



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**P R O C E E D I N G S**

**D A A L T Y N**

**(HANSARD)**

**Douglas, Tuesday, 8th February 2005**

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

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), Mrs C M Christian, Mrs P M Crowe,  
Mr D F K Delaney, The Chief Minister (Hon. D J Gelling CBE),  
Mr J R Kniveton, Mr E G Lowey, Mr L I Singer and Mr G H Waft,  
with Mrs M Cullen, Clerk of the Council.

**Business transacted**

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*The Council adjourned at 1.00 p.m.*

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

### PRAYERS

*The Lord Bishop*

We commend into God's care and keeping, our friend and brother, Dennis Baggaley. We give thanks for his work within Tynwald; we also give thanks for his work within the diocese, as a parish priest. We give thanks for his involvement in the wider life of the Church, with the General Synod. We pray for Dorothy, his wife, for the family.

### TRIBUTE TO THE REV CANON DENNIS BAGGALEY

**The President:** Hon. Members, it is right that we should remember Dennis Baggaley in our prayers, this morning, and, particularly, at this time, our thoughts should be with Dorothy, his wife, and with the members of the family.

Most of us at this table have known Dennis Baggaley for a very long time. Certainly, I know, Mr Kniveton, at the end, as an Onchan resident, knew Dennis Baggaley in his time as parish priest, referred to by the Lord Bishop, in that particular area.

I have very fond memories of Dennis Baggaley living in Rushen constituency, and I also have very strong memories of Dennis Baggaley taking two funeral services: I have a very strong memory of him taking a funeral service of a friend; and I have a very, *very* strong, vivid memory of him taking a family service, at a funeral, which must have been quite an exceptional occasion.

Dennis Baggaley certainly played his part in Tynwald. He played his part as Chaplain of the House of Keys, I think, with enthusiasm. He enjoyed his part as being a Member of Tynwald, via his Chaplaincy, and it was right that, in fact, there were a number of occasions, when ex our Bishop, that Dennis Baggaley took prayers here, amongst us, with the Legislative Council.

Hon. Members, our thoughts and our prayers are, certainly, with Dorothy and his family, today.

### Leave of absence granted

**The President:** Apologies this morning, Members, have been granted to Her Majesty's Attorney General, who is off the Island on Government business.

## Orders of the Day

### BILL FOR THIRD READING

### Trees and High Hedges Bill Third Reading approved

1. Mrs Crowe to move:

*That the Trees and High Hedges Bill be now read a third time and do pass.*

**The President:** We have the first Item on our Order Paper, which is the Trees and High Hedges Bill, in the hands of Mrs Crowe, and it is down for Third Reading. Mrs Crowe, please.

**Mrs Crowe:** Thank you, Mr President.

I am pleased to be able to ask for the Third Reading of this Bill, which I think will greatly help some people who find that the nuisance caused by high hedges is quite intolerable, not only to their health but their family situation. So, I do believe that this legislation will be helpful, and I beg to move, formally, that the Third Reading of the Trees and High Hedges Bill be heard.

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

**The President:** Does any Hon. Member wish to speak to the Third Reading of the High Hedges Bill? In that case, Hon. Members, I, formally, put to you that the Trees and High Hedges Bill be read for a third time. Those in favour, please say aye; and against no. The ayes have it. The ayes have it.

### BILL FOR SECOND READING

### Fiduciary Services Bill Second Reading approved

2. Mr Waft to move:

*That the Fiduciary Services Bill be read a second time.*

**The President:** We turn, then, to the Fiduciary Services Bill 2004, and on this occasion we are dealing with the Second Reading, and I call on the Hon. Member, Mr Waft.

**Mr Waft:** Thank you, Mr President.

As I explained at the First Reading of the Fiduciary Services Bill, the expression 'Fiduciary' is used as a collective term to refer to both trust service providers and corporate service providers.

The principal purpose of the Bill is, by amendment to the Corporate Service Providers Act 2000, to extend the licensing and regulation of corporate service providers to trust service providers.

The Bill defines the trust service activities that will be regulated, and exempts certain activities from the requirement that the service provider must be licensed. The licensing

requirements only apply to activities that are undertaken by way of business, and the Bill is, therefore, aimed at professional trustees and trust administrators, and not at trustees who are doing a favour for a friend or family.

With reference to the current definition in the Corporate Service Providers Act 2000, the Bill also adds the corporate service regulated activities, and amends some of the exemptions. The Bill, also, amends the Financial Supervision Commission's other regulatory legislation, to bring it into line with internationally accepted standards of public protection, to take account of Human Rights issues, and to standardise procedures and rights.

The extension of the corporate service providers' licensing regime to trust service providers meets the Island's commitment to the International Monetary Fund, to apply internationally accepted regulatory standards. The Bill will bring the Isle of Man into line with Jersey and Guernsey, which introduced the licensing of trust service and corporate service providers, contemporaneously, in 2000.

Mr President, I beg to move the Second Reading of the Fiduciary Services Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve my remarks.

**The President:** In that case, Hon. Members, no Member wishing to speak to the Second Reading, I put, formally, to Council that the Fiduciary Services Bill 2004 be read for a second time. Those in favour, please say aye; and against no. The ayes have it. The ayes have it.

## Fiduciary Services Bill

### Clauses considered

**The President:** We turn, then, to the clause stage. Mr Waft take clause 1, and schedules 1 and 2, please.

**Mr Waft:** Thank you, Mr President.

Subclause (1) substitutes sections 1 and 2, and inserts a new section 2A in the Corporate Service Providers Act 2000.

The new section 1 of the Corporate Service Providers Act defines 'a fiduciary' as a person who engages, by way of business, in corporate services or trust services. The new section 2 makes it an offence for a person to act as a fiduciary, or imply that they are a fiduciary, unless they hold a fiduciary licence, or are exempt from holding one.

Subclause (2) extends the application of the Corporate Service Providers Act to trust service providers, by substituting the words 'fiduciary' and 'fiduciaries' for 'CSP' and 'CSPs', in provisions of the Act that will have general application to both corporate service and trust service providers.

Subclause (3) gives effect to schedule 1 to the Bill which, by amendment to schedule 1 to the Corporate Service Providers Act, defines the trust service regulated activities and exemptions as follows. In schedule 1, paragraph 1 inserts a new part IA in the schedule 1 to the Corporate Service Providers Act, specifying the trust service regulated activities as: acting as a trustee of an express trust; the provision of trust administration services; acting as a trust corporation

as defined in section 65A of the Trustee Act 1961; acting as a protector; and acting as an enforcer of a purpose trust, as defined in the Purpose Trusts Act 1996.

Members may find an explanation of some of these expressions helpful: a trust corporation is a company that is authorised to undertake certain functions under trust law, which principally related to probate work. A company may only apply for a grant of probate in respect of the estate of a deceased person, if it is a trust corporation.

Currently, a trust corporation status is granted by the court, but, with the introduction of trust service regulatory regime, a trust corporation will, in future, be required to hold relevant category of fiduciary licence. The fitness and propriety criteria of the regulatory regime will thus apply, including competence in probate and trust law.

Some trusts appoint a protector, which is defined in the Bill as a person other than a trustee, who, as the holder of an office created by or under the terms of an express trust, is authorised or required to participate in the administration of the trust. The Purpose Trust Act 1996 requires that every purpose trust must have an enforcer who has certain functions in relation to a purpose trust.

Paragraph 2 of schedule 1 to the Bill inserts a new part IA in schedule 2 to the Corporate Service Providers Act, which specifies the exemptions from the licensing requirement as follows: trust service activity that is wholly incidental to professional services, undertaken by an advocate, registered legal practitioner or an accountant; inter-group transactions; joint ventures; employees, officers or partners of a trust service provider licence holder, acting as a trustee in the course of employment; court appointed trustees and other special cases, such as trustees and bankruptcy, the official trustee or guardian of a minor, and a person appointed to act for a person with a mental incapacity; Government Departments or Statutory Boards; private trust companies which provide services for one or more associated trusts and do not hold themselves out to the public as trust service providers; nominee companies which act as trustees for trusts administered by their licensed parent company; licensed businesses which provide trust services incidental to their main business; personal representatives; trustees of total testamentary trusts; trust administration services provided to a trust service provider licenceholder.

I understand that, at this stage, the Hon. Mr Gelling has an amendment, which he would like to introduce.

**The President:** Finish your bit first, please, sir.

**Mr Waft:** Right. Subclause (4) gives effect to schedule 2 to the Bill. Schedule 2 contains supplementary amendment to the Corporate Service Providers Act.

The more significant of these are: schedule 2, paragraph 1 adds to the classes of person who are required under section 3(3) of the Corporate Service Providers Act, to satisfy the Financial Supervision Commission that they are fit and proper persons. This is a clarification that individuals who act as a company secretary or director of a company, or as a partner of a partnership, for which a corporate service provider provides services, must also be fit and proper persons.

Paragraph 2 inserts a new subsection (4A) in section 3 of the Corporate Service Providers Act. This clarifies that a fiduciary licence may be issued in respect of both CSP and TSP activities, either CSP or TSP activities, or only some of those activities.

Paragraphs 6, 7 and 11 amend the procedures the Financial Supervision Commission must follow, in giving the written notice to an individual in respect of a direction that that individual is not a fit and proper person, allow for such a direction to be revoked, and make it mandatory for the Commission to make a public statement in respect of a 'not fit and proper' direction.

Paragraph 13 extends the right of an agreed person to apply for a review of a decision by the Financial Supervision Commission, under section 18 of the Corporate Service Providers Act.

