



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

Douglas, Tuesday, 18th November 2003

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 R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon. S C Rodan (Garff); Mr P Karran, Hon. R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South); Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. A F Downie and Hon. J P Shimmin (Douglas West); Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Mr P A Gawne (Rushen); with Mr M Cornwell-Kelly, Clerk of Tynwald.

Business transacted

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Tynwald

The Court met at 10.33 a.m.

PRAYERS

The Chaplain of the House of Keys

[MR PRESIDENT *in the Chair*]

LEAVE OF ABSENCE GRANTED

The President: Hon. Members, I have granted leave of absence to the Hon. Member of Council, Mr Kniveton, from this afternoon and the Hon. Member for Malew and Santon, Capt. Douglas, for tomorrow, should we still be sitting.

Hon. Members, the Hon. Member for Douglas West, Mr Shimmin, and the Hon. Member for Rushen, Mr Rimington, have both been detained this morning and will be joining us later, and I am sure you would all join me in welcoming back the Hon. Member for Onchan, Mr Earnshaw.

Members: Hear hear.

Papers laid before the Court

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

The Clerk: Mr President, I lay before the Court:

Licence —

Licence granted to Manx Telecom Limited on 27 October 2003 under Section 5 of the Telecommunications Act 1984

Data Protection Act 2002 —

Data Protection (Fees) (No. 2) Regulations 2003 [SD No 780/03]

Data Protection (Subject Access) (No. 2) Regulations 2003 [SD No 786/03]

Registration of Electors Act 1984 —

Registration of Electors Regulations 2003 [SD No 700/03]

Jury Act 1980 —

Lists of Jurors Regulations 2003 [SD No 785/03]

Onchan District Act 1986 —

Onchan District (Differential Rating) Order 2003 [SD No 747/03]

Social Security Act 2000 —

Social Security Administration Act 1992 (Application) (Amendment) (No. 4) Order 2003 [SD No 788/03]

Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 6) Order 2003 [SD No 789/03]

Social Security Act 1998 (Application) (Amendment)

(No. 2) Order 2003 [SD No 790/03]

Social Security Administration Act 1992 (Application) (Amendment) (No. 3) Order 2003 [SD No 787/03]

Social Security Legislation (Application) (No. 20) Order 2003 [SD No 794/03]

Social Security Legislation (Application) (No. 21) Order 2003 [SD No 795/03]

Social Security Legislation (Application) (No. 22) Order 2003 [SD No 796/03]

Social Security Legislation (Application) (No. 23) Order 2003 [SD No 797/03]

Social Security Contributions and Benefits Act 1992 —

Income Support and Jobseeker's Allowance (Exceptional Needs Grants and Budgeting Loans) Regulations 2003 [SD No 791/03]

Family Income Supplement (General) (Amendment) (No. 3) Regulations 2003 [SD No 792/03]

Income Support (General) (Isle of Man) (Amendment) (No. 6) Regulations 2003 [SD No 793/03]

Misuse of Drugs Act 1976 —

Misuse of Drugs Regulations (Application) Order 2003 [SD No 705/03]

Reports —

Report of the Department of Local Government and the Environment on the Implementation of Charges for Waste Disposal, October 2003

Jurby Village — a discussion document, Department of Local Government and the Environment, October 2003

Strategic Direction of Isle of Man Post Office, November 2003

Report on the *FV Suzanna D* owned by Mr & Mrs Spadoni of Port Erin

European Community —

European Communities Secondary Legislation July — September 2003 [GC No 32/03]

European Communities Secondary Legislation October 2003 [GC No 33/03]

Appointed Day Order —

Data Protection Act 2002 (Appointed Day) (No. 2) Order 2003 [SD No 701/03]

Questions for Oral Answer

PRESIDENT

Civil Defence Organisation Official Tynwald reception

1. The Hon. Member for Douglas North (Mr Houghton) to ask Mr President:

Will you invite members of the Civil Defence Organisation to an official Tynwald reception in acknowledgement of their valued service in times of distress?

The President: Turning then, Hon. Members, to the Question Paper, I call upon the Hon. Member for Douglas North.

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

The President: Yes, Hon. Member, I acknowledge the value of service given by the members of the Civil Defence Organisation in times of distress, as I am sure does every other Member of this Hon. Court. (**Several Members:** Hear, hear.) I am equally aware that other groups, both professional and charitable, also give service to the community unstintingly when called up so to do. (**Mr Houghton and Another Member:** Hear, hear.)

I imagine that this particular call has come as a result of this recent support given by the Civil Defence in Ramsey and, in paying tribute to them for their work, I give the Hon. Member the undertaking that I will consider his suggestion.

Hon. Member for Douglas North.

Mr Houghton: Thank you, Mr President. I am very grateful to you, sir. This is a very worthy organisation of only 20 volunteers up to 1st October, and like you, sir, I join you in paying tribute to the wonderful service by this organisation, (**The President:** Hon. Member. . .) as led by Mr Blackburn and (*Laughter*) Mr Notman. Thank you, sir.

Oral Questions to Chief Minister Reduction in number

2. The Hon. Member for Onchan (Mr Karran) to ask Mr President:

Will you now urgently reconsider your recent decision to reduce the number of oral questions to be taken by the Chief Minister at the head of the Tynwald Question Paper to only three, following the highly unsatisfactory 'squeezing out' of important and topical oral questions to the Chief Minister at the October sitting?

The President: Question 2. Hon. Member for Onchan, Mr Karran.

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

The President: The answer, Hon. Member, is no. I think that anyone looking at today's Question Paper will consider that the balance has been struck fairly and, whilst I do not consider my decision to be 'cast in stone', I propose to monitor the Question Paper over a period of time before again making any material change.

Mr Karran: Eaghtyrane, a supplementary.

Before you accepted the Ard-shirveishagh's approach to limit the number of oral questions to the Chief Minister, why did you not consult with backbenchers? Would you not agree that the practical effects of your decision on day one of its operation was to prevent backbenchers asking supplementary questions on important topical subjects due

to be debated on the day of that Tynwald, and would you also not agree that it seems a bit strange that you limit the Ard-shirveishagh to three questions that we are allowed to have with him at one time, but the Minister of Local Government and the Environment had 12 at the previous sitting?

The President: And the Hon. Member will realise that, in fact, I did indicate in replying to him at the last sitting that that is a position which I am currently considering.

CHIEF MINISTER

Manx Electricity Authority Chief Executive's annual emoluments

3. The Hon. Member for Rushen (Mr Gill) to ask the Chief Minister:

- (1) *On what authority do the Manx Electricity Authority decline to advise the emoluments of their Chief Executive in response to a written question in the October sitting of Tynwald; and*
(2) *what are the Chief Executive's annual emoluments?*

The President: We turn then to Question 3 and I call on the Hon. Member for Rushen, Mr Gill.

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

The President: Chief Minister.

The Chief Minister (Mr Corkill): Thank you, Mr President.

The Manx Electricity Authority appointed the Chief Executive Officer under the provisions of the Electricity Act 1996, schedule 1, section 3(1), which reads as follows, and I quote:

The Authority may appoint such officers as it thinks fit at such remuneration and upon such conditions of service as the Authority may determine.

The terms of the appointment are covered by a purposive contract, Mr President, entered into by the Authority and the Chief Executive Officer, which is headed 'Private and Confidential' on its outside cover.

Mr President, although there is no confidentiality clause as such, I am advised that both parties consider that the contract is strictly confidential. I have, therefore, been unable to ascertain for the benefit of the hon. questioner, the emolument of the Chief Executive Officer of the MEA.

The President: Hon. Member, Mr Gill.

Mr Gill: Yes, sir. Does the Chief Minister agree that this is an acceptable position?

The Chief Minister: I think it is an unfortunate position that we find ourselves in, because this is a follow-on from a Question at another sitting and so it is the one outstanding piece of information that another Member of this Hon. Court

was requesting at that time, but I do have to take note of the advice that I am given, Mr President.

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

Mrs Hannan: Thank you, Eaghtyrane. Could I ask the Chief Minister: is it not the case that this Chief Executive will have written the contract, along with the other members of the Manx Electricity Authority when he was a member of the Manx Electricity Authority and then applied for the job and is that something that the Council of Ministers accepts when not releasing the amount that is paid in remuneration to this Chief Executive?

The President: Chief Minister.

The Chief Minister: The MEA Board, Mr President, which is a statutory function of this Hon. Court, has the responsibility to deal with such matters that they regard as confidential in this case and so, perhaps, I am not able to help anymore than in my original answer.

I would like to help Hon. Members, Mr President, but the reality is that I am bound by a legal determination of a contract. Whether or not the Chief Executive was involved in the drafting of that contract, I do not know, Mr President; I can find out for Hon. Members. As we know, he was a former member of the Board, but his function is very clear as the Chief Executive. He has a contract which the Board drew up under its statutory functioning under this Hon. Court, and that is the position as I understand it, Mr President.

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

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that this reply just highlights what this Hon. Member and many outside this Hon. House have complained about: the lack of transparency by your administration? And how can the Ard-shirveishagh stand here and tell us how he wants to have transparency in his Government and yet we have a situation here that just highlights, 'it's not what you know, it is who you know' in his administration, as far as this affair is concerned, where the boys pick the boys and nothing is done about it?

The President: Let us not widen the question too far. Chief Minister.

The Chief Minister: Well, I think, for the benefit of the wider listening public, Mr President, it should be quite clear that the MEA is a statutory board of this Court – not of the Chief Minister's Office or, in fact, the Council of Ministers.

Now, whether there may be a political view that the Manx Electricity Authority, as a utility, perhaps, should be nearer to Government and come under the control of a Department of Government, I would suggest that is a matter and a debate for another day. I would say that that may not be such a good thing, because, obviously, the MEA has performed very well in recent times under the guise of the way it is at the moment.

I take on board fully, and I would agree with the hon. questioners, because I have been asked now by three Hon. Members in this Court for the Chief Executive's salary figure and I have encouraged that figure to be divulged, but

the parties involved, i.e. the MEA Board, and the Chief Executive himself, are relying on a legal document and that legal document says that this issue is confidential. I do not find it acceptable, Mr President, but that is the fact of the matter.

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

Mr Lowey: Would the Chief Minister not agree that the circumstances surrounding the non-disclosure does raise the fact that we are able to go back to the fact of the present Chief Executive was appointed as a director of the MEA? When the Chief Executive left, he was appointed by his fellow directors as an acting Chief Executive, then he was confirmed as Chief Executive.

Would the Chief Minister, Mr President – I put this as a supplementary – agree with me that it is highly unsatisfactory for the Chief Minister of the Isle of Man to get up in this Court and say that he is unable to give a legitimate answer to a legitimate question where public money is concerned, (**Mr Karran:** Hear, hear.) and if that is the case, then will he take urgent steps to remedy it?

The President: Chief Minister.

The Chief Minister: I would suggest, Mr President, that those steps would have to be legislative steps. They are, I would say, not easy steps to take, but I have already said in my previous answer that I do not find it acceptable that I have this one missing figure for a Question that was asked by a Member at a previous sitting and this has drawn attention to the one gap and so the Chief Executive should not be surprised that the Question is being further put by Hon. Members in this Court. I hope that the Chief Executive of the MEA takes note of that, because it certainly was recommended by my office that the figure be divulged.

Having said that, we are strictly limited by a legal position, Mr President, not of my making, but of the making of the MEA Board.

The President: Hon. Member for Onchan.

Mr Karran: Eaghtyrane, would the Ard-shirveishagh not agree that he has the powers to direct any Statutory Board about any issue and would he not agree that it is just, once again, that certain people are in the charmed circle and there is different criteria for different Statutory Boards. It depends whether your face fits. He can direct.

The President: Chief Minister.

The Chief Minister: I have taken legal advice, Mr President: I cannot direct. I share the Hon. Questioner's concern and frustration about this matter, but would he wish me to go around the back door and find some illegal process to give him the information?

Mr Karran: No.

The Chief Minister: I do not have that to hand. That is the pressure that the Hon. Member is putting on me as Chief Minister and I will not do that.

I do not believe that the vast majority of Government lacks transparency, as he suggested in the previous

supplementary. We are always seeking that transparency, but can I say that it is Tynwald Court, Mr President, that has the answer to this problem in its own hands.

The President: Now, Hon. Members, we are in danger of going around in circles. Hon. Member for Peel.

Mrs Hannan: Thank you, Eaghtyrane. I wonder if, to be helpful to the Chief Minister, could I ask him if he would consider reporting back to this House the options that are before us in relation to the remuneration of the Chief Executive for the Manx Electricity Authority, so that this Court . . . If the Chief Minister is putting it back into this Court, could I suggest that he puts forward the (**Mr Braidwood:** Hear, hear.) position that we can then consider and to resolve this particular issue. Thank you, Eaghtyrane.

The President: Chief Minister.

The Chief Minister: I can perhaps even help today in that respect, Mr President: I understand that section 3 of the Tynwald Proceedings Act 1876 provides this Hon. Court with certain powers. That is now on the public record because I have said it, and maybe Hon. Members may wish to consider what those provisions mean.

There is legal advice of varying degrees, Mr President, as to the powers of that legislation and maybe it needs to be more focused upon by Hon. Members who have the interest in this particular piece of information.

Mr David Lammy MP Meeting with Council of Ministers

4. The Hon. Member for Douglas North (Mr Henderson) to ask the Chief Minister:

What was the outcome of your Cabinet's recent meeting with Mr David Lammy MP, Member of Parliament with responsibility for British Island Dependencies, and what future arrangements have been made with him for the Island's well-being?

The President: Question 4. I call on the 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.

The Chief Minister (Mr Corkill): Thank you, Mr President. The primary outcome of the Council of Minister's recent meeting with Mr David Lammy MP, was to make him familiar with the Island and with the constitutional relationship between the Island and the United Kingdom.

I always think, Mr President, that there is no substitute for face-to-face meetings in trying to make sure that there is a common understanding.

We, of course, discussed a number of specific areas and I am happy to tabulate those areas if the Hon. Member so wishes. The prime aim of the meeting was to stress that, for the most part, the relationship between the Isle of Man

Government and the United Kingdom Government was one of mutual respect and understanding and that the Isle of Man Government is always already to engage constructively in matters of mutual concern.

Mr Lammy had been briefed before his arrival and was well aware of our constructive and helpful attitude towards regulatory and international standards.

Mr President, the areas of discussion which we covered were: competitiveness of the Isle of Man Shipping Register; airport slots; taxation issues and market access; fisheries and communication issues with the Department of Environment, Food and Rural Affairs (DEFRA); access of Manx charities to the Lottery Distribution Funds; UK higher education subjects, particularly in relation to the emerging policy of the UK in relation to top-up fees; the issue of Qualified Teacher Status was mentioned; visa applications; co-production treaties with regard to our film industry; and a subject which appears on our Order Paper today, Mr President: the nomination of Tynwald Hill as a World Heritage Site. There was also some discussion as to the means of communication between the Island and the United Kingdom.

So far as the future wellbeing of the Island is concerned, no new arrangements have been made at this time.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I thank the Ard-shirveishagh for his helpful answer as the outcome of that meeting which was more than the recent press release, but could he answer me this, Eaghtyrane: what undertakings did the Hon. Mr Lammy give on leaving the Island in respect of our own position, both with the UK and Europe, and could he advise when his cabinet or cabinet members will be meeting this gentleman again?

The President: Chief Minister.

The Chief Minister: With regard to the second part, Mr President, there is no date for me to meet or the Council of Ministers to meet in the foreseeable future.

Having said that, we have regular contacts with the Department of Constitutional Affairs and I may well be meeting the Lord Chancellor before Christmas arrives, so the contact with the Department that affects us is there on a day-to-day basis.

With regard to a lasting message from the Hon. Member, Mr Lammy MP, he did say that he thought that it was important that the Department of Constitutional Affairs (DCA), which has gone through a great deal of change in its own remit within reorganisation of the UK Government, that in the 21st century there was a need to re-examine the lines of communication that are open to the Isle of Man and the DCA to try and improve and speed up a number of issues, and that was welcomed.

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President.

In relation to Mr Lammy's visit, could I ask, as there is a tendency of that particular position holder to move on at a reasonably fast rate of knots, and we have had a succession of those over the years (**Mr Houghton:** Hear, hear.), could I ask if the Chief Minister could enlighten us as to the

number of permanent staff that that Department has and how regularly we are meeting those particular people, because I think it is just as important to have good relations with the permanent staff of that Department, and, also, could I ask him, in terms of the draft European Union Constitutional Treaty, what discussions took place and, in particular, also, did he take the opportunity to press the case for the derogations in terms of the Department of Agriculture, Fisheries and Forestry that the Island has been pressing for over some years?

The President: I have no wish to get into a long drawn-out debate. Chief Minister, three points there to respond to.

The Chief Minister: I will try and answer briefly, Mr President.

With regard to the staffing issue in the DCA, a lot of those members of the Civil Service in the United Kingdom are, in fact, from the Constitutional Unit that used to be in the Home Office and has crossed over to the Lord Chancellor's Department and many of those staff are still there on a day-to-day working basis and those names are very familiar to officers in Isle of Man Government. There have been some changes, but the substance of our day-to-day contact remains. So I hope there is some confidence there in that situation.

With regard to derogations on the agricultural front, yes, we always take that opportunity to push for those outstanding matters. There are situations in relation to those derogations which are difficult and we have lobbied very hard in Brussels and in the UK over the last two or three months on those particular issues.

With regard to the EU convention, Mr President, this is very much an on-going situation and obviously we have had a debate recently in this Hon. Court about Protocol 3 and its importance and certainly we took the opportunity to reaffirm that importance and inform Mr Lammy of that importance, which he was already aware of, and that it needs to be protected in the Island's interests, and he pledged to do that, Mr President.

Mount Murray Report Part One Concern re access for fire services

5. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

- (1) Do you agree that the findings of Part One of the Report of the Commission of Inquiry into Mount Murray concerning the public safety aspects of the development, including difficulties of access for the fire services, is –*
(a) a matter of national public concern;
(b) a matter of concern for this Hon. Court; and
(2) if not, why not?

The President: Question 5. Hon. Member for Onchan, Mr Karran.

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

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

The Chief Minister (Mr Corkill): Mr President, I would like to say, first of all, that the health and safety of everyone in this Island should be both a matter of national public concern and a matter of concern for this Hon. Court, and I am sure it is.

The concern is Island-wide and not just in respect of this particular development. Mr President, following the publication of the Crow Report, which first drew attention to the access difficulties for emergency vehicles, the Mount Murray Residual Issue Committee considered the situation.

The Department of Transport, in conjunction with the Fire Services Division of the Department of Home Affairs, undertook a detailed survey of the site in terms of accessibility for emergency service vehicles. They recommended, as a result of that survey, that certain trees be removed, overrun areas be provided and the possible construction of a new area of roadway.

The developer was contacted and he undertook to remove the trees on those areas of land still in his possession and this has been done, and also to lay the final wearing course of the road in such a way as to level out the humps on the bridges. Although I am aware that this work is still outstanding, I understand, Mr President, that this can be considered as normal whilst building work is still ongoing.

In addition, he identified a number of those persons or contractors to whom different parts of the land had been sold in order to facilitate any necessary action.

Mr President, I have been in contact with the Chief Fire Officer and he has obliged me by taking a fire appliance and driving it around the Mount Murray estate. He has confirmed to me that it is possible to get a fire appliance within one or maybe two lengths of hose of all the houses on the Mount Murray estate. This is a normal level of satisfactory access. He has also stated that the roads are narrow and one car left indiscriminately in some places could seriously delay the attendance of a fire appliance.

The Chief Fire Officer has also commented that the trees in the area must be kept trimmed as they develop. Perhaps this is not ideal, Mr President, but I would add that Mount Murray is not unique, in Island terms, in presenting difficulties with access for the emergency services and the fire brigade will remove parked vehicles when they are blocking their access.

Naturally, we are all concerned that people's lives should not be put in any unnecessary danger. However, there are areas of Douglas and other towns around the Island where large vehicles find access difficult or where one parked vehicle can effectively block the roadway and the fire service, in particular, have a method of dealing with those sorts of vehicles.

In conclusion, Mr President, I believe that we are taking all reasonable steps to alleviate the problems at Mount Murray and that we will continue to do so. But I would reiterate that Mount Murray is not unique in terms of the problems being encountered.

Can I add, Mr President, that, in fact, the Residual Issues Committee was one of those committees that was considered by the Commission Part One Enquiry into Mount Murray should be reconvened and, as that is happening, then the monitoring of the emergency service access at Mount Murray will be kept certainly to the fore.

The President: Hon. Member, Mr Karran.

Mr Karran: A supplementary, Eaghtyrane. Ard-

shirveishagh, why did you have to wait until February 2004 for your administration to rectify the problems of access for the fire service at Mount Murray, when Professor Crow said in December 2000 that the problems needed to be rectified and I quote, 'at once'?

Would the Ard-shirveishagh not also agree that the issue of the access on new estates is not up to standard, as far as Mount Murray is concerned? And when he talks about the access problem being no worse than many places, that it is in developments that were developed before we had a fire service, with the likes of Castle Mona Avenue.

The President: Chief Minister.

The Chief Minister: I agree with the Hon. Member that, to set that as a benchmark, is not good in terms of designing new estates.

With regard to the timeliness of these improvements, they are in the hands of the developer, Mr President, and some of that work has been finalised and some of it is yet to be done, but it is in the hands of the developer; it is their responsibility, as it is a private estate.

ATTORNEY GENERAL

Planning legislation Breaches of and prosecutions

6. The Hon. Member for Rushen (Mr Gawne) to ask HM Attorney General:

To assist the public to understand what value Tynwald places on enforcement of planning regulations –

(1) will you confirm that existing planning legislation, guidelines and regulations are rigorous enough to prosecute in all cases where a breach of such legislation, guidelines and regulations occurs; and

(2) would you agree that a few high profile actions against prominent developers who are in breach of planning legislation might assist in making clear, both to developers and the public, that Tynwald will not tolerate abuse of such legislation?

The President: Question 6. Hon. Member for Rushen, Mr Gawne.

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

The President: Mr Attorney.

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

Mr President, under planning legislation which is currently in force, proceedings for any offence contrary to an Order made by the Department of Local Government and the Environment with reference to a planning development scheme may be instituted by or with the consent of the Attorney General. The purpose of such proceedings is to obtain a penalty by way of a fine for breach of the Order.

It is acknowledged, Mr President, that such proceedings can take a long time before they are concluded and

particularly so as the Court may very well wish to be assured that the procedures under the planning scheme by way of review and appeal have been exhausted before allowing the criminal proceedings to continue.

The Department also has the power to issue a stop notice to restrain a continuing breach of a development Order, although a stop notice may not be served where there has been an unauthorised change of use, but no building operations as such.

In relation to buildings on the protected buildings register, the Department has more extensive powers to control works which affect such buildings. In addition to criminal proceedings and the issue of enforcement notices, unauthorised works in relation to such buildings may be prevented by a High Court injunction brought at the suit of the Department.

Mr President, whilst I am unaware of any criticism that the existing regime for the enforcement of our current legislation is inadequate, there is no doubt that, when the Town and Country Planning Act 1999 comes fully into force, a more extensive range of statutory remedies will become available for the Department. For example, there will be a power under section 37 to apply to the High Court for injunctions to restrain any actual or apprehended breach of planning control in relation to development of any kind, not restricted just to buildings on the protected buildings register.

Mr President, in relation to part two of the Question from the Hon. Member, I agree that, in general terms, the visible and well publicised enforcement of a law may do much to increase the effectiveness of that law. The Department does, however, have a stated aim to secure compliance with planning legislation by negotiation and a prosecution will only be merited when all other means of dealing with a complaint, including the issue of a stop notice, where that is appropriate, have failed.

The President: Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane.

Is the Y Turneyr Theayagh aware that, in August 2002, in its consultation document on planning, DoLGE stated that the public perception of the enforcement process is that often the planning service is inactive in its exercise of its powers? Would he also agree that retrospective planning is, to say the least, a very unfortunate procedure which is undertaken all too often, I am afraid, and would he agree that retrospective planning is much akin to asking somebody who has been caught speeding to drive back down the road and then come back again at the correct speed? (*Laughter*)

A Member: Nice one!

The President: Mr Attorney.

Mr Corkill: That would be a good thing to do!

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

I do acknowledge that public perception is such that there are many criticisms to be made of the planning process and the enforcement of it, but, Mr President, as I have said, I think that there is much to be said for allowing persons who are apparently in breach of planning legislation to put the position right so far as that is possible.

If the Hon. Member means by ‘retrospective planning’ the opportunity given to a developer or other person to put right something which has gone wrong, then I think that that is an option which is available to the Department.

However, Mr President, there must clearly be situations where there is such a flagrant breach of planning and there is such a consequence for the public that consultation with the offender is not appropriate and proceedings will be justified to be taken right away.

The President: Hon. Member, Mr Gill.

Mr Gill: Thank you, Eaghtyrane. Could I ask the Attorney General, is the policy of enforcement by negotiation which he describes, is that mirrored anywhere else and, if so, where? And could he also, sir, give us an option, if he would agree that that policy lends itself to moving away from the original planning requirements and, therefore, sir, it makes a mockery of the initial requirements, because it is just a start for a negotiation?

The President: Mr Attorney.

The Attorney General: Mr President, in relation to breaches of criminal law and breaches of legislation generally, it is not always in the public interest to commence proceedings forthwith. There are very many situations, very many circumstances to be taken into account before proceedings are brought. Of course, the evidence must be there and it must also be in the public interest that proceedings be brought.

As it happens, so far as the criminal enforcement of planning legislation is concerned, no prosecution may be brought without the consent of the Attorney General and I think that indicates that every frivolous breach of the legislation does not always merit prosecution. It has to be assessed to see if the public interest requires that a prosecution be brought.

The President: Hon. Member, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr President.

When it comes to prosecutions, what does the learned Attorney consider should be the priority in prosecutions? Should they be, for instance, as outlined in part (2) of the Question, high profile actions against prominent developers for technical breaches of planning legislation? Or should they be breaches of legislation which directly affect existing domestic circumstances of occupants of neighbouring properties? Is there any way of speeding up and giving more teeth to the process to reduce the stress and the misery which many who find themselves in this situation have to endure?

The President: Mr Attorney.

The Attorney General: Yes. Mr President, the purpose of prosecutions: well, as I have indicated in the first part of my answer, the purpose of a prosecution really is to impose a penalty; a criminal penalty in the criminal courts by way of punishment for breach of the legislation. Those proceedings will not be justified in many, many cases.

For example, there are situations where there is a breach of the planning legislation, the planning regulations by oversight. People may, for example, in the ‘bad old days’,

have put in plastic windows when wooden windows were required, although I do not want to open up that debate, Mr President, (**Mr Henderson:** Hear, hear.) but if, in every case where someone innocently installed plastic windows, shall we say, a prosecution were to flow, I think Hon. Members would be most concerned.

I do agree that prosecutions and, indeed, enforcement in the courts generally must be reserved for serious flagrant breaches of the legislation. (**A Member:** Hear, hear.) Quite often, Mr President, when people are discovered to have committed a breach, they will apply to the Department for a so-called ‘letter of comfort’, which says that the Department acknowledges that there has been a breach, but, provided that the breach is put right, the Department assures the person who is in breach that there will be no enforcement action. I think that that is entirely in the public interest, Mr President.

The President: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane.

Bearing in mind that the application for the planning approval form states very clearly that no works may be commenced until such times as the review and appeal stages have been completed, does the Y Turneyr Theayagh think it appropriate that the Secretary of the Planning Committee could write to one of my constituents, explaining that a development has been progressed prior to the formal approval becoming final and that then the development is too far progressed for any enforcement action to be taken?

The President: Mr Attorney.

The Attorney General: No, I do not agree that that was appropriate, Mr President, in the circumstances which we outline there and, of course, anybody who commences development knowing full well that the time limits for review and appeal have not been exceeded, does so at his own risk. I think it would be very ill-advised to commence the development in those circumstances.

The President: Hon. Member, Mr Gill.

Mr Gill: Eaghtyrane, could I revisit the second part of my previous question, sir, because I did not recall hearing an answer? Would the Attorney General agree that the practice of enforcement by negotiation lends itself to developers treating planning permission as a starting point, rather than a definitive order?

The President: Mr Attorney.

The Attorney General: No, I could not agree with that bold assertion, Mr President, that everything depends on the particular facts of the case.

The President: A final supplementary, Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane. Could the Y Turneyr Theayagh enlighten us as to the nine cases which have resulted in court judgments over the past three to four years and the level of penalty which has been imposed?

The President: Mr Attorney.

The Attorney General: Well, I could do with due notice, Mr President, and if the Hon. Member requires me to give information in relation to those I will be pleased to do so in a letter.

TREASURY

Oracle Computer System Costs and service provision

7. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

- (1) *What is the cost of provision of the new Oracle Computer System;*
- (2) *how long has it been in operation;*
- (3) *why is it unable to provide management information to Government Departments; and*
- (4) *who is responsible for permitting this breakdown in service provision?*

The President: Hon. Member for Douglas North, Mr Houghton.

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

The President: I call on the Minister for the Treasury, Mr Bell.

Minister for the Treasury (Mr Bell): Mr President, before answering the specific issues raised by the Hon. Member, it is necessary to explain to Members that there is no such thing as the 'Oracle Computer System'. Oracle is the brand of software chosen by Government to replace outdated systems in respect of three of its most complex and vital functions, namely the maintenance of human resources records, the payment of staff and production of accounting records.

In total, the amounts expended on the provision of the three elements of these projects to date amounts to some £2.1 million, excluding licences and ongoing annual maintenance costs that have accounted for a further £550,000.

It is estimated that a further £1.5 million will be expended to complete the current scope of the projects by March 2005.

Turning to part (2) of the Question, I would advise that various elements of all three systems have been in operation for varying amounts of time. In the case of the Oracle Human Resources Software, the system currently administers human resources data for all public service employees, plus pensioners and trainees. This equates to over 9,000 current employees and over 10,000 ex-employees and retired public employees.

Ongoing issues in respect of the human resource project relate to the validation of data reviews and the provision of further reporting facilities recently requested by Departments.

In the case of pay roll, the first Oracle pay roll programme was run for civil servants in September 1999. This month Oracle will process salaries for 65 per cent of

employees in the public sector.

It is envisaged that over 90 per cent of all employees will be paid by Oracle Software Systems by March 2004.

In the case of the last of the three projects to commence, Oracle Financials, the replacement systems are in the process of implementation, but are not fully operational at this time.

However, elements of the application are being rolled out to the majority of Government Departments and our schedule to be fully operational during the next financial year.

In answer to part (3), Mr President, Oracle based systems are currently providing significant amounts of data to Government Departments. In areas where the Oracle implementation process has not been fully completed, Departments still have access to the previous systems that are being maintained in parallel to the development of the new software. The Government's accounts will be prepared utilising the existing systems for the current year. However, it is envisaged that Oracle Financials will be the software system used to produce Government's accounts for the 2004-05 year.

Therefore, and in answer to part (4) of the Question, there is no breakdown in service provision, as existing systems continue to provide the levels of management information previously available. If any problems arise in this respect, or, indeed, in any aspect of the three projects, they can be referred to the Oracle Help Desk, where the query will be investigated and quickly resolved.

The President: Hon. Member, Mr Houghton.

Mr Houghton: Thank you, Mr President.

I must congratulate the Hon. Treasury Minister for covering up such a serious breakdown in his Department on financial information that is not available to Members, Ministers and members of Government Departments.

So would he answer this? Would he answer as to why this information has been rolled out to Government Departments when it was unproven? Why the system was unproven and we cannot get an alternative method of Government accounts from a previous system? We cannot get that information. Can he tell us why this was rolled out before it was proven and who is responsible for that decision, sir?

Mr Cannan: Hear, hear.

The President: Minister for the Treasury.

The Minister: Mr President, this particular scheme, as I have said, has been in the process of implementation now for a number of years and arose originally from a recommendation by the Public Accounts Committee in relation to monitoring the overtime of Government workforce.

The Hon. Member is quite wrong and has failed to understand what I was saying in the answer, that it is intended and always has been intended for the Oracle system to be in operation for the year 2005. It is in various stages of implementation across Government at the moment and, therefore, as I have said in my answer, Mr President, is not fully workable in all Departments at this stage.

To the Hon. Member himself - and I am aware of the

concern he has with his own Department, in the Department of Local Government and the Environment - I would just point out that DoLGE itself had a stand-alone system, a SAGE system, which was independent of the rest of Government for some time and they themselves decided to switch off the SAGE system in April of this year, the start of the financial year. It was not at the request of Treasury, it was an internal decision taken by DoLGE.

That does not mean that DoLGE do not have the information that the Hon. Member is requesting and we have been assured by the Deputy Chief Executive of DoLGE that the information that the Hon. Member requires is available within the Department and can be available to him on his request.

The only difference, Mr President, between that situation and the situation that prevailed prior to April this year with the SAGE system is that the information is presented in a slightly different format, but otherwise the information is available in that Department, as it is in other Departments.

I am aware of a problem which occurred in the Department of Tourism earlier this year, which I hope I have been able to assure Members that that situation has been resolved, but it is because the Oracle system is still in the process of being implemented. Information that can be available is available and will be available up until the changeover in 2005.

The President: Hon. Member, Mr Houghton.

Mr Houghton: Thank you, Mr President.

Can I just simply ask the Treasury Minister this: will he ensure some form of accounting system with immediate effect to all Government Departments, including the Department of Local Government and the Environment, that tells me what budgets I have in place? Would he assure that? I do not care whether it is Oracle or SAGE computer system. Whatever it is, will he ensure that that is there and, if not, would he be assured that I will be calling upon him with immediate effect to bring his officers over to my Department to show me where these accounting budgets are? Would he be assured of that, sir?

The President: Minister.

The Minister: Mr President, I can only do what I said in my previous reply and that is to refer the Hon. Member to the Deputy Chief Executive of DoLGE, who has been in touch with my officers this morning and has given the assurance that the information that the Hon. Member is looking for is freely available within the Department of Local Government, albeit it will be presented in a slightly different form to that which was available when the SAGE System was operating. But DoLGE, like every other Department, still has the full access to their financial expenditure records, and the systems that they operate on, as I say, Mr President, will continue to run parallel with the Oracle system until it is fully implemented.

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

Mr Karran: Eaghtyrane, a question to the Hon. Shirveishagh: would the Shirveishagh not agree that he actually inherited the Oracle; it was a decision done before he was in place as the Minister? Would the Shirveishagh

not also agree that this Oracle has cost over £2 million –

Mr Houghton: A disgrace.

Mr Karran: – and that also the situation is that we have had to employ an extra accountant for this proposal? Would he also not agree that we have got problems, not just in the LGB, but the likes of my former Health Department, where I believe it has caused tremendous stress and concern to the staff, and will he not go back to the Council of Ministers and just see whether there is some way of breaking the circle, where no-one actually is held accountable? (**Mr Houghton:** Hear, hear.)

He is not accountable for this, but they should break this circle and maybe we can then start learning from these mistakes that cost the taxpayer so much.

Mr Houghton: Hear, hear.

The President: Minister for Treasury.

The Minister: Mr President, we are great on the blame culture in this Hon. Chamber (**Mrs Crowe:** Yes.) at the moment. I would just remind Hon. Members that this whole issue goes back to 1992, when it first started, long before I was involved with Treasury (**Mrs Crowe:** Absolutely.) and it was as a direct recommendation (*Interjection by Mr Houghton*) from the Public Accounts Committee at that time to Treasury to bring in an improved system for monitoring overtime. That is where Oracle started, Mr President.

Subsequent to that, Departments and, indeed, Treasury itself, have requested further information to be added to the Oracle process. That has been layered on the original contract over the last ten years, and that is why we are in the situation at the moment.

Now the Hon. Member for North Douglas, in an aside, said it is disgraceful that it has cost £2 million. This was a fully costed and approved scheme, Mr President –

Mr Houghton: But it does not work.

The Minister: – that was approved by Tynwald, which has been in operation or in the process of implementation now for the best part of a decade. There is nothing untoward about the costs. It is not disgraceful; it is within the budget that was voted for at the time.

We talk again about people being accountable for the failure. It is not a failure, it just has not been implemented yet. We are working towards an agreed deadline of 2005. Oracle is being rolled out across Government in different stages of completion at the moment and, on all the advice I have had, by 2005 this scheme will be in place right across Government and it will be providing the information that Hon. Members are looking for.

One of the problems we have across Government, Mr President, not only in this area, but in a number of different areas, is the considerable number of different software packages which are operating from one Department to another. This is one effort to try and co-ordinate a single system across Government, whereby all Departments will have access to the relevant information on the same basis and in a very speedy and timely manner.

So, Mr President, before we get caught up in allegations of yet another scandal or yet another crisis, I would just

simply reassure Members, that, as far as I am aware, the information I have been given, the scheme is within budget. It is within the agreed original time frame and, whilst clearly there is, on occasion, problems in co-ordinating the implementation of the new scheme with the existing systems which are operating, it is still fully expected to be in operation across Government by 2005, which was the original timetable.

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President. The Hon. Treasury Minister will be aware I raised this particular issue with him several weeks ago (**Mr Houghton:** Hear, hear.) and I am grateful for the information that his Department provided me with then, but, in relation to the Department of Tourism and Leisure, it has involved the officers down there in a huge amount of extra work, (**Mr Houghton:** Hear, hear.) providing the extra information that they require because of the deficiency to date in this system.

Could I ask if the Minister could liaise with all the different Departments to see what other problems they have experienced in order to arrive at the current situation as it exists and whether or not these teething problems were envisaged?

Could I finally ask then: is there any way in which the suppliers could cover or compensate for the huge amount of extra time and inconvenience that has been caused to the different Departments in trying to rejig or fire up old systems (**Mr Houghton:** Hear, hear.) to run alongside what is or should be a state-of-the art system?

Mr Houghton: Hear, hear.

The President: Treasury Minister.

The Minister: Mr President, I am only aware at the moment of difficulties experienced in two Departments: the Department of Tourism did have a particular problem. My officers have spoken, at my request, to the Hon. Member and to the Department of Tourism. My understanding is that problem is now resolved.

There would appear to be a breakdown in communications within the Department of Local Government and the Environment between officers and the Hon. Member for North Douglas. (*Laughter*) Whether that is a problem, I do not know. It is clearly a problem from the Hon. Member's point of view, but whether that is a problem within the Department is another issue. (*Interjection by Mr Houghton*)

We have been assured by the deputy chief executive of DoLGE that there is no problem with the information systems within DoLGE and the information is there for Hon. Members, should they require it.

But I will undertake, Mr President, to go back to my officers for them to do a trawl across Government to –

Mr Houghton: Hear, hear. Thank you.

The Minister: – identify whether there are other problems in other Departments - that is no difficulty. There is a working party in operation which is monitoring the progress of Oracle and I will investigate whether there are difficulties in any Departments and if there are any unusual

problems then I will make very sure that they are addressed with some urgency.

Mr Houghton: Thank you.

The President: Hon. Member, Mr Gill.

Mr Gill: Thank you, Eaghtyrane, and thank you for that reassurance from the previous answer.

Could I ask the Treasury Minister if he would undertake to go back to the Council of Ministers and ask them to commission a progress report on these systems, sir?

Mr Houghton: Yes, why not?

The President: Minister.

The Minister: Mr President, I do not think this is necessary. Treasury has the responsibility to implement this scheme. We have a working party which has been in operation now for a number of years, developing this scheme. If there are exceptional problems, then, ultimately, of course, it will be raised with the Council of Ministers, but, at the moment, this is a routine implementation of a new process, which some officers across Government are having difficulty with - whether it is because they are resistant to change or they prefer the previous system, I do not know - but there is no crisis, there is no scandal (**Mrs Crowe:** Absolutely.) and it will be resolved in the normal manner, Mr President.

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

Mr Lowey: Thank you, Mr President.

Would the Minister not agree that the Oracle System . . . the Departments of Government were informed that they were to take over the new system on 1st April of this year. (**Mr Houghton:** Hear, hear.) It did not happen on 1st April of this year and it has, in effect, resulted in both systems having to be actually implemented. I did raise this matter with his officials months ago - not weeks ago, months ago.

And would he also not agree that the expenditure of £4.1 million to update an out-dated system that appeared to be working satisfactorily and is not yet in being and now is promised for a year's time . . . ? Could the Minister now tell the Court who advised the Government to adopt this system and the timescale (**Mr Houghton:** Hear, hear.) and were there any penalties for not meeting the requirements of the Government?

It is very important, and I agree with the Minister that it is vital, that we have our fingers on the financial income and expenditure of Government and I know it is a difficult enough job without the hardware being criticised, but the reality is that the Minister's job and the Department's job is made much worse because the hardware - or software, if I am using the wrong (**Mr Delaney:** Software.) terminology, is not in being and it is not a cheap option; it is an expensive option that should have been delivered on time and working.

Mr Houghton: Hear, hear.

The President: Minister.

The Minister: Mr President, I am sorry, I cannot give

the Hon. Member the answers he requires as to who was involved originally. We are going back over 10 years now and I honestly do not know (**A Member:** Hear, hear.) what advice Treasury or Government had at that time. So I am sorry, I am not briefed with that information at the moment.

But I would just again, Mr President, reiterate the points: the briefing I have been given is that there is no major problem with this at the moment. It is on schedule. It was always scheduled to come into play in 2005. I am assured by my officers that that is still the case and it is within budget.

I do take the point from the Hon. Member very much to heart, that, particularly at these times when money is getting tighter, it is vitally important that we have instant access to the financial information, so we know how budgets are developing and that, if there are problems, we can identify them at an early stage to avert any crisis which may arise later on.

So I fully take on board the Hon. Member's viewpoint, but I would just reassure everybody that the advice I have had is that, as I say, it is within the timeframe identified, which is 2005, and, until then, the old system will be working alongside the new system and the changeover will take place in 18 months' time. There would appear to be no major unexpected obstacles surrounding that transition.

Financial institutions' existing customers ID requirements when reinvesting

8. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

Why are known customers of banking and other finance institutions made to provide passports and other personal information when they attempt to transfer or reinvest their savings which are already held by that organisation?

The President: Hon. Member for Douglas North.

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

The President: Again I call on the Minister for the Treasury, Mr Bell.

