable.

The President: Finally, then, Mr Singer.

Mr Singer: I am wondering what also the situation is, Minister: with being put into this internal room, there was a certain amount of work that would normally be done in the old hospital, could not be done because it was considered to be a health hazard, because there was no ventilation.

The Minister: Mr President, I have just answered that by saying that very thing.

ATTORNEY GENERAL

Criminal court cases

Time, number and monitoring workload

5. The Hon. Member (Mr Lowey) to ask HM Attorney General:

Although additional Deemsters have been appointed in recent years –

(a) why has the time taken for major or serious crimes to come before the Courts increased;

(b) what is the average time taken to bring criminal cases before the Courts;

(c) how many UK advocates have been brought into Manx trials over the past three years, and why; and

(d) who monitors the workloads of the Courts?

The President: Yes, okay. We turn, then, Hon. Members to Question 5 and I call on the Hon. Member, Mr Lowey.

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

The President: Mr Attorney.

The Attorney General: Thank you, Mr President.

The Question from the Hon. Member is based on the presumption that additional Deemsters have been appointed in recent years. In fact, only one additional judge has been appointed, namely Deputy Deemster Williamson, about one year ago.

Deputy Deemster Williamson presides over the Family Division of the High Court and deals with summary business of the Court. The Deputy Deemster does not deal with criminal matters.

Turning to the specific questions raised by the Hon. Member, in response to question (a), whilst acknowledging that there has been a delay in relation to one particular matter, which is currently before the courts, the position generally is that there is no backlog in the Criminal Court at the present time.

After committal, the cases are case-managed by the Courts, when the information is received from the Attorney

General's Chambers, and the timetable to the hearing then depends upon a variety of relevant factors, such as witness availability, counsel availability, et cetera.

Turning to question (b), the average time taken to bring criminal cases before the Courts depends upon a number of factors, including the time taken to complete police inquiries, the hearing of committal proceedings, the preferring of an information by the Attorney General's Chambers, and the listing for hearing by the Court of General Gaol Delivery.

All cases listed for committal hearings before the High Bailiff are conducted in a timely manner and a turnaround time of five working days is usually achieved for the provision of the committal papers to the Attorney General's Chambers.

One common factor that causes delay – and this appears to be unavoidable – is that there is often a wait of many weeks, if not months, for the results of forensic evidence to be received.

Upon receipt of the information from the Attorney General's Chambers, the case is listed for hearing and the Court of General Gaol Delivery employs full case-management techniques to ensure that, if a case is ready for trial, then it proceeds to trial within two to three months of a plea of 'not guilty'.

If a 'guilty' plea is entered, the only delay which will occur will be as a result of obtaining social inquiry, psychiatric or other reports, which the court will need to assist it in imposing an appropriate sentence. The duration of trial is estimated by the prosecution and defence advocates briefed in the cases and depends upon complexity, type of evidence, number of witnesses, amount of documents, et cetera.

Turning to question (c), as provided for in the Advocates Act 1995, the courts consider applications for UK counsel to be licensed, and are reactive, not proactive, in this process. The Act provides that the First Deemster shall issue a temporary advocate's licence only if he is satisfied:

- '(a) that the licence is required for the purposes of specific proceedings before a court, a tribunal or a commission or a committee of inquiry in the Island; and,
- (b) that –
- (i) no advocate who holds a commission issued under section 15(1)(a) is available for such proceedings; or
 - (ii) such an advocate is available but could not act without a conflict of interest occurring; or
 - (iii) the proceedings require knowledge and experience of a nature not ordinarily available in the Island; or
 - (iv) the proceedings are likely to be so lengthy that they would impose unreasonable demands on the time and resources of such an advocate; or
 - (v) such circumstances exist as are specified in regulations made under this Part.'

In addition to the specific criteria laid down in statute, the human rights principle of equality of arms between the prosecution and the defence is an important consideration.

The following statistics prepared by the General Registry and based on the number of temporary advocates who have taken the necessary oath, show, in fact, an overall decline in the use of temporary advocates for the period from 2001 to 2003.

So, in private, non-Legal Aid matters for 2001, there were 16 such temporary advocates employed; in 2002, 15; and in 2003, seven.

In criminal Legal Aid matters, two such advocates were appointed in 2001; none in 2002; and nine in 2003.

In the special circumstances of Operation Safe and Operation Diamond, for criminal Legal Aid, in 2001, 19 such advocates were appointed; in 2002, there were three; and in 2003, there were none.