Paragraph 14 inserts a proviso to make the statutory immunity provision in section 19 compliant with the Human Rights Act 2001. Until the Human Rights Act comes into operation, provisions such as this have no practical effect and, at present, until the Act comes into operation, a breach of the Human Rights Convention has no legal effect under domestic law.

Paragraphs 15 and 16 insert new definitions in section 27 of the Corporate Service Providers Act. These are in relation to trust services' definition of the expressions 'enforcer', 'express trust', 'protector' and 'trust'. The expressions 'fiduciary' and 'partnership' are also defined, and the definition of company is extended to include certain foreign entities, which are not the same as, but have some features in common with, the traditional company used by corporate service providers.

The expression 'company', for the purpose of regulating corporate service providers, includes foundations and anstalts, established in various European jurisdictions, and in Panama, but, as other foreign entities may be utilised, the definition may be expanded by regulations.

It also clarifies that, in deciding whether any matter is desirable in the public interest, the Commission must take account of the particular circumstances of the case, as well as the need to protect the public, the deterrent effect and the effect such publication may have on the persons to whom it relates.

Paragraph 19 amends part 1 of schedule 1 to the Corporate Service Providers Act, by adding the provision of services to partnerships to the corporate service regulated activities.

To be consistent with trust service provider exemptions in paragraph 2 of schedule 1 to the Bill, paragraph 21 of schedule 2 amends the parallel exemptions for corporate service providers, in respect of exempting corporate service activities that arise from, or are part of, other regulated business.

Mr President, I beg to move that clause 1 and schedules 1 and 2 stand part of the Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve my remarks.

**The President:** Right. Mr Gelling.

**Mr Gelling:** Yes, thank you, Mr President.

I wish to put forward the amendment which has been circulated in my name:

*Page 11: In paragraph 12(1)(d), after 'resident' insert 'or domiciled'.*

*Page 12: In the second paragraph 12(2)(d), before 'Certified' insert 'Chartered'.*

*Page 12: After paragraph 12 insert –*

*'13. (1) Section 2(1) and (2) shall not apply in respect of a regulated activity if the activity is undertaken by a specified person (within the meaning of paragraph 12(2)) in respect of an inter vivos trust to which this paragraph applies.*

*(2) This paragraph applies to a trust if –*

*(a) the funds of the trust consist only of funds settled or provided –*

*(i) by one or more settlors when the trust is created;*

*(ii) under the terms of the wills of the settlors;*

*(iii) under the terms of a will of a spouse of a settlor;*

*and any income or gain arising from those funds; and (b) the conditions set out in sub-paragraph (3) are satisfied.*

*(3) The conditions referred to in sub-paragraph (2) are that –*

*(a) the settlors are resident or domiciled in the Island when the trust is created; and*

*(b) the will or wills are governed by the law of the Island; and*

*(c) each settlor is resident or domiciled in the Island on the date of his or her death; and*

*(d) the activity is ancillary to a professional activity undertaken by the specified person in a professional capacity.'",*

*and re-number the subsequent paragraphs appropriately.'*

*Page 12: At the end of Schedule 1 add –*

*[ ] . (1) Section 2(1) and (2) shall not apply in respect of a regulated activity undertaken by an individual who is a specified person (within the meaning of paragraph 12(2)) if that individual does not undertake regulated activities in respect of more than 10 trusts.*

*(2) For the purposes of sub-paragraph (1), in determining the number of trusts in respect of which an individual undertakes a regulated activity, no account shall be taken of any trust in respect of which a regulated activity would be the subject of an exemption under any other paragraph of this Schedule if that activity were undertaken by that individual.*

*[ ] . Section 2(1) and (2) shall not apply in respect of a regulated activity undertaken by an individual who is a specified person (within the meaning of paragraph 12(2)) if –*

*(a) at the time the activity is undertaken, the gross assets of the trust do not exceed £5,000; and*

*(b) no funds have been settled or provided to the trust other than those settled or provided by the settlors when the trust is created; and*

*(c) the settlors are resident or domiciled in the Island when the trust is created.'*

The amendment in schedule 1 to this Bill refers to the exemptions from the requirement to hold a trust service providers' licence in part IA of schedule 2 to the Corporate Service Providers Act 2000. The amendment is the result of representations made to the Financial Supervision Commission by the Chartered Accountants' General Practitioners' Group, who had only recently realised that their domestic business would not be exempt from the requirement to hold a trust service provider licence.

The other representative associations were then consulted, and have indicated that they do not oppose the additional

exemptions, because they relate more to domestic, rather than to international off-Island trust business.

Firstly, the testamentary trust exemption is to be extended to include the concept of 'domicile'. This is intended to cover situations where a testator has moved off the Island, temporary, or longer term, for example for medical reasons, but may still retain Manx domicile, because of his or her strong connections with the Island.

Secondly, the addition of the word 'Chartered' to the title of the Association of Chartered and Certified Accountants is merely a correction.

Thirdly, the new paragraph 13 applies to a trust that holds assets from a deceased settlor or his spouse's estate, but, unlike a testamentary trust, the trust was created during the lifetime of the settlor. This exemption applies only where the settlor or spouse was resident or domiciled in the Isle of Man at the time of death.

It is also restricted to services provided by specified persons who are defined as chartered or certified accountants, registered legal practitioners and Manx advocates.

The first of the unnumbered new paragraphs allows an individual who is a member of one of the specified professions to hold up to 10 trusteeships without being required to hold a licence. It is similar to the *de minimis* exemption under the corporate service providers' regulatory regime, which allows an individual to hold up to 10 directorships without having to hold a CSP licence.

The last exemption relates to small domestic trusts that are set up in a settlor's lifetime, for the purpose described in the paragraph 13 exemption. It has been common practice for local accountants to create such trusts which would, in due course, receive the greater part of the settlor's estate on his death. In this way, complex and detailed trust arrangements do not have to be included in the settlor's will. The trust, which may not hold more than £5,000, settled, initially, by the Manx resident person, remains dormant until the settlor's death.

Mr President, I ask Hon. Members to support this amendment, which addresses the concerns of the local chartered accountants, and which is not opposed by the industry representatives, who will, themselves, be required to hold trust service provider licences.

It is also supported by the Treasury, and the Financial Supervision Commission, I understand, are content. As the mover of the clauses stage has said, it is one that is complementary to the Bill.

I beg to move, Mr President.

**The President:** Mr Singer.

**Mr Singer:** I am waiting for someone to second it, then I wanted to make a comment.

**The President:** So am I.

**Mr Waft:** Could I second?

**The President:** You cannot do that, sir.

**Mr Lowey:** Can I second?

**The President:** Mr Lowey will second.

**Mr Lowey:** And could I speak to the amendment?

I support the amendment, because I think it is the industry, itself.

Can I, then, comment, just... I will do it in one go, to give the mover of the Bill a little bit of thought – time to consider it, anyway.

Nowhere in the Bill is there any penalties shown. I have looked, closely, at the schedules, and, again, it talks about: 'and a penalty can be imposed.' But, again, nowhere in the schedules does this show a penalty.

So, what happens if somebody transgresses? It is rather surprising in this Bill – and it may be in another Bill – but, perhaps, we should know what the penalties are, if they are being alluded to, in this particular piece of legislation. It seems strange to me that no penalties are mentioned.

But, as to the Bill itself, I believe it is regulating a serious part of a growing business for the Isle of Man, and I think it should be warmly welcomed, and, as I said at the First Reading, this is where consultation shows the pitfalls that could be, and I think it is right that we should listen to the industry, and make it as watertight... again, with that proviso that, perhaps, you could tell me what the penalties are. If there should be some transgressors, I reckon it should be shown in this particular Bill, as well.

**The President:** Mr Singer.

**Mr Singer:** I do support the Bill, Mr President.

I am just a little concerned that such a large major amendment should come at this stage of the Bill, if it has to come in Legislative Council. Mr Gelling said that it was very late, before the chartered accountants realised that it was not going to exempt domestic business, and this now changes it to exempt domestic business.

Was it, therefore, the Treasury's intention, at the start, that domestic business should not be exempt, and it was only then spotted by the chartered accountants? It was, obviously, put to the other place showing that domestic business should not be exempt, so, is this a change, therefore, of policy by the Treasury, having received representations from the chartered accountants, or was it just an omission? And if it was an omission, I would question why there should have been such a major omission, that it went through Treasury, it went through consultation, and it went through the other place, in all its stages, and it has only got to be corrected now.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I wonder, could the mover... I was a little confused by what he said when referring to the amendment in respect of certified accountants. Would he just confirm that, in respect of 12(2)(d), it should read 'a member of the Association of Chartered Certified Accountants'. I thought he said, 'chartered *or* certified', so I am not entirely clear. I take it from the wording that we have got here, it should read: 'Association of Chartered Certified Accountants'. I do not know whether that is correct or not.

And, Mr President, I can only assume from the fact that this is an amendment of the Corporate Service Providers Act, that the penalties are incorporated in *that* piece of legislation, but I am sure the hon. mover will respond to that. (*Interjection by Mr Lowey*)

**The President:** If I may, Hon. Members, if there are no further queries on this, could I just ask Mr Gelling, in fact,

to tell me where he finds the interpretation of 'domicile' or 'domiciled'. It gets used in a number of... certainly, in our income tax laws, it is well known, but I do not know whether it is in the Corporate Service Providers Bill or not. I would be grateful for that.