Minister for the Treasury (Mr Bell): Mr President, a guiding principle, both under the anti-money laundering legislation and best practice being adopted by financial institutions, is that such institutions should always be aware of the true identity of persons for whom they are transacting business.

Furthermore, it is a requirement that proper evidence of this identity should be available on file, in case it is later needed to be referred to or used in an investigation.

Generally speaking, institutions are now well used to the documentation which needs to be provided when a new account relationship is opened.

However, existing account relationships have posed more of a challenge, mainly because, although the documentation on file may not formally evidence identity, existing customers tend to expect that institutions should know who they are, from the business which they have

previously been conducting. (**Mr Houghton:** Hear, hear.)

The Anti-Money Laundering Code 1998, as amended, states that:

satisfactory evidence of identity should be produced in respect of these so-called historical accounts or that such evidence must be produced as soon as reasonably practicable after transactions which are significantly different from the normal pattern of previous business are undertaken.

The FSC, which, in this case, regulates banks, makes it clear in its guidance that, I quote:

Routine and explainable transactions are unlikely to be regarded as significantly different from the normal pattern of business.

So, in many instances, it will be a matter for an individual institution to decide what its procedures are to be when new transactions appear in an account. Some may take the guidance literally and for routine transactions make no additional steps to bring their identity records on a customer formally up to date, unless they perceive the customer to be of a higher risk type. On the other hand, and, in particular, for entities forming part of a major UK group, where internal standards may be higher than applied by the regulators, others will regard any new transaction over an existing account as an event which automatically triggers the need to update their records. This, I believe, is where many of the information requests, such as the Hon. Member describes, can arise.

It should also be remembered that, in group situations, if funds are being transferred from, say, a bank for investment via a sister-regulated entity, the funds in that separate receiving entity will represent a new account relationship. On this basis, new documentation may well be requested.

I hope that this adequately explains the position. The FSC advise that they are very aware that the requirements adopted for the generality of transactions should not be applied in a manner which clearly makes no sense in particular cases, and that they are constantly stressing the need for flexibility in applying the regulations.

The President: Mr Houghton.

Mr Houghton: Thank you, Mr President. I thank the Hon. Treasury Minister, not for his clear answer, but his rather confusing answer this morning on this. It is of no benefit whatsoever as to his explanation this morning.

So if I can ask him in simple terms: would he, as Treasury Minister, through the Financial Supervision Commission, instruct banks to treat its regular and law-abiding customers with dignity and respect and ensure this bureaucratic burden is removed? Would he do that in a commonsensical aspect, sir?

The President: Minister.

The Minister: I am sorry, Mr President, I apologise if my answer was (*Laughter*) not as clear as perhaps the Hon. Member was looking for, but I do take the point the Hon. Member has made and it is not only the Hon. Member, in his own experience. I think probably every member of this Hon. Chamber (**Mr Houghton:** Hear, hear.) has had the same infuriating experience, and I have personally been at

the receiving end of it myself, (**Mr Houghton:** Hear, hear.) so I know exactly what the Hon. Member is saying.

Mr President, there are just a couple of points, I think, which we need to be very clear on. (**Mrs Crowe:** Yes.) First of all, the Isle of Man, of its own volition, accepts that there are new internationally accepted standards in relation to anti-money laundering procedures and 'Know Your Customer.' There is no avoiding that situation. We are in a new era as far as that is concerned and that legislation and requirements from the FSC and, indeed, it should be a requirement from ourselves, are something which will continue to prevail. There are a set of criteria within which the banking system on the Isle of Man is expected to work to ensure that they do know the customers that they are dealing with.

However, whilst, in the early days, it may well be argued that the FSC were over-rigorous in some cases in terms of obliging institutions to implement this 'Know Your Customer' regime, the criticism, as I understand it, that has been raised with me, certainly since I have been Treasury Minister, relates more now to the over-zealous approach of the actual individual banking institutions, rather than the FSC itself. (**Mr Houghton:** Hear, hear.) and I have had a number of discussions with the FSC, with the regulator, since I have been Minister, on this very point, that we need to apply common sense as much as anything else (**Mr Houghton:** Hear, hear.) into the requirements which banks are now requesting from their customers.

Some of them, I think, are using a common-sense approach and there are not too many problems. Others, either because of their own internal decision, I suppose, to apply almost a belt and braces approach to 'Know Your Customer' or, because they are under pressure from their head office in the UK to bring in higher standards, are considerably less flexible than others.

The message does go out, I can assure the Hon. Member, the FSC does send out a regular message to the industry that, whilst, on the one hand, we have to adhere to the international standards, there is flexibility within the guidelines and common sense should be applied wherever possible, particularly on the sort of customers that the Hon. Member has referred to me, and, as I say, which I know we have all had experience of over the last year or two.

So, I hope that answer is slightly less confusing than the first one I gave him, but there is flexibility, Mr President, in the system and it is very much for the individual banking institutions to recognise that and apply that when dealing with their customers.

The President: Question 9, the Hon. Member for Castletown, Mr –

Mr Singer: Mr President.

The President: Sorry, Mr Singer.

Mr Singer: Could I ask the Hon. Minister are the FSC aware whether our competitors, particularly in the Channel Islands, their FSCs, apply the same strict regulations that ours do and is he aware of this, because, obviously, if we are more strict than them, then it is anti-competitive as far as we are concerned? Could he give me that answer please?

The President: Minister.

The Minister: Mr President, the regimes in the Channel Islands, as well as the Isle of Man, are similar. I cannot say for sure that they are identical, but they are certainly very similar and the general guidelines, which are offered to the industry in the various locations, are generally the same.

The problem does arise with the interpretation of those guidelines within the different jurisdictions and it may well be that the banking institutions in the Isle of Man are applying a different approach to the implementation of these guidelines than their counterparts in Jersey or Guernsey. Competitiveness is the name of the game at the moment and the Isle of Man has got to be very careful that we recognise that competition is becoming tougher and tougher for financial services and we must do nothing within the Isle of Man that leaves the Island with a handicap in competing for the new business that is being created worldwide.

Customs and Excise patrol craft *Panther* Costs, conditions and effects on future position

9. The Hon. Member for Castletown (Mr Speaker) to ask the Minister for the Treasury:

(1) *When and why did the Isle of Man Treasury make a request to the United Kingdom Customs and Excise Service or Government for the Isle of Man Customs and Excise new patrol craft "Panther";*

(2) *can you confirm how much the Government paid to the British Government for this craft and were there any conditions or requirements laid down by the United Kingdom Customs and Excise Service or by its Government, either in writing or orally, as part of the provision of the new patrol craft, in relation to operational matters or any other matters relating to the Isle of Man Customs and Excise Service; and*

(3) *can you confirm that the Isle of Man Government's position in relation to the independence of its Customs and Excise Service is in no way compromised either now, or in the future, because of the provision of this new patrol craft?*

The President: Question 9, the Hon. Mr Speaker.

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

The President: The Minister for Treasury.

Minister for the Treasury (Mr Bell): Mr President, the Isle of Man Customs and Excise Division of Treasury had been, over the last 12 to 18 months, considering long-term options for replacing its patrol craft, *Blue Ranger*. During this period, HM Customs and Excise, having reviewed their own maritime policies, had elected to have five new large cutters, that is patrol craft, built to replace the existing five cutters and three regional patrol boats.

With the commissioning of the HM Customs and Excise new cutter, *Vigilant*, earlier this year, the decision was taken

to withdraw the Scottish regional boat *Panther*.

Isle of Man Customs and Excise became aware of this and, following negotiations, were offered the *Panther* on a loan basis, at no cost. At no stage did the UK Government or HM Customs and Excise attempt to lay down any terms and conditions relating to the use of *Panther*.

If they had done so, then the offer of free use of the vessel would have been rejected. This is not the first occasion that the Isle of Man has been able to take advantage of HM Customs and Excise policy of passing assets on to other law enforcement agencies. We have, in the past, been able to obtain covert vehicles, radios and surveillance camera equipment on long-term or permanent loan from HM Customs and Excise.

I can confirm that no money has been or will be paid to the UK Government in respect of the loan of the patrol craft, *Panther*. I can also confirm that the formal written loan agreement does not contain any restrictions, direction or other responsibilities in relation to the Isle of Man Customs and Excise Services' operation of the vessel. In common with other areas of customs and excise law enforcement work, HM Customs and Excise has no say in the use or targeting of Manx Customs resources. I can further confirm that no oral conditions or requirements were laid down by HM Customs and Excise and I reiterate that, had there been any such attempt, the offer of the free use of the vessel would have been rejected.

Since the creation of the Isle of Man service in 1979, the Island has had an independent Customs service. The revenue it collects and the offences it seeks to detect are covered by Manx laws passed by Tynwald, principally the Customs and Excise Management Act of 1986. The entering into a loan agreement with HM Customs and Excise for one of their assets, namely the patrol craft *Panther*, does not compromise in any way the independence of the Isle of Man Customs and Excise Service, nor will it affect its degree of independence at any time in the future.

The President: Mr Speaker.

The Speaker: Yes, thank you, Mr President.

Could I ask the Minister, can he confirm why such a large craft was required for the Isle of Man, whilst accepting that it happened to be available, but that is not really an excuse why you necessarily take it and, secondly, can the Minister confirm that the operational costs, which, presumably for this craft, are quite substantially increased against the older craft, was that budgeted into the Treasury's budget for this financial year, that is 2003-04 and, if not, then can the Treasury Minister advise what and when was the decision made by Treasury to actually make this a priority for funding?

The President: Minister.

The Minister: Mr President, Customs have been looking for some time at replacing the existing vessel that they have had. It is, I think, some 10 years old, over 10 years old, I think, and the time has been identified a little while ago, to replace it.

The *Panther* is a larger vessel but, clearly, its performance is improving as well. It is a faster vessel and, therefore, it can be more active in pursuit of its duties. In

terms of costs, there is a very marginal difference in costs. It has the same crew requirement of three to four people as the existing boat and I am told that the only difference in cost would be that of fuel, which is somewhere round about £2,000 a year which can be absorbed in the Customs budget.

The President: Mr Speaker.

The Speaker: Can the Minister confirm that the agreement to accept this craft was made by him as Treasury Minister?

The President: The Minister for Treasury, Mr Bell.

The Minister: Mr President, the Treasury has approved the recommendation of Isle of Man Customs. It was a Treasury Department discussion and ultimately Treasury has approved it, but, as I am Minister for the Treasury, yes, that is the case.

The President: Mr Karran, the Hon. Member for Onchan.

Mr Karran: Eaghtyrane, would the Shirveishagh not agree that, with the Isle of Man Customs and Excise Service, there is a need for a review as far as sea protection issues in total and would he undertake, where my letter to the Ard Shirveishagh fell on deaf ears, that the Treasury will investigate having Isle of Man Customs and Excise and the fisheries protection and the DoT's responsibilities and the Manx Coastguards amalgamated, in order for efficiency and effectiveness as far as his costs of his taxpayers is concerned?

The President: The Minister for the Treasury.

The Minister: Mr President, I am not aware of any correspondence from the Hon. Member.

I am aware that Customs work very closely with the other arms of Government in law enforcement and, indeed, with the surrounding authorities in the United Kingdom and Ireland and, bearing in mind that the Isle of Man is in the heart of the Irish Sea, it is essential that we do have good relations with our surrounding neighbours and, clearly, within Government as well. The system appears to be working well at the moment, but, if there are improvements which can be identified, I am sure that the Treasury will be very enthusiastic in supporting them.

Customs and Excise new vessel Costs, staff and place in Government Plan

10. The Hon. Member for Peel (Mrs Hannan) to ask the Minister for the Treasury:

- (1) What is the cost of the new Customs and Excise vessel;
- (2) how many more staff are required to operate it;
- (3) what are the increased costs of operating it; and
- (4) where does it fit in the Government Plan?

The President: Question 10. Hon. Member for Peel.

Mrs Hannan: Eaghtyrane, I beg leave to ask the

Question standing in my name.

The President: The Minister for the Treasury.

The Minister for the Treasury (Mr Bell): Mr President, a similar Question to the previous one, so I apologise if I am repeating some of the information I am giving. There has been no cost to the Isle of Man Government in obtaining the Customs and Excise patrol craft, *Panther*. There are no additional staff required to operate the vessel. It operates with three or four crew, depending on the type of patrol. The crew, who are all trained, are provided from within the division.

The *Panther* is a considerably larger and more capable vessel than the current patrol craft, *Blue Ranger*, and its running costs are slightly higher. With regard to maintenance costs *Blue Ranger* is now 10 years old and, in common with other rigid-hulled inflatable boats, the maintenance expenses are increasing. It is, therefore, expected that, although the *Panther* is a larger and more capable vessel, routine maintenance costs for the *Panther* will be little different to those incurred by *Blue Ranger*.

Thus, in comparison to the last financial year, it is estimated that the operation of *Panther* will cost up to a maximum of an additional £5,000. It is expected that these running and maintenance costs will be met from within the Customs and Excise existing budget.

The core purpose of Government set out in the Government's plan is to maintain and build on the quality of life enjoyed by the Island's community. It is accepted that the importation, dealing, use of drugs and its related crime all conspire to reduce the quality of life in a community. By operating a maritime patrol programme to deter the use of the Island's waters by drug traffickers, my Customs and Excise division are helping to maintain the quality of life enjoyed in this Island and are helping to reduce the availability of drugs. This is also one of the main aims contained in the Chief Minister's drug and alcohol strategies, in which the Isle of Man Customs and Excise plays a full part.

The President: Hon. Member for Peel.

Mrs Hannan: Thank you, Eaghtyrane.

In the Minister's response to Question 9, he discussed this vessel operating within our waters. Could I ask the Minister, will they operate outside our waters? He spoke in relation also to the good relationships with the UK and Ireland. So is it deemed that this vessel would be patrolling also UK and Irish Sea boundaries?

The President: Minister.

The Minister: Mr President, the vessels that the Isle of Man Customs operate, as I understand it, within the Isle of Man territorial seas. There may well be occasions in the future whereby some joint venture may be entered into, but it would be specific to that particular instance. It would not be on general patrol in the territorial waters of other countries.

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

Mrs Hannan: In a press release, Eaghtyrane - could I

ask the Minister if he actually knows of the press release, because it did say that this vessel would be able to go out for much longer than the existing vessel and surely, if that is the case, then the operating costs would increase dramatically because of the expenses of the people operating this vessel and would he not accept that that would, in fact, increase the operating costs?

The President: Minister.

The Minister: Yes, Mr President. The vessel is a larger vessel. It is a more powerful vessel that can cover more ground, or more water, shall we say, than the existing vessel and, therefore, fuel costs clearly are going to be higher and I have indicated a figure which has been given to me of some £5,000 a year extra.

But I would point out to Hon. Members, we have this vessel for a purpose. It is to prevent the smuggling of drugs into the Isle of Man or, indeed, alcohol, cigarettes, other commodities which are popular with smugglers in the Irish Sea area and it is to protect our community, as much as anything, that this patrol boat is operating. So it is not a waste of money in any sense. It is used as a deterrent to block at least one element of the flow of narcotics into the Island and, on that basis, Mr President, I think it serves the Island well.

The President: Mrs Hannan.

Mrs Hannan: Thank you, Eaghtyrane. Could I ask the Minister whether he will be making representations for further personnel to operate this vessel?

The President: Minister.

The Minister: No.

Investments from Russia Safeguards

11. The Hon. Member for Peel (Mrs Hannan) to ask the Minister for the Treasury:

(1) *Is the Isle of Man encouraging investments from Russia; and, if so,*

(2) *do we have all the relevant safeguards?*

The President: Question 11, Hon. Member for Peel.

Mrs Hannan: Thank you, Eaghtyrane. I beg leave to ask the Question standing in my name.

The President: The Minister for the Treasury.

The Minister for the Treasury (Mr Bell): Mr President. In respect of the Treasury's Financial Services Division, as far as I am aware, it has not and does not have current plans to take active steps to attract specific inward investment from the Russian Federation.

Having said that, one must acknowledge that determined steps are being taken to integrate Russia into the world economy. Since his election as President in March 2000,

Vladimir Putin has pushed an ambitious programme of domestic reform, particularly in the economic sphere, including banking reforms, tax reform, anti-money laundering legislation and administrative and judicial reform. In 2002, both the European Union and the United States granted Russia market economy status in recognition of the progress made. It has been accepted into the renamed G8 group of major economies and it is currently estimated to join the World Trade Organisation in 2007. It is understood that the United Kingdom is the number one foreign investor in Russia. The United Kingdom delivers development assistance through the Britain/Russia development partnership, which assists in the development of a sustainable market economy and a pluralist democracy. I think it relevant to quote from the United Kingdom Government's published information for business, which states:

Western goods and expertise remain in demand. There is good business to be found in regions outside Moscow and St Petersburg, notably among the Urals, Volga, Southern Russia and West Siberia. Many regions are keen to attract foreign investments. The majority of Western companies represented in Russia are determined to maintain their presence and position for the longer term.

I note also that it states:

British companies interested in Russia should conduct extensive research, seeking professional advice where necessary as the challenge as to doing business in Russia should not be underestimated.

As an increasingly global player in an increasingly global economy, the Isle of Man cannot ignore economic opportunities presented by countries which are accepted as part of the international community. One cannot start from the premise that all business originating in Russia is the product of illegal activity.

There are sound and necessary reasons why businesses legitimately choose an international finance centre for transacting business or holding assets. However, one must acknowledge that Russia has been a high-risk area from this point of view and, as such, firms must be vigilant when dealing with business from that country. The consequences for the reputation, both of businesses and the Island, rightly have to be at the forefront of one's thinking. As such, the necessary regulatory pressure must seek to ensure that responsibilities in this area are taken seriously. Consequently, the safeguards for the Island are fundamentally based on its sound and internationally acknowledged regulatory system after the extensive and searching external scrutinies of the Island's regulatory system, culminating in the soon-to-be-finalised International Monetary Fund's Report. The Island is acknowledged to be at the very top tier of well-regulated centres.

The President: Hon. Member for Peel.

Mrs Hannan: Thank you, Eaghtyrane.

With the problems with the Russian Oil Company and problems with regard to possible money-laundering and investment outside of Russia, not into Russia, is the Chief Minister aware if there is any investigation going on here with regard to the removal of funds from Russia into Manx companies, as has been suggested into Cayman and other countries?

The President: The Minister to reply.

The Minister: Yes, Mr President.

I am not sure what the Chief Minister knows, but as far as Treasury is concerned, we are aware that the Isle of Man has been mentioned in recent weeks in response to the President of Russia's move against the oligarchs in Russia itself. There is a statement emanating from Russia that there is Russian money related to that inquiry in the Isle of Man.

At this point, Mr President, I have no specific evidence of an inquiry which the Isle of Man authorities are involved in with regard to this, or if there is anything untoward about this particular investment in the Isle of Man.

The President: Hon. Member for Peel.

Mrs Hannan: Just in regard to future investments, would the Chief – I keep saying that – would the Minister draw to the attention of the FSC and other companies involved in investments to protect the Isle of Man's good name?

The President: Minister.

The Minister: Mr President, I fully support the Hon. Member's point on this, but I can reassure Hon. Members and, indeed, the Island that the FSC and the regulatory authorities on the Island are always vigilant for any business which is coming towards the Isle of Man from what might be described as dubious sources.

We have gone through a very strenuous period of introduction of regulations in relation to any money laundering and other criminal activities and we are in discussions with other countries on co-operation with those jurisdictions in relation to criminal matters of that nature.

Therefore, the Island, I believe, Mr President, has done its very best to provide a protective wall around its reputation to ensure that, to the best of our abilities, we keep this sort of money out of the Isle of Man financial system.

The President: Hon. Member for Malew and Santon.

Capt. Douglas: My question has been answered.

The President: May we turn then to Question – Hon. Member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane, will the Minister for Treasury please say how many high-ranking members of the Kremlin, both past and present, and Russian billionaires and internationally-known members of the Russian mafia have set up and operate companies in the Isle of Man and, if he is unable to tell us today, would he please provide that information to Hon. Members and would the Shirveishagh also inform us that, at the present time, there have been charges filed with the Grand Jury at the United States District Court for the Eastern Division of Pennsylvania on 24th April 2003, to do with a company called 'Technology Distribution Limited', a company incorporated in the Isle of Man. And also there is another case with a NorEx Petroleum action in the United States District Court of the Southern Division of New York, as far as the Isle of Man is concerned. Has the Minister got any information on these issues that he would like to tell this Hon. Court?

The President: Hon. Member, sometimes a supplementary such as that, it is almost inevitable that the Minister will not have the information. However, I will ask him.

Mr Karran: Oh, he will.

The Minister: I am impressed at the confidence that the Hon. Member has (*Laughter*) in my broad knowledge of the Isle of Man banking system, Mr President.

Clearly, to the first part of the Question, we have no information of that nature but, of course, the Hon. Member and his researchers, no doubt, have better sources of information (*Laughter*) and, perhaps, he would like to share that information with the Treasury and with the FSC and we will certainly investigate previous Presidents of Russia, to see if they have bank accounts in the Isle of Man.

As far as the other issues are concerned, we are aware that, from time to time, all round the world, companies with some connection to the Isle of Man may be mentioned in court actions. That is not in any way to indicate that they are guilty or that they have carried out anything that contravenes either our law or, indeed, the laws of the country where those cases are being carried out. As I say, we have worked assiduously over these last few years to bring in much greater control and transparency on the type of business that goes through the Isle of Man.

We had a question earlier on about the difficulty and the hoops that new accounts have to jump through before they can open a bank account on the Isle of Man. Those procedures have been brought in for a purpose and that purpose is to prevent money, which is not appropriate for the Isle of Man to be dealing with, coming into our financial system and those defences are always being vigilantly renewed and, if we find that there are weaknesses in our system, in any way, which allows this sort of action to take place, then we will move swiftly to close them.

The President: Hon. Member, Mr Karran.

Mr Karran: Eaghtyrane, a supplementary. Would the Shirveishagh not agree that, really speaking, the FSC which has, apart from the MEA, the top-paid servant in Government, as far as payments are concerned, that he should not be relying on volunteers that do a little bit of research for me. Surely the FSC has cost us millions of pounds and they should be doing this for him, just like my volunteers do it for me?

The President: Minister.

The Minister: Mr President, the FSC does not investigate every single account that is opened in the Isle of Man. We certainly do not get notification from the banking system on the Isle of Man when the President of Russia opens a bank account in the Island.

We need to start living in the real world. We have, as I have said, done our very best, through the regulatory system, to provide what we believe is one of the best defence systems of any jurisdiction in the world at the moment.

We will see the review which has taken place of our regulatory regime by the IMF is due to be made public next week and I am very confident that will be good news for the Isle of Man and will simply be an international

endorsement of the good work that has been put in by the Isle of Man authorities and, indeed, by our financial services industry over the last decade to ensure that unwanted money, unwanted business, does not come into our system. There is only so much we can do, though, Mr President, and the Hon. Member needs to be realistic about his expectations.

HEALTH AND SOCIAL SECURITY

Nursing Homes Ballastowell Gardens situation

12. The Hon. Member of the Council (Mr Singer) to ask the Minister for Health and Social Security:

What action is your Department taking to ensure that a "Ballastowell Gardens Nursing Home" situation does not recur there or in any other nursing or residential homes?

The President: Question 12, 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: Minister for Health and Social Security, Mrs Christian.

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

My Department will fulfil its role in relation to inspection and registration of nursing and residential homes in a manner that seeks, as far as possible, to minimise risk to residents. However, the registration and inspection process does not absolve other parties from meeting their responsibilities to the residents in their care.

The Department had been conducting a review, which commenced prior to the Ballastowell situation becoming a matter for police investigation, arising from which a revised and more detailed registration and inspection process has been introduced into nursing homes. In particular, part of the process now places more emphasis on questions relating to equipment provided to meet patient need.

In addition, the Department is working towards the unification of the inspection process for nursing and residential homes under a single manager. This will create one team better able to respond to any issues highlighted by both announced and unannounced inspections and will introduce a greater support structure in terms of carrying out the Department's statutory responsibilities.

A further resource introduced into the Health Service was the recently appointed Tissue Viability Nurse who will give advice and support on issues, such as the care and prevention of bedsores, to both the public and private sectors. That post-holder has already established contact with nursing homes.

The President: Mr Singer.

Mr Singer: Can I thank the Minister for her answer. Obviously, this tragedy has shocked a lot of people and

the system somewhere obviously broke down and caused this lady great suffering before she died and her family untold distress. The Minister has obviously taken some steps, but can she tell me whose responsibility it is to ensure that staff at nursing homes are adequately qualified and sufficient in numbers to correctly nurse the conditions of the patients in those homes?

The President: Minister.

The Minister: Mr President, the Hon. Member posed this question at the last sitting of the Court and an answer was provided.

It is a part of the registration process that the home has to have adequate professional, technical, ancillary and other staff to meet its registration requirements and there is an inspection process, which ensures that certain ratios of staff are maintained in relation to the number of residents in a home. So the responsibility is a joint one. We have a responsibility to ensure that the staffing levels are appropriate and the home obviously has a responsibility between inspections to ensure that such staffing levels are maintained.

The President: Mr Singer.

Mr Singer: The Minister mentioned, Mr President, about adequate equipment being present at a home. Can she tell me who decides when the equipment present is adequate for the conditions of the patients and also when patients are transferred from hospitals to nursing homes, does anybody from the hospital go to that nursing home to ensure that there is adequate equipment there to cope with that patient who is being transferred?

The President: Minister.

The Minister: Mr President, when any patient is discharged from hospital, there is a discharge planning process, which should ensure that, when the patient gets to wherever they are going to, there are suitable provisions there for them. In any particular case, I cannot say to what extent they are assured verbally or whether they go and inspect, but there is a discharge process which should make sure that there is sufficient provision for that patient when they get to their discharge destination.

With regard to your comment about whose is the responsibility to ensure that there is equipment appropriate to the patient, from an inspection point of view, the inspectors can look only at care plans in respect of residents. They cannot inspect residents physically to see whether their care plans reflect their needs.

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

Mr Karran: Eaghtyrane, would the Shirveishagh not agree that Ballastowell, Avondale, Erin House, we seem to keep on having these tragedies with this very vulnerable section of the community. Will the Shirveishagh review the policy of not going along with her former Member for Health and having a lay body which would report to the inspecting officers, with representation from Age Concern and the WI, in order to augment the inspection process and to create some sort of body system for these very vulnerable

people in the community? Will she reinvestigate having such a body, in order to help this most vulnerable section of the community, because that is part of the problem why we keep on facing this tragedy?

The President: Minister.

The Minister: Thank you, Mr President.

While I understand the intention of the Hon. Member is to be helpful, and he sees this as a way, perhaps, of protecting vulnerable people, I have to say that, quite honestly, I do not think that it necessarily would make any difference, or indeed prevent, the tragic circumstances which did occur at Ballastowell.

Unless one can physically inspect, one cannot tell what the condition of the person is, and I think no matter how much we regulate, we are all ultimately, if we are looking after elderly people, as individuals, responsible for the professional standards which apply, if nurses are involved or if care people are involved. Any system will break down if a person does not honour their professional obligations or indeed their human obligations to the people in their care. However, it is the intention of the Department to have learned from what has happened there and we have, indeed, made some changes to our registration processes as a result of it.

Mr Delaney: Hear, hear.

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

Mrs Craine: Thank you, Mr President.

Can I ask the Minister, please regarding the inspection team that goes in to look at the residential and nursing homes, could you please advise this Court on what basis they go? Is it on a regular three months, annually, and are there unannounced visits to the home?

The President: Minister to reply.

The Minister: Yes, Mr President, the Hon. Member will recall that, at the last sitting, my Hon. Colleague from the Council faced a Question about visits. Indeed, visits are made both announced and unannounced –

Mr Karran: Two a year.

The Minister: – to all homes. The unannounced visits take place according to the judgement of the inspectors. If they feel there are issues which require them to make more frequent unannounced visits, then they will do so. At the last sitting we did circulate a table showing how many announced and unannounced visits were made to each of the nursing homes in the Island. If the Hon. Member wishes to have that information again, it can be recirculated.

The President: Finally, the Hon. Member of Council, Mr Singer.

Mr Singer: The Hon. Minister may be aware that I had, on receipt of complaints more than once, called for an unannounced inspection to Ballastowell, but it was quite clear from this case that there was insufficient equipment there for the needs of the patients, and this is what concerns me.

Who decides who should give the instructions that adequate equipment should be present? So while the Minister says that the inspection services need reviewing, I hope that she will impress on her Department that they have to be a lot more stringent than they have already been, and I hope that that message will go forward.

The President: Do you wish to reply, Minister?

The Minister: I will reply, Mr President, because the Hon. Member has not quite picked up the point that we have already made provision for more detailed inspection in relation to equipment. Hindsight is a wonderful thing; it is, tragically, only when events of this kind occur that we recognise the need to strengthen certain areas of the inspection regime.

Secure Unit

Cost of repairs and reasons for damage

13. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Health and Social Security:

- (1) *What is the cost of repairs to damage caused to the building and furniture of the Secure Unit; and*
 (2) *how has this building been damaged when it was designed and built at high cost with the intention of avoidance of such damage?*

The President: Question 13, Hon. Member for 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 Health and Social Security.

The Minister for Health and Social Security (Mrs Christian): Mr President, the full cost of the repairs have not yet been established because the works are ongoing and invoices are awaited from the labour-only contractors that were employed.

In answer to the second part of the Question, the building was designed to provide secure accommodation; it was not a guaranteed, damage-free environment. Any element of a building, be it a door, a window or other feature will, if subject to misuse, suffer some degree of damage. In the recent incident, the resident caused damage to door architraves, ceiling lights and wall surfaces before the staff had an opportunity to intervene.

Whilst damage was caused, the building construction withstood the misuse and at no time was the security of the building compromised and neither was the offending resident able to leave or move away from the confines of a secure bedroom area.

The President: Mr Houghton.

Mr Houghton: Thank you, Mr President. I thank the Hon. Minister for her answer. She will, of course, realise that this was a purpose-built unit and notwithstanding the fact that the detainee was unable to escape from it, damage was caused. Is she satisfied that that purpose-built building

is indeed secure of damage, malicious damage that has been caused? Can she also, once this damage has been repaired, reveal to Members of this Court the costs of that damage and a confirmation that those costs will fall on the contractor and not the taxpayer, sir.

The President: Minister.

The Minister: Mr President, the Hon. Member has indicated that there are costs involved and indeed there will be. The Hon. Member will, I think, be aware that the architraves were not fitted in accordance with the design guide for secure establishments and the costs, therefore, for that work will fall on the contractor (**Mr Houghton:** Hear, hear.) Indeed, other costs in relation to the repair of this building will fall on the provider of light fittings, which also were not of the approved type. (**Mr Houghton:** Hear, hear.)

However, in relation to other damage, such as damage to walls, bed linen and all the rest of it, those costs cannot be attributed to anybody but the perpetrator of the damage and, therefore, the costs will fall on the Department.

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

Mr Delaney: Thank you, Mr President.

Will the Minister give an undertaking that, at some time in the near future, she will give to Members details of how it took so long for any staff to be able to restrain this person from inflicting the damage on this building that was caused, and now that we find that we have got to pay for, so we may learn from it and that adequate staff, proper staff, are there to make sure that such persons can be restrained quickly, as obviously they are going to cost the taxpayer a lot of money now and in the future and as they have done in the past?

The President: Minister.

The Minister: Mr President, with the best will in the world, one can provide what we believe to be a secure and relatively damage-resistant building –

Mr Delaney: Not very successful, are we?

The Minister: However, the person concerned was a very strongly built, tall young person, –

Mr Delaney: We knew that.

The Minister: – very violent. With the best will in the world, even trained policemen might not have been able to cope with the person concerned.

So I think that, in exceptional circumstances, we may well in the future continue to have damage in this situation. We do know that there are very disturbed young people in this unit and you cannot expect, simply because they have gone in there, that they will not, from time to time, be violent.

However, we do expect that the contractor will restore those elements which were not properly inserted in the first place, in a manner which will reduce the risk of those particular elements of the building being damaged or removed in future.

Mr Delaney: Further supplementary, Mr President.

The President: Mr Delaney.

Mr Delaney: All the answers have been given by the Minister, the facts like that we knew. It was obvious to anyone that this was a large person. It was obvious the violence that could be brought about. We took no steps to ensure that, when it did happen, we had means of stopping it.

That is a fact, Minister, so will you answer the Question, why did it take so long to do the obvious to stop the damage being caused?

Mr Houghton: Hear, hear.

The President: Minister.

The Minister: Mr President, my concern, first and foremost, would be for the people in that building (**Mrs Crowe:** Absolutely.) and not for the building –

Mr Delaney: But we did not protect them very well, did we?

The President: Hon. Member.

The Minister: Mr President, the Hon. Member may have his view about how it should be staffed. The philosophy of the home is to give young people a secure environment in which they may be assisted with their difficulties.

When we find that there is a young person there who is so violent that it is difficult for staff to manage, my advice to the staff is take care of yourselves first and resolve the difficulty of the damage to the building later.

HIV Number of cases of infections

14. The Hon. Member for Douglas South (Mr Duggan) to ask the Minister for Health and Social Security:

How many confirmed cases of HIV infected persons have there been since the year 2000 to date?

The President: Question 14, Hon. Member for Douglas South.

Mr Duggan: Mr President, sir, I beg leave to ask the Question standing in my name.

The President: Minister for Health and Social Security.

The Minister for Health and Social Security (Mrs Christian): Mr President, in reply to the Hon. Member's Question, I can confirm that the situation has not changed since my Department responded to a similar Question in November 2000, in that HIV is not a notifiable disease and, that being so, it is impossible to answer the Question with certainty that the information provided would reflect a true and full position.

I do have to reiterate the point made previously that the

virus is such that sufferers themselves may not necessarily know they have contracted it. In addition, it is likely that some residents will have been tested for HIV in the United Kingdom in order to avoid any possibility of identification in the Island. In any case, it is considered best practice by health professionals not to release statistics for the numbers of persons diagnosed with HIV infections, in populations where the numbers are so low that, to do so, may aid the identification of those persons who may be infected. That situation still pertains, Mr President.

The President: Hon. Member for Douglas South, Mr Duggan.

Mr Duggan: I thank the Minister for her reply, Mr President. Could I ask the Minister, what is the situation regarding educating people who are on drugs, that are discarding, in public places, needles?

The President: Minister.

The Minister: Mr President, we have, as the Hon. Member is I am sure aware, a needle exchange scheme, which enables people who do have a drug problem to obtain properly sterile equipment to meet their habit, and there is a system whereby they return that equipment in order to get further clean equipment.

Therefore, there is no reason why needles should be discarded in public places. However, if needles are being discarded, clearly there are messages going out in the appropriate quarters about the dangers of picking up needles and so on. Indeed, if we can encourage more people to use the needle exchange scheme, we will endeavour to do so, in order to minimise risk to the public at large.

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

Mr Karran: Eaghtyrane, would the Minister not agree with a former Member for Health that the issue is that she is irresponsible by not giving some clear idea of what sort of numbers are infected on the Island? Does she not also agree that the issue of this permanently being promoted that this disease is some sort of 'druggy/homo' problem is irresponsible in our country, as the situation is that we will more likely find that three quarters of the people who are infected with HIV are heterosexuals? Would her Department please try and promote to these 18-year-old young women and men the dangers that this disease is here, and there are two strains of it definitely in the Island at the present time, and that, just because you are not one of these minority groups, somehow you are safe?

The President: Minister.

The Minister: Mr President, I reject the charge put by the Hon. Member that I am being irresponsible when not giving the numbers. I can understand his perspective, perhaps, but there is another one and that is that we will not get people coming to our treatment services if they feel that somehow they may ultimately be identified by us telling the public how many people are identified here as sufferers. I have also explained to the Hon. Member that we do not have a full picture because HIV is not notifiable.

With regard to the information to young people, we have

a much strengthened health promotion programme in relation to sexually transmitted disease and I have to also say that we have a much strengthened sexual health service in the Isle of Man.

With regard to the Hon. Member's view about the perpetuation of the idea that this is related only to drug addicts, I would agree with him, it is not. It is as much a threat to the heterosexual population as it is to anybody else and certainly the Department, through its health promotion in various specific areas, where we feel that the message particularly needs to be got across, these messages are being sent out through the teams, through young people, through the media, which they listen to, in order to make sure that they do understand the risks of inappropriate or unprotected sex as one element of the transmission routes of this disease.

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

Mrs Cannell: Thank you, Mr President. Can I ask the Hon. Minister if the situation of a case of an HIV-infected person is not a notifiable disease, in the normal sense of things as we understand it, can she at least advise and give us reassurance today that those people entering the Health and Social Services within the Isle of Man, looking after sick and vulnerable people, are, at the very least, screened for HIV by her Department before being put into those situations where they are caring for some very sick and vulnerable people?

The President: Minister.

The Minister: Do I understand that the Hon. Member is asking for screening of staff? Well, I will take the point that she has raising, I do not think that screening for all staff has been practised in our Health Service or anywhere else, but I will take that back and seek professional advice on the appropriateness of such screening, bearing in mind the risk in different areas of the service is very different. In some areas there would be little risk, in other areas it would be a very serious consideration.

COMMUNICATIONS COMMISSION

Television

Channel 5 and digital broadcasting in the Island

15. The Hon. Member for Rushen (Mr Gawne) to ask the Chairman of the Communications Commission:

To assist the public in determining the most appropriate system for them to receive the latest TV channels and technological advances in the future, can you confirm that –

(1) it is unlikely that terrestrial broadcasting will ever be economically viable for Channel 5 in the Isle of Man; and

(2) it is unlikely that terrestrial digital television broadcasting will be provided outside of the Douglas/Onchan area?

The President: Hon. Member for Rushen, Mr Gawne.

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

The President: Chairman of the Communications Commission.

The Chairman of the Communications Commission (Mr Braidwood): Mr President, in reply to part (1) of the Question, may I explain that Channel 5 is a commercial television channel owned by RTL, a Dutch media group. It broadcasts under the terms of a licence granted by the Independent Television Commission, the ITC. Channel 5 is entirely funded from advertising and sponsorship revenues. As a commercial venture, Channel 5 had to build and operate transmitters to cover as much of the target population as is economic. That means that the cost of a new transmitter has to be recovered by the increment in advertising revenue that the extra viewing numbers will achieve.

From the outset, Channel 5 was required by the ITC to have 33 transmitters, which could reach some 60 per cent of the UK population. This compares with over 4,000 relay transmitters on 1,200 sites, used by the BBC, ITV and Channel 4 to reach 98 per cent of the population. Every additional transmitter reaches fewer and fewer people, so, at some point, it becomes a 'break-even' decision for RTL. Expansion has stopped at 48 transmitters, giving some 80 per cent UK coverage.

In addition, the TV spectrum is very crowded because of fitting in 4,000 frequencies to achieve the 98 per cent coverage by the three main public service broadcasters. This further restricts availability.

Indeed, Channel 5 is not available in the Channel Islands or much of the South of England because of spectrum shortage. There are no plans to extend Channel 5 coverage further by analogue transmission in either the UK or the Crown Dependencies. Nevertheless, Channel 5 is available in the Isle of Man to anyone subscribing to the Sky digital satellite platform.

In response to part (2) of the Question, Mr President, I am advised that, because both digital terrestrial television and analogue transmission share the same group of just 46 UHF frequencies, DTT transmissions must be 'interleaved' amongst the existing analogue services. This same band of frequencies is shared with our neighbours in the UK, on mainland Europe and in Ireland, many of whom are also planning their own DTT services. It follows that there is a severe limitation in the availability of interference-free broadcast frequencies across Europe and, in particular, throughout the British Isles. Great care, therefore, has to be taken when planning DTT services, if interference to existing viewers is to be avoided. This care extends to co-ordinating with our neighbours on each occasion where a frequency is needed.

These restrictions mean that it has not been possible for digital terrestrial television to match the near universal coverage of the existing four-channel analogue network. DTT is transmitted from just 80 sites across the UK and reaches only two thirds of the UK population. Most experts agree that it will not be possible for DTT coverage to match the levels achieved by analogue until the point of digital switchover, which is proposed to be towards the end of the decade. The plans for the roll-out of Freeview, as digital terrestrial television is currently called, to those areas that

do not yet get it, are still not finalised, but the Isle of Man will be included in plans to make available digital television to all those areas which cannot yet get it before analogue television is switched off. My staff at the Communications Commission do keep up a close liaison both with the BBC and with the other bodies who are working on the eventual transition from analogue to digital television transmission standards.

Planning for the switch over is still at an early stage, but it is not expected that current analogue reception areas will be replicated precisely by digital terrestrial television. Other forms of relay, including satellite, are being investigated, but no decisions, whether here or across, have yet been made. When they are, technical considerations will loom large, in particular, signal levels for digital terrestrial television are not equivalent in describing expected reception areas to those used for the current analogue service. The Isle of Man is fully included in the technical work currently under way to examine the issues under the auspices of the digital Action Plan Project, led by senior engineering personnel from the Independent Television Commission, with whom the Communications Commission staff are liaising.

As to the choices available now and in the near future, Mr President, may I briefly outline them? All subscribers to the Sky platform have access to all free-to-view digital services. Anyone with a dish and satellite receiver also has access to all the BBC licence-fee-funded services without subscription. The BBC has said that, as part of the BBC digital satellite regional roll-out, it is now providing all of the BBC regions to the whole of the UK and the Isle of Man, as well as trying to provide the most appropriate region at 101 in the Electronic Programme Guide for viewers who have a viewing card, such as Sky subscribers.

At present the digiboxes are programmed with ITV1 regions, so the Isle of Man and Cumbria cannot be separated. This is why Sky subscribers on the Island currently get BBC North East at 101. They can, however, still see BBC North West at 948 in the Electronic Programme Guide, as can non-subscribers. The BBC has worked with ITV and Channel 4 to agree common regions in the digibox and this will allow Border Television to be the Isle of Man's ITV region, as at present, as well as getting the North West as default for the BBC. It is now up to Sky to implement these changes, which are quite extensive.

Until the late spring this year it was also possible for satellite viewers who are non-Sky subscribers to obtain a 'Solus' card to decrypt free-to-view services such as Channels 3, 4 and 5. Programmes are encrypted to prevent their reception in areas where the broadcasters do not hold the rights. When the BBC moved to completely unencrypted broadcasts, but using a narrower beam to prevent unauthorised reception, it no longer had any reason to fund the Solus cards. These cards will, however, be re-introduced in the next few months by Channels 3, 4 and 5 working together. It is expected there will be a small one-off charge for the new cards, but it will mean that non-Sky subscribers will be able to view those services by satellite once again.