For civil Legal Aid, that is, as opposed to criminal Legal Aid, no such advocates were appointed in 2001; none in 2002; and one in 2003.

Giving a total for the three years: in 2001 there were 37 temporary advocates, the majority of whom were appointed in relation to Operations Safe and Diamond; in 2002 there were 18; and, for this year, 2003, 17.

It should also be noted that the criminal matters indicated as being 'Legal Aid' also include those temporary Manx advocates who have been appointed to prosecute trials, whose costs will not be met by the Legal Aid Fund.

Finally, in relation to point (d), His Honour the First Deemster, supported by the Chief Registrar and her staff, monitor the workload of the courts. It must be said that the complexity of matters, both criminal and civil, has increased dramatically over the last five years or so, and this has had a significant impact upon workload: in addition, undercover police operations, such as Operation Safe, result in an unusual number of serious cases coming before the courts.

Likewise, new legislation may dramatically impact on workload. A single case may involve many witnesses or added complexity, which will determine the duration of the hearing and the progression of other cases.

Mr President, I hope that information will be of assistance to the Hon. Member.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President. Can I thank my learned friend, the Attorney General, for his detailed reply.

Would he also not agree that, while he says to part (b) of the Question, that the High Bailiff deals with most of his cases within five days, while that may be very satisfactory, he may see them in the first five days, they are not all dealt with in five days?

Can I also then say his question glossed over the fact that there is a delay of, maybe, two or three months in the higher courts, after somebody has pleaded not guilty, for the trial to come to court. Having said just earlier that, of course, there are many delays because of the police inquiries that have to take place, forensic problems . . . and would he also explain to me, and to the Council, why he thinks there is only one case that has given undue delay?

I am loathe to actually spell out some of the cases, but I think I have to give a couple of examples of what I would call high-profile cases which have, certainly, taken an extremely long time.

One he has mentioned – the drug case – which has been dealt with, so it is out of the way, but it took an extremely long time – we are talking nearly two years, from being arrested to actually being prosecuted.

There is one murder case, which is an extremely long case, and I will not comment further on that, and there is also a manslaughter case which has taken, to my knowledge, at least two years, and it has just recently had another three-month extension, all accepted for the defence on a defence application, but this is a very long time for justice to be seen to be done –

The President: Can I just hold you there. I think we have

got enough questions for the Attorney at this stage; we might come back to more. The Attorney.

Mr Lowey: Yes, thank you, Mr President.

The Attorney General: Yes, thank you, Mr President.

I hope I did not, unwittingly, mislead the Hon. Member in relation to my answer in point (b), when I said that all cases listed for committal hearings before the High Bailiff are conducted in a timely manner – in a turn-round time of five working days – usually achieved for the provision of the committal papers to the Attorney General's Chambers.

What I was seeking to explain there was that, in serious criminal matters, the High Bailiff has to deal with the committal proceedings, which essentially is . . . I can almost describe it as a siphoning process, to ensure there is sufficient evidence to go to the higher court, and it is certainly my understanding, based on the evidence, or the information, which I have received, that the High Bailiff, in dealing with those committal proceedings, turns those round in five days.

It may well be that, when the High Bailiff deals with hearings himself – in other words, when he is not committing the case to the High Court – it may well be, when he is dealing with the summary cases before himself, that there may be a longer period of time.

I am afraid I do not have the statistics there for the summary courts, but my understanding is that, certainly, this was something that His Honour Deemster Cain encouraged and I know the present First Deemster encourages. There is far greater exposure for the magistrates courts to deal with criminal cases, as well as the High Bailiff, so it is hoped that any delay that there is in the summary courts will be ironed out, as the magistrates take on a greater workload and assume greater experience in relation to criminal matters. So I am sorry if I, perhaps, misled the Hon. Member in that respect.

The question, then, is whether a delay of two to three months on a 'not guilty' plea is unreasonable, before the matter comes on for trial. Whilst, of course, 'justice delayed is justice denied', I would respectfully submit that a delay of that sort of order is not unreasonable, given the fact that there is a tremendous amount of serious criminal work to be dealt with by the Courts.

As I have tried to indicate, the Deemsters are acutely aware of the necessity to bring on cases as soon as possible, but, often, the defence, for perfectly good reasons, needs to be ready to deal with these serious matters, needs to prepare its case adequately and thoroughly, and needs often to obtain the benefit of expert witnesses from the United Kingdom.