In relation to 15, in the schedule, on page 17, if Members turn to subclause 15 there, I find it interesting that in (b) we have a definition of 'company' substitution, so that we list the *stiftung* of Austria or Germany or Lichtenstein, and *anstalt* under Lichtenstein, a foundation under the laws of Panama, and then, in (d), we have the catch-all. So, why are they particularly spelt out? Why are those first three – (a), (b) and (c) – particularly spelt out, when, in fact, my reading would be that they could have come under regulations under section 22, anyway?

Now, perhaps, we will allow Mr Gelling to answer to the amendment first.

**Mr Gelling:** Thank you, Mr President.

First of all, can I thank Mr Lowey for seconding the amendment and, certainly, I will leave the penalty of the Bill in the hands of Mr Waft, because I am quite sure he has the answer for that.

Can I then go to Mr Singer – 'large amendment, very late' – I think we accept that. However, as I said, it was at a very late stage. In fact, that is why the mover did not put the Bill forward into its Second Reading, because we had been given notice that they had only recently realised that their domestic business would not be exempt from requirement to hold a trust service provider licence. So, I should suggest it would be rather silly to have gone forward, then found that it did affect that business, and then they lost business, because of the fact that they all had to become licensed, when, in fact, the intention was not to do that.

I take the point that you would think, with all the consultation that these Bills now get, that someone would have picked that up. Certainly, it was not picked up, but when Treasury were informed about it, because they then contacted the Financial Supervision Commission, they, in my opinion, rightly took the information, took the evidence and decided that it should be changed, at this stage, so that when it goes back to the other place, the Bill will be, I would say, acceptable to all those practitioners out there – even those who have to be licensed, except that they had no intention either of thinking that local domestic business would be affected.

Mrs Christian: yes, chartered and certified – sorry –

**The President:** No, in 12(2)(d) the word 'certified' is not used. It is, 'a member of the Institute of Chartered Accountants', and the amendment says: 'in the second paragraph, before 'certified' insert 'Chartered'. Well, there is no 'Certified' to insert 'Chartered' before.

**Mrs Christian:** Yes, there is.

**The President:** In (2)(d)?

**Mrs Christian:** In 12(2)(d), there is.

**Mr Gelling:** There are 'chartered' and there are 'certified'.

**Mrs Christian:** But are there 'chartered certified'? That is my question.

**Mrs Crowe:** Yes: ACCA.

**Mr Gelling:** Yes, there are 'chartered', and 'chartered certified'.

**The President:** Yes, I take your point, but we have got an '(a), (b), (c), (d), (e), (d)' there, if you read down page 12. (**Mrs Christian:** Oh, yes.) Sorry, Mr Waft, apologies to you, sir. But I see in now reading Mrs Christian's point, that, in fact, the subparagraphs read, '(a), (b), (c), (d), (e), (d)', so that is why we pick up the 'Certified' and the 'Chartered'.

**Mr Gelling:** Can I suggest that it will, in fact, be sorted out in the reprint, when this particular amendment goes forward.

**The President:** I think it may. Happy, Mrs Christian?

**Mrs Christian:** Yes.

**Mr Gelling:** Yes, thank you for bringing that up, it will be sorted in the reprint.

**The President:** They need to check that, again.

**Mr Gelling:** Can I, then, just finish off taking your point of 'domicile', Mr President. Quite rightly, there is nothing in the Bill as interpretation of 'domicile'.

However, I did suggest, in explaining it, that it is a person who has moved off the Island temporarily or longer term, for example, for medical reasons, but may still retain Manx domicile, and then, having had four minutes to address this particular situation, (*Laughter*) under the dictionary of law, it, of course, states that:

'Domicile – generally the country where a person has his permanent home'.

It goes on, then, to say that:

'he is a resident in the country and the nature and the circumstances of his residence indicate that he has a substantial connection with that country. A person's domicile of origin is that which he receives at birth, and also domicile of choice'.

but, then, comes the part that, really, is important: that you can only have one place of domicile at one time.

**The President:** That is only in text law.

**Mr Gelling:** Well, I am trying to interpret the word 'domicile', Mr President, and that is the only... and, certainly, we would go on case law, I am sure, to actually find what that 'domicile' actually means.

Also, the interesting thing I did find was that, if you are the father of a child under 16, they take their domicile from where their father says they are domiciled but, in fact, the mother is now... It used to be that the wife of the person was domiciled in the same place as the husband, but now it is not. The wife is now looked upon as an individual who can domicile somewhere different.

But that is as much as I could find on the word 'domicile', and I would say that it has been made a little bit more flexible than the interpretation of 'residents' for that very reason, to allow people... They might go off the Island to

be in a nursing home for six months, they do not lose their domicile in the Isle of Man. I think that is, basically, to try to cover that particular scenario, that, if they had to leave because of nursing care or whatever, that, certainly, is what it would cover.

Yes, I think that is the end of my interpretation, Mr President. I will leave the mover of the Bill to inform you of 15 in the schedule, (a), (b) and (c), sir.

**The President:** I think, apologies, with that, Mr Gelling, I would ask you to interpret 'substantial interest', whether it be a financial interest or not, in the interpretation of residents, which you have given.

**Mr Gelling:** Mr President, I have not got that particular page out of the law dictionary! *(Laughter)*

**The President:** Mr Waft.

**Mr Waft:** Thank you, Mr President.

Just to clear up a couple of points. Mention was made myself, Mr President, I think, of page 17, regarding (d) – why mention anyone under 15(b)? Mention was made of the *stiftung* in Austria, Germany and Liechtenstein, and an *anstalt*. I think that the mention was made of this, because, on reflection of Roman law, where there is no such thing as trusts, those were the names that were found in that particular... if you like, unique to that area, and I think that is why they particularly mentioned them.

**Mr Lowey:** Panama?

**Mr Waft:** With regard... yes. *(Interjection by Mr Lowey)* Yes, indeed. Why Panama, particularly? A foundation stems from the laws of Panama. I am not sure why, particularly, Panama was singled out, but I think that is the reason for the (a) and (b). Two out of three is not bad, anyway! *(Laughter)*

**Mr Lowey:** A good illustration. *(Interjection by Mr Singer)*

**Mr Waft:** With regard to Mr Lowey's query about the offences, they are under the... this is only mentioning the Corporate Service Providers Act, of course, and that is where the penalties lie. Of course, they may have the licence removed, and may be directed to act, et cetera, and also the fining powers could be changed, in the future.

I think that has covered most of the points under that clause, Mr President, and that schedule.

**The President:** Right, Hon. Members. What I put to Council is that clause 1 and schedules 1 and 2 do stand part of the Bill. To that, Hon. Members, you have the amendment in the name of the Hon. Member, Mr Gelling. Now, in relation to the amendment, those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Now, Hon. Members, I put to you clause 1, schedule 1 and schedule 2, as amended, and perhaps, Hon. Members, we would note that, on page 12, it could be possible that there needs to be a tidying of the alphabetical listing in 12(2). Those in favour of clause 1 and schedules 1 and 2, please say aye; and against, no. The ayes have it. The ayes have it.

**The President:** Hon. Members, we now turn to clause 2, Mr Waft.

**Mr Waft:** Thank you, Mr President.

Clause 2 amends the definition of 'trust corporation' under section 65A of the Trustee Act 1961, so that the trust corporation is defined as the holder of the relevant class of fiduciary licence.

Mr President, I beg to move that clause 2 stand part of the Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve my remarks.

**The President:** Yes, well, Hon. Members, I am happy that, to put it to you, but I would just note that in 2A(2)(c) you will notice that there is a 'deliberate' typographical error, there, where 'Limited Liability' is spelt wrong. Is that right? No, that is in clause 1, isn't it?

**The Lord Bishop:** That is in clause 1, yes.

**The President:** Part 2, clause 1.

Clause 2: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

**Mr Waft:** Clause 3, Mr President, protects the rights of third parties who enter into contracts related to a trust, for example buying property from trustees, with persons who have committed an offence under the Corporate Service Providers Act – that is, unlicensed trust service providers – and allows such third parties to enforce their rights.

Mr President, I beg to move clause 3 stand part of the Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve my remarks.

**The President:** The motion, Hon. Members, is that clause 3 do stand part of the Bill. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

**The President:** Clause 4 and schedule 3 – and we note that schedule 3 was amended in another place. Mr Waft.

**Mr Waft:** Thank you, Mr President.

Clause 4(1) gives effect to schedule 3 to the Bill, which contains miscellaneous amendments to the financial services and other legislation. The amendments aim to bring the legislation into line with internationally accepted standards of public protection, to take account of Human Rights issues, and to standardise procedures and rights.

Schedule 3 of the Trustee Act, paragraph 1 of schedule 3 amends section 41 of the Trustee Act 1961, by empowering the court to make an order appointing a replacement trustee, where the trustee can no longer act as a result of failing to obtain, or retain, a fiduciary licence.

It also extends section 56 of the Trustee Act to allow any person to apply to the court for the appointment of a new trustee.

With regard to the Building Societies Act 1986, in relation to the Financial Supervision Commission's power to license and regulate building societies, paragraph (2)

and (3) insert a new section 4B in the Building Societies Act 1986, which gives aggrieved parties the right to apply for a review of certain decisions made by the Financial Supervision Commission, and a new section 4C, which allows the Commission to require building societies to pay civil penalties.

The circumstances in which a civil penalty would be imposed, and the amount of such penalty, are to be specified in regulations which require Tynwald's approval.

These amendments to the Building Societies Act bring it into line with the review procedures and fining powers under other financial services legislation.