There is, therefore, a range of options for those who wish to view more than the four main public service channels. It is possible to subscribe to Sky. That brings with it a subsidised dish installation and receiver. It is possible to obtain a dish and receiver and view all the unencrypted BBC services without subscribing to Sky and, in due course,

a replacement for the Solus card will be available to decrypt the other free-to-view channels.

Mr President, the realities of physics do mean that options which may be desirable are not always available, but I trust that this explanation, sometimes technical though it is, goes some way to clarifying the position.

The President: Hon. Member for Rushen, Mr Gawne.

Mr Quine: Can you repeat that? (*Laughter*)

Mr Delaney: Change channels.

Mr Gawne: Gura mie eu, Eaghtyrane.

I certainly thank the Caairliagh Oaseirys Chellinsh for his comprehensive answer. The Question was actually to assist the public in determining the . . . (*Laughter*) I am sure that, if they have got half an hour to read through *Hansard* they might get some idea. I suppose to try to clarify the position, could you basically confirm that, for anyone living out in the sticks, anyone living away from Douglas, the best way to receive the likes of Channel 5 and digital broadcasting will be to get a satellite dish?

Could you also explain whether, bearing in mind that the BBC have always in the past mentioned that the cost of transmitters and relay stations around the Island are probably the main reason why we have to pay a licence fee, where most of the money goes? Can he, perhaps, explain whether we should be asking for some kind of refund from the BBC from the licence? Whether it would be better to direct the licence fee towards Manx Radio, rather than Manx taxpayers effectively having to pay twice for a radio service?

The President: Hon. Member, Mr Braidwood.

Mr Braidwood: Thank you, Mr President. In answer to the first question, yes, I think it is probably easier to have a satellite dish to receive Channel 5 and, again, as I mentioned in my answer, with the new cards which will be coming out with Channels 3, 4 and 5, which will be a small charge, this will then be available for those subscribers who have the cards to obtain Channel 5.

It is a difficult situation, Mr President, because there is going to be a switch over from analogue to digital television by 2010. We do not know how people will receive the digital television signals. It could be by microwave. It could be by satellite dish, or it could be by relay stations. This is still ongoing yet, Mr President, in the UK and has not been finalised.

In response to the second part of the supplementary question, at the present time, yes, there are numerous relay stations in the Isle of Man and the licence fee, of course, is only for a receiving dish, but that fee is hypothecated to the BBC for their signals and for their viewing channel. So, therefore, if we all go to satellite dish, then we would have to look at where the BBC are spending their money. It might be still that they have to have relay stations when it is switched from analogue to digital, but that question I cannot answer.

The President: Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane. A further question for the Caairliagh Oaseirys Chellinsh.

Is the Caairliagh aware that there is most likely to be another hike in the licence fee and is he also aware that on 20th March 2000 in a question to the Chief Minister, the House of Keys sitting, Mr Henderson asked about the level of licence fee and at that time the Chief Minister, Mr Gelling, answered that,

The Council of Ministers accepts that the accelerated rate of increase proposed for the TV licence fee is to be used to fund the development of digital terrestrial TV. Also, except that along with many other areas covered by the legislation and licence fee generally, Manx residents are not able to enjoy digital terrestrial TV.

He also went on,

We have made representations about the situation, which seek to secure some alleviation of the burden of the increase in the fee, or alternatively some clear indication and some acceleration of the provision of the new service to us here in the Island.

Could the Caairliagh Oaseirys Chellinsh inform the Hon. Court of any progress made with discussions with the BBC?

The President: Minister.

Mr Braidwood: Thank you, Mr President. The increase in the licence fee is outwith of the Isle of Man. There is an increase each year. At the present time the licence fee is £116. I have no idea which . . . it will be going up, I presume, on 1st April 2004, to what amount I do not know, but that, again, will be an annual increase. Yes, the Isle of Man Communications Commission are in dialogue with the BBC and looking at the licence fee: as we know, in Jurby there is a new relay station so that people can receive BBC Northwest. But again, it is a hypothetical question which I cannot answer, in how we are going to receive digital television.

HOME AFFAIRS

Police listening device Discovery and action

16. The Hon. Member of Council (Mr Delaney) to ask the Minister for Home Affairs:

With reference to the listening device in Police Headquarters which you referred to during your statement at the October 2003 sitting of Tynwald –
(1) *was the device discovered in 1999;*
(2) *was the discovery reported at that time to the Chief Minister or the Minister for Home Affairs; and*
(3) *what action was initiated at that time?*

The President: Question 16. Hon. Member, Mr Delaney.

Mr Delaney: Mr President, I beg leave to ask the Minister for Home Affairs the Question standing in my name.

The President: The Hon. Mr Braidwood to reply.

The Minister for Home Affairs (Mr Braidwood):

Thank you, Mr President. The current investigation surrounds the discovery of a listening device being made on 1st October 2003, and the alleged use for a period of time ending in the spring of 1999. The relevance of 1999 is that this is the date when the device was decommissioned.

This being the case, and in answer to the second part of the question, neither the Chief Minister nor the Minister for Home Affairs in office in 1999 would have had any knowledge of its existence and, therefore, would not have been in any position to take any action.

However, when the existence of the listening device came to the attention of the Chief Constable on 1st October, he made immediate disclosures to myself and to the Chief Minister and caused an independent inquiry to be instigated by the Cheshire Constabulary. I made a statement to this effect at the earliest opportunity.

In relation to the third part of the question, the inquiry is ongoing as to what action, if any, was undertaken following the discontinuation of the device in 1999 and it would be inappropriate to comment further at this time.

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

Mr Delaney: I thank the Minister for his straightforward reply and, with the Court, share my and his views that no politician at that time was aware that this, maybe, illegal listening device was in place, therefore, we can act independently, when necessary. We are all pleased to hear that, but could the Minister then inform me, as no action was taken on the removal of this device at the time, and obviously it did not remove itself, is the Minister at this stage aware of who, actually, physically removed this device from the place of its positioning and what action by that person was taken at the time to inform his superiors?

The President. Minister.

The Minister: Mr President, I said in the answer to the first question that the device was discovered on 1st October 2003 –

Mr Delaney: Was it removed?

The Minister: – I cannot make any comment further, because it is an ongoing investigation by the Cheshire Constabulary and any comments that I may make may prejudice any future criminal or disciplinary proceedings.

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

Mr Lowey: Could I ask the Minister, we do have in being a report – an annual report – by what I would call, I think it is the First Deemster, who looks into what I would call legal bugging devices for police research. Is it intended that any enquiry will involve the official arrangements that we have in place at this moment in time, because this – while it is alleged, and it is to be proven yet – was, if you like, illegal, there is a legal position in the pursuit of crime, which is legitimate. Is it intended that the authorities will involve that element of the apparatus set up to Government to deal with this sort and type of inquiry?

The President: Minister.

The Minister: Mr President, the First Deemster will

not be involved in this inquiry. The Hon. Member for Council is referring to when telephone taps are authorised by the Chief Minister or, in the absence of the Chief Minister, by myself.

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President. Could I ask the Hon. Minister if there is any timescale envisaged in completing this inquiry and is he aware of how much per week it would be costing to undertake this inquiry?

The President: Minister.

The Minister: Mr President, I think I have already answered a question similar to that posed by the Hon. Member for Middle. As I said in my statement to Tynwald last month, I have no idea how long the investigation is going to last; it could be for a considerable time. The cost at the present time is roundabout £30,000 a month.

The President: Hon. Member, Mr Delaney.

Mr Delaney: Thank you, Mr President.

I am aware of the difficulty the Minister has in answering this question, but I am also aware, with other Members – all the Members of this Court – of the difficulty that the Police Service of the Isle of Man is in because of this and other related matters, and I am trying, hopefully, to help the Minister and the people outside to understand the situation.

Could the Minister indicate to me, as this was removed in 1999, someone made a decision that this was either illegal or inappropriate. Can the Minister indicate to me, without damaging any investigation, was any action taken to inform anybody of this device or the person who asked for the device to be removed, of a senior officer nature at that time? That is what I am asking, to clarify the situation for the public.

The President: Minister.

The Minister: Mr President this is the subject of the ongoing investigation by the Cheshire Constabulary, sir.

The President: Hon. Member, Mr Karran.

Mr Karran: Eaghtyrane, supplementary, can the Shirveishagh son Cooishyn Sthie tell us whether they will be interested in other incidents, as far as listening devices being used by the police in this investigation, or are they just purely looking at the one case, or will they be looking at other cases? As a former Member of the Home Affairs Department, I know of such.

The President: Minister.

The Minister: Mr President, I am aware of no other further cases. The only case which has been brought to light is the one which is now being investigated, sir.

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

Mr Cannan: Would the Minister, perhaps in the interests of clarity, explain to the Hon. Member for Council that the

alleged listening devices were not removed in 1999, but disconnected in 1999, and that they were in place when they were found in October this year by the Cheshire Constabulary, in place, but disconnected.

The President: Minister.

The Minister: Mr President, I think I said that in the answer to the first question, in that, yes, I said they were decommissioned in 1999, but they were found – the listening device – was found on 1st October 2003.

LOCAL GOVERNMENT AND THE ENVIRONMENT

Waste disposal charges

Ratepayers' representation and value for money

17. The Hon. Member for Rushen (Mr Gawne) to ask the Minister for Local Government and the Environment:

Will you -

(1) explain how important value for money for ratepayers is to your Department;

(2) provide to Tynwald average figures for waste disposal in the United Kingdom; and

(3) explain what direct representation the ratepayers have on the body which sets the waste disposal charge in the Isle of Man?

The President: Question 17, Hon. Member for Rushen, Mr Gawne.

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

The President: Minister for Local Government and Environment, Mrs Crowe.

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

With regard to part (1) of the Hon. Member's Question, value for money is paramount in the importance of the provision of services by public authorities. Since I joined the Department in December 2001, I have endeavoured to ascertain how monies raised by local authorities through the domestic rates is utilised, and whether ratepayers are receiving value for money.

Under the Local Government Act 1985, my Department has a supervisory role to play in connection with local authorities and in the past 12 months the Department has analysed the rates levied and achieved reductions where it was considered that value for money was not being achieved, and we have also seen a disparity of charging between the local authorities for the services that have been provided. The Department feels that it is one of the key functions to ensure that local authorities provide consistently good services that represent value for money to the ratepayer.

With regard to part (2) of the Question, the Department has many figures available for disposing of waste in the United Kingdom. However, I do not feel it is possible to

quote an average cost, as the criteria for setting those charges have many variables, and determining pricing at individual sites, and by individual companies, and the criteria, of course, include the remoteness and location of a disposal site; the availability or capacity of an individual site; the total cost of creating the void or the infrastructure of a particular site. Indeed, the availability of waste arisings close to that site and securing long-term disposal contracts also will affect gate prices. And the type of wastes that can be accepted by site licence, the ability to price individual waste types accordingly, also poses a difficulty when we are looking at waste charges, and, of course, there is the addition of landfill tax, if that is applicable; and whether the site has an intermediate transfer or treatment site.

More recently, the EU Landfill Directive has impacted on these factors and the costs of waste disposal in total. As an outcome of this, we are likely to see a severe decrease in the number of landfill sites available in the United Kingdom for hazardous wastes; this, again, will impact on costs. Taking all the above into account, average gate prices really do not exist; they can be anywhere from £10 per tonne to £70–£80 per tonne; they can be based on individual loads of specific materials that can make average tonnage price unrealistic. Added to this, in the United Kingdom, there is also the landfill tax, which, once again, I say has to be taken into account when seeking to make a comparison with the Isle of Man.

I am trying to be helpful in this response and I know it is quite difficult, so I have got some gate prices. For a facility in the north-east of England, the gate price is £35 per tonne, but for a similar facility in Guernsey the price is going to be £100 per tonne, and landfill sites in Ireland, there are many over £100 per tonne. Making direct comparisons, therefore, is not possible and can only be indicative at best. It is not the same as making the comparisons for refuse collection costs, which can be quantified on actual costs of operation and the only real variable in that is the distance to the disposal point, which can be factored in.

With regard to part (3) of the Question, the waste disposal charge is for a provision of service and is invoiced accordingly. In essence it is calculated on the estimated running costs of the waste operations management unit, divided by the estimated tonnage delivered for the disposal. The charge has been calculated by the Department for the service provided in the same way as any public utility, or local authority, would charge for the service they provide. In the case of private waste disposal facilities, of course, there is no direct public representation when the owner or operator determines the charge for disposal. However, the Department is a public body, made up of elected representatives of the public, and the charges it has set for waste disposal have been endorsed by this Hon. Court.

The President: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie, eu, Eaghtyrane.

I thank the Shirveishagh son Reiltys Ynnydagh as y Chymmyltaght for her comprehensive answer. I think what I was trying to get at with this Question was that it seems to me we are – to say the very least – a little pricey with our own waste disposal charges, that DoLGE seems reluctant to give out waste disposal charges averages for waste disposal, not quite so reluctant when it comes to waste collection.

But I think the main point, really, is that ratepayers are effectively being charged here for waste disposal. This is being paid through the rates and yet there is no ratepayer representation on the body which sets the waste disposal charge. Would the Minister not agree that it is very important that the ratepayers do have representation on the organisation which sets the waste disposal charge?

The President: Minister.

The Minister: Thank you, Mr President. To answer the last part first, if I might. Indeed, there are Hon. elected Members, of course, on the Department; in fact, I have five Members elected who are there representing the public of the Isle of Man, making the decisions regarding the charges at the present time. When we were talking about the cost of waste disposal and comparisons with the Isle of Man, I am sorry that it did sound complicated, I did not mean it to and I know that the Hon. Member for Rushen does understand, but there are so many variables to take into account and it is unlike when we can quote for waste collection charges, where I can just directly quote from the best value of performance indicator for annual costs for waste collection, which is an average of about £30.41, so it is quite difficult to actually ascertain a direct comparison with the Isle of Man for the charges for waste disposal.

The President: Mr Speaker.

The Speaker: Yes, thank you, Mr President.

Could the Minister confirm the date on which Tynwald agreed that a charge for waste disposal should be £100 per tonne? Also, could the Minister explain why, in the detailed Government accounts for the year ended 31st March 2003, which is a Tynwald document, the total cost of her Department for waste operations, including everything, was £4,119,231, which works out at £41.19 per tonne based on her Department's figures of a hundred thousand tonnes per year. Can the Minister explain how it is the Department continually comes up with this magical figure of £100 per tonne, yet we cannot find how that is worked out?

The President: Minister.

The Minister: I think I have explained on a number of occasions how the figure has been achieved for the £100 a tonne. It is the total cost of waste disposal on the Isle of Man divided by the tonnage and that is as simple as it can be.

Now I take the point, and the Hon. Speaker has made it on many occasions, that there are different variables in the annual accounts, or whatever it might be, but the way that is has been worked out, is the provision of service for the Isle of Man and it is the total cost of our waste disposal divided by the tonnage.

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

Mr Singer: Thank you. Could I pick up the Hon. Minister's answer to question one, where she said that, as far as she was concerned, value for money was paramount for ratepayers? Can I ask her, therefore, within her philosophy, if her Department found out or decided it could deliver services cheaper than local authorities, would she,

therefore, intend to disband local authorities in exchange for advisory bodies throughout the Island, but advisory bodies which have no power?

The President: Minister.

The Minister: I think the answer to that is, quite simply, no.

The President: Mr Speaker.

The Speaker: Thank you, Mr President. As the Minister says, the Department has worked out this figure to achieve this £100 per tonne, could I ask the Minister, as a matter of priority, to circulate that documentation to Members of Tynwald, please.

The President: Minister.

The Minister: Mr President, I would be delighted to do so, hopefully by this afternoon.

Infrastructure at Jurby Costs

18. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Local Government and the Environment:

With regard to the proposed upgrading of the infrastructure at Jurby, does the £841,000 include all costs for upgrading the infrastructure at Jurby?

The President: Question 18, Mr Karran, Hon. Member for Onchan.

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

The President: Minister for Local Government and Environment.

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

The sum of £841,000, which appears at item number 5 on today's Order Paper, is, in terms of the motion, to facilitate the provision of infrastructure facilities. It represents the contribution required to put in place necessary electrical, water and drainage infrastructure to enable the future development of Jurby to be progressed, whatever that development might comprise, or however it might be phased in.

The motion at item 5 on the Order Paper is related to item 8, which invites this Hon. Court to receive the document report entitled Jurby Village, a discussion document. In view of what I have said, I hope the Hon. Member will understand that the moneys in the motion are purely a contribution to kick-start the long-awaited development of this important area of the Island, an area which has tremendous potential for the future.

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

Mr Karran: Eaghtyrane, would the Shirveishagh not agree that this is not factually right, in the fact that the issue is that what we are seeing here is a change of policy of where we are now. We have managed to use up all the taxpayers' money and now your Department is going after the likes of the water ratepayers' money, by not putting the full costs as far as what should be proposed within that proposal, and would she not agree with me that she should not be doing so, that the ratepayers' money should be ring-fenced and used for ratepayers' responsibilities, Eaghtyrane.

The President: Minister.

The Minister: If he is suggesting that the water ratepayers' money should be ring-fenced, well maybe that is the case, it is not a matter for me. All I am stating in the motion before us today is the contribution for the various elements to progress the infrastructure renewals in the Jurby area.

Mr Karran: Eaghtyrane.

The President: Hon. Members, this will be debated this afternoon, the answer to the question. If you have a supplementary relating to the Question I will accept it sir.

Mr Karran: Eaghtyrane, will the Minister state, the fact is, that this is not the true picture as far as the infrastructure renewal is concerned, and that she is going after the Water Authority for money that it should not be passing on, spending for this development?

The President: Minister.

The Minister: No, Mr President I would not agree.

Misleading the Court Question 18 supplementary at October 2003 Tynwald

19. The Hon. Member for Douglas East (Mrs Cannell) to ask the Minister for Local Government and the Environment:

(1) Did you mislead this Hon. Court when replying to a supplementary question at No 18 at the October 2003 sitting;

(2) are you fully aware of the "Notes for Ministers" – "not to deceive or mislead Tynwald and the public"; and

(3) will you now provide an apology to this Hon. Court for any misleading?

The President: Question 19, 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: Minister for Local Government and Environment.

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

I regret to say that I am unable to answer the first part of

the Hon. Member's Question, because I am seeking to understand the nature of the implied allegation being made against me. If such an allegation is being made by the Hon. Member for Douglas East, then it has certainly not been fully and properly set out and, under those circumstances, I really cannot be expected to respond to it today.

Particularly in view of the nature of the implied allegation, the Hon. Member should be required to clarify exactly the alleged facts and circumstances upon which she is hoping to rely in support of it. I would need proper notice of those further and better particulars to enable me to look into them, before I could be reasonably expected to make any response.

With regard to the second part of the Hon. Member's Question, the answer is in the affirmative, and, in view of what I have said in relation to the first part of the Hon. Member's Question and whilst I would have no difficulty in offering an apology to this Court, if I felt I had misled it in any way, however unwittingly, I shall reserve my position until such time as sufficient information has been provided to enable me to prepare a response.

The President: Hon. Member for Douglas East.

Mrs Cannell: Thank you, Mr President.

Is the Hon. Minister aware of the *Hansard* in the Question on today's Question Paper. The *Hansard* referred to is of the October 2003 sitting of Tynwald Court and the question was at number 18, and if she is aware, has she read the *Hansard* in respect of the questions which were entitled 'Mount Murray Inquiry – Weaknesses and Failures by Government', and further, did she then look at the supplementaries that I have put to her and the answer that flowed from there?

The President: Minister.

The Minister: Mr President, yes I have.

The President: Hon. Member for Douglas East.

Mrs Cannell: Thank you, Mr President.

Therefore, would the Minister agree with me that, in the second part of her supplementary answer to mine, she said, and I quote,

it will not be in my hands to determine whether it continues or not.

This is to do with the Braddan Local Plan Inquiry being reopened,

the inspector who was appointed to hear the Inquiry will do so and it will be at *his pleasure* as to whether it continues or not.

Further, is the Minister aware of a letter received by a constituent of mine from the Crown Division planning appeals, advising my constituent on 15th October, six days before the Question was put to the Minister,

I should advise you that the Department of Local Government and the Environment has resolved to request the inspector to reopen the Inquiry.

Further, is the Minister aware at the pre-Inquiry meeting held on Thursday, 6th November 2003, the inspector said, and I quote,

On 19th August I reported to the Crown Office that I have completed the Parish Plan Report, including the addendum concerning the later Mount Murray submissions, and that it could be dispatched whenever it was wanted. I was then asked not to submit it, as the Department was still considering the implication of the Commissioners' report. On 15th September 2003, I was informed that the Minister had accepted the advice of the Director of Planning and the Attorney General that the Inquiry should be reopened to deal with the Mount Murray submission.

Is it not a fact, Minister, that the power to open an Inquiry, to appoint an inspector, to reopen and rehear an Inquiry is within your power, Minister, it has nothing to do with the inspector. The inspector is merely an appointee and so, therefore, you misled, Minister, did you not when you said in *Hansard* of 21st October in Tynwald Court,

the inspector who is appointed to hear the inquiry will do so and it will be at his pleasure.

It is your pleasure, Minister, I put it to you.

The President: Minister to reply.

The Minister: Thank you, Mr President.

Now we have the full particulars of the complaint that has been alleged to have been made against me, I will have pleasure in responding to it when I have had time to investigate these matters.

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

Mr Karran: Eaghtyrane, supplementary for the Shirveishagh.

Are you aware that your own Director of Planning had confirmed to me in writing that he had discussed my concerns with you, Minister, and that you, Minister, had confirmed that the DLGE should take the draft plan through the public Inquiry?

If you will not accept the word of your own Director of Planning, will you accept the word of the head of the Crown and External Relations Division in a letter to me dated 16th May, where he said that it is not for the inspector to determine of which point in time the Inquiry should take place, but for the DLGE?

Further supplementary, Eaghtyrane, in your reply of October were you trying to suggest to the public that the inspector had more independence than, maybe, was the case? When parties send representation for the inspector, care of the planning appeals secretary, is it right that they should get a reply from the Director of Planning, as happened in my case?

The President: Minister.

The Minister: As I have said, Mr President, I will reply in full when we examine all the particulars that we now seem to have about the alleged complaint.

Mr President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President.

Can I just advise the Minister that I was present at the pre-Inquiry at Mount Murray when the inspector confirmed what has, in fact, been said this morning and is she aware that her Director of Planning, Mr McCauley, was there

present and perhaps she might take an opportunity to discuss the matter with him.

The President: I think that was a statement rather than a question.

Local Authorities' amalgamation Staff implications

20. The Hon. Member of the Council (Mr Waft) to ask the Minister for Local Government and the Environment:

Considering your Department's views with regard to the amalgamation of Local Authorities and the possible centralisation of refuse collection, will you make a statement regarding the implications for staff who may, at present, be working within those fields of employment throughout the Island?

The President: We turn to Question 20 and I call on the Hon. Member of Council, Mr Waft.

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

The President: Minister for Local Government and the Environment.

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

My Department has recently held meetings with all local authorities since the Department's presentation to them in March 2003, concerning a possible rationalisation of the waste collection arrangements across the Island.

This is presently a local authority function, but varying arrangements are in place across the Island and, although there are 24 authorities, six northern parishes form together the Northern Refuse Collection Board, so there are effectively 19 operating waste collection authorities for a population of 76,000.

At the first meeting, held at Ballakermeen School, I explained the Department's thoughts and, after considering views submitted by local authorities since the March presentation, I indicated that the Department was proposing to transfer the function of waste collection from local authorities by bringing forward primary legislation to amend the Public Health Act.

Inevitably, the question concerning what would happen to staff currently employed in waste collection, should the legislation go ahead, was raised. Prior to the meeting, the Department's officers and myself had met with the representative of a trade union on the Island to seek advice as to how this issue could best be addressed. I stated very clearly at the September meeting of the local authorities that, should any changes to the conditions of employment

for staff be necessary, the interests of all employees would be considered very carefully in collaboration with the various unions to ensure a sensitive and managed transition took place, if that was to be the outcome.

At the meeting local authorities were asked to consider their views on amalgamation and report back to a further meeting to be held on 29th October this year. This request stimulated debate between the authorities and the October meeting saw much discussion taking place and, in fact, the very idea that such discussion between local authority representatives and the Department really does signify a step forward, with the frank exchanges of views that have not been envisaged in the past. The outcome of the October meeting was a general consensus that the majority of local authorities are prepared to accept five area authorities for waste collection, but they did ask me to consider leaving the function of waste collection with the local authorities and I can confirm that we are looking at this suggestion.

The Department feels that it might be possible for all staff currently employed in refuse collection to continue to do so, but I would like to reassure the Hon. Member that one of the Department's objectives in seeking to improve the delivery of public service is that any staff affected by any of the changes will be treated fairly.

The President: Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

Will the Minister acknowledge that every time this Tynwald Court decides on a rationalisation of local authorities, whether they are changing direction for whatever reason, I know we have had between eight and twelve decisions in the past of a rationalisation of local authorities, there are concerns as to their future among the staff members of those local authorities when this does come up from time to time.

What I would ask you, Minister, would you undertake to safeguard their salaries and pensions and maintain the necessary pay and conditions of service that those loyal staff demand and expect from the employers? Thank you, Mr President.

The President: Minister.

Mrs Crowe: Thank you, Mr President. The Hon. Member of Council is quite right, of course. These talks have been going on for not five years, but maybe fifty and, of course, what I have said that any staff affected will be treated fairly and all of the things that the Hon. Member, who so carefully manages the personnel and Whitley Council and the rest, will be taken into consideration.

The President: Hon. Members, I think it is an appropriate time in which we made our break. The remaining answers will be circulated to you and we will recommence our deliberations at half past two, Hon. Members. Thank you.

For Written Answer

LOCAL GOVERNMENT AND THE ENVIRONMENT

Redevelopment of adjacent properties Protection for neighbours

21. The Hon. Member for Peel (Mrs Hannan) to ask the Minister for Local Government and the Environment:

Is there any protection for neighbours when redevelopment takes place adjacent to their properties?

Answer: I have taken the Hon. Member's Question to relate to the way in which my Department can assist in the protection of property when adjoining property is demolished, rebuilt, or extended.

If any proposed redevelopment includes the demolition of any premises in excess of 1,750 cubic feet in volume, then notice of the intended demolition must be given to the Chief Executive of the Department.

This notice must also be sent to the owner and occupier of any adjacent building, the Public Utilities, including the supplier of gas and electricity and the Water Authority, the Highway Authority, the Local Authority and Manx Telecom. The Department then has up to six weeks to give a Direction, under the Building Control Act 1991, which relates to the manner of the demolition and steps to be taken to mitigate the effects of noise, nuisances due to dust and smoke, and the final appearance of the site.

The Building Control Act 1991 may also require that buildings adjacent to that being demolished are adequately shored, that any surfaces on the adjacent building that are exposed by the demolition are weatherproofed, and that any damage to adjacent buildings caused by demolition by the negligent act or omission of any person engaged in the demolition is repaired.

Additionally, where proposed works concern issues, such as fire or structural safety, the application under the Building Regulations will have to make appropriate provision for these matters. If the existing building is dangerous, the Local Authority may also serve a notice under the Building Control Act 1991.

There is also an element of control under the Town and Country Planning Acts, Orders and Regulations. Planning permission is needed to demolish buildings which are Registered or within a Conservation Area, and, under Part 2 of the Town and Country Planning Act 1999, which I hope the Department will be able to bring into operation next Spring, planning permission will be needed to demolish buildings which are attached to other buildings.

Consideration is being given at present by the Department to the possible introduction of legislation on the lines of the 1996 Party Wall Act, which is now in operation in England and Wales. This would provide a framework for preventing and resolving disputes in relation to party walls, boundary walls, and excavations near neighbouring buildings.

Having regard to the Government's policy of encouraging 'brownfield' rather than 'greenfield' development, this issue is likely to arise more frequently.

My Department will, of course, assist where it can and should, but I conclude by emphasizing that the principal responsibility in these matters rests with the owner of the site being redeveloped.

TRANSPORT

Smoking policies Airport and Sea Terminal

22. The Hon. Member of the Council (Mr Waft) to ask the Minister for Transport:

*What is your Department's policy on smoking at -
(1) Ronaldsway Airport; and
(2) the Sea Terminal?*

Answer: (1) The landside public areas at the Airport are all non-smoking. There is however a designated area for smokers in the Departure Lounge.

(2) At the Sea Terminal there is a designated smoking area in the main public concourse. All other public areas in the Sea Terminal under the control of the Department are non-smoking.

This does highlight the differences between the smoking policies at the Airport and the Sea Terminal. It is my intention that this Department will determine a sustainable policy on smoking, which can be applied equally to all the Department's public buildings. To that end this subject has been tabled for discussion at the next Department meeting.

WATER AUTHORITY

Recent Award Applications for Consideration

23. The Hon. Member for Peel (Mrs Hannan) to ask the Chairman of the Water Authority:

*(1) What was the award recently presented to the Water Authority; and
(2) who applied to be considered for it?*

Answer: I thank the Hon. Member for Peel for her Question and confirm that the Water Authority received a Green Apple Award at the House of Commons on 6th November for their environmental achievements in reducing leakage from the Island's water mains by 40 per cent over a period of eight years.

This is an annual international campaign which recognises, rewards and promotes environmental best practice around the world. The awards, now in their ninth year, are well established as one of the major environmental recognition schemes, both in the UK and internationally. The awards span three major sectors (International, Commerce & Industry and Local Authorities) and twenty nine different categories within those sectors, including one for 'Water'. Last year international awards were made to organisations from Mexico, Romania, Slovakia, Spain, Czech Republic, Jamaica, Lesotho, Turkey and the State of Michigan in USA.

The Green Apple Awards are a non profit organisation who are sponsored by a range international bodies, including the UK's Environment Agency, the Chartered Institute of Environmental Health, the Chartered Institute of Wastes Management, the Municipal Journal and other official bodies. The annual campaign is led by The Green Organisation, which is an independent, non political, non activist, non profit environmental group.

The Water Authority's dedicated Leakage Team, which was formed in 1999, has achieved a 40 per cent reduction in leakage from mains and service pipes and they continue to develop and implement a leakage strategy which has taken them to the forefront of the best performers in the British Isles. They are, in fact, the best performers, as independently audited by WRc, formerly the Water Research Centre, from Swindon, in accordance with the guidelines set out by OFWAT, the water regulator for England and Wales.

This is a remarkable achievement for the Leakage Team since their formation and I am pleased that this vital work has been recognised by the Green Apple Awards. The Leakage Team have won this award in the face of some stiff competition from the UK water companies. The establishment of low leakage levels has been the cornerstone of the Authority's water supply strategy for the design of its new water treatment works and infrastructure.

It was the Chief Executive who applied for the award on behalf of the Leakage Team, following approval by the Board. I would like to place on record my appreciation of the hard work and dedication of the Leakage Team and to express how proud I am of their achievement.

STANDING COMMITTEE ON EXPENDITURE AND PUBLIC ACCOUNTS

Crowe EPH Limited **Report on financial collapse**

24. The Hon. Member for Douglas East (Mrs Cannell) to ask the Chairman of the Standing Committee on Expenditure and Public Accounts:

When will the Committee report on their investigations into the financial collapse of Crowe EPH Limited following their involvement in the construction of the new hospital?

Answer: In March 2000 the Committee on Expenditure and Public Accounts determined to undertake an inquiry into all matters relevant to the award of a contract to Crowe EPH Ltd in respect of the new hospital and the causes of the failure of Crowe EPH Ltd to fulfil its contractual obligations. This investigation was instituted and a considerable volume of documentary evidence was collected and collated and a specialist adviser was appointed to assist the Committee.

Prior to oral evidence being taken, a number of legal issues arose, in respect of which legal advice was obtained. The Chairman of the Committee reported to Tynwald in October 2000, when this Honourable Court resolved that the inquiry be delayed until after the General Election 2001.

When Hon. Members considered the matter in October 2000, they had before them a report on this issue. That report identified four options for dealing with this matter:

1. not to carry out an investigation;
 2. to proceed with a full inquiry accepting that the product may be unsatisfactory and that other parties could be disadvantaged;
 3. conduct a phased inquiry, again accepting that the product may be unsatisfactory and that other parties could be disadvantaged;
 4. delay the inquiry,
- the latter being the course of action that Tynwald approved in October 2000.

The Committee is conscious of its limited remit, the accent being on the identification of Government financial irregularities and weaknesses. In this case, early identification of any such weakness has to be weighed against the risk of disadvantaging parties outside of Government.

Action by the Committee should not be viewed as a substitute for any legal proceedings or action by the Official Receiver.

The Committee on Expenditure and Public Accounts reviewed the position in March 2002 and determined to defer consideration for a further period of time. The Committee instituted another review in September 2003 and it is anticipated that the Committee will arrive at a decision before the end of the year as to whether the investigation is to be re-opened. At that time the Committee will report to Hon. Members.

CHIEF MINISTER

Appointment of Lieutenant Governor **Report of the Standing Committee on** **Constitutional Matters**

25. The Hon. Member for Michael (Mr Cannan) to ask the Chief Minister:

In your consultations with the Lord Chancellor's Department with regard to the appointment of the next Lieutenant Governor, will you take proper cognisance of the Report of the Standing Committee on Constitutional Matters - the appointment process of the Lieutenant Governor of the Isle of Man, dated March 2001?

Answer: The principles contained in the Report of the Standing Committee on Constitutional Matters in respect of the appointment process of the Lieutenant Governor of the Isle of Man will be fully taken into account during consultations on the appointment of the next Lieutenant Governor.

Manx Telecom Limited **New licence provisions**

26. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

(1) Why did the Council of Ministers not feel that this 15 year licence to Manx Telecom Limited should not have

been subject to a full tender process as was the case for the previous licence;

(2) what provisions have been incorporated in the new licence to encourage competition by removing monopoly provisions thereby lowering cost to customers; and

(3) does the licence contain provisions identifying the telecommunications earlier infrastructure assets and who would own them in the event the licensee was not successful in obtaining a renewal in 15 years time?

Answer: (1) The Council of Ministers, in granting the new licence to Manx Telecom Limited, was implementing the decision of Tynwald, made at its sitting of March 2002, to endorse the Communications Commission's Response to the independent report by Interconnect Communications Limited on telecommunications sector policy for the Isle of Man. *Inter alia* that recommended that Manx Telecom Limited should be re-licensed for a further period of 15 years.

A tendering process would inevitably have resulted in higher charges than would otherwise be the case being levied on telecommunications users. This was the position under the previous licence. It was another of the recommendations of the report endorsed by Tynwald that such a 'hidden tax' on users was inappropriate.

(2) Unlike the old licence, there are no monopoly provisions in the new licence. Competition is strengthened by new provisions on fair trading (condition 21) and for the regulator to intervene where the licensee is determined to have significant market power (conditions 42-38).

(3) The new licence is technology-neutral and does not tie itself to particular infrastructure, thus being flexible as technology advances. The present infrastructure is the property of Manx Telecom Limited. Should the licence be revoked for any reason, whether at the end of the licence period or otherwise, the infrastructure assets remain with the company, but the Telecommunications Act 1984 provides for an appropriate transitional provision to be made in respect of public telecommunications systems.

Retiring Government employees Re-employment as consultants

27. The Hon. Member for Douglas North (Mr Henderson) to ask the Chief Minister:

(1) What is the Government policy on the re-employment of retiring ex-Government staff as consultants;

(2) have any such people been employed; and, if so -

(3) how many people have been employed by Government Departments in the last 12 months; and, if so -

(4) have these posts been correctly advertised through the press; and

(5) if not, why not, does this not breach Government employment and equal opportunities practice and give the public the wrong impression of "done deals"?

Answer: (1) The Government policy on the employment of consultants is contained in Financial Regulations. It is covered by Financial Direction 25 a copy of which is attached. The service offered by a consultant is of more

relevance than the former employment status of those delivering the service and there is no Government policy that would preclude the appointment of a consultant who might be a retired or former Government employee.

(2) Yes.

(3) Two.

(4) Financial Regulations were adhered to.

(5) Not applicable. Employment law does not govern the appointment of consultants.

FD25 Selection and management of external consultants for non capital schemes

1. The appointment of consultants must be made within a framework of delegation established for the purpose.

2. Before seeking to engage external consultants, Departments shall carefully consider the reasons why it is necessary to do so.

3. The possibility of using appropriately qualified officers from existing Government sources should be investigated.

4. If, after considering all other options, it is considered justifiable to engage a consultant, the reasons for arriving at that decision shall be documented.

5. A budget for the consultancy work should be planned and a separate budgetary code established for each consultancy, to record accurately the associated costs.

6. Having gained approval to proceed, clear and concise terms of reference must be produced before tenders or quotations are invited from potential consultants. Invitations to tender should not normally be extended to an individual or body involved in drawing up the terms of reference.

7. The procedures shown in FD8 shall be adhered to and tenders or written quotations sought, if appropriate, given the likely cost of the consultancy. The term of the contract must be specified and open-ended contracts avoided. If an open-ended contract is being considered, the reasons for entering such a contract should be documented and approved by the Minister or Board. Periodic performance reviews of such agreements should be carried out and the frequency of such reviews stated with the contract.

8. Comprehensive criteria should be set to evaluate consultants' offers, such as previous experience and qualifications of the person actually undertaking the work.

9. If an applicant is unknown to the Department, references should be sought, where possible from bodies where the applicant has carried out similar works.

10. The reasons for selecting a particular consultant and rejecting others shall be documented.

11. A formal written agreement must be drafted based on the terms of reference and the agreement should be signed by authorised representatives of both the Department and the consultancy.

12. Target dates should be established for the implementation of accepted recommendations. Formal review procedures should be established to evaluate the consultant's work and to determine whether the work is progressing on time and to budget.

Notes:-

1. A leaflet, *Getting Value From Management Consultants*, giving more comprehensive advice and guidance is available on request from the Chief Internal Auditor.

ATTORNEY GENERAL

**Channel Hotels and Properties (Isle of Man) Limited
Directorship
Connections with Graham Ferguson Lacey's companies**

28. The Hon. Member for Onchan (Mr Karran) to ask HM Attorney General:

Will you please provide the following information –

(1) when did you join the board of directors of Channel Hotels and Properties (Isle of Man) Limited;

(2) the dates of joining and leaving the board of directors of Channel Hotels and Properties (Isle of Man) Limited;

(3) have you been, or are you, a director of any other company connected to Channel Hotels and Properties (Isle of Man) Limited at any time, either in the Isle of Man or elsewhere;

(4) regarding directorships or nominee shareholdings of all companies of which you have been either a director or shareholder, that have been, or are connected to Graham Ferguson Lacey, including the relevant dates;

(5) will you say specifically what your connections have been, or are now, to companies controlled by Graham Ferguson Lacey that were involved in the leasing and subsequent purchasing of the Nunnery Estate by the Department of Education through the International Business School, a company incorporated by the Department;

(6) did you declare any connections to Graham Ferguson Lacey's companies, or to Channel Hotels and Properties (Isle of Man) Limited at the time of the incorporation of the International Business School Limited, and any close connection to companies controlled by Graham Ferguson Lacey, and specifically, the Nunnery Limited; and

(7) will you say why you felt able to advise the Department of Education concerning the taking of a lease and subsequent purchase from the Nunnery Limited, if you were previously connected with the Nunnery Limited, or if you did declare your connections, will you say to whom you made your declaration and on what date?

Answer: (1) It is a matter of public record that I joined the board of directors of Channel Hotels and Properties (I.O.M.) Limited (Channel Hotels) on the 25th November 1987.

(2) It is a matter of public record that I left the board of directors of Channel Hotels on the 26th November 1991.

(3) I am unable to answer this question as I am unaware of any company, either in the Isle of Man or elsewhere, which may be 'connected to' Channel Hotels. Moreover, I am unaware of the meaning 'connected' in the context of the question.

(4) I am not now a director of, or shareholder in, any company which has a 'connection to' Mr. Graham Ferguson Lacey. To the best of my knowledge, I resigned my directorships of, and transferred my shareholdings in, all client companies before I became Attorney General in January 1998. The identity of such companies is a matter which is confidential to my former clients.

(5) It is a matter of public record that, by a Deed of Conveyance dated the 15th August 1997, The Nunnery Limited purchased the Nunnery Estate from Anabas Limited, that I became a director of The Nunnery Limited

(then named Newman Limited) on the 17th July 1996, and resigned as such on the 17th January 1997. I was appointed as Alternate Director to Mr R E H Lacey for the period from the 6th August 1997 to the 26th August 1997. I am unable to comment as to whether The Nunnery Limited was, or is, controlled by Mr. Graham Ferguson Lacey.

(6) It is a matter of public record that Isle of Man International Business School Limited was incorporated on the 25th May 1999; at that date I had no 'connections to' Mr. Graham Ferguson Lacey's companies or with Channel Hotels, nor did I have any connection, 'close' or otherwise, with any companies which might then have been controlled by Mr. Lacey, or with The Nunnery Limited.

(7) To the best of my knowledge, I took no part in advising the Department of Education concerning the taking of a lease from The Nunnery Limited - that transaction was handled by a legal officer within my Chambers. Neither I, nor any officer within my Chambers, was concerned with the subsequent purchase of the Nunnery Estate by the Isle of Man International Business School - a firm of advocates acted for the purchaser in that transaction. In any event the 'connections' I had previously had, as described in (5) above, were not such as to constitute any conflict of interest and duty; no declaration as to those connections was made to any person, or was necessary.

TREASURY

**Customs and Excise craft Panther
Costs**

29. The Hon. Member for Castletown (Mr Speaker) to ask the Minister for the Treasury:

In relation to the replacement Customs and Excise craft Panther –

(1) what is the projected cost per hour of operating the new craft whilst it is at sea;

(2) what is the total anticipated annual cost of operating the new craft;

(3) will additional officers be required and, if so, how many; and

(4) what was the cost per hour and the annual cost of operating the present Customs and Excise craft Blue Ranger during this financial year?