Forensic evidence is particularly difficult; doctors and experts have to be booked months in advance, and whilst, as I say, I am not in any way approving any indication of delay, I do think that the courts manage very well to deal with matters in a reasonable time limit.

Turning to specific examples, the case of the drugs matters, Operation Safe and Operation Diamond, I do fully acknowledge that there was a long time in dealing with these matters. I can only say that those cases exposed some very difficult, complex matters which required the licensing, as I have indicated, of counsel from the United Kingdom as temporary advocates. They defended their clients with all due vigour, and exploited every possible defence that was available to them, in the most proper way, but with that

exploitation of the avenues which were available to them, there came a great deal of delay, which I think was not satisfactory, but that is the only explanation I can give.

I do not want to comment on the case presently before the Court; that will be dealt with at the end of the proceedings.

Equally, the other matter referred to by the Hon. Member, the manslaughter case – I think I know what he refers to – I do not want to comment on that if I may, but I am more than happy to comment at the end of those proceedings.

The President: Hon. Member, Mr Lowey.

Mr Lowey: Can I ask – ?

The President: We are to have the questions one at a time.

Mr Lowey: Yes, indeed, all right. In giving the figures for the UK advocates that have been brought in to Manx trials over the past three years, are advocates subject to work permit legislation?

The Attorney General: Mr President, I think not. I think there is an exemption in the work permits legislation which covers not only temporary advocates who are licensed, but also acting Deemsters, and, indeed, I think, generally, judiciary. I think there is an exemption there, Mr President, but I will check, if I may.

Mr Lowey: Could I ask also on the Deemsters: the appointment of a deputy Deemster to take non-criminal work surely releases the other Deemsters from doing what I would call family division and that sort of work. Is it not a fact that we have a panel of other Deemsters, that have been increased in recent years to call on for various cases within the Isle of Man?

The President: Mr Attorney.

The Attorney General: Yes, Mr President.

The Deputy Deemster, Deputy Deemster Williamson, who has been appointed to deal with family matters in the High Court, is the judge who deals with family matters and also the so-called summary matters in the High Court, perhaps the less important, insofar as those cases which do not trigger off a great deal of damages. They are, of course, extremely important to the parties before him, for example, dealing with possession suits and so on, but Deputy Deemster Williamson, has, as I understand it, a fairly restricted sphere of business, although it is a very busy aspect of the High Court work.

It is certainly true that there is a panel of acting Deemsters. Those are, generally speaking – in fact, I think they are all – Queen's Counsel who have a particular speciality, so that we can draw upon their expertise in particular matters. So, for example, the acting Deemster, who is dealing with the murder trial at the moment, is an extremely experienced judge, who, in his private practice, deals with criminal matters.

I know that I overlooked one part of the Hon. Member's question. This first year, I think, has been an extremely difficult one for the Deemsters and the General Registry to manage, given that we have appointed a new Second Deemster, His Honour Deemster Doyle, who will, I am quite certain, be able to deal very fully and very adequately with

serious criminal matters, but, clearly, it is important that he should have the benefit of training and judicial courses. I understand he has attended those and I am quite certain that he will be able to deal very adequately with those in the future.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

I wonder – the Attorney mentioned Legal Aid, and I know there have been problems for some in obtaining Legal Aid from time to time – when the costs for a Legal Aid officer were last reappraised and is it due for looking at for the future?

The President: That is drifting away from the main Question, but, maybe, Mr Attorney, you can respond.

The Attorney General: I am not quite sure, Mr President, that I understand what is meant by the ‘costs’ for a legal-aid officer. Does he mean his salary?

Mr Waft: The amount a court can award the Legal Aid officer for the work done on behalf of the client.

The Attorney General: The amounts which can be paid to an advocate for dealing with a case? (**Mr Waft:** Yes.) Thank you, sorry.

Well, Mr President, yes, there has been a Commission of Inquiry in relation to Legal Aid costs. I am afraid to say there has been, again, a delay in bringing those recommendations forward.

I understand that they are presently with Treasury, and I know that, again, the Law Society and the judges are very keen that these proposals should be looked at as soon as possible. Clearly, there will be some significant consequences of implementing the proposals in full, so far as the Treasury is concerned, but I think that is a matter which is very much in issue.

The President: Mr Lowey, finally.

Mr Lowey: I would just like to thank the learned Attorney for his detailed reply, sir.