As regards the Financial Supervision Act 1988, paragraphs 4 to 9 make amendments to the Financial Supervision Act 1988. These amendments, firstly, clarify the classes of person to whom collective investment schemes that are not authorised or recognised schemes can be promoted, and grant Treasury the power to prescribe further classes of person in the future; secondly, create a right to apply for a review of certain decisions made by the Commission, and building societies to list of persons specified in section 21(1), so that Treasury may make regulations to establish compensation schemes for depositors in building societies; thirdly, add the Building Societies Act 1986 and the Corporate Service Providers Act 2000 to the list of Acts in section 22(1), to allow the Commission to publish information, to give advice et cetera, in relation to the operation of those Acts; and, finally, to amend section 24(6), to allow the Financial Supervision Commission, subject to certain conditions, to release customer information to other regulatory authorities.

In respect of releasing customer information, the Commission must be satisfied that: (a) the disclosure is in the public interest; (b) the recipient observes rules of confidentiality, and will hold the information securely; and (c) the request relates to statutory functions of the recipient, and will be used only for that purpose.

Furthermore, in making such a disclosure, the Commission may impose conditions relating to the release of the information to third parties.

Two amendments are made to the interpretation section of the Financial Supervision Act: firstly, by replacing the definition of 'authorised persons' to clarify the fact that a trustee of a collective investment scheme must be a banking licence holder who is also a permitted person under the Investment Business Act 1991, and a manager of such a scheme must be an investment business licence holder – Treasury is also granted the power to prescribe new classes of persons to the list of 'authorised persons'; and, secondly, parallel to the definition in the Corporate Service Providers Act already described, the meaning of the expression 'desirable in the public interest' is clarified.

The amendment to the Bill made in another place, in respect of section 6 of the Financial Supervision Act, was to clarify Treasury's powers to make regulations in respect of the provision of information to the Commission about a collective investment scheme and its operator or manager and trustee. The legislative draftsman identified the need for this amendment, during an ongoing review of the Authorised Schemes Regulations 1988. The Fund Managers Association was consulted, and supported the change.

Paragraphs 10 to 15 make parallel amendments to those made to other financial services legislation, to the relevant sections of the Investment Business Act 1991, in respect

of a public register of licence holders, civil penalties, a declaration that an individual is not a fit and proper person, release of customer information to other regulatory authorities, and rights of aggrieved persons to request a review of the Commission's decisions.

Paragraph 16 extends the definition of a 'designated person', in section 9(1) of the Purpose Trusts Act 1996, to include a holder of a fiduciary trustee service provider licence.

Paragraphs 17 to 22 amend the relevant sections of the Banking Act 1998. These amendments are equivalent to those made to other financial services legislation, and standardise the provisions relating to public registers, declarations that individuals are not fit and proper persons, civil penalties, and aggrieved parties' rights of review of decisions.

Paragraphs 23 and 24 correct related defects in the Companies (Transfer of Domicile) Act 1998 and the Companies, etc. (Amendment) Act 2003, and the prohibition on the application of part 1 of the Act, continuation of off-shore companies in the Isle of Man to persons carrying on fiduciary regulated activities, ceases to have effect.

Clause 4(2) of the Bill repeals section 2 of the Investment Business (Amendment) Act 1993.

Mr President, I beg to move that clause 4 and schedule 3, as has been amended in another place, stand part of the Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve my remarks.

**Mr Lowey:** Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** Far be it from me to add to my good friend's woes, in going through that lot! I thought I heard him say that this clause will amend the ability of the Financial Supervision Commission to disclose to third parties' information in the public interest, and then he promptly went on to say: subject to that person not being able to divulge it to anybody else.

Well, what is the public interest? How is the public interest served, if the Financial Supervision Commission knows that somebody is a wrongdoer, you tell one person, but you must not tell the general public?

I would have thought that it would, actually, be in the public interest for the world to know that that particular person should not be dealt with, or you do not do business with. Otherwise, what is the point of divulging it, in the first place?

Now, I know there was a lot of verbiage after that, and I could not follow it, to be brutally frank – but that is my problem, not the mover's problem!

Having said that, I have been a great one, in the past, for the Financial Supervision – if they know that there is a bad apple, they should tell the world about it. I have made that case in Tynwald Court, and it just seems to me that, if we are going to amend this legislation to allow them to do it, then I think it should be unfettered. If they know that they are not fit and proper people, then the general public should know about it, without all these caveats replaced by the hon. mover. Perhaps he would like to comment? Maybe I have heard him wrong – misheard him.

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President.

I have sympathy with some of the comments of the hon. mover, in that this schedule amends quite a number of different pieces of legislation.

In the old days, if we can harp back to that, we used to have Miscellaneous Provision Bills, which brought in amendments from left, right and centre, and it is not entirely clear to me that these amendments relate to the provision of the main piece of legislation. It seems to me – and I stand correction – that there are a number of changes in here which do not, directly, relate to the main piece of legislation.

Therefore, I just wonder, in a way, about the presentation of the Bill. (**Mrs Crowe:** Yes.) We start off with the first clause, amending the Corporate Service Providers Act. That is, we have, in the main body of the Act, an amendment to another piece of legislation. Then we move to a schedule to deal with the amendment of other pieces of legislation. I am not at all clear about why we have got this form of presentation for the amendment of various pieces of legislation, in this way.

It is difficult for lay people, who are not involved in the day-to-day financial services area, to, perhaps, understand the implications of all of this, and I do think we have to rely very strongly on the consultative bodies, who are dealing with this legislation on a day-to-day basis, and, to that extent, Mr President, I, certainly, am not going to oppose it.

But I do have that question for the mover, as to what the thoughts were when the Bill was presented in this way, with so many changes in schedule 3 relating to other pieces of legislation, which do not, on the face of it, bear any relationship to the fiduciary services changes made in the Corporate Service Providers Act.

**The President:** Right. Mr Gelling? No. Mr Waft, reply then, sir.

**Mr Waft:** Thank you, Mr President.

I thank the Members who have spoken.

With regard to Mr Lowey, the release of customer information: this particular... as I read it, it puts the condition down as the release of customer information to other regulatory authorities. This is not to the general public as such. The ‘not fit and proper’ directions will all be published – there is a mandatory recognition of that – but there are gateways between other regulatory authorities, when the situation like this occurs.

**Mr Lowey:** But you did... Could I just...?

**The President:** Yes, Mr Lowey.

**Mr Lowey:** Could I just ask, just press the mover on that point, but he did say, in his opening remarks, ‘in the public interest’. If it is in the public interest, then it is not for regulators to talk to one another, it is in the *public’s* interest to know if there is that sort of behaviour being dealt with, because...

I have made my point, sir, and I...

**The President:** Yes. Would you care to go over it, Mr Waft, again?

**Mr Waft:** Yes, this relates to the gateways, if you like. You are talking about one regulatory authority talking to another

regulatory authority, but, as far as the FSC is concerned, ‘not fit and proper’ directions will all be published. There is no problem with that.

**Mr Gelling:** I think, Mr President, if I can be helpful.

**The President:** Mr Gelling.

**Mr Gelling:** Regulators can discuss it, but then, if a person was declared not to be fit and proper, that is made public. So, the people know, if the bad apple is a bad apple.

**Mrs Crowe:** After investigation.

**Mr Gelling:** After it has been proven that that is the case.

**Mrs Crowe:** Yes.

**The President:** Mr Waft, continue, sir.

**Mr Lowey:** Thank you.

**Mr Waft:** I beg to move clause 4 and schedule 3 stand part of the Bill.

**The President:** Okay. Hon. Members, we note that the amendment was made in another place, but I put to you, formally, that clause 4 and schedule 3 do stand part of the Bill. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

We will turn, then, to clause 5. Mr Waft, please.

**Mr Waft:** Clause 5, Mr President, gives the short title of the Act, which, together with the Corporate Services Providers Act 2000, may be cited as the Fiduciary Services Acts 2000 and 2004.

Subclause (3) provides for one or more Appointed Day Orders to be made, to give effect to the provisions of the Act.

Mr President, I beg to move that clause 5 stand part of the Bill.

**Mrs Crowe:** I beg to second, Mr President, and reserve any remarks.

**Mrs Christian:** Mr President.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, may I ask that, under this clause, the hon. mover, perhaps, answers the question which I posed on the last clause, because it is equally relevant here, in terms of the citation being the Fiduciary Services Act, but the schedules are amending many, many pieces of legislation which... Perhaps, he can steer me as to whether or not they are all inter-related, as a result of the Fiduciary Services Bill, or whether they are miscellaneous pieces of legislation being amended, conveniently, through the mechanism of putting them in a schedule to this Act.

**The President:** I think it is interesting, too, that, in this particular clause, it brings them into operation at different

days, and at different times, so it is important.

But I noticed, I did read, in the explanatory notes, Mr Waft, whilst you were dealing with that other business, it says, in clause 4, 'gives effect' – Mrs Christian's point –

'to schedule 3 to the Bill which contains miscellaneous amendments to financial services and other legislation, and clause 5 gives the short title to the Act and subclause (3) provides for one or more appointed day...'

So, Mr Waft.

**Mr Waft:** Yes, I think, Mr President, that is the case. Clause 4 does give wording to the concerns of the Hon. Member. The financial services and other legislation often does impinge on other legislation, and I think the legislative draftsmen have tried to cover all the situations, which is of concern. Other than that, you are failing... you are starting a new Bill, really, and I do not think that was the case...

**The President:** Mr Delaney.

**Mr Delaney:** I was just interested, when my colleague here said about the 'old school' Amendment Act, which comes in. Are we now saying: 'Oh, well, let us get away with that, and while we cover that, we will just cover all these things, as well'? Is that what our new policy is on legislation? It is a good question that Mrs Christian asked.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, I take the point of Mrs Christian, because I can see the very thing she is raising, and that is that there are changes in here that do not, actually, affect the Fiduciary Service Bill, but the opportunity has been taken to rectify other areas.