Answer: It is important, when considering a comparison of the running costs of *Panther* and *Blue Ranger*, to distinguish the differences between the two vessels.

Blue Ranger is a 10.5 metre Rigid Hulled Inflatable boat; it weighs 3.5 tons. Its wheelhouse can accommodate two crew and it will operate in sea conditions up to Force 5. Because of the lack of crew facilities, maximum patrol endurance is normally six hours.

The *Panther* is a 14.9 metre purpose built patrol craft, weighing 23 tons. Its wheelhouse can comfortably accommodate four crew and it will operate in virtually any sea conditions and comfortably in Force 5-6. It has a toilet and galley, with four bunks; if required it is capable of performing patrols up to 24 hours plus.

(1) The principal operating cost for both vessels is fuel. *Panther's* cost per hour will vary between £25 (at a constant

speed of 12 knots) and £40 (at 20 knots plus). *Blue Ranger's* fuel cost per hour was £17.50.

(2) On average, the total number of hours spent at sea over the year on maritime patrols is 200, making a fuel cost for *Panther* of between £5,000 and £8,000. Fuel costs for the *Blue Ranger* for 200 hours were £3,500. In the last financial year, a total of £9,476.25 was spent on the routine maintenance of *Blue Ranger*. Estimated costs for the routine maintenance of *Panther* are broadly comparable, at around £10,000.

(3) Normal crewing for both vessels is three to four, depending on whether the patrol is intelligence gathering, or boarding of vessels at sea, and no additional officers will be required to operate *Panther*.

(4) The following table sets out both the estimated cost per hour and estimated annual cost of operating the present Customs and Excise craft, *Blue Ranger*, during this financial year, together with estimated costs for the replacement craft, *Panther*. The assumptions on which these figures are based are also set out.

	Blue Ranger	Panther at constant speed of 12 knots	Panther at constant speed of 20 knots
	£	£	£
Fuel	3,500	5,000	8,000
Routine Maintenance	9,500	10,000	10,000
Estimated Annual Cost	13,000	15,000	15,000
Estimated cost per hour	65	75	90

Assumptions

1. Average total hours at sea on maritime patrols, 200 per year.
2. Routine maintenance in the current year for *Blue Ranger* estimated at the same level as in 2002-3.
3. Normal crewing levels to be 3-4 for both vessels, depending on operational purposes.

Customs and Excise Service Responsibilities and independence of UK

30. The Hon. Member for Castletown (Mr Speaker) to ask the Minister for the Treasury:

Can you confirm -

- (1) that the Isle of Man Customs and Excise Service is totally responsible to you as Minister for the Treasury and that you, as Minister for the Treasury, are totally responsible for any actions taken by that service;
- (2) that the Isle of Man Customs and Excise Service, whilst co-operating with the United Kingdom

Government's Customs and Excise Service, operates totally independently of that Agency;

(3) that, whilst co-operating with the United Kingdom Customs and Excise Service and other such Agencies, that the officers of the Isle of Man Customs and Excise Service only comply with instructions given by, and specifically authorised by, the Isle of Man Collector of Customs and/or a senior officer of the Isle of Man Service and the Treasury; and

(4) that there is no compromise in the position of, and the independence of, the Isle of Man Customs and Excise Service whilst co-operating with the United Kingdom Customs and Excise Service, and any other Customs and Excise Service, whilst undertaking its responsibilities?

Answer: (1) The Isle of Man Customs and Excise Service is a Division of the Treasury and the Collector of Customs and Excise reports to the Chief Financial Officer of the Treasury. As Treasury Minister, I have responsibility for the Treasury, assisted by the 2 other members, Mr D J Gelling, MLC and Mr A J Earnshaw, MHK.

Isle of Man Government has passed various Acts of Tynwald which are relevant to the law enforcement work that the Customs and Excise Division undertakes, notably the Isle of Man Act 1979, the Customs and Excise Management Act 1986, the Criminal Justice Acts 1990 and 1991 and the Drug Trafficking Act 1996, all of which delegate certain duties, powers and responsibilities to the Collector and Officers of the Customs and Excise Division.

(2) The Isle of Man Customs and Excise Service, whilst co-operating with the UK Government under the terms of the Isle of Man Act 1979, is totally independent of HM Customs and Excise. Isle of Man Customs and Excise Officers are Manx Civil Servants employed by the Treasury.

(3) In law enforcement operational matters, Isle of Man Customs and Excise Officers work under the guidance, instruction and authorisation of the Collector of Customs and Excise or Senior Officers of the Division. The UK Government or HM Customs and Excise has no say in the targeting, deployment or conducting of Isle of Man Customs and Excise Law Enforcement operations.

With regard to co-operation and mutual assistance with other jurisdictions and law enforcement agencies in law enforcement work, the Isle of Man Government is party to various international conventions covering Customs matters, drugs, prohibitions and restrictions and various UN/EU directives and regulations. In most of these types of agreement, the Isle of Man Government has the discretion to assist other agencies and jurisdictions.

With regard to the international law enforcement work undertaken by the Isle of Man Customs and Excise Division, all requests for mutual assistance are made to the Isle of Man Attorney General, who decides whether the Isle of Man Customs and Excise Division should comply with each request.

(4) I would confirm to the Hon. Member for Castletown that the Isle of Man Customs and Excise Division of the Treasury, whilst co-operating with other jurisdictions under the agreements I have outlined, is an independent service and its law enforcement actions are taken independently and its position is not compromised by the UK or any other Customs and Excise Service.

HEALTH AND SOCIAL SECURITY**New Noble's Hospital
Incorporation of Ballamona architectural features**

31. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister of Health and Social Security:

- (1) *Have the special architectural features which were removed from the old Ballamona Hospital and were to be incorporated into the new Noble's Hospital been incorporated into the building; and, if not,*
 (2) *why not; and*
 (3) *where are they now?*

Answer: (1) Nursery Tiles

The single tiles of nursery rhymes et cetera by Walter Crane for Maw & Co., circa 1878-1880, situated in the former Nursery Wing of Ballamona Hospital, which were removed, cleaned and restored, have yet to be incorporated into the new hospital.

Proposals have been prepared to show how the salvaged tiles would best be presented and incorporated into two protective panels, each measuring approximately 1600 mm in length and 700 mm in height. These panels have been manufactured, but a suitable location has yet to be agreed between the hospital's management team and the recently appointed Noble's Hospital Arts Co-ordinator.

To date, the installation of these panels has not been regarded as a high priority. The tiles are currently in safekeeping with the Department's Estate Services Directorate.

(2) Heraldic Shields

During the demolition of the tower of the Ballamona Hospital Centre Block, several sandstone heraldic shields were carefully removed. Proposals have been prepared which, in general terms, sees six of these shields framed by artificial stone surrounds, each being supported on three stainless steel tubes set at varying heights. It is intended that these would be grouped in a high profile location on the frontage of the hospital, below the staff dining terrace and adjacent to the bus lay-by and shelter serving the main entrance.

To date the installation of these shields has not been regarded as a high priority.

The shields are currently stored in the industrial zone of the new hospital.

(3) Granite Stoneware

During the centre block demolition works granite plinth and quoin blocks were also salvaged. Many of these have been incorporated into a new dry stone wall forming a part of the landscaping works at the rear of the hospital.

(4) Miscellaneous items

Final decisions have yet to be taken regarding the possible incorporation of a sandstone arch, rainwater hoppers and a roof finial (which is in poor condition). Ideas currently being suggested include incorporating these items alongside the heraldic shields to form a 'ruins' garden with a weatherproof information board, photo of the centre block and some history of Ballamona Hospital to give it an identity.

Again, these items are currently stored in the industrial zone of the new hospital.

**Non-urgent operations
Assessment and pain control**

32. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Health and Social Security:

- (1) *In the case of a person who is on the waiting list for either a hip or knee replacement, who is considered non-urgent, do you accept that many such people are in extreme pain from their condition;*
 (2) *how are they assessed as non-urgent;*
 (3) *what pain control care plan is usually put in place to alleviate the pain as far as possible; and*
 (4) *do all the general practitioners follow this as a general guideline?*

Answer: (1) Patients who are waiting for a hip or knee replacement procedure are placed on a waiting list after being assessed by a consultant in orthopaedics. The assessment is based on the clinical need of the patient and takes into account many factors, such as the severity of the symptoms and the general health of the patient.

The majority of patients are placed on the waiting list in the order in which they are assessed by the consultant. Only where the consultant determines that a patient has an urgent clinical need is a patient placed ahead of any other on the waiting list.

Patients who are placed on the waiting list are given an indicative waiting time and are asked to keep in contact with the Orthopaedic Department at Noble's Hospital. Patients who begin to experience extreme pain or suffer a significant deterioration in their condition are encouraged to contact their general medical practitioner or the Orthopaedic Department. Where this occurs, a patient undergoes further assessment and, if it is thought appropriate by the consultant, they may be given an earlier date for their procedure.

(2) In response to the second part of the Question, patients are assessed by the Orthopaedic Specialist as routine, if their clinical need is of no greater significance than that of the other patients on the waiting list. In these circumstances they are generally placed on the list in the order of referral. Otherwise, patients are assessed as urgent, when they will be given an earlier date for their procedure.

(3) With regard to the third and fourth part of the Question, the pain control plan of a patient is based on an assessment of the individual patient and their clinical need. Where a patient is concerned that this plan is not sufficiently effective, then they should contact their general medical practitioner or the Orthopaedic Department.

**Non-urgent operations
Waiting lists and average times**

33. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Health and Social Security:

- (1) *How many people are currently on the waiting lists for –*
 (a) *hip replacements; and*
 (b) *knee replacements;*
 (2) *what is the average time for cases considered as non-*

urgent; and

(3) how do these figures compare to –

- (a) 12 months;
(b) 24 months; and
(c) 36 months ago?

Answer: (1) The current waiting lists (end October 2003) for joint replacement surgery are as follows:

	Total	Patients waiting for admission (months)				
		0-2	3-5	6-8	9-11	12-23
(a) Hips	65	22	12	11	9	1
(b) Knees	64	19	17	7	20	1

(2) Waiting time

Hips: Of the patients waiting for hip replacements, 40 per cent have been waiting less than three months and 62 per cent less than six months.

Knees: Of the patients waiting for knee replacements 30 per cent has been waiting less than three months and 56 per cent less than six months.

(3) Comparison figures

(a) Waiting list 12 months ago (end of October 2002)

	Total	Patients waiting for admission (months)				
		0-2	3-5	6-8	9-11	12-23
Hips	32	15	9	4	3	1
Knees	48	11	14	12	1	0

(b) Waiting list 24 months ago (end of October 2001)

	Total	Patients waiting for admission (months)				
		0-2	3-5	6-8	9-11	12-23
Hips	15	8	3	4	0	0
Knees	18	5	8	4	1	0

(c) Waiting list 36 months ago (end of October 2000)

	Total	Patients waiting for admission (months)				
		0-2	3-5	6-8	9-11	12-23
Hips	27	7	14	6	0	0
Knees	13	4	6	2	1	0

**New Noble's Hospital
Purchase or lease of new beds**

34. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Health and Social Security:

- (1) How many new beds have been supplied to the new hospital;
(2) were they purchased, if so, what was their total cost; or
(3) were they leased, if so, what are the details of the leasing contract; and
(4) why were they leased rather than purchased?

Answer: (1) The new bed management system is designed to provide the right bed and sleep surface, which is clean, safe, and functional to the right patient at the right time. It also includes complete clinical and technical backup services.

The full package encompasses the complete range of services associated with bed and pressure relieving

management and includes the provision of:

- 250 electric profiling beds;
 - pressure reducing static mattress for use on all hospital beds;
 - a range of 42 specialist pressure relieving mattresses and beds for patients whose requirements fall beyond the coverage of the new static pressure relieving mattress;
 - a bed specially designed for obese patients (up to 70 stone);
 - provision for paediatric cots/profiling beds and mattresses;
 - bed maintenance and repair service;
 - bed and mattress cleaning service;
 - bed tracking service;
 - annual prevalence and equipment survey;
 - access to expert clinical nurse advisory service;
 - access to technicians;
 - ongoing management information relating to our care and service provision;
 - controlled usage against established protocols;
 - provision of appropriate beds for specialist areas including critical care departments;
 - a comprehensive education and training programme.
- (2) The bed management programme was not purchased.
(3) The basis of the leasing arrangement entered into is a ten-year contract with Huntleigh Healthcare, a market leader in the field of healthcare equipment provision.

The lease provides the full provision of services listed in the answer to Question 1.

At the end of the ten-year leasing contract, the hospital has the option of purchasing the equipment at the depreciation value, withdrawing from the contract, or extending the lease.

The contract will be reviewed in year seven and decisions made about future provision.

(4) There are a number of benefits realised as a consequence of leasing a total bed management system in this way. The decision to lease was based on the recommendation from the clinical team evaluating the tender. The benefits are:

- The Department is provided with greater flexibility in the way equipment is funded (no longer reliant on capital funding).
- Administration costs are greatly reduced, the service provider being responsible for all administrative tasks related to the contract.
- Greater certainty is assured of budgetary expenditure in this area.
- Service objectives and delivery can be more effectively planned to meet the needs of our patients and staff.
- In the long term, value for money is evident.
- Risk is shared with the expert service provider. A partnership approach to care is achieved which minimises risk to the organisation.
- Opportunities are provided to embrace advance technologies much earlier. As the technology relating to bed design and patient management changes, the existing equipment can be reviewed and updated without further capital expenditure. The service provider is responsible for ensuring that the Department keeps fully abreast of the latest technological advances.
- The service provider is responsible for ensuring that ongoing education and training is provided to all staff

regarding the use of all equipment provided. The Department can, therefore, be assured that all staff have competency-based training, enabling them to provide the highest standard of care to patients.

- Planned preventative maintenance and a responsive repair service is achieved as part of the contractual agreement. This would have been expensive and difficult to achieve, if the Department had purchased rather than leased the bed management system, without additional personnel resources being allocated to the Estates Department.

Within healthcare, advances in technology and care provision change at a considerable pace. To allow the Department to keep up to date with these advances, leasing equipment as opposed to purchasing is become a more favoured option for acquisition.

HOME AFFAIRS

**New prison
Professional services and fees**

35. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Home Affairs:

- (1) what are the pre-contract professional fees in total for the scheme to develop the new prison;
- (2) will you name each company and service provided, and how do these costs break down by -
 - (a) each company;
 - (b) each professional service; and
 - (3) for what purpose in each case are they provided?

Answer: 1. The pre-contract professional fees, in total, for the scheme to develop the new prison are £2,324,400.

Company	Service	Description	Fee (£)
Dalrymple Associates	Project Manager	Client's Representative with the remit for delivering the scheme safely, within budget, on time, to the requisite standards and meeting the need of the end users.	277,313
McGarrigle & Jackson Taylor Young	Architects	This is a partnership between a Manx based Architect and UK specialist in Prison design. The Architect has overall design responsibility for the project, co-ordinating the structural and engineering services to ensure all building elements are compatible.	414,960 414,960
Tweeds	Planning Supervisor	Appointed to ensure that the project complies with the requirements of the CDM Regulations, which relate to the avoidance or minimisation of construction and future maintenance risk.	62,244
Hoare Lee & Partners	M&E Engineers	Responsible for mechanical and electrical engineering services design and co-ordination including above ground drainage.	373,464
Curtins	Structural Engineers	Responsible for foundation, frame, below ground drainage design and road construction.	370,309
Cameron Hall	Quantity Surveyors	Responsible for cost control and financial management.	314,194
Prescott Associates	Landscape Architects	Responsible for soft landscaping design to the external perimeter of the prison.	22,750
Fee Contingency			74,206
Total			2,324,400

LOCAL GOVERNMENT AND THE ENVIRONMENT

**Waste disposal charges
Income and breakdown of figures**

36. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Local Government and the Environment:

- (1) Section 5.2 of the Report of the Department of Local Government and the Environment on Charges for Waste Disposal states that the Department Business Plan provides an estimated income for waste charges of £2.7M; would you please provide further information as to what this figure represents; and
- (2) would you provide information regarding the breakdown between income from commercial waste and income from residential waste?

Answer: (1) An Addendum has been issued to all Hon. Members correcting the income to be generated from waste charges from £2.7m to £2.283m. The anticipated income arising from the implementation of waste charges was recalculated following the June sitting of Tynwald, when Members agreed to the phased implementation of commercial charges, but using the same anticipated tonnage of 100,000 tonnes per annum used in the original estimate.

This figure represents income for the 9 months' period from 1st July 2003 to 31st March 2004, from both commercial and domestic wastes.

The introduction of charges for domestic waste and increased charges for commercial waste have provided the much-needed incentive for all Island residents to minimise and recycle as much of the waste as possible. The negative consequence of this is that previously anticipated income levels are now unlikely to be met, as the actual volumes being delivered to the landfill sites are below those estimated. Unfortunately, whilst this reduction in wastes being brought to the Government's landfill site was expected, it was not possible to predict the extent of the reduction in advance or the consequent reduction in income.

(2) Detailed below is a breakdown of the £2.283m split between commercial and domestic income streams.

100,000 tonnes anticipated waste split	
60,000 tonnes domestic	
40,000 tonnes commercial	
<i>Income</i>	
Domestic waste	- (60,000 x 9/12) x £10 = 450,000
Commercial waste	- (40,000 x 5/12) x £50 = 833,333
	- (40,000 x 4/12) x £75 = 1,000,000
	£2,283,333

*The Court adjourned at 1.09 p.m.
and resumed its sitting at 2.30 p.m.*

Orders of the Day

Tribute to Neil Hodgson

The President: Hon. Members, if I may, before we revert to our Order Paper again, can I pay a tribute and a welcome to Neil Hodgson, who has joined us and is sitting in our Distinguished Gallery there. (**Several Members:** Hear, hear.)

Neil Hodgson has – as I understand it – risen from the ranks of schoolboy-racer on his motorbike to motocross work, to successfully challenging at various levels, from winning first – as I understand it – the 125cc British Championship – incidentally, that was in his first full season as a racer. He moved through, then, to the Grand Prix racing, to superbikes. He won the British Superbike Championship in the year 2000 and, of course, this year we congratulate him on winning the World Superbike Championship, (**Members:** Hear, hear.) truly a magnificent performance Neil, and we sincerely congratulate you.

I do not know that we sincerely congratulate you for being a Lancastrian by birth! (*Interjection and laughter*) However, Hon. Members, Neil, his wife Catherine and baby, Holly Jean, have, in fact, made the Isle of Man their home and we are pleased to have you amongst us.

Members: Hear, hear.

Local Authority and Government Housing Eviction Consultative Body

Statement by the Minister for Local Government and the Environment

The President: We turn then, Hon. Members, back to our straightforward Order Paper and I call on the Minister for Local Government and Environment to take item 3.

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

Following a Motion by the Hon. Member for Peel at the July sitting of this Hon. Court, I undertook to report to this sitting on the need for a consultative body to consider evictions from public sector properties and the need for the creation of a Housing Welfare Officer post.

My Department's consideration of these matters has not yet been completed and, as a result, it has not been possible to report in definitive terms to this sitting.

My Department has consulted with the Hon. Member for Peel, Mrs Hannan, with regard to her motion and the consultation has also taken place with most of the local authority housing clerks and housing managers at their regular Managers' Forum.

Representatives of the Department and housing authorities have met to formulate a practical set of procedures to address the issues raised by the Hon. Member for Peel. A draft set of possible revised procedures has been produced, with the aim of ensuring that tenants have better

access to appropriate advice for dealing with their debt and adequate opportunities to make arrangements to reduce their arrears by installments.

The draft procedures, when finalised, will also include a system of checks and balances that would ensure that every housing authority has complied with them and has maintained a record of dates - dates of letters, meetings, telephone contacts - which can be referred to subsequently should it be necessary to instigate any possession proceedings.

I am reasonably happy with the proposed procedures, but I feel that extra consultation is required with the Department of Health and Social Security and the Office of Fair Trading to ensure that there is an agreed review procedure that can efficiently and effectively be implemented when necessary.

I am very conscious that the eviction process does bring further social pressures to either tenants who face eviction and to the Government Departments who may be faced with the financial consequences as the result of the eviction process, and we do need to explore this further.

I hope, from what I have said, that Hon. Members will understand my desire to finalise the procedures and carry out further consultation before bringing the report to this Hon. Court, and, whilst the short delay is unfortunate, it will be my intention to report back on this very important matter, to the February 2004 sitting of Tynwald.

Thank you, Mr President.

Mr Earnshaw: Hear, hear.

The President: Thank you.

Upgrading Infrastructure at Jurby Expenditure Approved

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

That Tynwald –

(a) approves the expenditure of a sum not exceeding £841,000 to facilitate the provision of infrastructure facilities in respect of electricity, water and drainage services in support of the recommendations in the Report on the Jurby Study dated October 2003;

(b) authorises the Treasury to expend during the year ending 31st March 2004 from the Capital Transactions Account a sum not exceeding £841,000; and

(c) approves of and sanctions borrowings not exceeding £841,000 being made by Government, such borrowings to be repaid within a period of 30 years.

The President: Hon. Members, I am conscious of the fact, as I indicated this morning, that the Hon. Minister for Transport has been delayed; I propose to hold over his item until he rejoins us in the Court.

So we will turn on to item 5, which is the upgrading of the infrastructure at Jurby, and again I call on the Minister for Local Government and Environment to move.

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

At item 8 on today's Order Paper, Hon. Members will be invited to receive my Department's discussion document on its Jurby Study Report, in connection with, and in preparation for, future development of this area.

Whatever form that development might ultimately take, the Department now seeks approval to expend the monies to facilitate the provision of infrastructure facilities in the area. These include enhancements to the electricity, water and drainage services in the Jurby area.

Unless and until the basic infrastructure in the area is upgraded, any proposals for the development of Jurby cannot be achieved. The Statutory Boards and Department of Transport have been asked to consider what upgrades would be required to their services to ensure the infrastructure would satisfy medium- to long-term proposals contained in our Jurby Study Report.

Essentially, the main items affecting services would firstly be between 200 and 300 additional houses, secondly, additional industrial units and, thirdly, of course, the new prison, which is currently subject to planning restrictions.

The estimated costs for the suitable upgrades are as follows: the Manx Electricity Authority £150,000; the Water Authority £105,000; Department of Transport £300,000 and the Landscaping and Contingency Fund at £285,000, giving a total of £841,000.

The Department has received confirmation that the upgrades will meet future needs, but some infrastructure development will be required within the housing and industrial estates. These costs are not identifiable at this stage, but they are considered to be nominal development costs.

The upgrading of the infrastructure at an early date will benefit Jurby as a whole; it will also ensure that the infrastructure is available as and when specific development proposals are brought forward. At the moment Jurby is on the limits of the Island's services infrastructure and, without an early upgrading of these key services, we cannot begin to shape the future development of this important area.

Mr President, I beg to move.

The President: Hon. Member for Michael.

Mr Cannan: Mr President, I have much pleasure in seconding the Minister and reserving my remarks.

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

Mrs Hannan: I wonder if the Minister could explain this amount under item 5 on the agenda, but on the report Jurby Village, a Discussion Document, which she referred to in her opening remarks, the actual cost of the infrastructure upgrade is valued at £1.1 million, so there seems to be a bit of a discrepancy here; or is this £841,000 at the moment, with an additional £1.1 million for another upgrade, which relates to industry, housing or a prison?

A lot of the discussions within this area are areas which I have had concerns about in my own area, when we have had developments, that the infrastructure has not been properly upgraded to accept. I know in my area things like drainage and that sort of thing have been down to the

developer to get on with and do. I am not sure whether it is in conjunction with a Government Department or not; in this particular area the Department of Education has had drainage put through its land to try to solve the problem of drainage in another area, so, maybe, the Minister for Education can actually spell that out, that it was not at a cost to them.

In this area, we are looking at an area of land that needs to be developed, but it could be that other people are then affected by the drainage and it might be that it is that other person who has to receive the water – that is my understanding anyway, when you drain – just has to accept it and they have to deal with the issue then.

So I accept that there does need to be investment in infrastructure if we are going to have development, but not only in water, electricity and drainage; I do believe we should have infrastructure development in other areas. It is what I have campaigned for in my own area, when it comes to planning.

We need schools, we need upgrading of schools, we need community facilities, we need what the other document at number 8 is suggesting, and I fully support that for any area, but I do not see why it should be for Jurby, when it is not for other areas. I think it should be an overall plan which we have, if there is going to be development, this has got to be put in place first.

It is all very well Government saying: 'This is our little area and it is protected and we have got to make sure that this is in place'; what we should be saying, I believe, is that any development should have this sort of investment, and whether it is us or whether it is the developers, that is beside the point.

I do think, if you are going to have it in any area, we should seriously have a plan that whenever any development takes place that this is in place, in being, and that an area can accept developments such as this.

In saying that, I do believe that this is an added cost on the prison, and I think it is disingenuous to say that it is not. It has been mentioned by the Minister for Local Government and the Environment, and I think both of these documents come out at me, saying there is not the infrastructure, there is not the infrastructure there to support it, but we cannot increase it on to the prison because that makes it sort of unacceptable, high level of cost to the prison when we have actually had it at this cost, then it has increased to that cost. Now they have suddenly decided . . . it came up in the debate on Jurby that there was a problem with infrastructure, questions were posed at that time and, while it was said that transport was not available and a number of issues and everything else would be okay, it would just be interesting just to see, quite open and above board, to say how much is in relation to the prison and how much is in relation to development.

I think it is possible that you cannot do that, but I do think that this is something which Government has recognised late, but all of these areas should have this sort of investment, this sort of infrastructure rebuild, along with a lot of other things that are needed in areas such as Jurby, and in other places when they get bigger and have to accept a larger population, and they have not got the infrastructure to actually support that.

So I welcome that side of it, but I do think there needs

to be openness when it comes to what this is trying to achieve.

The President: Mr Braidwood, Hon. Member.

Mr Braidwood: Thank you, Mr President. I would like to offer my support to the motion, and just a couple of points of clarification.

In actual fact, this is not any additional cost on to the prison facility. The Department of Home Affairs is transferring an amount of money to the Department of Local Government and Environment from the capital scheme of the prison, so that the whole of Jurby will benefit from the infrastructure upgrade, the electricity, the sewage infrastructure, the water, so that is part where the money is being transferred.

So I just wanted a point of clarification that this is not additional money, or the backdoor way (**Mrs Crowe:** No.) of increasing the cost of the prison.

Mr Corkill: It is the transparent way.

Mrs Hannan: Point of order –

The President: Mrs Hannan.

Mrs Hannan: I understand that the Department of Home Affairs have no money yet towards the prison.

Mr Braidwood: It is in the capital.

Mrs Hannan: You haven't got it.

Mr Braidwood: 2003-04 (*Interjection by Mrs Hannan*)

The President: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr President.

On the face of it, the item on the Agenda is looking to put in infrastructure for a future proposed development for Jurby. I think it is important that, as a Member of Tynwald, I say, for the record, I have always supported the development of Jurby, – always supported it – and I have always felt that it has great potential. Predominantly the land is in Government ownership, it is a wonderful part of the Island, and it is something that could and should require attention. (**Mr Corkill:** Hear, hear.) So, on the face of it, as a Member of this Hon. Court, I think it is a laudable suggestion and initiative to actually seek to try and stimulate some kind of interest in the development of Jurby.

I feel, however, as the appointed Chair of a statutory authority, that being the Water Authority, that I have to inform the Court of the true facts in relation to this particular issue that faces us today. And, for the information of the Court, I have to say that the Chief Executive of the Water Authority was informed of this discussion, if you like - that is all it was at that particular stage - for the very first time on 22nd October this year. Prior to that, there had been no consultation with the Water Authority whatsoever in terms of putting in the necessary infrastructure for the village part of the proposal.

In fairness, there had been discussion with the

Department of Home Affairs in the provision of infrastructure to service the prison, and a figure of £106,000 – the Minister said £105,000 – but my figures are £106,000 - was agreed between the Department of Home Affairs and the Water Authority, in terms of being the required amount of money to meet the costs of an increased trunk main to facilitate the prison. That was agreed, that is the normal course of things for the Water Authority.

The Water Authority is governed by the Tynwald Act, the Water Act 1991, and in section 17 of that particular Act, the Authority can go into an agreement with any person for the undertaking of works and they can expect to be fully reimbursed for the cost of that or to expect a contribution. But, clearly, in section 17 there is an undertaking in terms of the agreement which may come between the authority and an individual, or whoever.

Now it is under that section of the Act that the Water Authority – unlike Government Departments, which rely upon Treasury and budgets and budget rounds of talks, where they go in and make a bid for particular initiatives – is self-financing and it raises its income through the water rate, and, of course, in addition to that, monies have been borrowed in the form of a bond to finance essential renewal and rebuild. So that money from the bond is earmarked, it is taken up, if you like - every penny of it.

The Chief Executive of the Water Authority, as I say, had a telephone call from the Department of Local Government and Environment to ask tentatively what additional monies it would cost to put in a separate trunk main, or extend the existing, to facilitate a development which may embrace housing, all sorts of other facilities, industrial units, et cetera, over and above the requirements of the prison, and a tentative figure was given of £266,000, so that would cost £266,000 plus £106,000 for facilitating the prison, so it is quite a considerable sum of money.

That is about all that we had by way of information or consultation regarding the initiative that is before Members today. The next we hear, we are invited by the Council of Ministers to go in and have discussion to see if we could find a way, because under the Act, the Authority does not have – and I confirm, does *not* have - the right of the flexibility to speculate with ratepayers' money, and this initiative before Hon. Members - I started off by saying the idea was a laudable one – is, however, speculative.

We have sought legal opinion and I have taken the liberty of circulating two letters from the Water Authority's advocates, giving us some guidance on what we could and could not do within the parameters of the legislation.

My Board members and I are very aware of our obligations under the legislation. We would never, ever, stray from that legislation.

I have to say, also, that, because we have sympathy with the initiative, there is still a willingness in part to be able to help, we want to be able to facilitate, but the legislation does not allow for that. If Hon. Members read the correspondence that we have received from our advocate, there is a suggestion that, to provide such infrastructure free of charge, in my view is not only unprecedented and most unorthodox for the Water Authority to be asked to do - and it has never been asked to do it before, ever - it may be against the law. That is quite clear within the correspondence: it may be against the law.

Now the learned Attorney General may want to argue and take issue with me, but I am not a legal person, I do not wish to barter with him, but I merely put it down on record that it *may* be ultra vires - not 'it will', but it may.

So the Board had an extraordinary meeting yesterday, which ended in the early hours of last evening – or the late hours I should say, of last evening – to see whether or not there was a way in which we could facilitate. I have to say, because we have been rushed, because we have not been properly consulted, it has occupied our minds continually for the last three weeks, bearing in mind that the first indication we had of anything to do with Jurby and its redevelopment was on 22nd October of this year - hardly full consultation.

I would have preferred it if this motion had been put back until, perhaps, December - not to filibuster the issue, but to merely have been able to get round the table. In my view, what should have happened here was that all the relative authorities - that is, the MEA, the drainage, the water, the telecommunications, and everything else that would be required to facilitate a residential village – ought to have been given the opportunity to get round the table at an early stage, to consider properly the ramifications, to get over any problems that might arise, so they could have come together with a joint initiative, where all parties were agreeable, acceptable and could work within it.

And I have to say that it seems to me, just after not quite two years in this post, that the Water Authority seems to be treated as the poor relation. I do not know why, but it is history. Looking back in history, the Water Authority has always been treated as the poor relation, even when the previous Chair held the realm and before him, and before him again. They have always been treated in this way and it is so unfortunate, because they are very willing players, but they do like to be spoken to, they do like to be talked to about these things.

Now we are left with a situation where, I believe, it is unfair in one respect, because the vote on the Agenda that the Minister is asking you to approve is £841,000. Included in that is this £106,000 which we had agreed with the Department of Home Affairs to facilitate the prison. That has been lumped in with this £841,000 so if Members take out £106,000 from the £841,000, what you are left with is approximately, roughly guessed, 50 per cent contribution towards costs for the MEA and approximately 50 per cent contribution for drainage, and there is nothing there for water. If you take the prison out of this equation, there is nothing there for water.

Now why should one statutory provider, the MEA, be treated any differently from another? (**Mr Karran:** Hear, hear.) I would have thought that, if something like this was to flow and possibly develop again in the future for somewhere else, with another laudable initiative, there should be a policy in terms of treating all the statutory authorities and service providers equally. A formula needs to be drawn up so they are all treated equally and fairly.

I do not believe it has been done. I could make suggestions and assumptions as to why I do not think it has been done, but I am not going to do that, because it may flow from one or two other speakers that will speak after me.

But let us not forget, Hon. Members, the Water Authority

is self-financing, and so the question has to be put: why should ratepayers be subsidising a speculative adventure of putting infrastructure in, which hopefully is going to attract developers in the future?

Now, if we, as a Water Authority, could do some figures, and we have racked our brains and done numerous figures and calculations on this . . . We have no idea other than a speculative number of properties which are desirable to be built in the Jurby Village, we do not know, of that speculation, what quantity are going to be public sector, what quantity are going to be private sector; we have no idea, there is no indication, no communication coming back to us. So it is very difficult to be able to quantify and calculate what we might get back after so many years in the future by way of rates, bearing in mind the public sector rates – water rates, domestic rates – are subsidised.

And, equally, if it is all going to be private development, then again the question must be asked: is this setting a precedent, where water infrastructure is being put in, free of charge, paid for by ratepayers, for private developers who would normally pay for it?

And Government normally pays for it, too: the prison was prepared to pay for it, the hospital has paid for the necessary water infrastructure, the schools, every building that has gone up in the Isle of Man, whether developed privately or by Government, has been paid for. The Water Authority do the work, they provide the materials, they take responsibility for that, and they are paid the cost of doing that, there is no profit here. That is what they are obliged to fulfil under statute, under legislation, and that is the way they have operated.

This whole idea of us putting in and providing £266,000 worth of work and using ratepayers' money to pay for it is not only unprecedented, unorthodox and not the way the Authority have done business in the past, it is also dangerously – I would suggest – perhaps setting a precedent for the future, and this is also one of the things that the Water Board had to consider yesterday. They take their responsibilities very seriously indeed, and let us not forget that the Board members appointed by this hon. place are all qualified engineers and they know what they are talking about. They have an understanding of the issue, the ramifications, the scenarios which may flow from any policy decision that they take, and they do it with the utmost care and consideration, and that is what we considered yesterday.

A precedent could be set, where, in the future, other private developers - because it would probably be potentially private development, I might suggest - could come in the future and say: 'We want to develop this area; you provided the infrastructure free of charge for Jurby, why not for us?'. And they could probably make a jolly good argument for that, which would put the Authority in a most dangerous position for the future.

Speaking in this way, I am doing it as a responsible Chair of the Authority, because this is the view of the Board, and I am expressing the view of the Board, and also setting straight the record. It may be the desire of this hon. place and another place that, sometime in the future, to remove me because I am too straight at times, because I play everything by the book. I know that and I have knowledge of that, but it does not prevent me from stating the fact and the truth of the matter today, because I think it is important

that when Hon. Members consider the vote, that it is a fully informed one, and that is what I am providing today.

And so it was on 22nd October that we first learned another aspect, which the board looked at yesterday, they looked back at the business plan which was approved by Tynwald and updated only last year and approved by Tynwald; and they went all back through that, and through the fine print yesterday, and discovered that even for the bid for the bond for the renewal and replacement of ageing infrastructure, there was never, ever, the intention, or included in that business case, for the replacement of trunk mains that were not otherwise falling to pieces. There was no provision or particular block vote taken for that bond earmarked for the renewal of trunk mains, other than those that were falling to bits and needed to be replaced.

And so I think it is fair to say that the trunk main that we are being asked to spend £266,000 on replacing, although old, has at least another 20 or 25 years of life in it and so, therefore, it would never have been on that list within the business plan, and, in fact, was not on that list.

The problem with that trunk main, however, is that it is not wide enough to facilitate the expected demand of in excess of 300 properties and so, therefore, that is why we are being pressed to renew that infrastructure to take out that pipe that is not giving any problems, that still has life in it, and replace it with uPVC and a wider one so this will facilitate development.

And for what, we may ask? Because it is speculative. I can fully understand why the initiative is being moved. It is to soften the prison, I believe. It is also to facilitate to try and develop the area, and in order to do so there is no infrastructure, so you put the infrastructure in and you say to the developers: 'Here we are. Here we have a prime area of the Isle of Man. We have the infrastructure in place. You do not need to pay for this. It is there. It is provided for. Come and develop.'

It is a good carrot and I really do hope that it works, and I have already made my apologies to the Hon. Member for Michael in advance of this debate and said to him: 'I have no option.' I am not going to fight it, because I know that, inevitably, the vote will go in support of this initiative today. So I am not standing up fighting, but I have to put the record straight and I am also obliged to vote against it. I have to, because I do not want to be drawn back into this situation, 10, 13 or 15 years down the line if somebody calls for a commission of inquiry into the Jurby Village Plan.

So I want to make sure that any procedures that need to be changed are changed and that this particular entity within the parliamentary process and the political arena is doing everything as it should be done - everything is being recorded, comprehensive minutes are being taken. I am informing Members of decisions and considerations and concerns - and I am putting it all out in the open arena.

As I said, Mr President, the moneys that were raised in the bond are spoken for. Now, at the end of the planned infrastructure renewal that the Authority has over the 20-year business plan, there is still work to be done, and that work will probably follow, but it will be the local network of pipework that will need to be replaced - that is to say, the very localised pipe work, the one that goes onto your pipe and is connected to your tap. That will be the last renewal programme and then we will be complete.

My fear is that a precedent will be set, where the Government will say: 'Well, we want you to do this, and we want you to pay out this, and we want you to do it free of charge. And you will do it for Jurby, because it is a special case and it is in the public interest.' Okay, fine, if it is a one-off it is a one-off. We will have to try and recoup the losses in some way by adjusting our belts and by re-adjusting the programme that we have.

But that can be called upon again and again, and that is my fear, and that is why I am putting a marker down today. There may or may not be some of that bond money left at the end of the 20-year programme, but the one lot of schemes that we have not drawn up yet are the local network of pipes and infrastructure. Those schemes have not been drawn up and costed yet, because we are dealing with the big ones and then we will mop up on the smaller ones as we get to the end; but if we get to the end and there is no money, because £266,000 here, another £100,000 there, maybe £0.5 million somewhere else is pulled from us and drawn upon us, in the public interest for laudable schemes that have not been properly costed, then there may not be any money left and that would be a terrible shame.

And I am speaking 18 years hence, Mr President. I, and many of us here, may well have gone and left this place and we will be leaving this for somebody else to deal with. (*Interjections*) I tend to think medium, long term when we are in. I do not think as long as my term of office, I think longer than that, because what we do here and the policy decisions that we take here impact upon our nation often for ever and a day, even after we have left and gone to our Maker. I think we have to be very conscious about that.

Mrs Crowe: I think I will be going to my Maker shortly. (*Laughter*)

Mrs Cannell: I had hoped that the Hon. Chief Minister may have been up on his feet before I was drawn to get to my feet today, (*Interjection by Mr Corkill*) but I do not think he will mind if I also inform Members that we received a letter today. It is not marked 'Private and Confidential', so I dare say that I am not in breach of anything here -

Mr Corkill: Crack on.

Mrs Cannell: - because it will inevitably become public, anyway, but we did go in to see the Council of Ministers - the Chief Executive and I - last week to see if we could find a way around. We did offer one potential scheme, again as a policy change which had not been considered by the Board, but I suppose we were clutching at straws because we did not want to be put into the position where we were being forced to spend something that we had not costed or been asked to properly consider. So we made some suggestions and I think the Council of Ministers were very appreciative of that. They were very appreciative that we had done that.

However, we received a letter after the meeting to say that they, too, were concerned of the medium-to-long-term implications on the finances of the Water Authority with what we were suggesting, which would have meant - it was a betterment scheme - that we would have got at least a contribution of the costs towards renewing a pipe, particularly when the pipe did not need to be replaced.

So, as of 17th November, a letter was received, addressed to me as Chair of the Water Authority from the Council of Ministers, and it says that:

the Council of Ministers directs the Isle of Man Water Authority to fund the proposed infrastructure work at Jurby, as set out in the letter dated 23rd October 2003 from Mr Heaton-Armstrong, Chief Executive, Water Authority, to Mr Senior, Director of Housing and Estates, Department of Local Government and the Environment, in the public interest.

And that is what has happened, as of 17th November – the Water Authority has been directed. (**Mrs Christian:** Good.) Now the Council of Ministers, under their legislative powers, have the power to direct any statutory authority to do whatever it thinks it wants it to do - in the public interest and only after consultation -

Mr Karran: Obviously not with the MEA.

Mr Corkill: Within the law.

Mr Karran: You're above the law, though.

Mrs Cannell: This is the second occasion that the Council of Ministers has exercised this power on the Water Authority in less than two years.

Nevertheless, I think that, if Hon. Members have looked at the two letters that have been circulated by the Water Authority's advocates, and, in particular, the letter dated 14th November, the very last sentence of that letter says, and this is the important point, this is to do with the Council of Ministers being able to issue a direction:

The Water Authority must comply with the direction given by the Council of Ministers under paragraph 12 of schedule 2 to the 1987 Act and, in complying with such a direction, the Authority is, of course, protected.

The Authority is protected. Now this is why the Authority has stayed within the parameters of the legislation, because it has been suggested to them by their own legal advisers that, if they provide something free to a figure of this amount, it *could* be ultra vires - in other words, it could be illegal.

Now, if that were the case and we had gone in willingly - because a lot of us felt sympathy for the case and would have liked to have gone in willingly, but we have not been able to because the legislation is written in the way that it is - but if we had done and some time in the future, the water ratepayers felt aggrieved about this we could, as members of the Board of the Water Authority, be surcharged by the water ratepayers. We could have been surcharged if we act outwith the 1991 legislation. And we were not prepared to gamble that, Mr President.

So we took the decision to wait for a direction. The direction has been given to me today. That is the position that Hon. Members should be aware of.

Let us not forget this figure £841,000, take out the £106,000 which had already been agreed and negotiated with Home Affairs, the surplus is going to the MEA, the rest of it is going to drainage and approximately, as I understand it, 50 per cent of the MEA's costs are covered, 50 per cent of drainage are covered and Water Authority

does not get anything. Thank you, Mr President.