Orders of the Day

Legislative Council Standards Committee Consideration by Standing Orders Committee

2. Mr Singer to move:

That the Standing Orders Committee shall consider –
a. the setting up of a standing committee of the Council, called the Committee on Standards and Privileges, and
b. the membership, powers and procedures which would be adopted by such a committee,
and report with recommendations to the Council by no later than 24th February 2004.

The President: Having completed the Question part of

our paper, we turn to Item 2 on the Order Paper. It is relative to the Legislative Council Standards Committee and I call on Mr Singer to move.

Mr Singer: Thank you, Mr President. I wish to move the motion as printed.

I have not got a lot to say on this, you will be pleased to know. It is just that there are committees covering the Keys and Tynwald and there is not one covering this Council, and I think, perhaps, we should look at whether there should be equal arrangements for all three chambers. In fact, is there any reason for not having such a committee? I can assure Members I have nothing in mind to refer to such a committee, if it was to be formed.

I would like the Standing Orders Committee to consider this and perhaps consider that it may be worthy to have one Standards and Privileges Committee to cover all three chambers, instead of separate chambers, so, with that, Mr President, I do not have any more to say, other than to hope that the Standing Committee will consider that as a possible recommendation and come back to us on 24th February.

The President: Mr Lowey.

Mr Lowey: I will formally second, Mr President, and concur with the sentiments of the mover, in that it does seem that we have a ‘multiduplicity’ – is that the wrong word? – anyway, we are duplicating at a grand rate of knots. I agree that one set of rules should apply to all – one fits all – and the standards are the same, and I have no difficulty with that.

Mr Delaney: Hear, hear.

The President: Mrs Christian.

Mrs Christian: Mr President, given the comment that has just been made and the mover signifying his view on the particular matter, that is certainly a view that I would concur with, that we do not need a plethora of bodies for each branch.

I wonder, then, whether it might not be – depending, of course, on what other Members’ views are on this matter – better to take the issue straight to Tynwald to ask them to look at the situation, just in case we are taking extra steps in this process, where our own Standing Orders Committee might recommend such a unified approach. Perhaps, during the course of the debate, we might get a feel for whether the majority are in favour of a unified approach, in which case, if we did reject the hon. mover’s proposal, it would not be with regard to saying that there is no merit in this, but with a view to, perhaps, encouraging him to take it direct to Tynwald, where the overall structure could be looked at.

The President: Mr Crowe.

Mrs Crowe: I was just nodding my agreement with what my hon. colleague, Mrs Christian, has said. I think that it is eminently sensible that we do not duplicate all these different bodies.

The President: Mr Kniveton.

Mr Kniveton: I am asking, Mr President, does the Hon. Member mean that to go forward as an amendment –

The President: Which Hon. Member?

Mr Kniveton: Mrs Christian, I am sorry, sir – as an amendment to this particular motion – in which case I would support her.

The President: I do not think there was an amendment in Mrs Christian's contribution –

Mrs Christian: No, there was not.

Mr Kniveton: There wasn't one.

The President: – or whether she wishes to come back. Mrs Christian?

Mrs Christian: Mr President, I have not thought of the wording of an amendment and I am not quite sure . . . It would be a total substitution for the wording. I think I would prefer to perhaps vote against, but not in a negative sense, if the mover understands my meaning, but with a view to encouraging the matter to be debated in another place.

The President: Mr Lowey.

Mr Lowey: Could I just develop that? If we vote against the resolution, then we have got nothing. And it would mean that this Branch would be out of step with the other two arms of the system, and I do not think it is right that we should be in a vacuum.

I think the basic thing is the standards and privileges are pretty well regarded in this Upper Chamber. We recognise the responsibility that goes with all the rights and privileges, and I would suggest, perhaps, that, while I recognise what the mover of the main resolution and what Mrs Christian is saying, it does seem to me that, if we do not have something with which to go and say, 'we should unify all three', they will be saying, 'Well, Tynwald and the Keys will unify; you have got nothing to unify with, anyway.'

It just seems to me that – I think Mrs Christian has said – the horse and the cart, or the chicken and the egg, which comes first? It does seem to me a little bit ambiguous not to have something to say we should all amalgamate with.

I recognise exactly where Mrs Christian comes from and I have sympathy.

Mrs Christian: Mr President, may I clarify, are we in committee and may we – ?

The President: I am quite happy to talk in committee at this stage, because, in fact, I think it is necessary as a result of the comments which you have made that we should consider this on a wider field. But, ultimately, we will have to take a vote on the matter which is in front of us.