Now, that is something that, certainly, I am sure we will take up with the legislative draftsman. It could be made clearer to people that that is the case. In other words, other than to go through the whole lot, and get out all those areas of change or amendment, you are not really clear, as to whether it all depends – those changes – on the Fiduciary Bill actually taking place. So, I take the point.

**The President:** It almost needs to be in the title, doesn't it?

**Mrs Crowe:** Yes, indeed: 'Fiduciary and Related Services'.

**The President:** Mr Waft to reply, then.

**Mr Waft:** I think, Mr President, that has been... we have covered most of the items that were of concern. I take on board what the Hon. Member is concerned about, and will look to that, in the future.

**The President:** Hon. Members, what I put to the Council, formally, is that clause 5 do stand part of the Bill. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Now, that concludes the Reading of the Fiduciary Services Bill, Hon. Members.

## BILL FOR FIRST READING

### Coastline Management Bill

#### First Reading approved

3. Mrs Christian to move:

*That the Coastline Management Bill be now read a first time.*

**The President:** So, we turn now to the Coastline Management Bill, which is in the hands of Mrs Christian for First Reading.

**Mrs Christian:** Yes, thank you, Mr President.

Members will be aware that, from time to time, in another place, the issues of problems with coastal erosion and inundation of low lying areas come to the fore. I think it has always been the case. Again, it is almost 25 years, now, since it was one of the first issues which I raised in respect of my own constituency, when I was elected to the other place.

Coastal erosion is of concern to those who live in areas affected by it. This particular Bill gives powers to the Department of Transport to manage sections of coastline which are subject to these natural changes. The intention of the Bill is the Department can exercise these powers in respect of any particularly relevant section of coastline, provided that Tynwald approves a coastline management zone being created. That is a matter for the Department of Transport to determine, and bring the matter to Tynwald.

Coastline management, itself, can be carried out in various ways. It does not mean that you have to do anything. It may mean that you recognise the forces of nature, and manage the land behind it, in a way which recognises those forces of nature. It may allow you to try and prevent erosion taking place. It may allow you to reclaim land from the sea, or, in some way or other, enhance or modify the effects of nature.

So, there are a number of options which the Department could have available to it, if coastline management powers are given to them. If coastline management zones are created, it is necessary, then, that the Department of Transport liaises with other relevant Departments, such as the planning authority in the Department of Local Government and the Environment; the Agriculture Department, in respect of land use adjoining the coastline; Manx Museum and National Trust, in respect of wildlife legislation and their responsibilities for archaeological and national monuments and so on. So, there are other bodies with whom they would need to liaise.

There are compensation provisions in the Bill for those people whose land may have to be taken in hand by the Department of Transport, and there are powers of entry for the Department of Transport to go onto land which is in a designated zone.

Specifically, within this Bill, there is a requirement for the Department of Transport to take steps to create a coastline management zone in the area of Kirk Michael. Hon. Members will be aware that there have been concerns expressed about this area, over the years, that there has been some work done in that area, the effectiveness of which might be questioned, in some respects, because we all know that if

you fortify in one place, nature erodes somewhere else, and all those issues would have to be taken into consideration, in respect of a coastline management zone.

The issue in respect of, for example, Kirk Michael, is to create a zone, so that, specifically, I think, planning issues will need to recognise the creation of that zone, and people will be aware of the effect of nature upon the coastline in that area.

Mr President, I think that summarises, at First Reading stage, what is intended in respect of the Bill. I, therefore, beg to move the First Reading.

**The President:** Mr Kniveton.

**Mr Kniveton:** Yes, thank you, Mr President.

As a Member of the DoT, I second this First Reading. I have done so, sir, after much consideration, as I am, to be fair, rather just a little half-hearted about the subject.

This Bill in this new form differs, quite considerably, from that put forward as a Private Member's Bill, in the first place, to the DoT, as it, really, only affected one area – and I do not have to say where that is. It was very loaded, and, thus, not acceptable to the Department or, indeed, to myself, until this compromise was arrived at.

However, sir, the Minister has assured me, as he has with many other Members in another place, about the potential implications of this Bill. I am advised that this is not leaving the taxpayer or Government exposed, in any way. I am told there are safeguards in place. That, sir, is the reason why I now accept the Bill.

The Department of Transport drafted this legislation, and the original mover is comfortable with it. At the same time, we have protected the taxpayer.

Now, sir, this is enabling legislation, and does not, actually, give the DoT any power, other than to bring a draft Order to Tynwald, and, then, sir, it is up to Tynwald. That is all it does. That was why I felt I could just about support it.

Having said that, Mr President, I do not think we will ever eliminate coastal erosion. Yes, perhaps, for a certain area, but then that just moves erosion to an adjoining area – probably, next door. History, sir, has shown that.

To conclude, Mr President, and, quite by chance, Captain Brew, the Director of Harbours forwarded to me a copy letter, which I only received last evening, and, as he does, generally, in post, over controversial matters, he gives me advice. It is a letter to Michael Commissioners, and I shall read it, if I may, sir – just an extract or so from it. I think it is very relevant, and pure chance that it came last night.

It was a letter from Michael Commissioners to the Chief Harbour Master, bringing to his attention certain areas that had been damaged by coastal erosion, which had already been protected.

**Mrs Crowe:** Mr President, would it be helpful if we had a copy of the letter, then we could read it first?

**The President:** It may, and I am aware of that, but, as we are dealing with the First Reading, I am content to let Mr Kniveton continue. But we will have it circulated for the Second Reading.

**Mr Kniveton:** Thank you.

'It is obvious from the photographs, contained in your letter and from discussions with colleagues that have been to Glen Mooar, that the damage caused to the rock armouring has been considerable. Many of these large rocks have been displaced and spread over the adjacent foreshore. [...]

'If your Commissioners are simply proposing to use a machine to pick up the displaced rocks from the foreshore and replace them against the infill area, such that the proposed work is a repair, then I am content to give my approval. However, if there is any intention to extend the works I would advise that your Commissioners should contact the Department for Local Government and the Environment, with a view to making a planning application.

'My principal concern in this matter [...] is that I am of opinion that: [...]

'The current design and construction of the sea defences will result in ongoing expenditure to your Commissioners.'

That is the part I think is very relevant in today's case.

Mr President, we are talking about a mighty subject today, and we should realise that, before we start spending money, or ever consider spending money, this is purely an enabling Bill, and we should consider that situation.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, Mr President, I think, I just follow on from the presentation made by Mrs Christian, when she mentioned compensation. Of course, my thought is very much similar to Mr Kniveton, who seconded: it could be a very costly business. But Mrs Christian's presentation said that this enables compensation to be paid for 'land taken by the Department' – I think were the words – for some type of remedial work.

I wondered whether that, also, implies that Government will compensate for the land which nature, in fact, takes. I just wondered whether it was double-edged, in that respect, that we would end up having to pay compensation for land which is being eroded, or the Government decides cannot be stopped, and then, eventually, is eroded. Does the same compensation apply, in that instance?

Thank you, Mr President.

**The President:** Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

I just would like to make the point that the area that has been mentioned, specifically, in this Bill, Kirk Michael, is not the only area on the Isle of Man that suffers from coastal erosion, and, in fact, in my own area, Gansay, the whole of main access road to the south was closed last winter – or, maybe, the previous winter. Certainly, at the present time, there are extensive works, presumably by way of preservation, going on, on that particular – what used to be a beautiful – beach, which is now nothing more nor less than a rock armament.

I will be bringing forward an amendment to include other areas of the Island for consideration.

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Mr President.

I am on the same track, really. I am slightly worried about this idea of the compensation paid. I own a bit of coastline – I do not, but 'I' being an imaginary person (*Laughter*) – and I risk the fact that the sea might take it, or the sea might make it even bigger.

If the Government then comes along, and I have done nothing to my bit of coastline, at all, in the years that I have owned it – I have just left it standing there – suddenly, I can get compensation for the fact that I own a bit of coastline. And I am just rather... Ought I not to be contributing to the fact that the Government is actually keeping my bit of land in the way that I inherited it?

I think there is a rather nasty hole, there, into which we could be pouring money, a great deal, if we follow down. I do understand that this just is an enabling thing that allows the thing to happen, but, I think, down the track, there are some bear pits that we could, very easily, fall into.

**The President:** Mr Singer.

**Mr Singer:** One of the first things that Mrs Christian mentioned was that the preventing and resisting of erosion in one area can move it well to another area, and I am wondering whether there is any implied responsibility, within the Bill, before any action is taken, that a close study has to be taken on the effects that might be redirected to other parts of the coastline.

Does the Bill, actually, outline the responsibility of the Department to ensure that studies are made within a coastal management zone? I am concerned that Mr Kniveton's words were, I think, 'the Department: they have no power' – I am not quite sure what he meant by the words 'they have no power'.

Another point I would like to raise – Mrs Crowe has raised one in the area where she lives, and I would like to raise one in the area where I live – is this Bill, and the involvement of any effect of the removal of the Queen's Pier in Ramsey Bay because of demolition.

Now, we know that would not be a natural phenomenon, but we do know that the forces of nature could well have a deleterious effect, and I know there is an opinion, and, perhaps, the mover herself is one of those who believes that the pier should be demolished. But would it need, therefore, for Ramsey Bay to be designated as a coastal management zone? And if so, would I be correct in saying that it would be Tynwald that would direct the Department to make such a designation, or could the Department make such a designation itself, under the Bill?