The President: The Hon. Member, Mrs Christian.

Mrs Christian: Yes, thank you, Mr President.

I think it is quite appropriate that Members give consideration to what has been said by the Member who has just resumed her seat, in setting out, as she sees it, the position of the Water Authority, but, against that, I think we have to consider what we want to do as an Island in terms of developing infrastructure, and the Hon. Member for Peel has quite clearly indicated that it would be a sensible move for us to develop infrastructure in advance of making detailed developments and that is what we are trying to do here.

But, on the principle that the Water Authority does not have the resource or does not have the intention of renewing any pipes until they have come to the end of their useful life, we could see the sterilisation of Jurby for another 20 years. (**Mrs Crowe:** Absolutely!)

Now, the question is, do we accept that and the alternative, of course, is that it may be funded in a different way, but I do think that, generally speaking, if we are going to plan for future developments, it is not unreasonable to suppose that occasionally we might expect infrastructure with some useful life remaining to be replaced by something of a larger capacity. And if one considers that the bond which the Water Authority has is to cover a considerable period of time, one would expect there to be at least a little bit of flexibility in the order in which those funds are expended.

So, Mr President, I do not have any difficulty with the notion that we should be using our resources, or even the Water Authority's resources to, from time to time, renew infrastructure which has not come to the end of its useful life and, indeed, if the Water Authority, taking a somewhat different interpretation of the powers of the Authority than some of us would take, needs the protection of a direction from the Council of Ministers, then so be it. Perhaps that is why they have not made this decision which they have the power to make, but are looking to the Council of Ministers for an element of protection.

Mr President, it is quite clear, in reading section 17, that the Authority may forego the charges under any circumstances with any developers. (**Mrs Crowe:** Absolutely!) (**Mrs Cannell:** No.) Now there may be a case to argue that they should not, of course, do that in any case and with any particular parties, but it does not mean to say that they cannot come to that decision of their own volition. (**Mrs Crowe:** Absolutely!) They do have that power and authority -

Mrs Cannell: Point of order, Mr President. The Minister is misleading.

The President: Hon. Member you have had your say. The Hon. Member, continue.

Mrs Cannell: She is misleading Hon. Members.

Mr Braidwood: No, she is not.

A Member: No. (*Interjections*)

The President: No, she is not.

Mrs Crowe: Oh, everyone is misleading.

Mr Lowey: You misled.

Mrs Christian: Mr President, if I have misled anybody I would apologise for it, but I do believe that my interpretation of the section is as legitimate as the Hon. Member's, who herself has said that it *may* be ultra vires –

Mr Lowey: That is not what her lawyer says.

Mrs Christian: - but has not come out with a firm decision –

Mr Lowey: That is not what the letter says.

Mrs Christian: - and if the hon. learned Mr Attorney feels that I have misled in my interpretation, I would be grateful for a correction on that point.

So, Mr President, there are different views about how this should be funded, but if we do see there being a potential for development in this area, I think it entirely reasonable that the Council of Ministers give a direction in this one circumstance - indeed, it may be argued that this is a precedent - well, if in the future, it is deemed appropriate in the interest of the Island as a whole to get on with some development, (**Mrs Crowe:** Absolutely!) so be it. (**Mr Cannan and Another Member:** Hear, hear.)

And the other point, Mr President, I do believe that, if the Water Authority is not expending funds in other areas in accordance with the timetable which some of us might have anticipated, one might assume that it has resources available which could be moved around in the order of things to deal with matters in other parts of the Island.

The President: Hon. Member for Onchan.

Mr Karran: Eaghtyrane, I am absolutely amazed by such a senior Member of this Hon. Court trying to dodge the real issue here today.

The real issue here today is about consistency, about fairness and about equality as far as the law is concerned, Eaghtyrane.

The situation is: get the Minister to tell us how much the MEA are going to have to contribute as far as this concerned. Get the Minister to tell us how much is going to have to be contributed from when we end up when it gets turned over to a sewerage authority, when that development comes along.

What we are seeing here today is a situation where, once again, the executive have managed to be unchecked by this Hon. Court over its spending. And what it is doing is using the money that we have worked for and planned for and designed for, as far as the Water Authority is concerned, as a 'poacher's pocket' so that they can get their hand in the pocket, like they are going to do further on the Agenda, when we talk about the implementation of waste charges. They cannot balance their books. They cannot get their act together and so, consequently, they have got to go and look for fresh fields, as far as their income is concerned, because they cannot do their job right.

So let us not, Mrs Christian, try and make out somehow,

it does not matter, it is in 20 years' time. . . the fact of the matter is that we should have some consistency (**Mrs Crowe:** Absolutely!) and that is the problem. And we have too much inconsistency in this place, as far as I am concerned.

Now, Eaghtyrane, I put the question down this morning because I believe that we should have been truthful about . . . No-one is arguing with the Minister. Congratulate the Minister that we are going to upgrade the infrastructure in Jurby. No problem with that and that is long overdue and, as I say, the more industrial units that we can get up in that area to try and diversify and bring down the price of rental in industrial. . . fantastic. No problem about that, but come clean to this Hon. Court. Do not use us all as a bunch of numpties, that we have to not be told the true financial picture.

And that is what some of us are very concerned about. The money that we have put together for the bond for the Water Authority was for specific reasons and this idea that, somehow, to balance our own books in central Government, we can put our hands into the pocket of the money that is allocated for specific things, is wrong, Eaghtyrane - totally and utterly wrong.

Now, all that I would say is that, when I was Chairman of the Water Authority and Member for Health, there was the issue of the new hospital. They had to pay £75,000 for the infrastructure work for the new hospital. Now why are we seeing a situation where we are changing it now, that it does not matter, we can have a law for some people and a law for others? It has to stop, Eaghtyrane, and as far as I am concerned, I am not getting into the personalities of the two Hon. Members of this Hon. House, between the Minister and the Chairman of the Water Authority, but the point is that we should be above playing in the playground basis, and on the facts of things being right or wrong, and (**Mrs Crowe:** Absolutely!) and this is wrong, Eaghtyrane. This is wrong that we are not being told the clear picture of the infrastructure renewal up front, so that we can debate the issue.

And if you cannot balance the books, Shirveishagh, then you should be coming to this Court and explaining why you cannot get the true picture.

The ratepayers of this Island have paid dearly, as it is. It has more than likely cost £3 million to £4 million over the fact of the shenanigans of the water filtration plant and I actually thought that I had clarified the position with the hon. mover but, since then, I have been told differently.

It seems strange: these ratepayers have paid enough because of the shenanigans, as far as the Council of Ministers are concerned, (*Interjection by Mrs Hanman*) when they can turn over an independent inspector's report for eight flats on a Pulrose site and yet they can level a £3 million to £4 million charge, a cost on the ratepayers. I think it is wrong and I hope that Hon. Members in this Hon. Court will vote, not against the issue of not wanting to upgrade the infrastructure, but we must make a stand to ring-fence things.

That is what worries me. All I see today is what is going to happen. We have heard great talk about local government reviews and what I see here today is the fact that they have come along and said, 'We have not got enough money in central Government; there is plenty of money there, there

is a fat cat - let us go after it.' That is the bottom line, Hon. Member of Council, Mrs Christian - not any of the other semantics as far as the issue is concerned.

I would have liked to have seen the Minister come back at the next sitting and come back with the true picture of the true costs, and let us pay for it, but let us stop this way of breaking down the firewalls of where we have the Authority that has responsibilities. It should be left to get on with its job.

I hope the Minister will reply as far as what the true costs are, as far as this is concerned. I think it is a disservice to the whole system of Government. We have already messed up the separation of power between the executive and the parliament and we should not be doing the same with the Statutory Boards. We saw before, Eaghtyrane, we cannot find out how much the MEA's Chief Executive can afford, but we can direct when it suits.

The President: Hon. Member for Michael.

Mr Cannan: Mr President, last night I led a public meeting at Jurby and all the fears that were expressed are coming true this afternoon.

The people of Jurby endorsed wholeheartedly the development of their community. For too long, Hon. Members, they have been on the margins. For too long they have had the rough end of the stick and those of you who were here 25 years ago will remember my predecessor in his cry, 'Justice for Jurby!' - and I see one or two old and long-serving Members nodding their heads. He stood in this seat and said: 'Justice for Jurby!' and they got a new school and what did they have before that? A pre-fab from the Second World War.

And since then there has been very little development. What this motion is for is for the upgrading of the infrastructure to allow that community that, as I have just said, have had the rough edge of the stick, have been on the margins of the success of the Isle of Man for 20-odd years and at last we have a document that gives hope and vision for the future and, to obtain that hope and vision for the future, there has to be an infrastructure.

Otherwise this document serves no useful purpose. Without the infrastructure, the document serves no useful purpose.

And what we have had is a long diatribe from the Chairman of the Water Authority, giving every reason why these people should yet again be pushed back in time. I believe that, whatever month a proposal of this sort comes forward, there will always be somebody trying to push it back another month. You have been pushing it back, Hon. Members, 20 years, since my predecessor cried from this spot: 'Justice for Jurby!'

The water is appalling in Jurby - you ask the residents. (**Mrs Crowe:** Yes.) They said last night at the meeting: 'Thank goodness for that. We have brown water!' - a 70-year old main. Well, of course, the money in the Water Authority is to renew the water system. (**Mrs Crowe:** Absolutely!) You renew your motorcar before the engine falls out!

Mr Singer: You might.

Mr Delaney: Usually. Not in my car.

Mr Cannan: Usually. Not in my car. (*Laughter*)

This is to renew the water pipe, put a new six-inch water pipe in to replace the dirty, filthy four-inch (**Mr Quayle:** Rotting.) - rotting (*Laughter*) - and put a new six-inch in that will supply the prison but, more importantly, will give to the people of Jurby what they want (**Several Members:** Hear, hear.): a sustainable village and a decent community.

And they asked today . . . not me! If you vote against this, you are not voting against me; you are voting against the very people of Jurby. And up to now they have been paying their water rates, too, (**Mrs Crowe:** Absolutely.) and they are entitled, as much as anybody else, to decent water and a proper water supply.

Give the people of Jurby some confidence, some hope in the future. They turned out last night. They gave me a mandate to speak for them, and I ask you here in this Court today to give them your unstinting support. Thank you, Mr President.

Several Members: Hear, hear.

The President: Mr Attorney.

The Attorney General: Thank you, Mr President.

Mr President, I feel that it is appropriate that I should say one or two words in relation to the Water Act 1991, and, in particular, because of the suggestion that the Council of Ministers may have been acting on a wrong interpretation of the law.

Mr President, as the legal adviser to the Government and the Council of Ministers, it is my duty to ensure that, so far as I am able and as far as I interpret the law, Ministers do not apply the law wrongfully.

Now, I have seen this letter from Messrs Quinn Kneale only this afternoon, Mr President. I agree wholeheartedly with it. It is a very fair summary of the legislation.

But, Mr President, can I just draw your attention and that of Hon. Members to the second page of the letter in the second paragraph. This is the letter of 14th November from Quinn Kneale addressed to the Chief Executive. I think all Members have it. (*Interjections*)

The President: Hon. Members, if I may, Mr Attorney, I think this brings us to the problem when we get papers circulated unannounced into the Hon. Court (**Several Members:** Hear, hear.) and I think we need to take care over this.

It appears that there has been reference to two letters. I certainly have only got one letter and that is the letter dated 14th November from Quinn Kneale.

Irrespective of that, I think Mr Attorney can continue because the point he is making is (**A Member:** Hear, hear.) straightforward, anyway.

The Attorney General: Yes, I hope so, Mr President. The letter I refer to, Mr President, is a letter of 14th November from Messrs Quinn Kneale to the Chief Executive, Mr Heaton-Armstrong, and if I may read:

In our opinion the Authority would be acting ultra vires if it purported to enter into an agreement under section 17 without obtaining the required undertaking.

Mr President, it is very important, therefore, that we look at precisely what section 17 says and, again, if I may, there is an extract from the section in that letter of 14th November, but it says this:

The Authority may enter into an agreement with any person, being the owner or occupier of any premises, whereby that person undertakes to defray or contribute towards the expenses incurred to be incurred by the Authority in constructing any mains, pipes or other waterworks that appear to the Authority to be likely to benefit those premises.

So, Mr President, as Messrs Quinn Kneale observe, the Authority has a power, has a discretion to enter into agreements in relation to the supply of water, which requires the construction of mains and pipes and it may, if it wishes, agree with the owner or occupier of the premises to contribute to the expenses or to pay the whole of the expenses.

So, Mr President, there is no duty whatsoever on the Department or the Authority to enter into any agreements.

It is only if the Authority considers it appropriate to enter into agreements that it may, therefore, charge the other person for the service.

Now that, Mr President, was the basis of my advice to the Council of Ministers and I give that advice again to Hon. Members. I give it in good faith. I believe it is correct.

Now, of course, the Hon. Member, the Chairman of the Water Authority, may take a different view; she is entitled to do that, but I do think that it is going too far to attribute bad faith and misleading statements to the Minister when she gives an interpretation of the section, which is in accordance with my advice. (**Mr Cannan:** Hear, hear.) If there is any fault for the construction of the section, that fault lies with me and not with the Minister. Thank you, Mr President.

The President: Chief Minister.

Mr Corkill: Thank you, Mr President.

This has turned out to be quite an emotional debate in a way and I guess, whenever Jurby is mentioned for some reason, the debate does become emotional. I think that is unfortunate and I hope I can answer some of the points that have been raised in this debate as to what the thinking has been within the Council of Ministers and what we have been trying to wrestle with, along with the problems that the Water Authority has also, as we know, having to wrestle with, not just in Jurby, but throughout the Island.

Certainly, I find, as a politician who stood in 1991 for the first time on the basis that the Isle of Man's infrastructure needed to be renewed on a progressive basis, that this generation has the ability and the finances available to it to renew the Island's infrastructure for the benefit of the next generation and the generations after that. I found, being able to put this motion on the paper, very, very heart warming, (**Mr Cannan:** Hear, hear.)

I grew up in Ramsey in my formative years and, even if you lived in Ramsey in those days, Jurby was a far flung place. Goodness knows how far flung it is for people who live in other parts of the Island!

Mrs Crowe: It's a long way for me.

Mr Corkill: That is the reputation that Jurby, for

whatever reason, has got over the years and I think it is very, very unfortunate and here is an opportunity.

I remember speaking to the Hon. Member for Michael soon after I was put in this particular position, along with himself and Jurby Commissioners, and I made a pledge then that I would do what I could to improve Jurby's lot as part of the Isle of Man – not as a separate part, but as part of the Isle of Man.

I really do believe they deserve some new basic infrastructure in line with some of the achievements that have been made all round the rest of the Island over the last 10 years. (**Mr Cannan:** Hear, hear.) Whether it is IRIS or whether it is water or whatever it is, parts of the Island have benefited from millions and millions of pounds of investment. What we are talking about here in Jurby is quite a modest sum in comparison to that.

Now, the hon. colleague for Onchan, Mr Karran, said it is about consistency and fairness. Now, I know he meant that in relation to the way that the rates and the way that finances are arranged on our Order Paper. I know what he said, but I can tell you, if you live in Jurby they will not see it that way. They will use those words 'consistency and fairness' and they will say 'Well, what is wrong with us?' Because they want some consistency and fairness for them, and I certainly intend to try and support them whilst I can.

Can I just say, Mr President, that the way these motions are on the Order Paper is because of Council of Minister's deliberations. Let us be up front, let us be transparent: this is what we have to do and this is what I always try to do, anyway.

There was a motion originally came from the Department of Home Affairs to the Council of Ministers to come on last month's Tynwald Order Paper. It talked about the item which is at item 6 and it talked about moneys for infrastructure and, on the surface, certainly from the Home Affairs Department's point of view, who have got this absolute responsibility to build a new prison, it was very clear forward thinking.

But we have to be mindful that the prison has yet to go through a planning process and I thought, from the Chair, that it was disingenuous to start spending money on infrastructure issues that will benefit the whole of Jurby, but on the basis that we are building a prison, because there are two arguments running here. Yes, if the prison is successful at planning, it will definitely benefit from this infrastructure; but we are talking about a plan for Jurby, as well.

We are talking about a corporate idea of Government and, if ever there was an example, this is it, Mr President: we have got the Department of Trade and Industry; we have got Tourism interests up there; we have got the Department of Home Affairs interests; we have got DoLGE's interests; and we have got the Water Authority's interests in there, as well.

Now it has been a difficult process to get this motion on the Order Paper, but I believe it is very open, transparent, because what Government, through the good offices of this Court, is trying to achieve, is an infrastructure basis for the development of Jurby. That is housing, that is DTI, it is all those things and it may well, subject to planning, also be a prison.

Much better to do it in two separate motions than wrap

the money all up in one motion and certainly I was not the most popular of Chief Ministers throughout the Department of Home Affairs, I can tell you, when that debate went through the Council of Ministers.

But here we are a month later and I think we have got a better all round understanding of what is going on (**Mr Cannan:** Hear, hear.) and so I do not apologise for what I did, despite the pain it caused – and I can see the Minister for Home Affairs grimacing, as I say that.

So that is the reason why it is done as it is. Now, I also would like to just quote a letter in relation to the Water Authority and I understand the Chairman has been struggling with a lot of issues in the Water Authority, subsequent to the refusal of planning for the main treatment works in Douglas – which was a big disappointment to everybody, but it has happened, it is a fact and we have to get on with things.

Mr Henderson: Got Ramsey, though.

Mr Corkill: One of the issues that comes very apparent to me, out of that, is that there are a number of objections being lodged in this part of the Island for development, from the Water Authority, for all the reasons that they list on a regular basis, which is holding up development on this part of the Island. (**Mrs Craine:** Hear, hear.)

That must also be holding up expenditure in the Water Authority, although I do understand that there are concerns that the new water treatment plant, because of redesigns et cetera will have a big cost. So, to a lay person like myself, that must free up moneys that are in the system and I have to say, as someone who was very much involved when I was in the Treasury, raising that bond for the Water Authority purposes, by the time I came to this position, I have to say I was concerned that not enough of it was being spent (**A Member:** Hear, hear.) on the purposes that it was raised for.

It is okay having it in the bank, bringing interest in, but it is actually a borrowing and it was borrowed for a particular purpose. Now, there are some very good reasons why it has not been spent and I am not criticising in that respect, but what I am saying is that Tynwald approves a strategy for development of the water infrastructure, the moneys were put in place, but we all know in this Hon. Court that time has an influence on things and there needs to be, I believe, in the Water Authority camp, a little bit more flexibility.

So, if I can read this letter, because the Council of Ministers were very appreciative and the letter goes – it was to Mr Heaton-Armstrong on 13th November –

The Council of Ministers would like to express their thanks to you and your Chairman for attending Council at relatively short notice this morning. Having considered the discussion which took place —

and can I just say I was very pleased with the detail and the information that the Water Authority brought along to that meeting and I will refer to that in a minute

- and the suggestion put forward in your Pink Paper —

and the Chairman will know that this is the paper talking about betterment,

— Council considered the following matters:

(1) the argument put forward that the Water Authority may, in this instance, fund the infrastructure works at Jurby for the public good, is a powerful one.

I think we have heard comment in this Court today to actually say that.

(2) The advice of the Attorney General is that such a decision by the Water Authority is not contrary to law.

That was the advice Council acted on and I thank the Attorney-General for putting that case to the Court.

(3) Such a decision, because it is in the public interest, would not necessarily create any precedent.

That is certainly the Council of Ministers' feeling on this issue. Certainly the Chairman of the Water Authority made a big part of her argument about precedent and I hope to allay her concerns about that, because our view is that it would not necessarily create any precedent.

Council was greatly appreciative of your suggestion with regard to betterment, but was concerned that the adoption of such a suggestion without full and proper consideration —

and, by that, we mean that we know we were rushing things

- was likely to set a precedent and that a general acceptance of such a principle, even if only in respect of the public sector, could have a potentially harmful effect on the Water Authority's future income stream.

Mr President, I certainly hope that the Water Authority and the Council of Ministers, at a more leisurely pace than what has happened recently, is able to discuss that formula for the future so that we do have some certainty.

Council was aware that it would be better for all parties if a solution to the current situation could be found without recourse to a Council direction. In the light of the above considerations, Council decided that it would much prefer the Water Authority to reconsider the argument that the Authority may, in this instance, fund the proposed infrastructure works at Jurby, in the public interest, and that the issue of betterment should be fully considered in the future. However, if the Authority feels it is not able to do so, Council will issue a direction to that effect.

So, yes, it was a strong letter, Mr President, but we think it was a well reasoned letter.

Now, I think it is important to acknowledge that this is not entirely brand new water infrastructure. I think, if it was, then there is a very strong argument being put forward by certain Members over the funding issue that would have a lot more sway. But the reality is, we are, as far as Council of Ministers is concerned anyway, we feel that it is an upgrading of a water supply (**Mr Cannan:** Hear, hear.) to an existing community.

I think that does not quite fit some of the rules that are enmeshed in the Water Authority culture, but I do think that what we are trying corporately here is to deliver a solution. So many times we have had things in Government circles and on the floor of this Court at times, relevant to Jurby and the only thing that stops them happening is the lack of infrastructure. It is a common recurring theme.

How many times, Mr President, have you heard the Hon. Member, Minister with responsibility for housing, Member

of Council, Mrs Crowe, say to the Hon. Member for Michael, 'Yes, we have got the ability or permission to build x number of houses, but we do not have the drainage, we do not have this, but, but, but, but, but?' (**Mrs Crowe:** Yes.) – quite correct answers, very frustrating answers and, therefore, I think it is important that we realise that, by voting for this motion, we are unlocking a lot of potential in a number of areas and so that is, I think, quite important.

There was also discussion at Council, which has not surfaced – I am quite happy to mention it – from the Treasury side of things, Mr President, in relation to financing aspects, that the door of Treasury was still open to further discuss this issue, if there was some problem with regard to the Water Authority's programme in the future.

Now that is a subject all of its own, but I raise it purely in the context of saying that I really hope that the Council of Ministers and the Water Authority have more regular, constructive dialogue to get over what is really a hurdle, and it is a blip in the system. I am quite sure that, once the water treatment works in the east is sorted out, and a number of other areas are dealt with, I am sure that the relationship will settle down again.

We did not take this issue of direction lightly, that is the point I am making, Mr President; it was done with full consideration. We have had consultation with the Water Authority on a number of things, over a number of meetings now, over a number of months. Yes, this last meeting was a little bit rushed and I apologise for that, but sometimes the politics of life do not really wait around for a solution and this is one of those, and we really had to force the pace on this. I apologise if we have broken a few moulds on the way. I would just ask Hon. Members to support the motion in the Minister's name.

Mr Cannan: Hear, hear.

The President: Hon. Members, before I call the next speaker, can I make it quite plain that I remain unhappy at the circulation of papers around this Hon. Court and papers will not be circulated unless they have authority in the future.

As I understand it now, there are two letters circulated on behalf of the Water Department. Some have a letter dated 12th, some have a letter dated 14th. On my desk there is simply one letter dated 14th. The Chief Minister has referred and read long quotations from a further letter –

Mr Corkill: I read the whole letter, Mr –

The President: – dated 13th, which is unnecessary and against Standing Orders.

The other point which I want to make quite plain is that I am also concerned that Members are using the view that other Members are misleading when they are taking an opposing view and Members ought to be more (**Mrs Crowe and Another Member:** Hear, hear.) circumspect in how they are taking that stance.

Hon. Member for Rushen, Mr Gawne. You are hiding there.

Mr Gawne: Gura mie eu, Vainstyr Eaghtyrane.

I am relatively happy to support the motion as it stands, but I think there are some issues that do need to be clarified. I am a big supporter of the 'Justice for Jurby' campaign. I have been involved in charity work down with community

projects in Jurby and I think that the people in Jurby have had a very poor deal for many, many years. So I think it is certainly well past time for this sort of work to be undertaken.

But I think there were a few points that need to be clarified here. I noticed that the Hon. Member for Onchan, Mr Karran, asked a question about whether the MEA was going to be asked to provide infrastructure at its customers' expense. I mean, we are being told that the Water Authority is going to be asked to provide infrastructure at the ratepayers' expense. I think it would certainly help me in voting for this motion if this was made very clear, if the MEA is not being asked to actually provide this infrastructure at its own expense, why then that the Water Authority is being asked to do so.

I think that, rather than there being inconsistency here, there does seem to be a fair degree of consistency. It does seem very clear to me that Government is shifting the burden from the taxpayer to the ratepayer on a number of these schemes. Gura mie eu.

Mr Corkill: £106,000.

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

Mr Bell: Thank you, Mr President. I really only want to comment on a couple of points, one for clarification and for just to expand a bit further.

I am really responding and brought to my feet by the comments made by the Hon. Member for Onchan, Mr Karran, where he is accusing the Council of Ministers – and through that, I understand Treasury – as using the Water Board as the poacher's pocket, because our spending is out of control and we cannot balance the books.

I just want to make it very clear, Mr President, in case this myth grows legs and starts spreading out from this particular Chamber, that spending is not out of control. We are not using the Water Board's funding as a poacher's pocket and we can balance the books.

The economy is still in very good heart (**A Member:** Hear, hear.) and Government revenues are still in good heart and, thanks to the discipline of the Departments and most Hon. Members in this Hon. Chamber, the Departments are performing well and the budget will be balanced.

So I would hate, Mr President, in the heat of debate, for this misleading information to go out from this Chamber that there is something amiss with Government revenues. That is far from true and I would hope Members will not fall back on the usage of those words again in the future.

So, having said that, Mr President, I would just like to add my words of support for this particular scheme. Those of us who have been in this Chamber for a long time are aware of the debates which have gone on about Jurby over the years. It has long been thought in some circles that Jurby could provide the answer to the whole of the Island's problems, insofar as it could provide a new town, or certainly a new enlarged village, which would take the heat off some of the developments that are required elsewhere on the Island.

There is plenty of room in Jurby to expand. There is the possibility of developing a new industrial base in the north of the Island, which will not just help Jurby itself, it will be a major economic stimulus to the whole of the north of the Island, including Ramsey and the surrounding areas.

So there is potential here, not just to see this particular proposal as a narrow Jurby-based 'Justice for Jurby' issue, although clearly there is an element of that in it, but I would urge Hon. Members to look at the wider potential for developing Jurby here to assist the economic regeneration and, indeed, the economic imbalance which has taken place over the years between the north of the Island and Douglas and the south.

It will give us an opportunity potentially to generate new jobs and new activity in the north of the Island and, equally, it will enable us to provide much needed housing, first-time buyer housing, as the north has been very deficient, even in that area. We have not had a great number of first-time buyer houses available, either in Ramsey or in the north of the Island generally. This will give an opportunity to address that problem and I hope, in due course, if it is developed in a satisfactory way, Jurby can help most other Members in this Hon. Chamber by way of taking the heat off the development demands in other parts of the Island, because there is potential now to develop a new village at least, if not a larger conurbation in this particular area.

So I would urge Hon. Members to really please put aside a lot of the rhetoric we have heard this afternoon. Look at the nub of what it is we are asking you to support here and give your support, not just to an infrastructure improvement in Jurby, but to potentially a real economic boost to the whole north of the Island.

The President: Minister to reply.

Mrs Crowe: Thank you, Mr President, and I thank those who have supported. I thank, of course, the seconder, the Hon. Member for Jurby, Mr Cannan, for his praise and his support.

There are a number of comments I feel that I must make. The Hon. Member for Peel was quite correct when she said that, of course, we should be looking at infrastructure and plans of the sort that we have before us later in the Agenda, in which we have made – not ad hoc housing here, a little bit there – a complete development plan for an area. We are doing the same at this very moment in Ramsey and I hope that, in future, all the areas on the Island will have this kind of attention paid to them, because it is most important that we do plan in this way for the future of the Isle of Man. So we are very well aware that we have to make sure that we put these plans in place before we develop any areas.

Now I move on to the Hon. Member, the Chairman of the Water Authority, who, I see is not in the Court at this time. However, there were a number of comments that were made by the Chairman, one of which was lack of consultation. Now the steering group for this particular scheme was put in place in August 2001. The ministerial sponsoring Department for the Water Authority is the Department of Transport and Industry (DTI). The DTI were part of that group, along with Treasury and ourselves in that development plan and I feel certain that, had the DTI thought that there would be any opposition or any problems whatsoever with the supply of water to that area, they would have made fully sure that the Water Authority were informed.

Apart from which, three months ago at a meeting with my Director of Planning and my Director of Estates of Housing – a meeting called because we were so concerned about the progress being made on the lack of first-time buyer

housing – the chief executive of the Water Authority said 'Build as many houses as you like in Jurby'.

Of course, we heard mention of the open arena of the Water Authority. Everything was open, everything was being recorded, everything was transparent, but what I had not heard in the open arena is that nearly 300 or 400, perhaps, houses for first-time buyers are being blocked in the east of the Island, including two units for the disabled, including a church, all because the water supply will not be made available to them. That has not been in the open arena. (**Mrs Hannan:** No.) So it would not really worry me if there was a third direction, because I would quite like to make sure that those first-time buyer's houses (**A Member:** Hear, hear.) were coming up out of the ground now, bearing in mind that the process will take two years and most probably by the time they are built a water supply would be available. (**Mr Henderson:** Hear, hear.)

But, at the present time, what we are not getting – and this is something that was mentioned by the Hon. Member for Onchan, Mr Karran, when he said 'Consistency, fairness.' What I would like to add to that list is 'co-operation.' It is very well to have consistency and that is what we are having and we are having fairness – not particularly fair to the first-time buyers on the Island at the present time – but what we are not having is co-operation.

All the other Departments in Government are working with Government to achieve what is Government's priority and that is housing for first-time buyers, but, at the present time, none of these plans are progressing – *none* of these plans.

The Hon. Member for Onchan also mentioned about the money raised by the bond issue. I do believe that a percentage of that money raised was raised for the renewal of infrastructure.

Of course, the Hon. Member for Onchan constantly refers to a Government other than his own. He is a member of this Government and I know that he is also committed to first-time buyer housing, but we cannot supply them without a water supply.

I thank Mr Attorney General for the very clear advice that he gave to us. We have also had that advice on a number of occasions – I think also has the Water Authority. So the need for further legal expenditure I think was quite unnecessary.

I would like to mention to the Hon. Member for Rushen, Mr Gawne, who naturally has concerns about the sums of money that were identified in this motion. These sums of money have been identified in the capital scheme estimates. There is nothing new with this money. This is old money. This is money that has been estimated. It is not that a bolt out of the blue has arrived and we are looking for money out of – what was it called? – the poacher's pocket. Nothing like that. All these moneys were clearly identified.

Hon. Members, I do hope that we will be given an opportunity somewhere on this Island to provide first-time buyer housing. Without an adequate infrastructure in place, we cannot do that, so I do hope that you will support this motion before you today. Thank you, Mr President.

The President: Hon. Members, the motion that I put to the Court is that printed at 5. Those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 21, Noes 2

FOR	AGAINST
Mr Anderson	Mrs Cannell
Mr Cannan	Mr Karran
Mr Quine	
Mr Rodan	
Mr Quayle	
Mr Rimington	
Mr Gawne	
Mr Houghton	
Mr Henderson	
Mr Cretney	
Mr Duggan	
Mr Braidwood	
Mr Downie	
Mr Shimmin	
Mrs Hannan	
Mr Bell	
Mrs Craine	
Mr Corkill	
Mr Earnshaw	
Capt. Douglas	
The Speaker	

The Speaker: Mr President, the Motion carries in the House of Keys, with 21 votes for, 2 votes against.

In the Council – Ayes 7, Noes 0

FOR	AGAINST
Mr Lowey	None
Mr Waft	
Mr Singer	
Mrs Christian	
Mr Delaney	
Mr Gelling	
Mrs Crowe	

The President: With 7 for, none against in the Council, Hon. Members, the motion therefore carries.

Proposals for future use of Kewaique-Richmond Hill road

Statement by the Minister for Transport

The President: Now, Hon. Members, we revert to item 4 on the Order Paper and I call on the Minister for Transport, Mr Shimmin.

The Minister for Transport (Mr Shimmin): Thank you, Mr President.

At the June sitting in Tynwald I answered questions on the potential prevention of through traffic on Middle Road, linking Kewaique and Richmond Hill. Following the Department's completion of the Road Island Road Scheme, which included the improvement of the Spring Valley roundabout, I gave my assurance that I would report back to Tynwald and that I would not finalise the decision until I had done so.

The Department has powers under the Road Traffic Regulation Act 1985, section 1, to make Traffic Regulation Orders. The order for the closure of this junction was introduced on 28th July 2003 and is in place until 30th November 2003.

Members will remember that the prime reason for the

potential closing of the junction was to improve road safety and to reduce the likelihood of accidents. The junction where the Middle Road joins Castletown Road is at an acute angle, known as a Y-junction, and junctions of this configuration are not recommended, due to their poor visibility and the risks of accidents.

Visibility to the right from Middle Road is poor; the recommended technical standard is to be able to see a distance of 160 metres to the right, which includes perception and braking time, whereas the actual distance is only 30 metres.

Visibility is also poor along the main Castletown Road. The steep down-hill approaches to the junction increase speeds and, consequentially, the potential accident severity. All these factors raise safety concerns for users of the junction.

In 1993 the junction was highlighted by the Department of Transport for further investigation and improvement, during the time when the Douglas Transport Strategy was under development.

During the subsequent years a variety of different engineering options available were reviewed, particularly with regard to the development of the energy from waste facility, but these were not found to offer a cost-effective solution. They would all have required significant land purchase, major civil engineering costs and considerable environmental impact, including significant tree loss.

It was determined by my predecessors that the road-closure option and the use of the amended Spring Valley Roundabout and widened Road Island Road would meet all the safety and capacity requirements to industry standards.

Although this route increases the journey distance by 230 metres, it is believed that the new layout reduces the overall journey time into the centre of Douglas. This decision was endorsed by the current Department, particularly bearing in mind that improving road safety was a key objective in the 2003–06 Isle of Man Government Plan.

The Department and the public have now had time to monitor and form a view of the impact on traffic flow to and from the south of the Island, resulting from the current restriction of through traffic along this Middle Road. The Department's request for views and suggestions on the closure from the public resulted in 23 responses, 16 from members of the public and seven from political representatives. Seventeen responses were opposed to or had reservations about the closure, while six were generally in favour of the road remaining closed.

There were six common areas of concern we had to consider: (*Interjection by Mr Delaney*) firstly, that other areas or sites on the Island are more dangerous and have more accidents; secondly, possible delays, congestion and accidents at the improved roundabout at Spring Valley; thirdly, the impact any traffic levels would have on Old Castletown Road; fourthly, that alternative engineering options for the junction should be considered; fifthly, some said that more statistics and evidence were required; and sixthly, there was no alternative route for emergencies.

In addition to these, the following suggestions were made: that Middle Road should be made one way, south only, with no right turns into or out of the road; it was suggested that we delay the closure of this junction; thirdly, there was a suggestion that we delay making the closure

permanent; or fourthly, that we leave the route open as a potential alternative emergency route.

In the light of these views and suggestions, and taking into account the data now available to the Department, it is proposed to maintain the road closure for a further 12-month period, but access will be maintained to provide an alternative route for emergency vehicles. This will allow us to fully evaluate the impact on traffic levels on the Old Castletown Road when all the current works have been completed in this area.

Thank you, Mr President.

The President: Hon. Member Mr Lowey.

Mr Lowey: I am grateful to the Minister for his statement, and questions on . . . is it his intentions to have dialogue with people, Minister, by inviting in to join you and to share your concerns? I have no doubt at all that safety is a key one, but, again, can I draw his attention, which I did do in a letter that I submitted to him regarding the entrance less than 50 yards up the road from this entrance was identical – if not worse – and that is the Isle of Man Farmers and you do not have any plans to curtail that.

But, most important, if you are going to consider for 12 months and consult the people, perhaps you would consult with local authorities in the south and with the individuals that have written to you in a more embracing way and not so much at arm's length.

I am not aware of the statistics that you are basing your findings on, which I am quite sure are driven by safety, but I do think that the design of this particular road, at the other end, has been designed almost with a decision already in mind, in that the entrance is facing away from Douglas and not into Douglas, yet there was plenty of space there to make that. So, it seems to me that, although we are going to consult for 12 months, the dye has already been cast (**The Speaker:** Hear, hear.) by the provision of the Old Road.

The Speaker: Absolutely.

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President. I too am grateful for the Hon. –

The President: Hon. Members, could I just make it plain what we are in. We have had a statement. You are asking the questions, not making long policy comments.

Mr Henderson: Hear, hear.

Mr Braidwood: Question! (*Laughter and interjections.*)

Mr Quayle: Thank you, Mr President –

The Speaker: That will do!

Mr Quayle: I wonder, then, in thanking the Minister for that comprehensive (**Mr Braidwood and Another Member:** Statement!) statement, (**Mr Cannan:** Question!) I would ask him then, in the light of the Old Castletown Road latest problems to beset that area, would there be any update on that particular issue that he might wish to make? I hope that he might be able to . . . (*Laughter and interjections*)

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

Mr Gelling: Yes, again, I thank the Hon. Minister for his statement and I, too, have written to him; I suppose he is not surprised that I am on my feet to ask a question on this particular area. Could the Minister perhaps inform the Court as to what further land they will acquire at the Spring Valley Roundabout, so as to get away from the chaotic lane markings which they have now, where they suddenly go into three lanes, one to the left, one down to Spring Valley and one round to Kewaigue, and everybody just arrives on the roundabout (**Mr Delaney:** Hear, hear.) with total chaos, (**Mrs Crowe:** Yes.) because nobody knows where the lanes are.

We have just bought all this immense land in that area and we cannot even get that right, and that is what worries me, Minister. I ask the question . . . If that is the case, if you are going to redesign that, it might very well alleviate the problems which, at the moment, are there, but I then ask you the question, which I said in the letter – there are several other junctions like this which create far more difficulties, and the one leading up to the new hospital is one, off the Peel Road, exactly the same, a Y-junction, far more traffic, and yet the traffic are managing that, I would say to you, sir, quite adequately – but my question really is: why on earth have we designed a roundabout that cannot cater for the traffic from the south? And also I echo that it is obvious that new entrance which has been put in to the lane which now you are going to close is a wonderful entrance, but I am afraid it is coming from north, rather from east.

The President: Mr Earnshaw.

Mr Earnshaw: Thank you, Mr President. I would like to support the Hon. Member of Council, Mr Lowey, regarding this. It is not my 'cabbage-patch', this area, but I have always found that it is a pleasing roadway in which to travel: (**Mr Cannan:** Question.) I cannot see any particular advantage in its closure. (**Mr Braidwood:** Safety.)

I note from the Minister's statement that he said: 'Only six have written in to support the closure of this piece of road', and I note the Minister used the word 'generally'. Perhaps he would explain what he means when he uses the word 'generally'.

He also made the comment that consideration had been given to south-bound traffic only and this may provide a nice compromise at the end of the day. But I would like to challenge the Minister to turn the situation round and reopen the road, which his Department have made a little bit more difficult to access from the Kewaigue end, I would like to see them re-open the road, and, being the fair-minded man he is, I would like to challenge him to open it for a trial period and conduct a similar consultation exercise to test public reaction to safety, inconvenience, et cetera, and see what size of a post bag he gets for that.

So that is the challenge, Minister: give the public the choice they should have and then decide.

The President: Hon. Member for Douglas South, Mr Duggan.

Mr Duggan: Thank you, Mr President. Could I just ask the Minister: are there going to be any improvements at the Quarter Bridge, because there is a lot more pressure going

on the traffic down there. I personally would like to see the old road reopen, but if there is going to be improvements at the Quarter Bridge it would help.

The President: Mrs Hannan.

Mrs Hannan: Yes, could I ask the Minister for Transport, if the road is reopened, what safety measures would have to be in place at the bottom of Richmond Hill to cope with the traffic?

The President: Minister to reply.

Mr Shimmin: Thank you, Mr President.

One of the most frequently used arguments against the Department of Transport is in any particular area, 'It is an accident waiting to happen'. That is exactly the situation that, on this occasion, we are able to avoid by actually having an engineered solution at the Road Island and Spring Valley Roundabout to avoid waiting for accidents to take place in an area that is known by international standards as being a dangerous junction.

If I look quickly at the Members who have commented: Mr Lowey, Member of Council, talked about dialogue with people. Certainly, it is totally in support of Braddan Commissioners down which the statement has been made today, which is exactly what they would have preferred to do. We are fully aware that there are problems at the Isle of Man Farmers, as there are – and other Members have mentioned – at other junctions. That is certainly true, and we will attempt to do what we can, but we are not going to ignore the opportunity to actually improve the safety at this junction.

If we were to actually reopen it – and the Member for Onchan, Mr Earnshaw, may one day be in my position – the idea of reopening something which I have publicly stated is a dangerous junction, and take no further action to mitigate against the danger, would leave the Department and Government totally exposed.

Therefore, in answer to the comment from the Member for Peel, we would indeed have to seriously consider reintroducing the traffic lights, which all the people in that area have witnessed for many months and years.

Furthermore, that would be a further measure until we could then design a suitable roundabout or equivalent, which was estimated, as a limited job, as being in the region of £700,000 and a better scheme would be going into the millions. I would prefer to use that money in order to improve the safety at other junctions Hon. Members have alluded to.

The idea of looking at it as being south-bound only does not reduce the level of risk which I have already identified. However, the decision that I am proposing to take means that option will be available to somebody who replaces me in the future or, indeed, the Department, if we find the impacts are too severe.

We will continue to have access there for emergency vehicles, but will be made 'no entry' from the entrance to the energy from waste plant, down south, and 'no entry' from Richmond Hill up Middle Road. Therefore, emergency vehicles would be able to travel through that, were there to be any accident or junction problems at the roundabout; we would be able to divert traffic there without having to formally remove large areas of obstruction.

The Member of Council, Mr Gelling, refers to the chaotic lanes at the new roundabout. I am sorry, Mr President, we have an Island which is bedevilled with (*Interjection*) . . . The Member of Council, Mr Gelling, said – and I am sorry Mr President – that we seem to have the view that roundabouts confound the average Manx motorist. People have driven now for some time on to that, they know where the lanes are. If they are unable to manoeuvre through those, then I have serious concerns about the availability of them being on the road.

Mr Gelling: Too late!