Mr Waft.

Mr Waft: There was a time, fairly recently, where Mr Kniveton and myself, who are members of the committee which deals with Members, when the Keys were discussing something particular to the Keys, and what happened in the Keys, and Mr Kniveton and I did not attend that meeting as a consequence of their deliberations because it was not in the Legislative Council, nor was it in Tynwald, and it was

purely a Keys matter. So there is something around there that maybe we could unify in some way.

The President: Mr Kniveton.

Mr Kniveton: What Mr Waft says is absolutely correct, we both received notice, me and Mr Waft, of a meeting for the Tynwald Committee and then it was subsequently withdrawn within a matter of hours, because the Clerk of Tynwald admitted that he had published it to us in error. I think that was the situation, wasn't it Mr Waft? (**Mr Waft:** Yes.) Yes.

The President: Mr Singer.

Mr Singer: I brought this forward, Mr President, as I felt that, first of all, it was the courteous way to do it – I did not want the Council to have a recommendation, possibly from the present Standing Orders Committee, and that we could all then either support them or not support them, and mine of course, was only a suggestion that there be one committee to cover all three Chambers – because I felt that, perhaps, when the Standing Orders Committee came together and came forward with a recommendation, that recommendation may be that we had our own. That is why I put it in this way.

I personally feel that if we do go forward, we should be going forward, if we can, unanimously, rather than just . . . if there was to be an amendment to say we go straight to Tynwald then I would like it to be with the full support of this Council.

Mrs Christian: Mr President, is it too late for me to propose an amendment?

The President: No, I think we have the time, and I think we may as well discuss this one and clear it if we can, in any form in which Council wishes to take it this morning. I am content to await an amendment to see, in fact, if it will meet the unanimous approval of Council – whether it will or not we will find out. I take it you are working on it at the present time.

Mrs Christian: I am.

The President: Mr Gelling, you are the only one who has not made a comment, I think, at the present time.

Mr Gelling: I tend to favour the actual original motion in many ways, because, in fact, that sets it on its way and if it was then unanimously agreed, when they came back and reported that that is what we should do, I think I would go along with it, we would then be even-handed.

There would be a Legislative Council and a Keys and a Tynwald and, therefore, to bring them all together, they would be all together, we would not be playing without a left-wing or whatever. I would tend to think that, after hearing other Members' thoughts, in fact, that is probably what is on everybody's mind. That is the desired effect, but we are just leading our way to get there, aren't we, really?

The President: Mrs Christian.

Mrs Christian: Mr President, I have some reservations

about what the Hon. Member has said, in the sense that he has implied that we need to establish our own committee before we can amalgamate. We might need to eliminate that step and go straight to Tynwald to consider the matter.

However, whether or not the Members in another place would be of a view that one would do, I am not clear, because they have established their own.

Mr Gelling: Could we not amend it, Mr President, to 'a', 'b' and 'c', and 'c' could be the alternative that –

Mr Crowe: That the committee meets with the Keys.

Mr Gelling: – there would be an amalgamation of Legislative Council, Keys and Tynwald as 'c', and we take it in three different parts and vote on it.

The President: Maybe, Hon. Members, we are trying to be too critical with it (**Mrs Christian:** Yes.) and trying to dress it up on the hoof. I think we have the general feel around of what Members are feeling, but perhaps we should just deal with the motion on the Order Paper.

In that case, I call upon Mr Singer to wrap up our debate.

Mr Singer: I appreciate what all Members . . . I think we

are all fairly well united that we should be doing something, but I think that if the Standing Orders Committee do meet, they will, first of all, have time to debate it further: they will have time to think beforehand, and then come back to us with recommendations which we know, then, are fully thought out, that we are not almost trying to think on the hoof. Then, when we know which direction we want to go, then, perhaps, if we all support the recommendation, we do it, and I think that would be the best way. If they can report back before 24th February, that is fine.

The President: Right, okay, Hon. Members, bearing in mind the comments which have been made round the table, I put to you the motion, as printed on our Order Paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

In that case, Hon. Members, the relative body will meet, will come up with a recommendation and, as Mr Singer has indicated, if it is possible that it comes back before Council prior to 24th February, that would equally be acceptable.

Hon. Members, that draws to conclusion the business before the Council on our Order Paper. We will now sit in committee for consideration of the Summaries of Proceedings in the Council of Ministers.

The Council sat in private.