And would this Bill also ensure that there would be a full study – there would have to be a full study, if this was a full coastal management zone – of the effect on the beaches, to be taken, before there was a demolition of the pier?

And also, in this case, could the mover, please, outline to me the importance – it is mentioned in clause 13 – of the Wildlife Act and the conservation and protection of ancient monuments? They are relevant in any study, but how much importance would be placed on this by the Department, during any study?

Thank you.

**The President:** Mr Waft.

**Mr Waft:** Thank you, Mr President.

Just with regard to coastline management zones, it says here:

'The Department may, in accordance with the procedure set out in Schedule 1, by order designate any area of coastal land...'

**(Mrs Crowe: Yes.)** They can designate anything, so I am sure they would give consideration to any problem that has arisen in particular areas of the Island. *(Interjection by Mrs Crowe)*

With regard to the compensation, in clause 5, it says, particularly, that:

'The Department shall pay to the owners and occupiers of, and all other persons interested in, [...] compensation for all damage sustained by them in consequence of those operations.'

So, it is not compensation per se; it is particularly with regard to operations that have been undertaken, either by the Department or on behalf of the Department, where compensation has been necessary.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, I, too, speak, like Mr Kniveton, as a former member of the Harbour Board, and I remember a survey being done by the University of Newcastle – I just forgot the name of the professor that did it –

**Mr Kniveton:** There have been many done.

**Mr Lowey:** Yes, and it is quite clear, firstly, from the heading of the Bill – 'the Coastline Management Bill' – what an arrogance man has, that, somehow, we can manage nature! You have only got to walk along the coastline in a storm to see whether we can manage it or not. It is an arrogance, really, on our part. We cannot, and, no matter how much the Department would like to, and its engineers are skilled to do, it can only do so much. And when we have a sandy coastline, the wind plays as much part as the sea, so there will always be some erosion.

This Bill is cosmetic. There is no doubt about that – I think the mover even hinted as much, that it is a compromise Bill, from a Private Member's Bill to this one.

It is a dear cosmetic – but then cosmetic surgery is always dear, isn't it? *(Interjections and laughter)* Well, I would not know – I could do with some!

But the reality is the Bill says the Department is going to incur £40,000 worth of expenditure, every year: half a person, and that half person is going to be very busy, I would have thought, working like King Canute, telling the... well, it is a cross between King Canute saying, 'Go back!' to the tide, and the little boy with his finger in the dyke. I am mixing all my metaphors up, but you have got the feeling! Half a day, half a job and against the forces of nature: it really is a little... The picture just is not real –

**The Lord Bishop:** Point of order, Mr President.

I would just point out that King Canute actually said what he did to prove that the sea could *not* be governed.

**Mr Lowey:** Did he? What a wise man! *(Interjections)* The only other person I can think of who could be called into question is closer allied to my Lord Bishop, and he parted the waves, and walked on the waves – he is the very man we could do with half time or part time, to look after this particular problem!

Having said that, the Bill is suggesting to the general public that it is a comfort factor, and I do not think there is very much comfort in it, really. But having said that I will

go along, if the Department thinks it can, actually, use this piece of legislation, *if*, in the future, they *have* to act.

Coming to Ramsey, I would have said that the headline of this Bill is a *coastline* management, and not a coastal –

**Mr Singer:** It is coastline.

**Mr Lowey:** Coastline, yes, but... (*Interjection by Mr Singer*) No, no, the Pier is manmade, that is not coastline.

**The President:** We are getting a bit deep. I am sure –

**Mr Lowey:** Well, Mr President, the Bill, I think, is cosmetic, I do not think it is going to achieve everything that, perhaps... it is all things to all men. I will be supporting it, but I do not hold out much hope for the people who are affected, and think this Bill is going to be an answer to all their problems – because ‘it ain’t’.

**The President:** I think, before Mrs Christian replies, Mr Gelling would like to have another go.

**Mr Gelling:** Just coming back on the compensation: now, I think Mr Waft has, actually, made it more of a concern to me, because I would envisage, then, that if the Department moved in to manage a piece of coastline, and, in fact, nature then went in behind it, which is what I am told happens, then I would reckon, because Government had interfered, (**Mrs Crowe:** Yes.) the person *would* have a claim.

If your coastline is seen in its present situation: no claim on Government. As soon as Government... It is the same as a hole in the road: if you mend it, and somebody trips over it, you have got a claim, whereas if you did not know about it, you cannot.

I just am concerned.

**Mrs Crowe:** I am.

**Mr Gelling:** The only backstop here is, without any doubt, whatever happens, it comes back to Tynwald. But I think I would go along with what Mr Lowey said: expectations of people may be heightened by this, that the big figures are up there of compensation.

**The President:** Now, Mrs Christian to reply, please.

**Mrs Christian:** Thank you, Mr President. ‘Damned with faint praise’ comes to mind! (*Laughter*)

But I do think Members are clearly purveying the message that this is not something which will result in us rushing out to provide armoury around the coastlines of the Isle of Man – absolutely not.

What the Bill does do, perhaps more sensibly – and we should be focusing on the landward side of these coasts – is alert people, or allow the potential for us to alert people, to the difficulties caused by coastal erosion, or inundation of water in low-lying areas, and to make sure that they are aware, through the planning processes, that there are these dangers there.

What we do not want to do is have people building near coastlines that are going to be affected in this way. So, to that extent, I think it is a useful piece of legislation, albeit Members have focused on the other end, and that is to try and imply that we are going to stop coastal erosion.

We all know that the forces of nature are huge, and that there is little you can do in the face of the forces of nature to prevent erosion. But what you can do is improve management, and let us remember that coastal erosion takes place not only by the effects of the sea on the coast, it can occur as a result of bad land drainage and the effects of weather on the coastline, as well. Now, some of those things can be managed.

The Hon. Member, Mrs Crowe, referred, specifically, to Gansey, and we are all aware of the huge amounts of Government money that have gone into Gansey, in order to protect the road there. Now, I think that it is reasonable that we have a coastline management provision that enables the Department to protect roads, and, of course, the Department can determine where it feels it is important for it to have these zones, and go to Tynwald and make its case.

In respect of Kirk Michael, my hon. colleague in the Department has indicated that this came forward, in the first instance, as a Private Member’s Bill, in a somewhat different format, but via discussion with the Hon. Member who proposed it, it has come to us, now, in a form which is more sensible and manageable.

It does provide some comfort for the Hon. Member for Michael, in that it requires a draft coastline protection zone to be progressed in that area, and I would suggest the prime benefit of that would be in terms of the planning issues, rather than, necessarily, any engineering works in that particular area.

Members, also, have focused very much on the compensation matters. Compensation would only be paid – or potentially be paid – in respect of land where the Department has undertaken some coastal works. Now, as I indicated before, it may be – now, what is the word I am looking for? – the ‘bevelling’ (**Mr Gelling:** Yes.) – the reduction in angle of the cliff, by taking in some land on the landward side, (*Interjection*) which could, effectively, slow down the erosion. But should any such work take place which might result in the enhancement of the value of the land beyond that, that also will be taken into consideration in calculating any settlement with a landowner.

The issue of works taking place and affecting adjoining areas, or areas some distance away, I am quite sure the Department, with its experts, would be looking at all those issues, where it was considering embarking on any engineering works of any kind.

The Hon. Member for Ramsey has talked about – (**Mr Singer:** Ah, no!) Sorry, no! (*Laughter*) The Hon. Member who *was* for Ramsey – the Legislative Council Member for Ramsey! (*Laughter*) – has talked about the Queen’s Pier. Now, I believe that, if Tynwald determined that the Queen’s Pier should come down, it can do that without creation of a coastal management zone. It is not a consequence; the two things are quite separate, in my mind, and one could happen without the other.

In terms of the coastline in that area, I can think of no reason why there would need to be a coastal management zone declared in that area. The Hon. Member is arguing, perhaps, that if the pier were removed, there could be consequential effects upon the coastline. Indeed, it is possible that there could, but it would be at that point it might be determined whether or not a coastal management zone was necessary.

I think we have to remember that that bay was in existence for many, many eons before the Pier went up, and

the Pier is a relevantly short duration, in terms of the structure of the bay and the coastline!

He also asked about the Wildlife Act: the Department is obliged to comply with the Wildlife Act – that is the top and bottom of it. It is not a question of whether they will take it half-heartedly or not, they have to comply with it.

The Hon. Member Mr Lowey has talked about the arrogance of man, in thinking they can manage the coastline. I would suggest to him that, indeed, if they thought that they could stop the erosion taking place, that would be an arrogant thought. I think we have moved on from that: we do recognise that the best we can do is, possibly, just manage and inform, and handle the effects of erosion – or accretion, as the case may be. You go to the Point of Ayre and see two lighthouses because of the accretion. So, there are those issues in terms of safety at sea, and all the rest of it.

He argues that it is a compromise, and a cosmetic measure. To the extent that it is enabling, one might argue that it will be invoked, I would suggest, in very specific circumstances. Nevertheless, I do think that, in certain areas, it will be a useful measure, in terms of informing the wider public about the consequences of coastal erosion.

I hope, Mr President, that I have answered everyone's questions, if not specifically by name, and I beg to move.

**The President:** Hon. Members, the motion is that the Coastline Management Bill of 2004 be read for a first time. Those in favour, please say aye; and against no. The ayes have it. The ayes have it.

I am sure further discussion will come on this particular measure, before Council has finished with it!