Mr Delaney: We all know the problem; we can see it! (*Interjections and laughter*)

Mr Shimmin: It is something . . . I am sorry, Mr President, there were a number of mutterings to that, I have obviously touched a nerve –

Mr Delaney: We can all see the problem, we all drive with the problem.

Mr Singer: Mr Gelling has troubles.

Mr Delaney: Don't say we can't drive; we can see the problem!

Mr Shimmin: Neither the Department nor myself have had any objections along the lines outlined with the ferocity that the Member of Council, Mr Delaney, has just put in. There is no chaos at that junction, as far as we are concerned. If he is aware that there are problems at times of day –

Mr Delaney: I will take you up and show you!

Mr Shimmin: There will be problems throughout the Island, taking Mr Duggan's point: Quarter Bridge is the biggest problem for the Isle of Man to try –

Mr Delaney: Who designed that?

Mr Shimmin: I really do think the Hon. Member of Council seems to be taking exception to the Department of Transport's best efforts to try and improve what is, by all standards, a complex issue.

The Member of Council, Mr Gelling, referred to the problems on Peel Road at the Jubilee Oak, and, indeed, Braddan Church. We have schemes to actually try and co-ordinate improvements at both of those junctions. They are not managed well at the moment because the junction at the bottom of the Jubilee Oak is too narrow to allow two lanes of traffic and the congestion in that area as an access to the hospital is unacceptable.

We know we have the problems, we know that Quarter Bridge is the biggest problem and, until we can complete the inner link and then move through Vicarage Road, there will be no real satisfactory solution to the problems of the weight of traffic at Quarter Bridge.

The issue about the junction at Spring Valley Roundabout I will take up with the Members of Council; they obviously have difficulties there which the Department is not aware of. If –

A Member: Their age. (*Laughter*)

Mr Shimmin: – I can only ensure that Hon. Members realise that the intention for this 12-month period is to actually ensure that we can learn from the problems experienced on Old Castletown Road, once that road is fully reopened.

At present there is a disincentive for some people to go down Old Castletown Road because of the excavations and the condition. Once that has been resurfaced, if it does, indeed, attract further volumes of traffic in that area, or speeds in that area, then that is why we are having this period of reflection, before making a final decision.

I would invite all Hon. Members, particularly those in Council, to come down and discuss things with the DoT, because, if they think they have got problems, come and share some of ours, we will do our best, and the improvements in this area are a tremendous testimony to the skills of the officers. I do take exception to some of the cheap comments that are being made about a scheme which has been engineered to suit all modern standards. Thank you, Mr President.

Mr Quine and Mr Cannan: Well done!

Mr Delaney: The Hon. Minister for Treasury is doing a runner now, I think! (*Laughter.*)

Prison Development Programme Debate commenced

6. The Minister for Home Affairs to move:

That Tynwald approves – in relation to the proposed scheme to develop a new prison on the preferred site at Jurby – expenditure of a sum not exceeding £815,000 for the remainder of the pre-contract professional fees. [Reference: Item 7 under the heading ‘Home Affairs’ on page 8 of the Isle of Man Budget 2003-04 and as detailed in the Estimates of Capital Payments 2003-04 to 2007-08 on page 62 of the Isle of Man Budget 2003-04]

The President: Hon. Members, we are now to return to item 6 on the Order Paper and I call on the Minister for Home Affairs.

Mr Braidwood: Thank you, Mr President. Members will recall that, in November 2002, Tynwald approved the expenditure of a sum not exceeding £1,695,000 for design fees pre-contract in respect of proposed scheme to develop a new prison on the preferred site at Jurby.

At that time, in response to a question from Mr Karran, I informed this Hon. Court that the sum identified in the motion reflected the new business planning process and therefore covered the funding previously published in the 2002–03 Budget Document, hence the figure of £1.695 million.

I also informed the Court that additional funding for professional fees would be required to supplement the revised total sum of £2.7 million, identified for design fees pre-contract, but, in fact, the total funding required is actually slightly less, being £2,509,400.

The balance of pre-contract fees is, therefore, £814,400. I wish to reassure the Court that the Motion placed before

Hon. Members today represents the combination of extensive negotiations undertaken by my Department’s project manager, with members of the design team, to agree fixed-price lump sums for each professional discipline, therefore ensuring that there can be no question of fees following cost.

Substantial reductions against the various professional bodies recommended fee scales have been secured by the project manager and endorsed by the Treasury, which equate, in cash terms, to £1,241,620, a significant saving.

The tabulation prepared by the project manager and which was previously circulated to Members, provides full details. The composition of the design team includes the services of the project manager, architect, quantity surveyor, civil structural engineer, mechanical and electrical services engineer, planning supervisor and landscape architect. In accordance with the Isle of Man Government Procedure Notes for Capital Schemes, the amount that can be claimed for work undertaken to stage 6, tender action and report, is 65 per cent of the total fee, and this is reflected in the sum placed before the Court today.

Hon. Members, design of the new prison at Jurby continues apace and the scheme will shortly reach stage 3 of the capital procedures. This is the ‘develop sketch scheme’ stage.

A detailed planning application for the Jurby site has been submitted and is currently being considered. It is hoped that, subject to planning approval being obtained early next year, a start on site will be made in July 2004, and that the much-needed new facility will be operational by November 2006.

In what is still regarded as a fairly new venture for the Isle of Man Government, it is hoped to appoint a building contractor before the design process is complete, to provide assistance on build-ability issues, setting the construction programme, assisting with cost advice and commenting on the material selection and specification.

This approach is focused on obtaining best value for Isle of Man Government, through a combination of optimum price and quality. Tenders for this first-stage process have just been received and are presently being evaluated by the project team.

From a local perspective, it is pleasing to note that my hon. colleague, the representative for Michael, Mr Cannan, attended a very positive meeting last evening with residents of Jurby, at which full support was expressed to progress the scheme and comments made to the effect that at long last words are seemingly being transmitted into action in terms of investment in the area, of which the proposed prison project will hopefully play a significant part.

My Department colleagues and I also attended meetings with the Jurby Commissioners to maintain regular contact and to keep the Commissioners informed of developments and we are pleased and appreciate immensely their continued support.

Hon. Members, the problems associated with accommodation at the existing prison have previously been well documented and I do not propose to reiterate them here. However, I must stress the urgency to progress with the delivery of the new prison to ensure that the Island’s custodial accommodation is brought up to modern-day standards, which allow the rehabilitation of prisoners in new humane, appropriate surroundings.

Mr President, I beg to move.

Mr Cannan: Mr President, I have much pleasure in seconding and reserving my remarks.

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

Mrs Hannan: Could I just ask: the Minister has made a quite great play of saving money on this particular project; I just hope that there are enough safeguards within those savings to produce a building which is to the standard that it should be, to make sure that it complies with all the regulations and that there are no short-cuts by developers, or anyone else. That is one point that I would like to mention.

Another point: while you have stated, Mr President, that there should not be any circulation of documents, this document came to us just today, and this seems to be in the history of this particular development – our getting information at the last minute.

The President: Hon. Member, you are again referring to a document which I do not seem to have, so I would be interested to know where you got that from.

Mrs Hannan: It was on our desks, or circulated this morning, Eaghtyrane.

Mr Braidwood: It was on the desks this morning.

The President: It certainly has not reached here, and this again just proves the problem, Hon. Members.

Mrs Hannan: It is this sort of issue, Eaghtyrane, that I am concerned about: that we get documents, it is a five-page document, it is quite detailed – sorry six-page with the back page – in support of the motion that is on the table today, and I just think it is rather late, and this is how we have been treated over this prison development – (**Mr Braidwood:** Rubbish!)

Oh, the Minister says ‘rubbish!’ – that is not true, he came to Tynwald on another occasion looking for a huge sum of money to build us . . . and we have got no documentation at all with the proposal, and it was deferred because of that, to allow a presentation and the like. I do think it is Government that is putting forward a project to Tynwald and I believe there should be supporting documentation for that, if they expect us to just nod through an issue such as this.

When this was first discussed, one of the issues was the video links and it says on page two:

much support as to the video links between magistrates courts and prisons

but, presumably, in saying this — and I do not see it anywhere else in the documentation — people held in the prison would be able to communicate with advocates and their advocates would have to come from Douglas, which is 45-minutes drive away, and I presume, in saying that — this is the paragraph under Site at Jurby Airfield — advocates would get paid for that 45-minutes drive from the town, and that is lost time that they would be travelling to see clients.

As I will not be able to raise this afterwards, I think it is important that we do support advocates going to see their clients, and not just through video links, because we know what has happened at the prison with bugs being in place —

although the English rugby team do have something with which they can scan the room to make sure that there are no bugs, so maybe that is what we should have in places like this, where secure interviews take place. (**A Member:** Hear, hear.) That would cost very little money, from the research that has been carried out into the England rugby team, so I would hope that Government would do that and encourage other people to do it as well.

On saying that, I still think that Jurby is the wrong place for this particular development, simply because it is 45 minutes away from the principal town. It is all very well, we are discussing something, this is a parliament and surely we can have opinions, instead of the Minister making a great big fuss about it and having a fainting attack any time anybody says anything that does not agree with him.

I will be voting against it for that reason. (*Laughter*)

The President: Mr Speaker.

The Speaker: Thank you, Mr President.

Unfortunately we have not really got much choice, because we have made a decision which has set in motion – an expenditure of £1.695 million – and we are now asked for a further amount of money for the design fees, et cetera, in relation to the project. Therefore, being realistic – and I am one who expressed concern about it going to Jurby, not because I did not want Jurby to be developed, but because I did not think it was the right place for the prison – but, that being said, I did support, eventually, the motion forward.

But I think it would be helpful if the Minister could explain more clearly why this additional money is required, in terms of the vote.

I have to say, I am extremely concerned that we are expending – if this goes through – £2.5 million when there is still no planning approval for the site to be used as a prison. We could end up with the site not being approved as a prison, have a prison designed to fit that site, having spent £2.5 million of taxpayers’ money, and got nowhere.

I do think this is an issue: it is not new to Government, it has been going on for ages, I do not know why it is not sorted out, going back years, before this administration. Government has got to look at sites for such major developments and go with a Development Order to zone the land for that purpose and *then* go forward with the expenditure for fees to design up major projects that are in the tens of millions of pounds. So I just make that point because I think it needs to be made.

The other issue I would like to just raise is in relation to the design fees. I think Government has a serious problem, of the professionals – and I know it is based on a criterion from the UK – but based on professionals getting fees based on the final outcome of the project.

I have to say, I went round the hospital, I think it is a wonderful hospital, I have always supported it, but there is no doubt that the professionals are not vigilant, (**Mr Downie:** Hear, hear.) because it costs them money to be vigilant. For example, Minister, there is toughened glass where it does not need to be, and I do not want to go to much into detail, but this is the problem with the professional paid fees, based on how much the project costs. There is no incentive for them to look at how they can reduce the cost to the taxpayer, because that reduces how much they receive in fees.

I do believe that it is an issue that the Government has

to deal with, and, if not Government, then I think it is an issue that Tynwald will have to, maybe through its Public Accounts Committee, try and look at to deal with the issue, because all that happens is – I suppose a nice way to say it – it is ignored that they might cost three times as much to put that pane of glass in, in that window where it is needed, it is ignored where it is not needed, because, in fact, that means a saving on the project.

So, Minister, just to make the point, I think it would be helpful, maybe if you can, explain a little bit clearer why this additional money is required, more so than you have in your introduction, and also, I do have a serious concern that there is still no planning approval for the principle of using the site for a prison. And I think that is a serious issue that we have got to deal with.

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

Mrs Craine: Thank you, Mr President. I endorse many of the comments of my Hon. Colleague from Peel, Mrs Hannan. It is my opinion that the Council of Ministers have allowed themselves to be backed into a corner over the siting of the prison.

Mr Corkill: Not at all.

Mrs Craine: It has pandered to the most vocal of opponents and allowed compromise to get in the way of common sense.

One of my most rewarding experiences has been to serve on the Board of Visitors at the prison. I have seen at first hand the dire conditions that exist in the present facility. (**Mr Corkill:** Hear, hear.) We have had the most critical of reports from Her Majesty's Prison Inspectorate, and, yes, unequivocally, a new prison is a matter of immediate importance.

But this administration has fudged the issue, taken note of those who are happy to have the very best of modern medical facilities on their doorstep, but find it unacceptably distasteful to have a prison alongside.

There is more than a degree of irony about this, when the present building is adjacent to some of the most desirable and expensive residential property in Douglas. (**The Speaker:** Hear, hear.) (**Mrs Hannan:** Yes.)

It is interesting that it is desperation that is guiding us to Jurby. Even the judiciary do not seem to have had their concerns acknowledged. There is a failure to understand that, whilst we talk blithely within this paper about video links and court submissions, we are, in many cases, dealing with less able members of our society. They are not able to articulate their situations face to face, never mind being expected to converse with a television screen. We cannot expect true justice through this medium.

Then we consider how people are to visit inmates at Jurby. Many of the advocates will prove reluctant to visit their clients there, and, as for family visits, you might as well ask them to find their way to the back of the moon. They find it difficult to visit Victoria Road now.

You need to witness the embarrassment and humiliation of a prisoner waiting for his family visitor who does not show, whilst those around him have their visitors arrive, to understand the angst and stress and upset –

A Member: Stay out of prison!

Mrs Craine: – the feeling of being let down causes them.

And having been let down, the prison staff then face the raw hurt which can manifest itself in anger or depression, and all that will increase with the relocation to Jurby.

The support services needed by going to Jurby will be immense and needs to be understood and accepted by Hon. Members now.

The punishment for inmates is the removal of liberty to go about their lives, making decisions for themselves. By locating in Jurby, we are adding to their punishment by denying them their rights to fair support.

Do not misinterpret my comments as being negative about providing facilities for Jurby. Later we will discuss the Jurby Plan and I ask you not to consider the two components in the same light.

I believe the promise of the prison bringing facilities which will be able to be used by the community to be hollow. Prisons are not made to be freely entered or exited and this 'sprat to catch a mackerel' will prove to be the one that got away.

Hon. Members, I do not intend to table an amendment against the prison being developed at Jurby. I, too, accept the desperate situation we find ourselves in, but the desperation that concerns me is that of men and women incarcerated in a facility condemned across Europe, not that of a cornered administration that has proved too weak to get on and do the right thing. In my heart of hearts, I cannot support the development of the prison at Jurby. Thank you, Mr President.

Mrs Hannan: Well done!

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President. I am drawn to my feet by the contribution from the Hon. Member for Ramsey. I think in fairness we have to accept that we are a small Island and, no matter where a prison could be located, it will involve some travel. It is only a matter of minutes, really, extra going to Jurby, compared to other locations that have been considered around the Isle of Man.

I think the crux of this matter to me, as with others, is that it is a matter of the utmost urgency to have a new prison facility built upon this Island, so that, once again, the Island can walk tall in the eyes of the world, being able to provide a facility which is up to modern day requirements and not one which is beyond what would be expected in the third world, or wherever else around the world.

The facilities, it has to be accepted, are appalling. I took the opportunity, before the last general election, to go up there to have a look at just what the people have to put up with. So, there is no doubt about that. We have accepted the principle that we need a new facility.

The summary of the table that is before us quite clearly identifies that Jurby has been adjudicated as being the best location in terms of the pointing that we see before us, and that takes into account operational, geographical, procedural, topographical and the infrastructure. So, looking at the facts as they are clearly before us, there is no better facility or location than the Jurby one.

Just to mention about Ballafletcher, which had been mentioned or alluded to, I think, by the previous speaker, that is quite clearly designed for sports facilities and it is

not a case of people not wanting to have a facility such as a prison in the area – and I acknowledge that the one that at present is adjacent to some of the most expensive properties in the Isle of Man, that is not the point. The point is that the east of the Island is requiring sports facilities. That land at Ballafletcher is owned by the Isle of Man Government, and, hopefully, within as quick a time as is possible, we should have sports facilities on what had always been agreed for that area. It was only that the Department of Tourism and Leisure, in working to the common good, was prepared to allow, in the national interest, that area to be looked at as a possible location for a prison.

We all know that the latest information has proven that Jurby is a more suitable site and the Hon. Member for Michael has confirmed that –

Mr Cannan: Be careful!

Mr Quayle: The Jurby site has proved to be more suitable in terms of the pointing – that is fact and that cannot be disputed.

In terms of the Hon. Member for Michael, I really think it is his day today; I, too, share the concerns of everybody that Jurby has not had the investment over the past, and certainly this particular investment in a prison is, I believe, a catalyst to what will be development of that area, which will be beneficial to all concerned. It certainly is, in my opinion, a catalyst which will provide generation for the area and nobody can deny that it is in need.

Mr President, I conclude by saying that I support this motion before us. We really need to get on with the provision of a prison, and it has my full support.

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

Mr Singer: I will be very brief. I would like to first of all support the comments by the Hon. Member for Ramsey, Mrs Craine, where she said: ‘Do not look at the two components in the same light’. One is a development of Jurby, which is a right of the people of Jurby, and I have always supported the rights of the people of Jurby for it to be developed, new houses, new investment, new industry, et cetera.

But it appears that we have been offered the development of Jurby, in conjunction with the prison – you have either both, or you have none, and that is the way it appeared. But I will say quite clearly now, whilst the Hon. Member for Middle, the last speaker, said: ‘Oh, we have got to get on with it, it is urgent’, the fact is that Ballafletcher was shown to be the right area for a prison. (**Two Members:** Hear, hear.) It was shown to be the right area, it was in the main population area, it was not far from the present prison, not far from all the judiciary, et cetera. And, as a matter of most urgency it should have gone to Braddan. It was adjudicated the best location.

But what the problem was, it did not suit this Government politically, it was top of the list, and suddenly it went to the bottom of the list, and that is the true position. And if Members had wanted a prison urgently – as we know we need a prison urgently – it could have already been built at Ballafletcher, where it should have gone in the first place.

The President: Hon. Member, Mr Karran.

Mr Karran: Eaghtyrane, my concern today is that – I

have to say that I was quite impressed with an awful lot that came from the Hon. Member for Ramsey, as far as what she had to say – as far as this item here today, is that the prison is a victim of the disease of parliament and Government, in my opinion, and I believe that to say that it is somehow someone else’s fault, at the end of the day, we make the decisions in this Hon. Court. We made the decision, as far as Ballafletcher is concerned, not the Council of Ministers.

But what does sadden me today is, because of the system of Government, the opportunity that this Hon. Member wanted, as far as before any prison was built, for a proper penal review, was thrown out of the window because you are not part of a club.

That is the big indictment today; not the issue of whether it went to Ballafletcher or Jurby – I have to agree that I actually think Jurby is not the right place – but the issue was that, once again, we have got the cart before the horse. And the problem we have is that we did not take the opportunity, and we have had years of it, but, of course, we would not be that progressive because it does not come from the right angle in this Hon. Court.

Instead of seizing and using parliament to debate these issues, and if we had a proper penal review debate then maybe we would be questioning whether we need to move out from the existing site, whether we should have had a split site as far as having an open prison at the likes of Knockaloe, whether that is not the case, but at least we would have had a deep investigation of what we need for our country for our people.

Because the problem we have with too many people in this Hon. Court is that they want to just put the social misfits into prison – that is all. And the bigger the prison the more they can fit in there. And that is the problem we have. As a former Member of Rheyne Cooishyn Sthie – the Home Affairs Department – one of the things I was keen on – and if we had had a proper penal review – was the issue of weekend prison. It used to drive me nuts! You would have these people that go out, they would go like lunatics with a few bottles of alcohol in them, they would cause so much trouble, and what happens? They are imprisoned for three months, or whatever, the wife is left with the kids, (**Mrs Hannan:** Yes.) she is left with all the problems, he is sitting pretty up there. What I wanted as a Member of the Home Affairs Department –

Mr Earnshaw: Point of order, Mr President. Is this a debate about whether we vote the money for Jurby prison?

The President: I was about to pull the Hon. Member up: (**Several Members:** Hear, hear.) money, not the position of Jurby.

Mr Karran: Vainstyr Loayreyder, what I was saying was: today, the problem we have is that, once again, we have not done the proper research. We have got another fine building with a big plaque, without the market research into what we really want as a society.

This building is there for the next sixty years, and my argument is that the groundwork, the proper stuff, has not been done once again, and Members in this House have been ignored, simply because of the failures in the system of Government. I will not go into the history of that, but I think it is something that needs to be put down as a clear

marker, because, in my opinion, if that had been done, you would not be going to Jurby today.

As a former Chairman of the Water Authority, we actually suggested that we would sell land at development prices on our estate off the Begoade Road for a prison, but nobody was interested.

So I think part of the problem is here, is the system of Government, and what I want to explain to the new Member for Ramsey, it is all right blaming everybody else, it is us in here that make the decision and we are faced with the situation where, once again, we are cornered. We have got a place that is not fit for dogs as a prison and we are forced into almost having to vote for something that is wrong, again because of the system of Government. That is not all his fault as the Ard-shirveishagh, but our fault as Members of this Hon. Court.

But I will go on to the other issue –

Mr Corkill: We're making progress!

The President: The issue is printed at number 6, sir.

Mr Karran: – that I want to . . . The other issue was the paper, which, hopefully, everybody has seen now, as far as the breakdown, of the percentage of the total costs, and we see that it has gone down from 15.92 to 14.33: that is great that percentage, but if there is no control over how much they are spending, it is purely academic! This is the issue which needs to be addressed and Mr Speaker is quite right, and, hopefully, the report that I have been trying to get out to them, to get away from this capital procedures, where the more they spend, the more they get as far as the capital work is concerned, the sooner we get that sorted out, the better. Hopefully, that 'value for money' paper will turn up in the very near future and we will, maybe, get away from the madness of the way the capital spending is, where the more they spend the more they get, and we have the nonsense where we are getting gold taps when we need stainless steel ones.

I would just like to ask the Shirveishagh son Cooishyn Stie – the Minister of Home Affairs – he talks in his paper of £3,576,000 as far as the total costs; I take it that, in my question on Question 37, that the £2,324,400 is included in that total cost, as far as these planning issues are concerned.

I am in the position where I have to be with the likes of the Hon. Member for Peel, where I feel that I should vote against it, but then I have the humanitarian problems that we have got with this situation. But what we have done today is again scored an own goal, not just for the taxpayer, but for the residents and for society, as far as our battle as far as law and order are concerned.

The President: Hon. Members, I think it is an appropriate time at which we should break. (**Several Members:** Hear, hear.) We will resume our deliberations at 5.15 p.m., Hon. Member for Michael first to speak. Thank you, Hon. Members.

*The Court adjourned at 4.50 p.m.
and resumed its sitting at 5.15 p.m.*

Prison Development Programme Debate continued Expenditure approved

The President: Hon. Members, as I indicated before, we continue with our prison redevelopment debate, and I call on the Hon. Member, Mr Cannan.

Mr Cannan: Thank you, Mr President. I just want to reassure Members of Tynwald, in voting support for the money here for the prison development, that, as the representative of the people of Jurby in expressing their views – not my own personal views – I am entirely at ease with them.

Last March 2002 I held a public meeting at Jurby, which had a very large attendance. There were petitions in the shop and public house for and against, which were scrutinised. There was a vote at the public meeting, for and against.

That was followed last November by a presentation over two days of the plans in the Jurby Parish Hall and again a ballot box was organised, in which persons put in their slips, either for or against, after they had visited the presentation and seen the plans.

The independent consensus is that there is a majority who will accept the principle of the prison, provided that it was in conjunction with the proper redevelopment of Jurby. As you have just previously voted for the infrastructure for the proper redevelopment of Jurby, it is part of that redevelopment and the people of Jurby appreciate that £40 million of inward investment into the community is what they want and what they need.

Following that £40 million of inward investment – and I am confident in this and I believe the people of Jurby are, because, as you all know, I have had public meetings with them, and consulted and talked to them privately as well – the follow-on from that initial £40 million of the prison would bring forth the housing development and, as I have said previously, the creation of the sustainable village. This is the way forward for this community. I will not repeat the phrase that I just made before: 'Justice for Jurby' –

Several Members: You have! (*Laughter*)

Mr Cannan: Oh, sorry! But I –

Mr Delaney: I thought you said new dustbins for Jurby, I'm sorry!

Mr Cannan: – say to you all, in all seriousness, this project for the prison has community support, just as the redevelopment for the community has the community support, and I urge Tynwald this afternoon to give this motion their full support. That is the will of the people that I represent and in whose community the prison is to be – not the personal opinions of certain people, but the will of the people.

Thank you, Mr President.

The President: Minister to reply.

Mr Braidwood: Thank you, Mr President. The motion on the Order Paper is

in relation to the proposed scheme to develop a new prison on the preferred site at Jurby — expenditure of a sum not exceeding £815,000 for the remainder of the pre-contract professional fees.

Now what have we got? We have gone into a debate again on the siting of the prison and the same old arguments have surfaced. (**Mr Delaney:** Hear, hear.)

Mrs Hannan, the Hon. Member for Peel, started off: safeguards, contingency. Contingency has been built into the estimate, that is why we have got a project manager who will oversee all aspects of the development of the prison.

Mrs Hannan also mentioned about the detailed document which she had received this morning and not having enough time to go through. Well, she must have selective memory loss, because, actually, all this is is an up-to-date version and a truncated version of the papers every Hon. Member of this Court received last November. So —

Mrs Hannan: It is a new submission, Minister!

Mr Anderson: Yes.

Mr Braidwood: — Mrs Hannan mentioned, I think, for legal visits. The average number of legal visits per week at Victoria Road is four — costs for Jurby for four people — this is based on the costs of last year: 44 miles at 51 pence per mile x 52 weeks is £4,667 per annum. Extra time claimed for travel, say, one hour per visit at 33: £6,864. So that has been allowed for. We have not got hundreds of advocates going up to Victoria Road to speak to their clients; we have got four.

Now, the Hon. Member for Ramsey, Mrs Craine, who was not a Member of this Hon. Court last November, so she did not have the detailed paper, said we ‘had been backed into a corner.’ I was not backed into any corner!

When I was appointed Minister of Home Affairs, I reviewed all decisions which had been taken in my Department, one of them being the preferred site, which, at that time, was Ballafletcher. I thought it was the wrong site.

Allowing for the whole topography of the land and everything else, I asked to review all the sites which had previously been looked at and I am sorry that I am going over old ground, Mr President, but arguments have been put forward this afternoon, in a person’s opinion.

So we reviewed Ballafletcher. We reviewed Jurby. And you can see in the paper which has been circulated, Creggan’s Hill was also looked at again and revised and the points system looked at.

I have to bring into the argument, yes, video conferencing made a large difference. Video conferencing was ruled out in the UK — I had the figures in my head, but I will refer back to the paper that was circulated to Members last November. The March 2002 Her Majesty’s Prison Service briefing document declared that:

the national roll-out has begun of the new video links between magistrates courts and prisons in England and Wales.

It then goes on to say:

it is expected that, by September this year,

— which is 2002 —

57 prisons and 156 magistrates courts will be using the new technology. The use of video conferencing technology is seen to be an effective method to increase court efficiency by improving case management and the listing process and reducing delay and inconvenience for all those involved in court proceedings.

Mrs Craine: Except the prisoner.

Mr Braidwood: And yes it is. I can tell the Hon. Member for Peel, the great benefit — oh, sorry, I thought it was the Hon. Member for Peel; it must have been the Hon. Member for Ramsey, Mrs Craine.

Mrs Hannan: That is whom you usually exchange with, isn’t it?

Mr Braidwood: I was not looking directly across the Court, Mr President.

Mrs Hannan: No, but you always assume it is me! (*Laughter and interjections*)

Mr Braidwood: But what I am saying, I have been and seen these courts in action. I went to Strangeways in Manchester. The remand prisoners prefer it, because, if they are on remand and they have to go to court, all their belongings have to be given back to them, they are then transported to the court, they go into the cells underneath the court and are held there until their remand is up. So they come up, in front of the magistrates, it could be a two-minute hearing, they are remanded back to the prison.

Mrs Christian: Mr President, point of order. It is very difficult to hear when there are two conversations coming through our speakers.

The Speaker: Hear, hear.

The President: Hon. Member for Michael, be careful when you are whispering. (*Laughter*)

Mr Cannan: My apologies to Hon. Members, Mr President.

Mr Braidwood: What happens, Mr President, is they are remanded. They have to go back to the prison, their belongings have to be taken in again and they have to go back to the cell. They do not know if they are going back to the same cell; they have missed a day’s work; they are not happy.

When we went to Strangeways, they were brought, they went into a room, they had their television, there was the camera, a magistrate’s court and there were two courts running simultaneously — Manchester City Magistrates and Tameside Magistrates. They were in and out in minutes and back, and did not lose any benefit at all. A great improvement.

And I know that the judiciary and the Deemsters have mentioned that they are in support of video conferencing. They are even talking about, in actual fact, full trials could be held using video-conferencing techniques, so I am afraid that argument by Mrs Craine, that has been proved. The arguments were there and I answered them last year.

But I would like to say that I, when I changed the

position, or I went to the Council of Ministers, asking if I could review the site of the prison, I was criticised in the papers for holding up the prison development, and I am sure that, if it had gone to Ballafletcher, there would have been more of a problem. And the site was wrong, the topography was all wrong.

And I think and also, going. . . I have changed now from Mrs Craine. I will go to Mr Quayle and I thank him for (**Several Members:** Oh!) his support.

Mr Delaney: Good speech!

Mr Braidwod: At least I am getting some ways to have some support – and the Hon. Member for Michael, Mr Cannan, and the support he has said.

Mr Karran: That's no recommendation.

Mr Braidwod: One thing we have got to look at as well, Mr President, is that if the prison is built, the prison officers are going to be there. I believe DoLGE has already had officers declaring an interest, if there is housing up there, to move up to Jurby. The benefits it will bring to the region, apart from this, now that we are getting the new infrastructure to the industrial estate, the DTI, with the housing – the prison will help all this as well.

Now, Mr Karran went on with these and I think I mentioned when I was moving the motion, Mr President, I said on the fees – and we look at the paper which has been presented, in that Mr Karran quoted the scale fees recommended by the professional bodies of 15.92, historical level 14.33, and the reduced fee, and these are fixed lump sums.

If the cost went up – I am sure, because we have had a valuable engineering exercise when we reduced the costs of the estimate of the prison by £7 odd million, it will not go up – but we have now fixed lump sums and those figures, which were in answer to the written question on 35, those figures are incorporated on the fixed contract fees, Mr President.

Now, finally, I think there was only one Hon. Member of this Court who spoke on the motion and that was Mr Speaker on the fees, when he was saying £1.695 million has already been expended; another £814,400, which has taken it up to 65 per cent of the fees, and it is up to stage 6. At the moment we are at stage 3 – we will shortly be at stage 3 of the capital procedures and there is the 'developed sketch scheme' stage.

I know Mr Speaker expressed concern about the planning and said that, on Government projects, we would have to go for a building development order, which could be the way, but this is not the case at the present time and it has been on many other Government building projects.

So, Mr Speaker, I want to move on. We are waiting for the planning to come through. This is the next stage in the prison: the £814,000 for the pre-contract fees. I want to see the prison developed – a modern prison (**Mr Houghton:** Hear, hear.) with re-habilitation for prisoners and proper facilities.

We have been criticised, as the Hon. Member for Ramsey has said, in the HMIP reports, and I know that, when she

was over, complimented the Department on moving forward quickly with this prison development at Jurby.

Mr President, I beg to move.

Mr Houghton and Another Member: Hear, hear.

The President: Hon. Members, the motion that I put to you is that printed at 6 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 19, Noes 4

FOR	AGAINST
Mr Cannan	Mr Anderson
Mr Rodan	Mr Quine
Mr Quayle	Mrs Hannan
Mr Rimington	Mrs Craine
Mr Gill	
Mr Gawne	
Mr Houghton	
Mr Henderson	
Mr Cretney	
Mr Duggan	
Mr Braidwood	
Mr Downie	
Mr Shimmin	
Mr Bell	
Mr Karran	
Mr Corkill	
Mr Earnshaw	
Capt. Douglas	
The Speaker	

The Speaker: Mr President, the motion carries in the House of Keys with 19 votes for and 4 votes against.

In the Council – Ayes 6, Noes 1

FOR	AGAINST
Mr Lowey	Mr Singer
Mr Waft	
Mrs Christian	
Mr Delaney	
Mr Gelling	
Mrs Crowe	

The President: With 6 for, 1 against in the Council, Hon. Members, the motion therefore carries.

Procedural

The President: Now, Hon. Members, before I commence on item 7 on the Order Paper, I did consider at one time that we may have completed the Order Paper in one day's sitting. I decided that was impractical, and I thought that we may finish in a day and a half. With that in mind, it was my intention to shut down this evening about 7.30 or 8 o'clock. (**Mr Corkill and Another Member:** Hear, hear.) With your agreement, Hon. Members, that is what I propose to do this evening and try to (**Mr Karran:** Agreed.) complete the Order Paper tomorrow morning.

Several Members: Agreed.

**Implementation of waste disposal charges
DoLGE Report
Motion lost**

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

That the Report of the Department of Local Government and the Environment, dated October 2003, on the implementation process regarding the charges for waste disposal be received.

The President: In that case, Hon. Members, with that acceptance, can we move onto item 7. I call on the Minister for Local Government and the Environment to move.

Mrs Crowe: Thank you, Mr President. At the June 2003 sitting of this Hon. Court, my Department agreed to report back on the implementation process regarding the charges for waste disposal – this circulated report that I am asking this Hon. Court to receive details of the process undertaken.

The Waste Operations Management Unit has agreed with each local authority a method for distinguishing between commercial and domestic waste, to allow the waste operations unit to bill each local authority correctly for the waste they deliver to Wright's Pit.

Waste charges are invoiced monthly for both local authorities and commercial enterprises.

I am pleased to see that the change in the charging regime has had the desired effect: charges have created the much needed financial incentive to encourage producers of waste to concentrate their efforts on waste minimisation, recovery and recycling.

This might not have been popular in some quarters, but, as I have said before in this Hon. Court, it is of the utmost importance that we reduce the level of waste arisings on the Island by adopting a more thoughtful approach to dealing with waste.

Now, I do not intend to repeat all the reasons for this here today, as I know Hon. Members are well aware of the need to minimise waste arisings, but I would like to publicly thank those involved in commerce and construction on the Island who have been so helpful and co-operative with this process.

Having said that, I must say the volume of waste deposited at the landfill site has, as predicted, decreased since the introduction of charges. This one desired outcome has the effect of preserving our scarce reserves for the deposit of domestic waste until the energy from waste plant is fully operational.

I am sure that Hon. Members will welcome the fact that the high charges for waste disposal have encouraged the private sector to find alternative disposal routes, many of which have proved commercially viable. There has been an across-the-board increase in waste minimisation and recycling schemes and my Department has received and encouraged many requests for information on alternative recycling routes for waste materials.

This significant increase in efforts to avoid landfill is extremely gratifying.

I must say that all local authorities have played their part in ensuring a smooth implementation of the revised charges. They have provided the information to the Department to enable the charges to be calculated. Dialogue

has continued throughout the period between my staff within the Department and the local authorities' representatives, who have been provided with advice and assistance to help them through the transitional period.

Concerns were raised by the local authorities on the method of calculation of VAT on their invoices, but their concerns have all been addressed, with the help of our colleagues in Treasury. They have all been resolved.

All local authorities that qualify for domestic waste status have already been informed that the Department does not intend to approach this Hon. Court for a change in the 90 per cent grant allowable against domestic waste arisings in the next financial year – that is 2004-05 – and this has been welcomed by the local authorities, giving them ample time for the next round of rate-setting discussions. Working closely with the local authorities and giving them such advance notice has avoided criticisms that have been levelled at Government in the past.

The Treasury's Internal Audit Division is auditing the mechanism by which the Department is charging for waste received and their report is expected to be available towards the end of the year. The Department expects the report will provide reassurance and will offer constructive advice aimed at improving the robustness of the systems recently introduced to manage the charging process.

My Department has worked extremely hard to put these systems in place. In the case of the increased charges to commercial customers, invoicing has continued as previously, but at a revised rate, with the additional financial controls having been adopted for the billing of local authorities, detailing the grant awarded.

These systems have provided a sound basis for discussions with the future operators of the energy from waste facilities on all the procedures to be employed once they take over and operate the billing system.

In conclusion, Mr President, may I say that my Department acknowledges that some commercial firms did experience difficulties initially in accommodating the increased charges. However, we have worked with them and the phasing-in over nine months has been well received.

Difficult decisions are never easy, nor are they popular. Disposing of waste is at last being recognised as an expensive, but a necessary business. Careful preparation and forward planning by my Department has meant that the implementation of the waste disposal charging policy endorsed by this Hon. Court has been carried out with few problems. Those problems that have arisen have been addressed effectively and the expected results are in line with the Department's report to this Hon. Court at the June 2003 sitting. Mr President, I beg to move.

The President: Hon. Member, Mr Lowey.

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

The President: Mr Speaker.

The Speaker: Thank you, Mr President. The Minister will not be surprised that I am not going to say nothing about this issue. I am quite happy to note the report that her Department has put forward – because that is all we are doing, is noting it when we receive it; we are not saying we agree with it.

However, it is interesting, I think, Mr President, that at last the piece of paper that has been circulated now tells us what we have been asking for, for at least six or nine months, and that is how on earth the Department got to £100 a tonne.

I am not a very good mathematician, so I bow to greater pressures but I am still confused because it says here that, if I am right, on this paper, that £73.26 million is the total cost, because they have now included everything in – which was never the intention – and they expect 100,000 tonnes which we have always known about and it comes out at £117 a tonne. So, in my calculations, it came out to £73 a tonne but, anyway, maybe somebody can explain how that is.

But the point is that it does not really matter. What matters is that it takes away – and I come back to the argument I have made before and I will make it again: Hon. Members, the principle has been determined by Government and has not been put to this Court to determine the principle. That is the principle at stake. Government has changed its policy and it did not come here to change its policy.

Never – and I was a Minister from 1986 to 2001 – ever was it ever intended that all the costs associated with waste on the Isle of Man, all the capital costs, including civic amenity sites and everything, and the loan charges and everything you can throw in the pot, should ever be put against the individual businesses, should ever be put against the householders. Do not forget, Hon. Members, only because of Tynwald Court, there would not be a 90 per cent rebate, there would be a 100 per cent charge on our householders, our ratepayers. *Never, ever* was it put in the Council of Ministers that it would be charged through the rates.

This new administration is putting it through the rates and it is, at the moment, as the Minister has said, ‘By the way, do not worry, everybody, we are not going to increase it next year. We might do it the year after; we will wait and see how it goes.’

Not this guy! I can tell you, Mr President, there is no way I will support this. (**Mrs Cannell:** Hear, Hear.)

The Minister said: ‘Difficult decisions are never popular and never easy to make.’ I know that I have made plenty of difficult decisions, plenty of them. I have no problem whatsoever, as the Member for Castletown, I have had no problem whatsoever as a Minister, and I have no problem now in making any difficult decision that I believe to be fair and right.

This is not fair and it is not right and the Government of this Island has not even got the guts to come here with its policy and have it debated to have it implemented, clearly laid out.

We drag it out of the Minister and if I had not have asked the supplementary this morning, Hon. Members, you still would not have had this bit of paper. It has taken us six or eight months to get this bit of paper. How many times have I asked the question, ‘How on earth, Minister, have you got to £100 a tonne?’? Hon. Members, every cost to do with waste has been transferred from the taxpayer to the ratepayer and the businesses individually and at the moment your safeguard – what you are being told is your comfort, arm around your shoulder, ‘do not worry, boys’ – is being given a 90 per cent rebate. You are giving nothing, Minister!

Tynwald Court has got the duty and responsibility to sort this out. (**Mrs Cannell:** Hear, hear.) Our responsibility.

Hon. Members, you tell me how many of you stood in

the year 2001 and have stood since at by-elections and said that you were happy to transfer major and substantial costs from the taxpayer to the ratepayer? Not one of you, but that is what you are doing and you are doing it again, because there is the information. If you doubted it before, look at it, Hon. Members!

Animal waste – being transferred to the ratepayer. For goodness’ sake! That is the ‘AWPP’ – which I must admit I could not work out at first – the animal waste: the cost of that is being transferred to the businesses and to the ratepayer!

Do not have the smokescreen 90 per cent discount, because, if that fades away, as it will over time, which is the clear intention of the Minister and the Department - and the Government - then that cost will be borne in its proportion against the householder through the rating system.

I say what I said last time: we want clarity on this. We have a responsibility to have clarity on this. Every cost associated with waste disposal on the Isle of Man is being transferred from taxation to the ratepayer and we still do not have a rate rebate scheme. (**Mr Karran:** Hear, hear.) And we still do not have anything to help people whose incomes are not able to be helped through the tax system - except the latest one that was approved in the last budget, which was, again, a relatively small payment.

But, Hon. Members, read the Report. Go through this Report. The indications are clear and confirmed here, it is all going to go over to the householder and the businesses individually, that has never, *ever* been the policy of Tynwald or the Government (**Mr Singer:** Hear, hear.) – ever!

And if I am wrong, I would ask others who are Ministers and were Ministers when I was a Minister, whether they are Ministers now or not, to stand up and say I am wrong.

The answer is I am not wrong - and I know I am not wrong, because I was Minister of the Department at the time, who came to the Council of Ministers and we agreed and told Tynwald that ‘polluter pays’ in Isle of Man terms means the taxpayer, and, if there was a charge to help with an incentive, if there was a charge, it would be with some operational charges, but it would never ever include the capital costs.

So, again, here we are in a position, if you read this Report - well, to be honest, you will nearly cry. ‘If you do not give us the money, we will have no money!’ For goodness’ sake! It is a matter of priorities; it has always been budgeted that this will be funded from Government.

No money? No money? To be honest, I am nearly fed up of hearing that we have no money. I have heard it more in the last six months from Ministers and others, that we have not any money, we cannot do this because there is no money . . . The latest is - and I only heard it at the weekend - ‘no money now; we cannot do anything until the next financial year.’ That is the old story we used to have in the old Board system: ‘no money’.

We got, at the last sitting of Tynwald, a revenue account report for the half year ended 30th September, 2003. I know these are not definitive, and I know it is a snapshot, but it is a good one, and the one thing I know about these ever since they came out: they have always reflected what has actually happened.

So let us just read what it says: compared with the same period last year, income, at £186.8 million, is £31.1 million up - that is plus 20 per cent - whilst Departments’ net

payments, at £158.1 million, are £16.3 million down – 9 per cent. Customs receipts are £26.4 million up on last year - plus 23 per cent - and income tax receipts are £4.1 million up on last year - plus 10 per cent.

That is not a picture of doom and gloom to me. I do not say that we should be irresponsible with the money that is coming in, because we have a responsibility to the taxpayer to be vigilant, to be prudent, to ensure we spend the money correctly, and we will not know the true picture until budget time, but that certainly gives us a good snapshot.

But, that being said - and I just use that as an example because of what we keep getting told - here we are transferring the total cost of waste from the taxpayer, in whatever guise you want to call it, down to the householder or directly to the businesses. There has been no splitting up of special waste, of commercial waste, of household waste; it is all just thrown into that pot - that is the paper you have all been circulated with: it is all there, Hon. Members, it is all in there.

And what really gets me, and I have been saying this every debate: why are the loan charges suddenly included into it? It was never ever intended that those charges would be charged down towards anybody, and it would be borne by Government.

Again, I want to try and get some sort of, well, to me, straightforward policy in this, because I cannot agree with it. I have put an amendment which has been circulated, which again tries to get some sort of lead from Tynwald to the Government:

Delete the 'full stop' after 'received' and add:

'; and that Tynwald is of the opinion that in relation to Waste Disposal charges

1. no charge exceeding 10% of the actual cost of the disposal of Controlled Waste shall be applied to the private householder or to a Local Authority by the Government, or by the Waste Management Board, or by Local Government, or by any other Government Authority or Agency, in relation to the disposal of household waste collected by Government or by or on behalf of a Local Authority or by any Agency appointed by Government;

2. in relation to the disposal of Industrial and Commercial Waste (Controlled Waste) the Government may only make charges for the disposal of the said waste not exceeding 50% of the actual cost of disposal, either directly or through the Waste Management Board, or through a Local Authority;

3. any charges implemented in relation to 1 and 2 above relating to the disposal of any Controlled Waste, as defined under the Public Health Act 1990, shall not include any costs associated with any Capital costs, including any loan charges, incurred by Government, Local Government or by the Waste Management Board, or by any Agency of Government in relation to the disposal of any such Waste collected within the Island;

4. the above charges shall not apply in relation to the disposal of Special Waste as defined under the Public Health Act 1990 section 71(1), for which the Department may make such charges as are necessary for the disposal of such Special Waste and;

5. further, that in relation to the collection of Household Waste and Industrial and Commercial Waste (Controlled Waste) that the Department is required to provide a

Report to Tynwald, if it proposes any changes in relation to the present collection of the said Controlled Waste, identifying any implications and improvements along with its recommendations and, identifying the full costs of the proposed changes, including if any, the cost savings identified by the Department which will benefit the Ratepayers, as well as any financial benefits for the taxpayer.

Never mind a 90 per cent rebate which can be altered. The first part of my amendment says, briefly:

no charge exceeding 10 per cent of the actual cost of the disposal of controlled waste .

'Controlled waste' means everything that we deal with as householders. So, if you are going to give me 90 per cent, let us say, 'No, it is 10 per cent as a maximum you can charge' - and for me that is being generous, because my view is I do not necessarily agree with the policy of charging, but we are going to - I have got to be realistic - so, therefore, put 10 per cent on it; 50 per cent for businesses, because I can take into account there is a commercial aspect and businesses can claim against taxation for what are genuine business operations, so I can go with that.

And then, in my third part:

any charges implemented in relation to parts 1 and 2, relating to controlled waste as defined under the Public Health Act 1990 shall not include any costs associated with any capital costs, including any loan charges . . . by Government

et cetera, because that is fundamental.

Why is that fundamental? Because the capital costs are – we all know and have always known – substantial.

But the Isle of Man is a small place; why is waste different from every other service we provide? We got rid of the education rate because the people of the Isle of Man could not afford it, so if you go down this road are you going to reintroduce that because of the costs of schools?

Mrs Hannan: I think so.

The Speaker: Exactly the same principle applies.

I make it clear in my amendment that, as far as special wastes are concerned, I do not have a problem with that - never have - because special waste is what it is, those who produce it or as a by-product, have it left over, should pay for it, because that means they are in business and they are specialist in their business. No problem at all.

And then further, in part 5, because of the other controversy that is going on, I want Tynwald to have the opportunity to debate if the Department is going to restructure local government in terms of its refuse collection service. I want Tynwald to be absolutely sure what is being proposed, because my - and all I can talk about is what I want, it is up to everybody else to say what they want - views are straightforward on this: I do not believe in privatisation of the collection service; I believe a collection service could be put together on an all-Island basis, if, in fact, the whole picture is put together, and I have been at that view for a long time.

But, of course, the problem we had was because, when that was being proposed, time for change did not go further; it meant that the whole basis of the structure, the Waste

Management Board as envisaged at that time - or 'Authority' as it was being called - has, in fact, gone out the window because, taking the point that was asked in the Question this morning, the whole basis of that was that it would be made up of people from that local government structure, so that the people who are setting a rate for any charges would be representative of those local authorities that were left over after restructuring local government in the Isle of Man.

Now, once that went out the window, that system could not be implemented; but we are implementing other bits, and I am sorry: it is crazy! If there is going to be a restructuring of local government, again I have to say: it is a matter for Tynwald to endorse. Government might want to promote it and Government might be successful in getting their policy put on the floor of this Hon. Court, but the role of Government is to persuade this Hon. Court that it agrees with what Government is doing and they have dismally failed in this issue, where they have not come and said, 'This is our policy', and they are dismally failing.

We did not know until now, in the last 20 minutes, till we got this bit of paper on our desk, what I have certainly been suspicious of, which was that all the charges were being thrown in - but I had no evidence to prove it; now we have.

If Hon. Members want that, that is fine, but I will say what I said last time: wait till the bills hit the doorsteps. It is very easy in here, if you do not look further and think, 'What are the implications of this?' But when those bills arrive and your people start shouting - which they will if we do not sort this out now. . . it might not happen when it is a 90 per cent rebate but it will certainly happen if that rebate starts creeping up, which is certainly the clear intention, and it ends up at a rebate of 10 per cent.

Hon. Members, we have nothing; Tynwald Court has no policy. I am trying to say, 'Let us have a policy of Tynwald Court, which the Government has to work within'; that is it in my amendment.

The choice is yours. All I can do is argue the case from where I come from, with the background knowledge I have, and all I can honestly say to Hon. Members is: in my time as a Minister I do not recall - and I am absolutely sure about this - it was ever the intention to transfer all the costs, including the capital costs of waste disposal onto the householder and businesses directly. That was not the case then, it still has not been determined by Tynwald, Government are trying to implement it and the issue is that they have not even told us till today how they were getting to that charge. Now we know.

I hope Hon. Members will not let this issue just drift and I use the opportunity to move the amendment standing in my name because at least Tynwald has the opportunity again to seriously consider the implications of this matter. If Tynwald says no, so be it; I will have done what I believe right for the people I represent.

I do not believe any of us stood on a platform at the last general election and said, 'We are going to agree to transfer Government charges over to you, the householder, business/ratepayer' and certainly not through the ratepaying system, and that is what is happening. Once this ball starts rolling, Hon. Members, it will roll until there is so much grief and pain we will come back to square one, where suddenly the rate bills have gone sky high, people are having real financial hardship and Tynwald has to intervene again.

If that is what you want, well, vote against my amendment. I hope, Hon. Members - and I hope somebody

will second it - will support my amendment because I believe it to be correct and I would hope that it would be taken in its individual parts. I beg to move.

The President: Hon. Member, Mr Delaney.

Mr Delaney: I am actually surprised I have managed to crawl to my feet at my age, but the fact of it is that what the Speaker has said holds a lot of sense, if you listen to what he has said.

He was the Minister after me. I was quite clear and I said it before in this Court, what the policy was: the polluter pays, but that did not mean every old lady in the Isle of Man, who just happens to have a couple of pounds of rubbish in a bin that she carries - certainly not the waste animal products and cost of running that. That was never, *ever* the intention and I would like anyone in this Court . . . and I may make a lot of mistakes, but I do not think that I could possibly sell this to anyone in the Isle of Man politically that that is a fair system to operate.

I think the difficulty of the job is there for everyone to see, and, if anybody wants it, they can have it, but the problem is, this time, is that we are passing over the problem to the ratepayers. We are saying, 'On indirect taxation, you will pay for the problem that we cannot resolve.' That is what we have come to and nobody to my knowledge, not in my time, not in the time of you in the election, as the Speaker says, did you say to the people, 'This is the new policy of the Government: an indirect taxation charge for paying for our problems that we have in the Isle of Man.'

If that is the policy, I believe you would have to go back to the people first and get a mandate for this because we are trying to get low taxation - but are we trying to get high indirect taxation (**The Speaker:** Yes.) without telling the people?

I think there is a flaw here somewhere and I realise the difficulties the Minister has got and her colleagues, but this is not the way to resolve this, not without paying and not only to the public, Members of the House of Keys, to you! None of you has the right to carry this back to the public and be blamed for this, none of you, because you did not know about it. You would not have stood at the last election and said to the public you support this and expect to get elected.

So be fair to yourselves, if you want to think it out, think it out; but do what the Speaker says and take this shot at it and see if that is digestible politically.

Otherwise throw it out and it will have to come back again, but the solution is not in taking the whole charge and passing it back to people who cannot pay on a unfair system now. We have got a system we cannot resolve - as the Speaker has said, and I have said many times here - on a rate rebate system. We are unable to solve that problem, so trying to solve the problem of waste by passing on to those same people, who are unfairly burdened, could be classed as politically criminal.

I do not think Members, to be fair to them, were aware that this was coming at them in this way, and I think, before you can actually vote for this, you need another mandate from the public because we are changing the whole structure of taxation in this Island overnight.

Mr Victor Kneale, a man who gives us a lot of clout now and again in the papers and who criticises quite a lot, spent an awful long time in his time in Tynwald Court getting

rid of the charge of education on the public, and that was a bitter battle, which I followed and read in *Hansard*. Here it is, as the Speaker says, coming back in a different form and we would be aiding and abetting that system of government by even considering putting this through.

Members may say, 'Who is going to pay?' I think the Speaker has given you the lead. I was the same as him, as the Minister: I thought this was all sewn up, in that the taxpayer, who pays the general taxation, carried the main part of the burden of waste disposal. But nowhere could you expect anyone in my old constituency, if I walked along the promenade and said, 'By the way, in your rates you are going to be responsible for what the farmers produce by fallen animals', and they would answer me and they would say: 'There are no potatoes and no cows grazing on Douglas promenade - not this year!' (*Laughter*)

So I think it is totally unfair to introduce this method. I do hope that Members will listen to what the Speaker says and at least give his amendment a chance; otherwise, vote against it totally.

I realise the difficulty of the problem the Minister has got - as he does, I hope - is that we have been going round in circles on this for 25 years (**Mrs Crowe**: Absolutely.) but just finding the solution by saying, 'Okay, everything is paid for by the ratepayer' is not the solution. It cannot be fair and it cannot be right.

Hon. Members, please support the amendment, but if you cannot support the amendment just vote against the whole resolution. Thank you, Mr President.

The President: Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane. I am not sure whether Mr Delaney actually seconded -

Mr Delaney: I did.

Mr Gawne: You did, right, okay.

A few things: the first thing is the letter or the sheet of paper that was circulated. I would just like some clarification that, in fact, we are talking about waste disposal charges and not waste *collection* charges, which is actually what it says; I think that is quite important. It seems pretty obvious it is waste disposal, but 'collection' is what it says.

I am a bit uncertain why we have got this AWPP down - the Animal Waste Processing Plant. It seems to be down at £5.5 million; some confirmation that that is the right figure would be quite helpful.

I understood it was going to be less than that. £5.5 million seems like an awful lot of money for this plant and I do wonder what sort of a facility it is going to be for such a very, very large amount of money.

The other thing that concerns me about that is: as far as I am aware, there is very little, if any, money actually been spent on the animal waste plant thus far, so how come it is included in the charge, which is being charged at the moment? If the money has not been spent we surely are not paying the charges on the loan, if we have not actually spent the money. So how is that charge coming into the overall £100 a tonne?

There are a few other points I would like to make. I would like to have a bit more information on where this 100,000 tonnes actually comes from; how is the actual figure made up? How much is domestic waste, how much is

commercial waste? I think that is important to have some idea.

I am also interested to know: presumably - as is mentioned in this Report - the effect of the charge on commercial users has been to drive down the amount of rubbish produced, then we will see this 100,000 figure reducing significantly in the years to come. So I would like an assurance that the waste disposal charge itself will be actually reducing. You would wonder whether that would actually happen, bearing in mind that the charges are likely to remain fairly high - £6.678 million is the estimated loan charge. Presumably these loan charges will still have to be paid. We are going to be producing less rubbish, so, presumably, that would mean that the waste disposal charge will actually start going up, rather than going down, which seems to somewhat fly in the face of the actual policy, which is the 'polluter pays'.

And, presumably, you are trying to encourage the producer to produce less rubbish. If, by producing less rubbish, they have to pay more money, I cannot quite see how that works. Maybe the Minister has some thoughts on that.

The other thing I think which would be helpful is if the Minister would agree to undertake a review on the effect on small businesses of these charges. They are apparently having the right effect in terms of reducing the amount of commercial waste, but what sort of effect are they having on the small businesses?

Again, looking in the Report, there are a few areas which seem to be in conflict, I felt: 4.1 in the summary says that:

the initial delay in introducing the revised charging regime had a severe negative impact on the implementation of the Island's waste management strategy.

In 3.4 we have that:

the Department does not intend to approach Tynwald for a change in the 90 per cent allowable against domestic waste arisings in the next financial year,

and yet 4.2, in the third point we have:

public education cannot take place without financial drivers in place to provide the incentive, so, without them, education and the need for waste minimisation will be ineffective.

So, effectively, what we are saying here is: we need to have the financial drivers and yet DoLGE is saying it is not prepared to implement the financial drivers for the next year for domestic users.

So either DoLGE is behind the policy and thinks it is a good idea, in which case they surely must increase the financial drivers. I am personally not in favour of having these financial drivers in the rating system, I think the tax system is the right place for it, but if DoLGE is behind the policy then there is a definite conflict there.

I think there was another conflict which I identified too: 3.7 we have:

the financial incentive of charging for disposal is proving successful and is creating the required environments to achieve the necessary increases in waste minimisation, recovery, reuse and recycling.

But 4.2, first point:

waste will not be minimised and a significant amount of waste will require to be landfilled.

That is, if we do not implement fully the waste management strategy, so there seems to be a number of conflicts in the actual Report which I am not entirely sure about and would be grateful if the Minister could give us some clarity.

I think the other thing which a number of people have been discussing outside of this Court are rumours circulating that, in fact, by driving down the amount of waste we are producing, there is a going to be a serious risk that we will have to import rubbish to burn in our energy-from-waste plant.

I would be grateful, again, if the Minister could clarify that position; are we actually going to have to be . . . ? Potentially this could be a source of income to reduce the waste disposal charge, if we have to buy in waste from somewhere else, or get paid by other people to dispose of their waste, so it would be useful to have some of those conflicting views in the report clarified. Gura mie eu, Vainstyr Eaghtyrane.

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

Mr Lowey: Thank you, Mr President. If I may, through you, sir, refer to the last speaker about conflicts: life is full of conflicts and oh, that we were starting, as I have said many times before, from a different position from what we are starting! We are here because we are here and we have got to deal with the problem.

We have been dealing with this problem effectively now, as Mr Speaker says, for many, many years. I do not think that anybody can deny the fact that, in the last year, we have seen more progress made than we have seen in the last five years, maybe because the building of the energy-from-waste plant is now visible and can be seen to be about to be turned on and it is focusing minds quite wonderfully.

Also, I have to say – and I make no apologies and I have said this many times in this Court in the last 12 months – because we seem to be . . . on the contrary to what Mr Speaker says, that we did not know and we have not had a chance to debate and all, we debated this subject, I think, at least four or five times in the last 12 months and this report has been on the Agenda today because we said, in July, we would give an update of the implementation of Tynwald's decision to stagger the commercial rates for the commercial industry, which has been in operation.

We are damned when we listen, as I said last July, we are damned when we do not listen.

Now, that is fine, that is life, and you take the rough with the rough. (*Laughter*) But I do find it rather strange when Mr Speaker, for example, who is a very good orator – very good, first class – starts talking about money. This is the same Mr Speaker who got up and supported the budget introduced by the Treasury Minister, whenever it was – February or March – and in that budget, as I said in July, just in case you have forgotten, the Treasury Minister spelt out income streams and expenditure streams.

Quite clearly, in the budget there was an income stream of, I think, £3 million or whatever it was that had to come in. This Court, unanimously for the first time, agreed that budget.

Now, somehow, there is a difference in implementing that income stream and it is a practice that has been

successful and I have to say it has got a lot of pain. Do you think, for example, that the Minister of DoLGE has any great delight in saying, 'These are the charges that I have got to charge to actually make the thing pay?'

Well, Mr Speaker says that it does not have to be like that, Government can do it; all you are doing is transferring the pain from that section to this section, because, if there is a £3 million expenditure to come out of Government, it will be the Departments of Government around here that will have to pay for it –

Mrs Crowe: That is right.

Mr Lowey: Nothing is painless. The insinuation by Mr Speaker that we have surpluses accruing on the budget, on our current account – and he knows I have spoken with him on this matter because I, too, when I saw the Report, said exactly that, and I do worry sometimes that we do talk ourselves poor – but I also know and, as Mr Speaker knows, too, we know that what we are really talking about when we get those snapshots. He was open about that, that this is a snapshot at this moment in time. We know what is happening now does not reflect in tax returns for the next year, 18 months, and that is where the worry is. You do not start worrying then, you start worrying now. So I accept all of that.

The point I am saying to the Court is, I thought I was implementing your policy. I am certainly implementing the policy of the Council of Ministers. The Chief Minister says I have said it many times. We are three quarters of the way through. Now, remember, people have been . . . the individuals that we have heard about in the Court today, have already been charged rates for this current year. They have already paid, hopefully, the rates for this year, the 10 per cent.

Now, I remember when the amendment was moved by my good friend, Mr Gill, about the 90 per cent rebate and the 10 per cent charge, that we could not do it, we would have to come back to this Court to get the rebate if we wanted to increase it. We did that undertaking, yes.

Now, the Minister has already declared today that it is not our intention next year to go back for any increase on that particular one. Any increases at the end of the day are in your hands, or the people who sit in this Court. So we have already established that. So it cannot happen without your prior approval, anyway, so you do have controls.

The idea that Mr Speaker suggests, that, if you vote for this today, you are abrogating it and anything, the worst possible scenario, will happen. You will not be able to sleep in your beds at night. I am sorry, that does not bear examination at all – really it does not.

It gives me no joy to say to the businesses . . . as a matter of fact, I was down with one of the leading businesses in the south of the Isle of Man, talking about this and already – where we started out, where it is going to be painful, they are big employers, they employ nearly 200 people, they have been with us a long time – because of the officers which we now have in place – and, yes, we should have had these officers in place a year or two years ago, three years ago, maybe, but they are now in place, a matter of months – are able to assist in a positive, practical way in reducing the amount of waste that is already being generated because this company is successful.

So we are putting into place what you asked us to put in

place: a scenario where we can actually assist and help and give information to the business community and that is one of my biggest concerns at the moment: the business community and how we can work.

I am working with a business forum now, with the main contractors of the builders. We have had six months – not all bliss. You will hear the headlines when we disagree. You do not hear of the month in, month out, where we *are* agreeing on practical, forward steps to maximise what we have got, minimise as much of the waste as we can.

Hon. Members, we can talk till the cows come home about the amounts of waste.

Now, my good friend, the Hon. Member for Rushen, Mr Gawne, spoke about the 100,000 tonnes. Well, with the greatest respect, the 100,000 tonnes is what goes into our landfill site, but there is as much again going into private landfill sites, and I have to say, the energy-from-waste plant will only take a maximum of 60,000 tonnes, so we still, although we are reducing now in meaningful quantities, we have a long way yet to go.

We will have to exceed the 5 per cent which is in the Government (**Mrs Crowe:** Absolutely.) plan for the Department of reduction. We have got to reduce it by a bigger amount than that, to actually fit in with the establishment we have already got up nearly running, and will be commissioned next year.

I have to say, and if I do not sound as emotional as Mr Speaker, I do feel, as someone who is at the sharp end, attempting to grapple with this particular problem, we are making steady progress and I take my hat off to the Minister and my colleagues in the Department for the support, the practical support, the financial support that I get in the Waste Operations Management Unit (WOMU), but, as I have said to you before, I am only a bird of passage. I could be here for a few months and somebody else take over.

However, I do say to you, we are making great strides. We are moving in the right direction and, for the first time in years, I believe, we have got a grip, we have come to terms with this and we are dealing with it in a practical, pragmatic way. To not vote for this, to receive it . . . and, as Mr Speaker rightly said, it is to receive the Report, that is all; not asking you to endorse every single thing. As far as I am concerned, that is the least you can do. I do not think any useful purpose would be served by supporting the amendment moved in the name of Mr Speaker.

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

Mr Karran: Eaghtyrane, I am a little bit surprised with this debate today. I am surprised with the . . . The point is that, as the previous speaker who has just taken his seat says, that to receive it will mean . . . but let us be perfectly honest with you *beggan ry veggan*, ‘little by little’, (*Laughter*) and we have a situation where it becomes a fait accompli.

I actually agree with the Hon. Mr Speaker. I am amazed by him, because, obviously, he has been in some sort of suspension or whatever in the situation as far as being a Minister since 1986 to 2001, (*Interjection by Mr Gelling*) as far as what the policy has been.

As the ex-Chairman of the Water Authority I was offered IRIS years ago if I had put rates on her, and I said there was no way I would take IRIS on, it is an absolutely stupid, crazy scheme, and will be one of the legacies of this mad

Council of Ministers’ unaccountable Government.

So the situation is, I am somewhat surprised that somehow he is now, with this great revelation that somehow that they are going to start putting it on the rates –

The Speaker: We knew last debate.

Mr Karran: I was arguing against this thing as Chairman of the Water Authority, and the tax strategy; where do you think they are expecting the money to come from? That is the reason I voted against the tax strategy.

It is all right him saying about how it has gone up this year. Only because the Chief Minister and the Treasury Minister in their wisdom have given better resources to claim back-dated claims for taxation, anyway.

But I will support his proposal, because I am glad to see people are starting to wise up. The fact is that figures of around about £1,000 per household have been mentioned for every house in the Island and I totally agree with the Hon. Member, because he is in an area where he will not have the advantage of the imbalance, as far as the rateable valuation aspect, where different areas have lower valuations than other areas.

So the likes of Castletown, I would imagine, will not have any sort of discount, like the Douglas Members do not, and I believe the village members in my constituency do not. Where you have a three bedroom semi, which can have up to a 60 per cent discount, as far as its rateable value is concerned, throughout the Island, just simply by its location, which is madness.

But, Eaghtyrane, I will support the Speaker’s amendment because I think it is about time people start wising up. I think the Speaker is right to raise the issue of a rate rebate scheme. It terrifies me the idea of letting the Minister of Local Government and the Environment let rip on putting it on the –

Mrs Crowe: What did you do with the water rates?

Mr Karran: – rates situation, as far as the refuse is concerned.

So I think let us stop in this Hon. Court pretending that this is not going to happen. It is going to happen. You are going to have IRIS on the rates and you are going to have the incinerator on the rates, if we do not make a stand now, and I think the Speaker is quite right to put down his amendment.

I am concerned that, with the tax strategy, we have to balance the books, but I would say to my good friend, Mr Lowey, there are ways of balancing the books, but it means us having to get away from the mutual admiration society in this Hon. Court, as far as our schemes are concerned.

We had the Hon. Member for Rushen, Mr Gawne, on about the – whatever they call it now – the AWPP. Now, I remember when we were being ridiculed about the capital cost of the incinerator being too low by a previous Minister of Local Government and the Environment when it was a third of the price it is now and it was supposed to be included in the price, the process, and here we are now, two thirds dearer than what was originated and we are now told that we are paying three times for the incinerator we were originally going to and now we have got £5.5 million on top.

Hon. Members, even though it has been a surprise to

see the revelation that, somehow, Mr Speaker, from his role as a Minister, has suddenly cottoned on to the fact that they are going to start putting everything on the rates, the fact is we should be supporting Mr Speaker, as far as the amendment is concerned, because I can tell you now, if we do not, as Members that are not part of the Council of Ministers, it will be waved in our face at a later date: 'Well, you agreed to this.'

The fact is that we know the position at the present time. We know that there are hard decisions coming up. We are in a world economy, which will affect us in the Isle of Man. We are not immune to it. We have got the tax strategy which will affect us in the Isle of Man, but the answer is not to put services all on the rates.

The Water Authority and I instigated the water rate going up because, quite frankly, Eaghtyrane, I was told to sit there and do nothing, and I was not prepared to do that and you can fight the argument as far as putting rates up, but the issue is, this is being used as an easy option, to charge it on to the ratepayers.

We need to look in our own back yard in Government. If we are short of cash, then we need to sort ourselves out, not start throwing the idea that it is all local government's fault. It is in this Court that we have got a problem, as far as if we cannot balance our books.

I will support Mr Speaker's proposal. I was not even going to vote for the receiving of this Report, because I was going to be consistent, as far as I am concerned and my consistency has been, that I do not believe that we should allow the Council of Ministers to be able to go and look for a new pot of gold and then they have no accountability, as far as their spending is concerned. They have looted one form of income. Now they are going after another form and I think that the proposal by Mr Speaker is at least a step in the right direction, as far as this is concerned, and I will not be supporting any proposals as far as putting the incinerator and IRIS on the rate.

As the ex-Chairman of the Water Authority, I was asked to start with a 10 pence rate and that must be somewhere round about the 1993 or 1994 – maybe that period – so I am surprised at the Speaker, that somehow it is some great revelation.

Can I also just say that this issue just highlights what I was saying with the previous issue, as far as these crocks of gold, and that was the issue on item 5.

Eaghtyrane, I hope that this Hon. Court will support the Speaker's proposal, will not even receive this implementation of charges, because it is one . . . and will the Minister explain what the original cost of the incinerator was and what was included in the functions of that incinerator? Would she also explain how it is the most inefficient way of using the energy.

When we talk about an energy-from-waste plant, the most inefficient way of using the energy is for generating electricity. Since that proposal has come along, we have had a new gas pipeline. We have had a new cable. We have had a new power station. It makes it even more of a nonsense economically, but if she could explain what the original costs were and what the functions were originally in the incinerator, because it did include your AWPP or the Litt's facility, as we know it.

The President: Hon. Member for Middle.

Mr Quayle: Thank you, Mr President. Firstly, I would

like to start off by saying that I, at this stage, intend to support the amendment in the name of Mr Speaker, but would acknowledge the efforts that have been made by the Department of Local Government and the Environment in trying to tackle what has been a difficult problem, but I still think that it has been rather an ill-thought-out and ill-conceived policy, which we really have been railroaded into accepting or at least adopting so far, because we were confronted with it some considerable time ago, (*Interjection by Mrs Crowe*) with not a lot of option –

Mrs Crowe: Voted for it.

Mr Quayle: – due to the circumstances in mind.

I think the Speaker's amendment does give a certain peace of mind and security for the ratepayer. I think it gives comfort for the domestic and the commercial premises and I, too, would question about the way the incinerator was sold to Members of this Hon. Court, because I am sure that people would recall that it ought to have been able to provide a facility to deal with animal waste processing and that was part and parcel of what was believed to be the incinerator's capability.

Now, I do not know why this has been separated out; I presume it has been to try and make it look as though the incinerator cost a lot less than what it actually did and then you have an add-on at the end of it to bring the cost up again.

So I would ask the Minister to really try and clarify why it is that this has been separated out, when the incinerator, hopefully, could have been able to cope with the fallen animals, rather than have them treated at a pre-treatment plant.

So I believe the policy has been born in haste and maybe we will repent it at leisure – or certainly the ratepayers will – if there is a move to progressively reduce the grant, which, so far, has been allowable and that is, of course, unless, hopefully, Mr Speaker's amendment is passed today, in which case that gives us a certain degree of confidence as to what the policy is, but it would need then to come back to this Hon. Court for amendment.

I also think and believe that we are in an evolving situation. People are reducing the amount of waste; there is not now going to be such a huge amount of waste going to the landfill facility as had been originally envisaged, even just a year ago. So the situation is changing.

I also think the costings need clarification, as has been referred to, and I seem to think that this policy really is almost like dipping into people's pockets – the ratepayers' pockets – and instead of even dipping into people's pockets, in the future it could very well be taking their wallet away, because there is no guarantee as to where this will all end up.

We are talking here about waste, but then we know it can be one small step then to lash the ratepayers with other costings, such as sewerage and whatever else might be thought in terms of an easy solution or an easy option.

I would also like to take issue with paragraph 3.3 of this Report and I will just briefly read the first couple of lines there:

The first three months of invoicing at the revised rates have progressed without any major concerns in respect of using local authority's individual methods and raising the required documentation. Invoicing commercial customers has continued as previously, but at the revised rate.

I am aware, and I would ask the Minister is she not aware, that, in relation to Onchan, Braddan and Douglas, no invoices have yet been issued, I understand, due to problems encountered with the bin weighing system? So, Onchan, Braddan and Douglas represent a significant amount of the Island's population and that is the question that I would ask the Minister, and if she is not aware of that particular situation, then maybe she could clarify that.

A further question would be, really, if she would be able to answer it: is she satisfied that the procedures that the refuse collection authorities have in place, as it relates to the bin weighing, are robust enough to ensure that the recovery of the charges to traders is based on sound audit practices? People around the Island are very concerned about the way that this is being dealt with and I think consumers – and they are the ratepayers – will need to be reassured about the points that I have raised.

But, certainly, what I have learned today, only this morning, is at odds with what is declared there at 3.3 and flies in the face of those particular facts. So I would seek clarification of that.

But the main point I think that everybody will be, hopefully, taking from this debate, is that it is transferring the burden from the taxpayer to the ratepayer without any consideration or thought for those who are least able to afford it. Those on the low incomes, those on no incomes, the elderly – such a huge cross-section of people without any ability, as things stand, I understand, to offset what are going to be progressively large amounts imposed as a burden on the ratepayers.

So I believe the amendment in the name of Mr Speaker does give the local authorities and the ratepayers some confidence in the future about their rates and I would have thought any member of a local authority will be a lot more comfortable with knowing the policy, as is set out in Mr Speaker's name, because they know then, or should have an expectation, that they are not going to be clobbered one year after the next. Thank you.

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

Mr Quine: Yes, I am just going to seek some clarification on the enabling legislation, basically.

Under the 1990 Public Health Act, section 67, which deals with disposal of waste, as of 1990, there was 67(4)(b) that made express provision that no charge shall be made for household waste. That was in the 1990 Act, 67(4)(b) and the 67(6) that at that time provided for charges – the charges could be made for commercial and industrial waste.

When the 2000 Act came in, came through in 1999, then there were amendments made to the 1990 Act and (4)(b) which stated that no charge shall be made for household waste, that was struck out, and 67(6) was replaced with a new (6), and that new (6) said, in effect, that the local authorities shall pay to the Department a reasonable sum, as determined by the Department, and if an agreement could not be reached on that, that the matter could go to arbitration.

Now, that is how I read the law here, except there has been no reference made in the debate that I could see and there is no reference made in the paper to this issue of arbitration on rates, which seems to me to be a key consideration. And in the legislative statutes that I have just laid my hand on and this may be out of date – although it is a 2002 publication – it says that section (6) is not yet in

force. So I am not quite sure what the situation is. Is 67(6) in force? If 67(6) is in force, then, presumably, there is provision for an agreement to be struck, and if agreement cannot be struck, for arbitration as to the level of charges.

So I am not quite sure what the present position is in regard to the legal basis that we are talking about today. If section (6) is not yet in force – and I do not know whether that is the case, but that is what this statute 2002 says – then the position would remain, of course, that no charge can be made for household waste. If it is in force, then, quite clearly, there has been an acceptance when the 2000 Act went through –

The President: Yes, Hon. Member, just for the purpose of clarity, could you tell me – you keep referring to the 2000 Act – which Act are you actually referring to?

Mrs Crowe: Public Health.

The President: Title please.

Mr Quine: Public Health.

The President: Public Health.

Mr Quine: I just assumed that everybody would know that, of course. (*Laughter*)

Mrs Crowe: They have not all been Minister of DoLGE.

Mr Delaney: Only three of us.

Mrs Crowe: Anyone can be.

The President: It could have been any; section (6) out of any 2000 Act –

Mr Quine: Well, I happen to know, because I took it through, but that is the only reason.

But it is unclear, because, if this 67 acts . . . the point is, if 67(6) is in, there is an arbitration process. Well, two things, if it is in force, then there is provision (**Mrs Crowe:** Yes.) for charge to apply across the board and –

Mr Delaney: Subject to arbitration.

Mr Quine: – to local authorities, that is in the law if that has been accepted, but, also, if that has been accepted, then there is a process of arbitration if agreement cannot be reached.

If it is not in force, then we have got no right to charge at all, and I am just wondering if we could have some clarification on which legislation applies and how it should be read.

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

Mrs Hannan: Yes, just clarification to the points raised by the Member for Ayre. My understanding is that it was laid before Tynwald either October or November last year. Whether that is . . . that is my understanding anyway and it was brought in because the Member for Douglas East raised it and it was not in.

Anyway, I think this document that we have before us

today is disingenuous, because it says under 2.5 in this document:

The policy for charging waste disposal underpins the essential need to implement the total integrated waste management strategy approved by Tynwald in 1990 and subsequently reaffirmed on at least two further occasions.

Now, the policy that is mentioned there is reduce, re-use, recycle – it is a mantra – incineration and landfill. That is the policy and after that comes ‘the polluter pays’, or ‘the user pays’, principle. It does not say it is going to be the taxpayer; it does not say who it is going to be. That is what it says in the waste strategies.

How many times, Eaightyrane, did I ask Questions of the previous Minister for Local Government and the Environment? When was he going to bring in the strategy – the strategy of reduction, reuse, recycle and all of that? I also asked a Question about taxing plastic bags: ‘no, no, no, we could not tax plastic bags’. In other areas they have taxed plastic bags. They have reduced them from millions down to three million and those sorts of numbers.

That is not hitting somebody’s pocket, that is being realistic and saying to people, ‘We can do this. We can reduce the number of plastic bags produced. We can get away from that.’ There are different ways of doing it and, quite frankly, all we have done is said to the local authorities: ‘Here you are, pass on the charge to you’, and, Eaightyrane, what has happened, especially in my area, waste has not been reduced.

At the same time as bringing in these waste charges, we got wheelie bins and everybody throughout the whole of the waste disposal area knows that wheelie bins produce more rubbish.

Mrs Crowe: That is right.

Mrs Hannan: Not just in my area, but also in other areas round about us.

So what have we got? We have got more waste being produced through wheelie bins. We also, at the same time – and this is something which I do not think Members realise – we voted, possibly last year – it would be 1992 – and we voted money to the recycling project in the Southern Civic Amenity Site and the waste from all the civic amenity sites was going to be taken to the Southern Amenity Site for composting.

In our area we are told it does not go to the Southern Amenity Site for composting because it is only removed once a week and it is too old by that time to go into the composting. So I would like the Minister to look at that, because certainly a number of us in our area thought we were actually putting money into that, and I assured my constituents that this was the case. This was raised at a public meeting that I had in Peel. Her officer was there and one of the workers from the Civic Amenity Site said this did not happen.

So we are actually putting money into schemes and they do not actually take place and we are never informed that they do not take place.

Now, one of the other things that is also happening – and maybe this is where the reduction in the waste comes – is that home incinerators are becoming very popular, (**A Member:** Absolutely.) and, while they are not producing the waste, they are putting waste in home incinerators and

that is going to cause problems right the way throughout the Island, because they burn at a low temperature. They produce lots of dioxins and they cause problems for the whole of the community. Certainly when there are bonfires going and I have got the washing out, I can tell you the air is a bit blue!

Now, Mr Karran, the Member for Onchan, said that, in his time, sewerage was suggested to go on the water rates and it was suggested at 10 pence, but can I say, that might have been in informal discussions, but I can say, as a Member, in the time that he mentioned, it never came to the Council of Ministers as a firm proposal. So it might have been in informal discussions, but it certainly was not something that came to the Council of Ministers.

The Member of Council and the Member for the Department of Local Government, Mr Lowey, suggested that it was not a problem to receive this document. He said it was just to receive it, and Mr Lowey was also visiting businesses and they were very accepting of this. I would suggest that he goes round and sees taxpayers – the very people . . . No, you are not responsible for my constituents or anybody else’s constituents, you bring in this and ‘Oh, it is acceptable.’ It might be at £10; at £10 it might be, it is something which can be absorbed in rates. But we are talking about something which has, in the past, been for the taxpayers to pay. If that is taken into account – people’s ability to pay, as the Member for Middle quite clearly spelt out in his input into this.

And he has also said that life is full of conflicts, and it is, and for people who have not got this money and the people who worry about their income and worrying about one person living in a property with a very (**Mr Delaney:** Hear, hear.) low income coming in and no ability to raise that income, where are they going to get the money from to pay the 10, the 50, the 90, the 100 per cent? Where are they going to get it from? Their life is not full of conflict; their life is full of reality. Their life is having to find this extra money.

I know from the surgeries that I do each week, people come in very concerned. They have fixed incomes, they do not know where they are going to find the money from to pay these sorts of amounts in the future – something they have not been able to calculate for, left by themselves, and having to find this money.

It does not take into their ability to pay, and I support the Speaker when he suggested that there was not a rate-rebate system in place, and that is something that we have always said, that we have had a difficulty with when we put something on the rates, or something has to be included in the rates.

If the Member is suggesting that this is progress, then I do not know, then, what is not progress, because I can quite honestly tell him that, in the last year, there has been nothing more done on recycling, reduction or anything like that.

We in the West actually thought that green waste was going to go for composting and routinely took it there and I swore to my constituents that was happening; we had a public meeting and it is not.

Yes, I think there is a problem, and the real problem is that there were people now, who were in post, who think that the documents that are before us have been before this Hon. Court, were there and approved. They were not there, they were not proved, they were not approved and they were not acted upon at that time, and this is bringing one part of

it in, without bringing in the other part of the strategy.

Yes, we have got the incinerator and it is almost up and going, but we were never sold that - to be charged the full amount on the rates. It was brought in that we, as taxpayers, in Government, would pay for it.

This is doing something by the back door, I suggest. It is doing something because it has been assumed that the Public Health Bill would be enacted and it would be passed on to local authorities - and without coming here, and it was being discussed without this being approved and by this Hon. Court.

The waste strategy has been before this Hon. Court, but never during that time has it been spelt out how the 'user pays' principle would be brought in. It has never been discussed how we can reduce and reuse, and certainly when it came to recycling, all the previous Minister for Local Government and the Environment would say to me is that the Civic Community Site was working well, things were being recycled.

And it was impossible to get through to people, especially the Minister and the Department of Local Government of that time, what the intentions were of the waste strategy. Yes, we have got new people in place now and the new people have assumed that this is what we are working to, without bringing a strategy back to this Hon. Court, without it going back to the Council of Ministers prior to coming back to this Hon. Court.

I would suggest to the Council of Ministers today that, even if they do not support the Speaker's amendment here before us today, that they actually take this amendment back to the Council of Ministers and fully discuss it before anything further is implemented. This is what we have before us, the costs, this particular document and even I - I have very little knowledge of finance and how finances are put together - do not make these figures add up at £100 a tonne, even for commercial waste. The commercial people out there should be asking: 'Where is our money going to go if we are going to have to pay this sort of money?' -

Mr Anderson: It is not going there.

Mrs Hannan: It is not going here, it is going to pay for something else. And I think local authorities should be made aware of this, as well. I would ask the Treasury to come back with their thoughts on this documentation, as to where the money is going to.

I think we have a real problem before us because we have a real problem of being held to account by our constituents, and I will be held to account by my constituents, and I will be voting against the receiving of this document, because this document is disingenuous.

I will also be supporting the amendment by the Speaker - in actual fact, in a way, it does not go far enough, but it actually holds it at this particular place - and that is why I think Government has got to look at this, in this document.

I know they will be supporting the Minister for Local Government and the Environment today, I know that, but it has not been a policy that has been thought through and been properly discussed and implemented through the Council of Ministers, and, therefore, I believe it is something that should be reported back through the Council of Ministers.

And if they are not going to support this before us today, then I believe they should be reporting back to us with the

full implementation of a waste strategy, and that should be taxing some of the waste, so that it is not produced in the first place; not saying: 'We will take everything that is thrown at us at the waste disposal site, but you have got to send this off to a hole in the ground somewhere else'. We were not ever suggesting that we should burn asbestos or stone or cement or batteries, glass - anything like that was not to go through the incinerator, (**Mr Corkill:** Absolutely.) so it is disingenuous to say these sort of things have to go off in another route. We knew that. (**Mr Karran:** Hear, hear.) I knew that, even if you in this Hon. Court did not know that -

Mr Corkill: Incentives to make it happen.

Mrs Hannan: There is no incentive to make it happen -

Mr Corkill: Yes, there is.

Mrs Hannan: Tax, because that takes into account the ability of people to pay - not taking it off in another route. There should be encouragement to take it off to recycle; no encouragement whatsoever -

Mr Corkill: There is. (*Interjection by Mrs Crowe*)

Mrs Hannan: And most of the people that are in the Council of Ministers today were in the Council of Ministers then - the majority of them. And they should have been saying: 'This is not the way we ever intended to do it. This is the way that it was meant, this is the way that we are going to do it'.

If we have got a Government that works, they should listen to us. That is what Tynwald Court is here for, and I would hope that they will also listen to their Ministers who are part of Tynwald Court. Thank you, Eaghtyrane.

The President: Hon. Member of Council, Mrs Christian.