**Several Members:** Yes!

**Manx Electricity Authority activities  
Council of Ministers to examine and  
consider placing Member on board  
Amended motion carried**

4. Mr Lowey to move:

*That this Council requests:*

*(a) the Chief Minister and Council of Ministers to examine fully the past activities of the Manx Electricity Authority, its officers and associated companies and committees; and*

*(b) the Council of Ministers to place a Member of Tynwald or Officer on the Board of the Manx Electricity Authority as an interim measure.*

**The President:** Now, that completes the legislative part of our Order Paper this morning, Hon. Members, but, at Item 4, we have a motion in the name of the Hon. Member, Mr Lowey. So I call on Mr Lowey, if he still wishes to progress. Mr Lowey.

**Mr Lowey:** Thank you, Mr President.

I am not in a John the Baptist mood: I am not asking for heads on platters. In my usual style of understating and general acceptance of people's good faith and intentions, I approach this particular matter.

I make no apologies to my hon. colleagues for returning

to the MEA affair. It is going to have a series of effects on the reputation of this, and previous, Governments, but by far the most serious is the effect it is going to have on the consumers of electricity. Bills current and future are but a taste of things to come, and the proposition, suggested by some in the MEA, that it has cost the taxpayers little or nothing, I think, can be dispelled. Is this not another example of playing with words, since 99.9 per cent of the population uses electricity and, therefore, it will affect them? It may not be as taxpayers, but it is going to be as electricity consumers.

The bills are beginning to arrive and, already, the Office of Fair Trading is getting snowed under with complaints. 'They ain't seen nothing yet!'

Industry, also, is being affected, and will continue to be affected. Let me, again, remind Members that, as politicians, we have got to say what we mean, and mean what we say. When Tynwald is told, as I said last week, that they had a total bill of £185 million, the biggest single item of expenditure being incurred, on a clearly spelt out list of initiatives – that list, by the way, was spelt out by the MEA, itself – and it was said at the time, by Government, that no more would be required or given, even if asked for, and parliament agreed that, then I think parliament is entitled to be told, or informed, when we differ from that position.

The staggering figure of another £125 million, or £120 million, the second largest figure of public expenditure in our entire history: it is not good enough to say that circumstances change and events happen. That, obviously – and it is stating a blindly obvious thing – happens in life daily, and that happens for everyone, and it is not a special occurrence for the MEA.

And then for them to, unilaterally, discard the rules and regulations, and to resort to – and I am using words, on this occasion, which I think illustrate, perfectly, their actions – sharp practices, and to interpret the rules to suit themselves, I think is dangerous, and foreign to accepted practice – not only in public utilities, I may add, but I would hope in the private sector, in private business, as well. I believed, and I hope that I still do, that this underpins our reputation for quality, which we have sold the Isle of Man on, for the last 20 years.

Mr President, I do not believe that we have a set of rules and regulations that are chameleon – changing to suit the mood, the motivation or the individual. People are saying it to me – and I cannot believe they are not saying to other Members – and I cannot answer it: why do we withhold, without a second's thought, or suspend suspected wrongdoers in every other walk of life – whether it is civil servants, police, doctors, politicians, others, the list is endless – and still, with a catalogue of doubtful behaviour, at best, we appear to do nothing to curb or control those who have solely, or collectively, put us in this position?

Now, I believe it is a reasonable question, and it deserves a reasonable answer. The original idea of Government, that we hire an expensive £100,000 report by accountants – which I supported at the time – and that will suffice, does not stand examination now. And why? I think it is because of the actions and behaviour of a former employee of the MEA, the Chief Executive, whose responses in public, to put it at its most charitable, confused even further the position – but then, I think that was the aim of the operation, anyway.

And if we heard the Treasury Minister giving a reply in another place, before we came in here this morning, you will see what I mean about further muddying the waters.

How have we arrived at this position? Motives are being impinged by those of us who are keeping it in the public eye. I, definitely, am amazed, worried and unable to give cogent answers to simple uncomplicated questions – questions such as: why have the members of the Authority acted in the way they have, as if they were sole owners of this company, dealing with hostile forces arranged against them?

Mr President, it was a publicly owned utility, doing a service for the people of the Isle of Man, they had been treated well by the Treasury, with very advantageous results for them and for the consumers of electricity. What is so difficult? Why the secrecy?

Why, since the arrival of the Chief Executive, has there been secrecy and an aura of giving as little or as misleading information to the regulators? And the regulators, in this case, were, undoubtedly, the two Government agencies, which were the Treasury and the DTI. I do not blame either organisations: one would assume that we were dealing with decent people.

And I have to ask this question: why is financial probity stretched beyond any reasonable interpretation, in dealing with banks and financial institutions of which you are so closely involved that it makes ‘incestuous’ seem totally inadequate to describe it? It is not acceptable – should not be acceptable.

Why did the Authority not comply with the 2003 Gas and Electricity Act? We have just passed it: we enabled them to do certain things, clearly defined in that Act – what they should do, in co-operation with the DTI and the Treasury. They did not.

I dread to think – and I have to bring it up – why they formed committees of themselves: the MEA directors are members of subsidiary firms who are then advising themselves, as committee members. So, the committee is advising the subsidiaries, which are advising them, and there is a cogent membership all the way through! And the expense of that – £600,000 – is borne by the consumers.

Why is the Authority not being investigated – and I say this, directly, to the Chief Minister – by the financial regulators, namely, the FSC or the police?

I hope the Chief Minister can reassure me, and the general public, that the delay for any action by the authorities will not weaken, or invalidate, any case that may or may not arise out of any findings in the future.

I am fully aware, myself, that you can be an accomplice before the fact, and you can be an accomplice after the fact. Now, what I am really saying to the Chief Minister is: it is as serious as that.

Have any instructions been issued – and I have to say this, because we have other utilities: water, post office – have they been given any instructions, in the light of the experience we have had with the MEA? I do not believe, for one second, that those Authorities, by the way, have done anything untoward, in my view, but I pose the question. Have any instructions been sent out by the Treasury?

Are the Chief Minister and the Council of Ministers content that parliament has not been misled? It is quite obvious it has been misled. I am sure the statement was not intentional, but if you read the *Hansard* of the 2001 debate, you can see, quite clearly, that what was proffered there has not actually been delivered, and that, I think, requires some adjustment. An apology would not go amiss by someone, at some time.

We wonder why people do not have a high regard for

politicians and the political life of the Isle of Man. When they see things happening that are unaccountable for, and nobody being held to account for them, and we are left... I must confess, I feel sometimes that I am left wringing my hands, to try and explain a situation which is almost unexplainable.

Mr President, I know I do not have just the sole concern about the MEA. Other Members, obviously... and I say that: I *know* other Members, equally, have concerns, but why the reluctance or the apparent reluctance by us to act?

Now, somebody will say to me that we have acted: we have we have set up a firm of accountants. But those accountants will... And the Chief Minister certainly knows my feeling on this, because I wrote to him in November, after it was agreed that we should, with my misgivings and my fears, and those fears are even being compounded as the months go by. After this morning's intervention by the Treasury Minister, in another place, I think he understands exactly what I am saying.

**The President:** Many of us do not have any knowledge of that, Mr Lowey, so –

**Mr Lowey:** Well, if I, then, may, just briefly, put it to the Council: it was the allegation that the £120 million loan had gone out to tender. It did not go out to tender, and the Treasury Minister spelt out that even the successful tenderer, Barclays, gave two quotes: one if the Government was taking the loan out; or one if the MEA. The MEA was a much dearer interest loan on the consumers, and, for some inexplicable reason, or so far, they accepted the dearer quote. That is what was said in another place. I heard it on the intercom in the Members' Room, before coming in here.

So, again, there are a whole series of... ‘It went out to tender’; ‘no, it did not’, or the Treasury are telling us, ‘no it did not’. So, as far as I am concerned, as each week goes by, there is more and more disillusionment – and I am using the word loosely.

That is why I am asking, in this resolution, that this Council requests the Council of Ministers and the Chief Minister to oversee and examine, fully, the past activities of the MEA, its officers and associated companies and committees, and that the Council of Ministers place a Member of Tynwald or officer on the board of the Manx Electricity Authority, as an interim measure.

What I cannot understand is: first of all, I know the MEA refused to speak to the Chief Minister and the Council of Ministers, then they were forced to by the Chief Minister, using the appropriate piece of legislation. Since then, it seems to me that we have got no say in what has been done or is being done, and, in the meantime, they have appointed a new chief executive officer, and I do not know what else. The show must go on, and I recognise that. The provision of electricity is important, Mr President. It is vital. As I said, 99.9 per cent of the population is here, but I do think we need to have someone in there, to safeguard our interests.

Mr President, I beg to move.

**The President:** Mr Delaney.

**Mr Delaney:** Thank you, Mr President.

I do not take any pleasure in seconding this resolution, but it is something that has to be done. It is part of our function, on behalf of the public.

We have all sat back quietly. Members may or may not be

aware, but the situation is that we have an ex-Chief Executive saying – and this is himself saying this – that he has nothing more to do with the Electricity Authority. I challenge that, and I challenge it by the way we have had to extract any information for the money paid out from the public, for the information we have been supplied, and the commitments that were given at the time of the initial borrowing of £180 million.

We had commitments then, for example – and I am going to use very few examples, but I will use this one – £10 million of public money would be used to investigate wind farms. All I have had, and the public have had, for that £10 million, is a statement on the radio station to say it would not work here. I want to know: is there a report anywhere, for this £10 million, that would justify the expenditure of the said £10 million to the Government?

And if that is the case, why have we, as Members of Tynwald, not seen it? If there is no report, what happened to the £10 million? It was vired somewhere else.

The general public, Mr President, believe there is a magic circle in being in the Isle of Man of persons who are such superior beings that they can do what they want, with this amount of money, and can virtually walk away from any responsibility for the spending of it.