Mrs Christian: Thank you, Mr President. In listening to the various contributions, one thing that has struck me is that, in relation to the proposed amendment, whilst there are very positive suggestions in here which would change the current policy in relation to charging and so on, as so often happens in declaratory resolutions, we look at one half of the equation but do not look at what the balancing side of it is on the other side. And if, indeed, part way through a year we are looking at a proposal in the amendment to modify the charging policy, without having any suggestion from those who spoke in favour of such a change, as to where we get the rest of the resources from, then we are left in limbo as to how we go about making these changes.

The fact of the matter is that they can only be made by affecting other parts of the budget, which has been approved for the year, which is not easy when you are halfway through a year, in any case; it is very difficult to change expenditure patterns in a short term.

Now, I fully accept that it is the role of this Hon. Court to express its view about policy issues and the way in which we do proceed in these matters, and, course, an opinion may well be expressed, in terms of change.

On the other hand, I think it has to be recognised that it is not with any great enthusiasm, I suppose, that we are all imposing these kind of changes through the rates structure.

The Hon. Member for Middle alluded to 'dipping into wallets' and then talked about taking the wallet in its entirety. The fact of the matter is that, one way or another, somebody's wallet is going to have to contribute to paying for all these services.

Mrs Crowe: That's right.

Mr Quayle: Yes, taxes.

Mrs Christian: Now, if it is to be dealt with by the taxpayer, as it is implied here, so be it, but at the same time it has to be recognised how that will impact on tax strategies. Okay, we all have different views about the tax strategy, but let us not pretend that it is not going to have, somehow or other, inflict some measure of pain, as far as the community is concerned, in relation to paying for it.

It has been said by Mr Speaker that he has not been aware of the figures before in relation to this. Now, we perhaps have not had a paper on the figures, but I feel quite sure in earlier debates, all these facilities have been mentioned in respect of how the charging has been arrived at; they have been mentioned before, I feel quite sure, (**Mrs Crowe:** Yes.) and it has been explained how these figures came about.

In addition, I think those, for example, you may not like the overall policy, but, indeed, if you are looking at what is set out here, it is unreasonable to single out the AWPP for criticism - after all, that is simply a commercial waste disposal facility, and that if we are going to talk about that in one way, then you should talk about all commercial waste in the same way. (**Mrs Crowe:** Yes.)

Hon. Members, it has also been said that there is no assistance for low-income people. There is some assistance for low-income people. I would acknowledge that if this policy continues to progress and rates do increase, that certainly, I would feel my Department, if not by itself or in conjunction with the Treasury, should be looking at the levels at which its benefits structures are pitched, to take into account the increasing pressures of these sorts of charges. So there are ways of managing those issues.

I do hope that if anybody else speaks in favour of the amendment that they might give some clue as to how they think bringing about this change is going to impact, or they would give some steer to how they *feel* it should impact on the other services which we are trying to deliver.

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

Mr Rimington: Thank you, Mr President. I am not going to go into too many areas, I can understand that people have concerns. I am in on-going discussions with the Department in looking at the animal waste charges and so forth.

But I will be definitely voting against the amendment on two grounds, and not just because of the Council of Ministers -

A Member: Oh, no, of course not! (*Interjections*)

Mr Rimington: - and I will refer to my pre-declared position, which was held very strongly, which was my opposition to the incinerator, which was, I think, made quite

clear and evident to all and everybody, to my constituents and to this Hon. Court.

All through the time that I opposed that incinerator, and at the public inquiry, in the press and then later in here, it was perfectly clear to me that there was going to be a huge cost for that incinerator, and that cost was going to fall on the people who use that incinerator, and that was the argument we were using - those who were against it - to say that this is a load of nonsense. That was the argument I used, and I worked it out. I worked out what the costs were - and, funnily enough, they are not too short of what is being put in front of you today, but structured in a different manner.

And that was right. If you accept it, and it was always clear, and it was clear at the public inquiry, to the public, through the planning process, that the 'user pays' - or 'polluter pays' - I wish we could decide on which one we are to use - the polluter pays, the user, the person with waste, was going to pay the cost.

And then it was known and understood, publicly, that there would be a phase-in, and that, through the Council of Ministers, there would be a phase-in of that cost of disposing your waste at the incinerator.

And there are a lot - I do not know about a majority now, it has been changing membership in this Hon. Court - of Members who are standing up and harping on about this, 'No more than 10 per cent', et cetera, voted for the incinerator. (**The Speaker:** Yes.) And you vote -

Mr Delaney: Taxpayers are paying for it.

The Speaker: Absolutely.

Mr Rimington: - and now to say: 'Oh, right, no extra charges', to my mind is hypocrisy, (**Mrs Crowe:** Absolutely.) because that is what, in reality, that you voted for at that time (*Interjection by Mr Delaney*) -

Mrs Cannell: Not I.

The Speaker: I didn't, either

Mr Rimington: - and it was at a significant cost -

Mrs Hannan: I didn't, either. (*Interjection*)

Mr Rimington: No, I didn't, either, but now that the Court has voted, and it was by quite a clear majority in the previous House, and it was not overturned at any later stage -

Mr Quayle: Too late.

Mr Rimington: - that this and these costs are the outcome of what, collectively, you have voted for.

The Speaker: Not on the ratepayer.

Mr Rimington: And I can say quite clearly, and I said this to a meeting of the Commissioners recently - the one that caused a little bother - that the management of waste on this Island -

A Member: The taxpayer has always borne the payment. (*Interjections*)

Mr Rimington: - is a collective failure of the democratic system for the last 20 to 30 years, and now you are paying the price.

The paralysis of the political system, the inability to do anything about anything - you are now paying the price, and the price has to be paid, and you cannot limit it to 10 per cent. (*Interjection by the Speaker*)

If you limit it to 10 per cent, you are telling the commercial people: 'Well you have got to pay for everything, you have to cross-subsidise the domestic'; and if you are going to have the principle of 'the user pays', the point of that principle is to drive down the amount of waste, to, say, to local authorities, and that is why I believe local authorities, however constituted, should have that accountability, in respect of waste - 'you have been charged for the waste you produce, this costly mechanism is in there, you, therefore, take measures to try and reduce the cost to your ratepayers by instituting, in co-operation with the Government, X, Y and Z, in terms of recycling, reusing, et cetera.'

So you are now paying the penalty for what, collectively, you decided over many years.

The Speaker: You decided.

Mr Rimington: And the Hon. Speaker was one of the most clear supporters of incineration (**The Speaker:** Hear, hear.) and that cost.

And that cost, that £43 million - you cannot say: 'Well, no, the loan charges were not going to do that', because that is part of the true cost. What do you do when you buy a house? 'No, we don't pay the mortgage, we just pay the operating costs.' Of course you have to pay for the loan charges; somebody has to pay for the loan charges!

And that is the economic reality when you take those decisions, good or bad. You are now living, to my mind, with a bad decision, but let us take it through and be up front with it. And some of the people who are now jumping on 'Here is a chance to have a go at the Department in respect of its charging' should be more honest and say: 'No, I was part of that decision, I am -

The Speaker: Point of order.

Mr Delaney: I have got a point of order, too, Mr President.

The President: Mr Speaker.

The Speaker: Point of order, Mr President. The Hon. Member is saying that we should be honest. It is this administration which has changed the policy. (**Mrs Cannell:** Hear, hear.) When the decision was made, which I was part of, too, on a point of order -

The President: Yes, point is made, Mr Speaker and you made it earlier.

The Speaker: - it was not; it was taxation.

Mr Delaney: I rise on the point of 3.2(b) Standing Orders, Mr President, to ask the Member to withdraw the word 'hypocrite', because the two Members here who were past Ministers knew that the Government had agreed to

finance the building of the incinerator, as the policy of the Government.

The Speaker: Out of taxation.

The President: Continue, Mr Rimington.

Mr Rimington: Thank you, Mr President. I think it is right that loan charges should be paid, (*Interjection*) and I think it is right that, in a phased manner, the charges for waste should be increased to the private householder -

The Speaker: Meat plant.

Mr Rimington: - and I think that is an area that needs to be sorted out. It is right, and if you need to take rectifying measures in terms of people with low incomes, through the benefit systems or whatever, or through changes in the way that you apply the tax on property, as opposed to our present structural rating system, then so be it, that should be done, but that should not destroy the principle. Thank you.

The President: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr President.

I am really quite disappointed with this very thin and scant Report from the Department on the implementation of charges for waste disposal, because it is very similar to other literature we have received in the past, which says, 'We need this, we need this, it is going to work, it is working, there have been one or two little problems' - they have not told us what they are - 'and we need it, and we need it, and we must do it'.

Of course, they have put in here in 3.4. However, they are not going to reduce the 90 per cent subsidy on domestic waste, they will not be doing it for 2004-05 - hip, hip, hurrah! That is the only little bit of assurance in there.

It is scant, because what I was expecting was this Department doing some kind of impact assessment on the cost and the ramifications across the board, not only for the domestic ratepayer, but for the business, for the commercial ratepayer, as well. That is what I was looking for, that is what I was expecting, that the Department would come forward and let us know how things were gelling in terms of this, but also to be open and honest and transparent with us in terms of the consequences of the impact upon the economy, I suppose, in general.

Basically, it is having an effect on the economy and will continue to have a negative effect on the economy. We had, only fairly recently, somebody who was operating a manufacturing business in the Island, making windows. He had been set up here for a fairly healthy degree of time, did an interview on the local radio station to say that they were having to pull out. Because of the waste disposal charges that would impact on the business, it was no longer tenable, it is no longer viable for them to continue business here.

Now, I am hearing from other small businesses similar stories, of businesses pulling out, because they will no longer - when the 100 per cent kicks in - be able to operate a successful small business in the Isle of Man, which provides jobs for our people.

It also impacts upon the economy because, if these increases that the Department seems so reliant upon, eventually kick in, particularly the 100 per cent for

commercial, then prices are going to go up. Prices of every commodity will go up, because, if a person who is operating a business, whether it be retail, whether it be a service, whatever it is, has a waste that has to be disposed of in one form or other and is having to pay this sort of cost, then they have to adjust their prices.

That is on record, that is in *Hansard*. The debate on this particular lack of policy, the cart-before-the-horse syndrome with this Department at the moment, was raised in October last year by myself. It was subsequently followed up for the Hon. Member for Peel in January, February this year, and then revisited by Mr Speaker before the summer recess, so to the Hon. Member for Council, when he says we have had about seven or odd debates in the last year: in fact, sir, we have had three. It might feel like seven –

Mrs Crowe: It does to me!

Mrs Cannell: - but we have three major debates on this particular issue, and that is the change of policy, without Tynwald approval of the principle of the change of policy, imposing charges.

Now, during those debates, the other thing which seems to have been forgotten, conveniently - although it was touched upon by the Hon. Member for Ayre - is that, under the Act, under the legislation, the law that we make, the Department and the local authorities have to agree such charges. There is nothing within this very thin scant document of what has been reached, what is agreeable; nothing in here. (*Interjection by Mrs Crowe*) There is nothing in here, Minister – and do not pull faces at me, I do not like it! (*Laughter and interjections*)

Mr Delaney: Come on, girls, behave yourselves!

Mrs Cannell: Mr President: one question I would like the Minister to turn her attention to, with a *straight* answer, please - yes or no – is: have you, as Minister, or has anybody in your Department received any challenges from any of the local authorities, in terms of their right to seek arbitration, a failure to agree with your Department, on charges to be imposed, which is their right under the legislation? Have you received any challenges? There is nothing in here, except under 3.4 - concerns raised by local authorities on the method of calculations, the VAT and so on. 'They have all been resolved with Treasury, we let them know early that we are not going to be increasing the domestic aspect of this, and they are quite pleased because it is in good time to set their rate.' That is it.

Well, I am sorry, that does not go far enough, and I, for one, and I know others in here will not be hoodwinked by such scant information, I am afraid.

So, there is no assessment for us to make a considered opinion; no cost assessment on the impact of this huge policy change - none whatsoever.

We have heard the Minister for Health say that there are schemes in there to kick in for those who find that they are living on a meagre income, there are schemes, but I recall, not so very long ago, asking a specific question in here to the Hon. Minister for Health, to ask her if there was any scheme within her Department to help offset those who could not afford to pay their domestic rates or water rates, and the answer was no.

Mrs Crowe: Not a rate rebate system.

Mrs Cannell: The answer was no.

Mrs Crowe: Of course, there is.

Mrs Cannell: If I am misguided, I apologise in advance, and I will look at *Hansard* and make sure that I am correct, and if I am not, I will apologise at the next available opportunity. That is what my memory is hinting at, at the moment, because I asked that question.

The Hon. Member for Peel and one or two others are right. Taxpayers are means tested, in that they are assessed on what they can afford to pay, based on what their income is. So they are earning, it is decided by income tax and the Assessor decides what can be taken off them and what they can afford to pay by way of taxation, we take that into our coffers and the annual receipts and that is what finances us. Rates, conversely, are not means tested. I think the argument has been well demonstrated on that.

The other thing, of course, is, does the Minister know what the composition of waste is? We have an assessment of 100,000 tonnes. We have been informed that the incinerator can only cope with approximately 60,000 tonnes, so, therefore, we have to actively reduce, reduce and recycle and all the rest of it, but has the Minister or her Department any idea of what the actual composition is? I would hasten to suggest that she does not. She might have an estimation of tonnage from that which has been weighed, but she has no idea of what the composition is of the lorries that go through, absolutely none. And that is what needs to be done, there needs to be an audit of waste, to be able to properly deal with the strategy. To deal with it, you need to know exactly what is in a waste stream, whether it be domestic, commercial or even the fly-tipping.

That is something else that is on the increase, Minister, the fly-tipping, (**A Member:** Hear, hear.) because of the imposition of these charges. Fly-tipping is on the increase. Reluctance to pay is on the increase, and did you know, Minister, that now if you want to replace your fridge, your cooker, your washing machine or whatever, and you have an old one which has broken down, you now have to pay approximately £25 for the removal of that.

Mrs Crowe: Quite right.

Mrs Cannell: Well, I have people living on fixed incomes, low incomes, and, of course, as would happen on a lot of occasions, you have not just one breakdown in a domestic appliance, but you might have it happening twice or three times in a very short time and it hits you hard. It hits most people hard, but when you have got a meagre income it hits you very hard, to the extent that some of my people are going without replacing, because they cannot afford to pay somebody to take the old one away. You know at least in parts of the United States they have what they call a blitz, an amnesty on things like that, on large items, where those large items are taken away free of charge. So I am disappointed that this is very scant, very scant indeed.

I would like, at some point, more information from the Health Minister regarding the detailed information on what benefits her Department does now have available for those on a single person on a low income, pensioners et cetera, on low incomes, not necessarily claiming the full benefits system, family income support, for instance, is one area,

There are other such areas within the Department that are supporting the single person, young, middle-aged or just before pensionable age, who are earning a little bit, but not enough to sustain themselves and I would like more information at some point on where we can assist.

I think, basically, this is the last opportunity for Members of the Keys, and I find it rich that we have a Minister in Legislative Council, we have the Chairman of the Waste Management Board not yet officiated in the Legislative Council, we have severe criticism from the Health Minister regarding this, who sits in the Legislative Council, and, let us face it, Hon. Members, not one of those Members has to go out and face the public in three years' time. We are almost to the day - in fact, we are to the day, there are one or two days apart - two years in for this term of office, we have got another three to go.

Mr Speaker was quite right when he said not one of us was aware that this agenda was there, not one of us sought rectification with the people that we were seeking to represent in this place, in the Keys element of this Hon. Court and, of course, had we known what the intention was going to be, to switch from taxation to rates by stealth - it is a stealth tax, in my view - then that would have featured in our manifestos, it would have featured in political debates at the time, political forums, it certainly would have featured on the doorstep when canvassing. It has not.

So, Members of the Keys, when you go out in three years' time, you will have to justify how you voted today, because I will suggest that this is your last ditch attempt to make your stand and represent your people. This is an unfair system that has been brought in. It is an unfair system, it is not properly tested, there has been no cost analysis on impact on the community or the economy, medium, long term or even short term, and you will find it hard to justify with your people on the doorstep. The only way you can justify to say, 'Well, somebody has to pay,' and the question will come back, 'Well, how was it financed before?' 'Oh, with taxation'. 'Then why did you switch it to rates?' And your only defence of that is, 'Well Government at the time were a little concerned that tax receipts were going to take a dive, that they were going to reduce this thing and the capital costs had to be financed long term, so this is why it has been put on rates, because rates will stay and rates will catch anybody, irrespective of whether you are working, whether you pay tax or not, every ratepayer pays.

So, if your income tax goes down, your receipts go down because of your job losses, or because the economy takes a dive, because of the rest of the economic climate on the global area, then all you can rest upon is that you have a second form of taxation by way of rates, so that is why it has been switched. But I, for one, have not been given any economic predictors in that way. I, for one, and that includes others within this hon. place, have never been taken to heart with any agenda of the Council of Ministers may have.

They keep us at arms' length, they give us as scant of information as they can possibly get away with, they tell us what they want us to know, not what we need to know and what we want to know, and I, for one, think today is the day that we have to stop and we have to take a firm decision as a parliament. I am sick to death of being treated as though we are being led down the path by the nose by a dictatorship within the Council of Ministers.

I am not getting at personalities, I am just getting at the way in which this Government is performing, and has

performed over the last two years. The dictatorship, the dictatorial attitude forcing something onto to rates without getting agreement from the local authorities. Forcing charges onto rates without agreeing a policy first, putting the cart before the nose, giving everything to the Hon. Member of Council Mrs Crowe to bulldoze through. That is not the way to exercise democracy in this place and that is not the way to do policy business in Government. I will not be supporting the item on the agenda. I intend to support Mr Speaker's amendment, which is a compromise.

But, to finish, Mr President, I have to say I am firmly of the view that there should be no charge on rates for the disposal of waste. No charge, not even 1 per cent of the cost. It should not happen. As a compromise, I may support Mr Speaker's amendment, which holds us, but, nevertheless, we are in a position where I do not like where we find ourselves, nor do the people.

The President: Hon. Member for Glenfaba.

Mr Anderson: Thank you, Mr President, I will be brief.

I rise in relation to the point being made by the Hon. Member of Council, Mrs Christian, where she stated a change in policy halfway through the financial year was not a very good way to go about things, and that income would, therefore, have to come from somewhere else. But it was clear in questions and answers given by the Hon. DoLGE Minister only last month, that the commercial waste being land filled at Wright's Pit East has dropped dramatically since the increase of charges, on 1st July to £50 a tonne. We are now being told that is going to be increased from 1st of next month to £75 a tonne -

Mrs Crowe: That was always the policy.

Mr Anderson: - so this will result in even less commercial waste going to Government landfill.

Mr Singer: More fly-tipping.

Mr Anderson: There are plenty of entrepreneurs out there that will be charging significantly less than £75 a tonne, and only a small amount of commercial waste will then be going to landfill, so whatever was projected to be an income stream for the Department in that area is going to virtually disappear anyway.

This also begs the question about the viability of developing an engineered landfill site at Archallagan. We have already heard about the bottom ash possibly being recycled, but here we have the rest of the commercial waste - not the rest, I appreciate there is some commercial waste that has to go to a lined site - but it does beg the question of the scale of what has been proposed and I think this will go to the top of being one of the biggest white elephants we are going to have in the future.

Mr President, I think Mr Speaker's amendment is a sensible way of making sure that the brakes are put on Government waste disposal charges. The only opportunity I think Members have had previously to vote against the principle, was actually when the Hon. Member for Rushen, Mr Gill, brought forward an amendment stating that 10 per cent was as much as could be charged for the waste, as far as domestic waste is concerned.

Mrs Cannell: I introduced the charge at that time.

Mr Anderson: That effectively introduced a charge and I was one of those who actually voted against that on principle (**Mrs Cannell:** Hear, hear.) and I think this position we have now, and the opportunity that Mr Speaker has given us by introducing this amendment, does actually give those that have concerns, the opportunity to voice those concerns in a meaningful way.

And so, Mr President, I am minded to support, although I was going to vote against the promotion in its entirety, I will be tempted to vote for Mr Speaker's amendment, which gives us a clear direction, and, hopefully, gives Government a clear direction in which this Hon. Court wants Government to go in future.

The President: Hon. Member for Garff, Mr Rodan.

Mr Rodan: Mr President, I have listened very carefully to this debate and I have to say I find myself in great difficulty in recognising some of the scenarios that have been painted. I have been in this Court since 1995, and waste and all aspects of it, disposal, collection, the modes of disposal, all the options, have occupied more time –

Mrs Crowe: Than education.

Mr Rodan: - than any other subject that I can remember.

Now, we have heard scenarios painted that the wicked Council of Ministers has come forward with sudden changes in policy which they are trying to slip in without the benefit of full debate in Tynwald.

Mrs Hannan: Absolutely right.

Mr Rodan: No Tynwald approval has been given –

Mrs Cannell: In principle.

Mr Rodan: - to this strategy of recovering the charges, and I do not think there is any dispute that those charges for waste disposal are correct. I do not think anybody is disputing that, these are facts. But the suggestion is being made that those charges are being recovered in an underhand way that was never intended and was never part of Tynwald's waste management strategy.

As I say, for years Tynwald's waste management strategy has been debated in this place in one form or another and I have always understood that 'polluter pays' or 'user pays' - and I accept the terminology, there is no clarity on it - but I have always understood that the whole purpose of the policy and its various components was that, because the person creating the waste would have to pay directly, it was the essential component to making all the other components fit: the recycling, the reuse, the waste minimisation, and I always understood that the cost of facilities to dispose of waste would be borne by the creator of waste. If it was to be borne simply by central taxation, there is no incentive there for the user or the creator of the waste to have any control over the amount of waste produced, or incentive to minimise or incentive to recycle and all the rest of it.

So I do not accept, Mr President, that there has been a change in policy. Like so many subjects that come for political debate, the trouble is it takes so long to make a decision, so long to implement the policy, that we forget what the original problem was.

Mrs Cannell: We have no problem with our memory!

Mr Rodan: We have taken so long, and there have been so many delays and hold-ups to bring the incinerator, which was always understood to be an essential component, without which recycling, waste minimisation, reduction could not work - we all saw that was a safety net - and only when you got that in place could you then address your attention to other things. It has taken so long to get the incinerator brought that what has happened, of course, that the other components of this strategy were never pursued with the required amount of vigour.

And one of those components was charging for the waste. These waste charges should have been a component brought in long before. (**Mrs Crowe:** Absolutely.) We should have had the principle in long ago, (**Mrs Crowe:** Yes.) when the only component of the strategy was landfill.

They have been brought in now belatedly in the day because it has been rightly realised that you cannot implement gate charges, the incinerator is going to be accepting waste next year –

Mrs Crowe: Next month!

Mr Rodan: - or very soon, and charges are going to be made.

We need a charging regime in place. And this charging regime should have been put in place long ago. And it is the fact that it has not. That is creating the political difficulty now, especially for Members who were not here when we thought we were giving approval to the original decisions, in principle, for all the components, including recovering the charges by the polluter. That is what the problem is.

I think Mr Speaker is right, that there has not been a specific Tynwald debate on that particular point of charging being through the rates and not through central taxation, but, to my mind, it has always been implicit in the other decisions we have made in this Court as part of the overall strategy. Now, where I would agree with the critics of putting charges onto the rating system, is that the rating system itself is a flawed system of recovering charges and we do not have an efficient system, one that does not properly address the questions of ability to pay, the consumption of services and paying for services in fair proportion to the way we actually consume.

So that is a problem that has to be addressed in any event. Unfortunately, that imperfect system is the only one in place and it is incumbent on Government to make progress in addressing the deficiencies of the system, which is based, as we know, being a property tax, on an outdated notion of property rental values that were set 30 years ago. This is a flawed, imperfect system and needs to be reformed in any event, but that does not imply that, because it is flawed, we should be recovering the charges through the only other mechanism, which is central taxation. You can make arguments for paying for such services through central taxation. It has the virtue of reflecting the ability to pay and so on, but it is not a system that ties in well with Tynwald waste management policy, which has various components with various incentives, I thought, parts of the policy to seek to minimise and recycle the waste.

So, I am afraid we are in this difficulty that we have forgotten what the original problem, what the original question was, and, yes, it is coming as an unpalatable and

unpleasant truth and reality that 'you do not get owt for nowt' and it does have to be paid for. I would, as the Hon. Member of Council has invited us to do, invite Members to please tell the Health Minister what aspects of the National Health Service should not be implemented in order to make way for the waste strategy. Please inform me what parts of the capital programmes school building you would like to have deferred and postponed. (*Interjection by Mrs Hannan*)

I am afraid there is a finite amount of resource there at the Government's disposal. If you want central taxation to pay for this, and there are valid arguments that it should; please advise how it is to be done, but that is, in many ways, not the central issue.

Mrs Hannan: That is not a choice we have been allowed.

Mr Rodan: The central issue is to make sense historically of the Tynwald waste management strategy, endorsed on innumerable occasions in this Court over many years. You have no option but to accept this mechanism for charging of the waste management facilities.

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

Mr Gill: Thank you, I will be brief. At least two Members have mentioned my amendment which introduced the 10 per cent charge. If I could just, for the sake of consistency and clarity, make my position on that.

I do not have a difficulty with the amendment that Mr Speaker has moved because I think it is perfectly fair and equitable. If that causes a difficulty, in that it means that we have to revisit a tax strategy, then so be it. That is the challenge that we would face. But, sir, for myself, the purpose behind having the 10 per cent charge was to include people who would fall outside of the tax bracket, so that they would have an incentive, because we all need stick as well as carrot sometimes. It would focus people's attention on minimisation, as we have heard is a worthy outcome, in a way that would not be achieved just by education or by any other methods. But I say 10 per cent, because I think that is sufficient to prove the point without being onerous or unfair. So I believe I am entirely consistent in maintaining that. I very much welcome the Speaker's amendment, and all five parts of it are perfectly acceptable to myself, and I will certainly be voting for them and I very much hope they are successful.

But just two points that we have heard, sir. The final speaker, my good friend, Mr Rodan, made the point that we have to identify areas of school building or health services that would have to go by the board if we introduced this. But I do not necessarily know if I accept that. I think things should be done on priority, and, if he is suggesting that school building, for example, and I know this is not the case, but if the suggestion is abroad that school building programmes are on Buggins' turn, then it is our turn to have a slice of the cake, rather than on a needs basis, then that would be a poor argument. So, sir, I think if the argument stands up and we can fund it, and I believe we are in a position, as Mr Speaker said, that our revenues are still sufficient, and I know that we have heard the Hon. Member who is not in Court at the minute, Treasury Minister, warning us in the most dire terms that we are on a financial knife edge. Well, I think sometimes, rather than sounding like

the prudent Scotsman in Downing Street, he sounds more like the pessimistic Scotsman in Dad's Army when he says that. (*Laughter*) I am not entirely sure that is the situation. So, anyway, I just throw that in so that I really do think that it would be a challenge.

I stick by the 10 per cent amount that I put in. I cannot share the confidence that others have expressed, that it will all be done in a controlled and fair, reasonable way, because I just do not have that experience to base that confidence. So on that basis, sir, I will certainly be voting for Mr Speaker's amendment and, I reiterate, I very much hope it becomes that it is accepted and gives us a basis to move forward on this thorny issue. Thank you.

The President: The Chief Minister to reply. Did you want to speak, Chief Minister?

Mr Corkill: Not if the Minister is replying.

The President: The Minister to reply.

Mrs Crowe: Thank you, Mr President.

I do not intend to go through everyone's responses. I do hope people will not feel slighted if I miss them out of my summing up. A number of issues were reiterated, rather like the prison debate that we have just had about siting the prison in Ballafletcher or Jurby. This Report, and it was criticised for being a simple Report, was about the implementation of the charging system for a policy approved by this Court on three occasions. It was the implementation process that was requested of us because people felt that the local authorities had not had enough consultation and I readily agreed to produce that Report.

The debate was not another policy debate. We have had many people who have mentioned policy. We have just the Hon. Member for Rushen, Mr Gill, talking about the policy - 'prioritise the budget.' 'Everyone needs,' was a quote he said and it is true, everyone does need. Education needs, DHSS needs. I do believe the Home Affairs might 'need' in regard to the new prison.

The monies will have to be found from somewhere. We do not have a 'pot of gold' that we can keep dipping into. The Departments sit around and prioritise who gets what. That is dealing with the first issue on the policy.

As I say, the debate was entirely about the implementation process, but we get an amendment from Mr Speaker about the policy once again. The policy that was approved not once, but I think it has been approved on three occasions in this Court.

As the Hon. Member for Garff said, maybe, specifically, people did take their eye off the ball, they did not examine in much more detail what it was all about. But it was all in there; it was all in there when it was voted for on many occasions.

So, what I would say, once again, that if Mr Speaker feels that this amendment is absolutely determined to go through, I would have liked him to have addressed in his speech where the monies were to be found. To be quite clear about where the funding came from, but no, it is not in the amendment.

Taxation. A very simple word - taxation. You voted for the budget. (*Interjections by Mrs Hannan and Mr Corkill*)

I will address some of the comments made by the Hon. Member for Onchan, Mr Karran, and I stand to be corrected,

but I do believe that the water rate that you imposed actually includes loan charges. It is a service, a very necessary service that we all need, and I would not dispute for one moment the need for the increases in the water rate, but what I would say is: we have funded the waste disposal rates in exactly the same way - a very necessary service that has to be paid for. Something that the Hon. Member for Onchan, Mr Karran, realised when he had charge of a service that had to be provided to the public, and in exactly the same way that water rate includes loan charges, unless someone will tell me that it does not.

Mr Karran: No, you are right.

Mrs Crowe: The Hon. Member for Braddan did make a few points (**Mr Quayle:** Middle!) – for Middle, sorry – Mr Quayle mentioned billing: well, of course, Douglas and Onchan have an agreement with the Department on quarterly billing; Braddan, of course, will not have a billing system because it does not have its own collection services.

He mentioned, once again, the charges to householders; the charge to householders, once again, I reiterate, is £10 per household per annum, and we have already agreed that that will remain in place for 2004–05.

Now, the Hon. Member for Peel, quite impassioned as she always is, and quite rightly so, about recycling and reuse, mentioned that what we should be doing is taxing waste; that is precisely what we are doing! The imposition of a £100 per tonne charging has reduced the waste to our landfills by 40 per cent. We have had firms that are working with us, some of whom have reduced their waste by 50 per cent. Now that might only be the waste they import to the Island, but the charging regime – your words entirely, Hon. Member – tax waste, that is precisely what we have done and why we have achieved the reduction in waste.

Mrs Hannan: No, you are rating waste!

Mrs Crowe: Now the former Minister for –

Mr Quayle: Mr President –

The President: Hon. Member.

Mr Quayle: Just a point of clarification: the Minister has just mentioned about the charging only being done quarterly, but the charging for commercial charges is from 1st July, so a quarter would be July, August, September, so the Minister is repeating the inaccuracy –

The President: Hon. Member, I am sure you have made your point; if the Minister can now reply, she can.

Mrs Crowe: The former Minister, Mr Quayle, who mentioned in his remarks about the legislation – I do believe the legislation is in place, and, of course, the arbitration process is also in place.

Once again, the Hon. Member for East Douglas, Mrs Cannell, mentioned that we had to have open, honest and transparent Government, and this is what we have tried to do –

Mrs Hannan: No you have not. That is the problem.

Mrs Crowe: We have tried to tell people exactly what

the charges are for the disposable of waste; we have reiterated it is an expensive business, we are no longer going to hide those charges from the public. People have to realise, if they generate waste, they have to pay for it.

There was mention made of little old ladies buying fridges and being unable to dispose of the previous fridge. Our Government at the present time is spending thousands of pounds to export fridges to the United Kingdom for specialised treatment in disposal; someone has to pay. So, if one purchases a £300 fridge, I do not feel that it is an imposition to ask people to pay, maybe £25 – but, in most cases, the retailers are doing a discount, £15 – to dispose of one's old fridge in the proper method. I do not think that is an imposition, and that is what we should be doing, making people realise that there is no bottomless pit to get rid of waste.

And the fact that, once again, businesses were going to be endangered by having to face the commercial rate of £100 per tonne. The Hon. Member fails to understand: the reason why there is an imposition of these charges is to encourage businesses to reduce, or indeed, to minimise the importation of waste to this Island, and in that we have been successful.

I was also asked directly: have there been any challenges by local authorities about the arbitration process, and I would say, 'Yes, there have.' Now, from memory, I think it might have been Douglas and Onchan that wrote to me and said: 'We reserve the right to go to arbitration', and I would have done the same, if I had been a local authority, because what they were saying to me: 'We have agreed the charges with you'.

We are all trying to work together in this forum now to find solutions – the local authorities are not sat alone, we are all working together to try and make sure that this whole system of waste disposal works and works effectively, but some local authorities have said: 'Yes, Minister, we are working with you, but we reserve the right to go to arbitration'. (**Mr Delaney:** Hear, hear.) I do not mind that, I think that it is right and proper that they should do it, (**Mr Delaney:** Hear, hear.) and, indeed, it is in the legislation that they should do it. So you ask me directly, I have replied directly, open, honest and transparent. (*Laughter*)

When I talked about arbitration, we like to call it conversation, with our local authorities, but, still, we are getting there.

There was a mention again by the Hon. Member of fly-tipping. I am not suggesting that fly-tipping is not a problem, but I have had cases of fly-tipping reported in the local media. Every item that we saw could be disposed of free of charge at the civic amenity site. So it is irresponsible people who are fly-tipping, it is not the imposition of charging. Anyone could drive to their local civic amenity site and dispose of those goods, but we are keeping an eye on it, and if we can take a prosecution, we will be doing so, but, at the present time, we have not been able to identify these irresponsible people, who have always been on the Isle of Man.

As I say, the policy has been debated endlessly. Before I do come to finish with my responses, I would just like to say to people that I have had the pleasure of working with one of the most experienced politicians in this Court in trying to solve the problem that we inherited. Now, I do not think that anyone would deny that we inherited a problem.

The Hon. Member of Council, Mr Lowey, has worked

tirelessly to try and sort out, (**Mrs Hannan:** Shame.) work with people, to make the waste management strategy and policy that has been before this Court work. (**Mr Cannan and Another Member:** Hear, hear.) We have not been bullying people, as the impression has been given, and I think even our worst enemies would say that we have made an impact.

Now, people might not like the way the impact has been made, but we have certainly made an impact on the reduction of waste on the Isle of Man and we can prove it.

The Hon. Member for East Douglas asked in her comments: 'We should have an audit trail for waste'; we have a monthly report of the waste that is passing over our weighbridge. I dare say that the Hon. Member for Council, Mr Lowey, goes to bed, dreaming about what was in the third lorry on the seventh day, (*Laughter*) but what I am saying is, we do not actually need to be told how we need to—

Mr Delaney: Eddie, get a life!

Mrs Crowe: – audit waste. As I say, the whole reason for this inclusion on the agenda today was a simple Report to say how we had achieved the implementation of waste charges, by working with local authorities and the commercial forum. I have already praised the commerce and construction forum this morning, for the way in which they have addressed all the problems they were faced with, and address them they have, and we, at the present time, are delighted to see the way they are working to reduce the amount of waste on this Island.

We are not discussing policy, what we are talking about is the implementation of the charging process. I do hope that you do not support the amendment and receive the documentation.

The President: Hon. Members, the Motion is that printed at 7 on the Order Paper and to that you have had circulated to you the amendment in the name of Mr Speaker.

Mr Speaker indicated that he wished, in fact, his amendment to be divided into its parts. I propose, Hon. Members, to put it to you in parts. Therefore, those parts which you accept will become the amendment; if you delete any, that is your decision. But I will put Mr Speaker's amendment, in parts. Hon. Members, it is my intention to put Mr Speaker's amendment in its five parts to you first.

Now, those in favour of Mr Speaker's amendment, part 1, please say aye; against no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 10, Noes 14

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Quayle	Mr Quine
Mr Gill	Mr Rodan
Mr Gawne	Mr Rimington
Mr Duggan	Mr Houghton
Mrs Cannell	Mr Henderson
Mrs Hannan	Mr Cretney
Mr Karran	Mr Braidwood
Capt. Douglas	Mr Downie
The Speaker	Mr Shimmin
	Mr Bell
	Mrs Craine
	Mr Corkill
	Mr Earnshaw

The Speaker: Mr President, the amendment, part 1, fails to carry in the House of Keys of Tynwald, for 10, 14 votes against.

In the Council – Ayes 4, Noes 3

FOR	AGAINST
Mr Waft	Mr Lowey
Mr Singer	Mrs Christian
Mr Delaney	Mrs Crowe
Mr Gelling	

The President: With 4 for, 3 against in the Council; part 1, Hon. Members, therefore, fails to carry, the branches being in disagreement.

Part 2 of the Amendment, Hon. Members, those in favour please say aye; against no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 10, Noes 14.

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Quayle	Mr Quine
Mr Gill	Mr Rodan
Mr Gawne	Mr Rimington
Mr Duggan	Mr Houghton
Mrs Cannell	Mr Henderson
Mrs Hannan	Mr Cretney
Mr Karran	Mr Braidwood
Capt. Douglas	Mr Downie
The Speaker	Mr Shimmin
	Mr Bell
	Mrs Craine
	Mr Corkill
	Mr Earnshaw

The Speaker: Mr President, in the House of Keys part 2 of the amendment fails, with 10 votes for, 14 votes against.

In the Council – Ayes 4, Noes 3

FOR	AGAINST
Mr Waft	Mr Lowey
Mr Singer	Mrs Christian
Mr Delaney	Mrs Crowe
Mr Gelling	

The President: The same result in the Council as previously, 4 for, 3 against, the branches in disagreement, it fails to carry Hon. Members.

Amendment, part 3, those in favour please say aye, against no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 10, Noes 14

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Quayle	Mr Quine
Mr Gill	Mr Rodan
Mr Gawne	Mr Rimington
Mr Duggan	Mr Houghton
Mrs Cannell	Mr Henderson
Mrs Hannan	Mr Cretney
Mr Karran	Mr Braidwood
Capt. Douglas	Mr Downie
The Speaker	Mr Shimmin
	Mr Bell
	Mrs Craine
	Mr Corkill
	Mr Earnshaw

The Speaker: Mr President, in the House of Keys, part 3 of the amendment fails to carry, with 10 votes for and 14 votes against.

In the Council – Ayes 3, Noes 4

FOR	AGAINST
Mr Waft	Mr Lowey
Mr Singer	Mrs Christian
Mr Delaney	Mr Gelling
	Mrs Crowe

The President: With 4 against, 3 for, in the Council, Hon. Members, part 3 fails to carry.
We turn to part 4.

Mrs Christian: On a point of clarification, Mr President, given that part 3, which we have voted on and part 4 referred to matters which have already been rejected, is there any purpose in moving them.

The President: I appreciate the point, Mrs Christian. However, I did say at the commencement that we would deal with each individually and those that you did not accept, so we will continue with the pattern, Hon. Members, and make it absolutely plain.

Those in favour of part 4 of Mr Speaker's amendment, please say aye; and against no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 10, Noes 14

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Quayle	Mr Quine
Mr Gill	Mr Rodan
Mr Gawne	Mr Rimington
Mr Duggan	Mr Houghton
Mrs Cannell	Mr Henderson
Mrs Hannan	Mr Henderson
Mr Karran	Mr Braidwood
Capt. Douglas	Mr Downie
The Speaker	Mr Shimmin
	Mr Bell
	Mrs Craine
	Mr Corkill
	Mr Earnshaw

The Speaker: Mr President, in the House of Keys, part 4 of the amendment fails to carry with 10 votes for, 14 votes against.

In the Council – Ayes 3, Noes 4

FOR	AGAINST
Mr Waft	Mr Lowey
Mr Singer	Mrs Christian
Mr Delaney	Mr Gelling
	Mrs Crowe

The President: With 4 against, 3 for in the Council, it fails to carry, Hon. Members.

Finally, part 5, those in favour, please say aye; against no.

Mrs Cannell: Shame on you.

The President: The ayes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 11, Noes 13

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Quine	Mr Rodan
Mr Quayle	Mr Rimington
Mr Gill	Mr Houghton
Mr Gawne	Mr Henderson
Mr Duggan	Mr Cretney
Mrs Cannell	Mr Braidwood
Mrs Hannan	Mr Downie
Mr Karran	Mr Shimmin
Capt. Douglas	Mr Bell
The Speaker	Mrs Craine
	Mr Corkill
	Mr Earnshaw

The Speaker: Mr President, in the House of Keys, part 5 of the amendment fails to carry, with 11 votes in favour, 13 votes against.

In the Council – Ayes 3, Noes 4

FOR	AGAINST
Mr Waft	Mr Lowey
Mr Singer	Mrs Christian
Mr Delaney	Mr Gelling
	Mrs Crowe

The President: With 4 against, 3 for in the Council, Hon. Members, part 5, therefore, fails to carry.

Hon. Members, I now put to you the motion, as printed on your Order Paper, that the Report of the Department of Local Government and the Environment, dated October 2003, on the implementation process regarding the charges for waste disposal be received.

Those in favour, please say aye; against no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys – Ayes 13, Noes 11

FOR	AGAINST
Mr Cannan	Mr Anderson
Mr Rodan	Mr Quine
Mr Rimington	Mr Quayle
Mr Houghton	Mr Gill
Mr Henderson	Mr Gawne
Mr Cretney	Mr Duggan
Mr Braidwood	Mrs Cannell
Mr Downie	Mrs Hannan
Mr Shimmin	Mr Karran
Mr Bell	Capt. Douglas
Mrs Craine	The Speaker
Mr Corkill	
Mr Earnshaw	

The Speaker: Mr President, in the House of Keys the motion carries, with 13 votes for, 11 votes against.

In the Council – Ayes 3, Notes 4

FOR	AGAINST
Mr Lowey	Mr Waft
Mrs Christian	Mr Singer
Mrs Crowe	Mr Delaney
	Mr Gelling

The President: With 3 for, 4 against in the Council, Hon. Members, the branches are in disagreement, the motion fails.

Hon. Members, at three minutes past eight – when we discussed closing time previously, it was at 7.30 towards 8.00 – I think it is an appropriate time in which we left our business and we will recommence at 7.30 – at 10.30

(Laughter) – I am looking at number 7 on my Order Paper – mind you, I would be happy to start at 7.30 *(Laughter and interjections)* – 10.30 in the morning at item 8, Hon. Members. Thank you.

The Court adjourned at 8.04 p.m.