I question – a second example – how it is that, if we had a situation where the initial spend was there, and the commitments that Mr Lowey has referred to were given – and this is the suspicion I have, and what needs to be cleared quickly – is that, when they realised there was an overspend of this money, to stop any personal embarrassment of incompetence, they went away to borrow another £120 million, to make up the deficit of the cost of the services that we were promised for the initial money. That seems to be the impression that the public have, and, certainly, some of us have, that there would be no personal embarrassment to anybody over the original quotations, which were so badly organised that they had to go and, subversively, get this other money.

If that is the case, somebody needs to come and sit in front of somebody, so we can all hear and get an explanation.

I am aware also of this committee, which the Members all know about now, because it was drawn out like hens' teeth, and that there were huge figures of £300,000 a year put to one side to pay the committee. I would like to ask a question of somebody, before we get to the number-crunchers, which we have agreed to, with £100,000, to say: where is the report that this £300,000 a year was going to be spent on, telling us what they were doing?

Can we humble representatives of the public and our colleagues in the Keys, who are directly representing the public, have a look at when these meetings took place, what was discussed for the £300,000 a year, and what conclusions were come to? At least we should be allowed to say that, when we are asked by the public: why did they get these huge fees on this committee? We should be able to answer the public, the taxpayers, 'Oh yes, we know why it was –  $x$ ,  $x$  and  $x$ .'

But we are expected to forgo all this, and to say to the public we do not know. It is so unfair to the Members of the Keys, and us, to be in a situation where the public cannot have any support, at all, from their elected representatives, or us, that make up the Tynwald Chamber, because we are unable to give them any answers.

The ex-boss-man of this organisation has gone on

the radio station, and he has said it will all be right in 18 months' time, everyone will know exactly. This is part of the statement that has been made. Did the Government, has the Government, or will the Government give to Members how he justifies that statement, when, this very day, the Consumer Affairs Department is meeting the electricity undertaking to find out why the hikes have gone up, that the public are now complaining to their Members of the Keys about, and us about. I do not know how many Members round this table have already started to get the complaints of the bills that have just come through, and, worse still, having got the new increases, they are told of the possibility – from me, I have got to say it – there will be further hikes.

One of the biggest problems this Island has, at the moment, which we all know about for the employment prospects of so many people, is the cost of power, and all the commitments we have been given. We already know that, when they say about, 'Oh, well, it will be alright in 18 months' time'. I have asked. I want to know of someone who will show me, give me a document, a hard copy of how this will be alright in 18 months' time. That is the least the public have a right to.

When this interview took place on the radio, there was nobody there to ask any of these questions on behalf of the public, and I think that is unfair to us and the public. I believe that was done, purposely, so that the public representatives would not have an opportunity to ask those questions.

Mr President, when we get down to the number-crunchers for the £100,000, they will very well do their job in their specific field. That will not help us or the Members of the Keys to actually get down to the questions of why, at that time, they were misled by the statement made on 11th July 2001 – and yet, they have a right to it.

I believe this resolution will go some way. I am aware, very conscious, of the situation of the detail that we cannot get to a situation where we may hurt ourselves. I am not in support of a police investigation, myself, personally, because I know, from experience, that will bring everything to a standstill, but, at the end of the day, what we do need is an opportunity to ask these people, who virtually...

And this man, who got on the radio station, through a committee, firstly, gave himself a 45 per cent pay increase, by forming the committee. That, surely, has to be an answer that the public are entitled to know, and this was done... And I am sorry to say it, but it is true, when people say to me, 'Maybe they did not understand the rules, coming from the big world outside of high finance', that cannot be right, because one of the members of the committee is an ex-Minister, and knew the rules of encounter in politics!

So, do not try to explain to the public they were ignorant of the fact they could not do this, or should not do this. They had somebody there who knew what the rules were of engagement, and yet it was still done.

Mr President, this will not go away for the next couple of years, I am aware. When we come to the Budget in a very short time, what has happened here affects that Budget, it affects every man, woman and child in the Isle of Man – in some cases the children for the next 30 or 40 years of their life, on the loan charges which have to be paid to service this debt. So, I believe they are entitled to an explanation, and quickly, by somebody sitting round a table and asking the questions.

Having a situation where it will be done through accountants is fine, as far as the numbers are concerned,

but it is the real questions of why, where and how they got themselves and the Manx people into this position.

I am pleased to second. It gives me no satisfaction to have to do it, but I believe the people will not last too long, before they demand some answers, when electricity bills come through the doors and nobody has given them any answers.

Mr President, I beg to second.

**The President:** Mr Singer.

**Mr Singer:** Thank you, Mr President.

I think we all have concerns, and I know that Mr Delaney and Mr Lowey, quite rightly, have expressed views of their worries, and whether there have been omissions.

I was a bit worried about one of the very first statements of Mr Lowey, when he said something like, 'We suspend suspected wrongdoers.' (**Mr Lowey:** Yes.) We do not, actually, know that anything has been done wrong, that anything is outside the law, and, to me, that is important.

So, when Mr Lowey says, 'Bring in the police,' I am surprised, unless he is implying that he knows something that we do not know, that there has been something done wrong. If that is so, then I think he should be informing the police, if he believes that there is something illegal happening.

But we do not know yet, fully, what position Tynwald or the Government has been put in. Mr Lowey has been talking about several respected people on the MEA board, and I am a bit bothered that he is, again, blackening their names, when he does not know that they have done anything illegal, at all. I am concerned about that. I do not think that some of the things he said in here today, with due respect to my colleague, he would have said outside, about the MEA board.

As I say, we do not know anything illegal has taken place. We may not like the way that the business is being run, and we may want to find out why it has been run that way, and there may well be omissions in the Acts that have allowed them to do certain things that we do not like, but I do believe we need a full report, and I believe that it is Tynwald's job to decide what, if anything, is the next step.

We have all got concerns, we all may be disillusioned at the way the MEA has been misled, and I think we all support the need to bring all the facts into public. I would have thought that this debate and this resolution should have been in Tynwald, next week. (**Mr Kniveton:** Hear, hear.)

Let us find the answers to the questions that have been asked here today, but I am sure that it would have been much more effective if Mr Lowey had placed this resolution, as a matter of public importance, on next week's agenda of Tynwald.

**The President:** Mr Kniveton.

**Mr Kniveton:** Thank you, Mr President.

Whereas I have a tremendous amount of sympathy for Mr Lowey and Mr Delaney, who have spoken at length so far, the notes I have written here – and I wrote them last night – were... and Mr Singer has confirmed... well, I do not think he has been reading *my* notes, but he has got down there, what I have got here.

This, sir, is a matter for Tynwald. It is not a matter for this Legislative Council. We are only part of Tynwald, and I have written:

'and requires Tynwald approval to this motion.'

I would beseech Mr Lowey that it is to Tynwald he should go, with this particular motion. I am sure, in brief, and that is what I said to myself last night. Thank you.

**The President:** Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

I support the motion as written on the Order Paper, because I do believe that it is an appropriate time now, not only to look at the MEA, and the way in which it functions or has functioned, but also the other Statutory Boards of Government that are, at the moment, placed in a quite invidious position.

Being a chairman of a Statutory Board myself, I would like to know, if the members of the Statutory Board of the MEA have granted to themselves an extra £5,000 per annum for being part of an audit committee and other committees such as Health and Safety, can the members of my Board, of which I am only one, vote at our next Board meeting that the members of our Audit Committee and our Pensions Trustee Fund and our Negotiation Committee also grant themselves another £5,000?

I think there are a number of issues that a subcommittee of Council, or whatever, could, indeed, start addressing now, and these are fundamental issues. We are, continually, told we must wait for the report. I think one needs to know the way in which auditors work. They can only report, if they are given *all* the information: immediately, they can start work. If there is information that they do not receive, and they have to go looking for, we could be looking for getting that report in July, August or September.

This is going to be a thorough investigation, I feel certain, by the auditors. It will not bring a report, in my own mind, within this next couple of months, and I do think there are some fundamental issues that need addressing.

Mr Singer, who is, of course, a Member of DTI, has said that he does not think that anything has been done that is outwith the legislation.

**Mr Kniveton:** He did not say that.

**Mr Singer:** I said it had not been proved. As personal explanation, I said we do not know of anything that has been –

**Mrs Crowe:** No, well, reading the legislation myself – and I may be wrong, of course – it does say that the MEA should not have borrowings, unless authorised by Treasury. Now, we do know that it was not the MEA that borrowed the money from the bank, but the MEA, certainly, borrowed the money from the subsidiary company that borrowed the money. So, whilst it is a fine play with words – (*Interjection by Mr Singer*) Well, the way I read the Act, that seems to be the case.

But I think a subcommittee of the Council would be very useful, looking at a number of these legislative issues and, indeed, the whole legislation that applies to Statutory Boards.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, thank you, Mr President.

In the first place, I am not going to attempt to try to defend – I am not the spokesman of the MEA, I am purely and simply

answering the question posed by Mr Lowey, as to why the Government are not doing anything, at this time.

If I can take it in order, I think Mr Lowey said the consumers will end up paying. Of course, this inquiry – and I must take the point that has just been made by Mrs Crowe – is not an audit. It is accountants carrying out an inquiry in two parts: how was the situation that we now have arrived at; and how is it going to be addressed in the future?

I would suggest that how it is addressed in the future, depending on the co-operation between the MEA and the Treasury, will depend on whether or not, in fact, electricity goes up, or whether or not there is a financial package which will allow that to be spread over a number of years, and, of course, this is one of the questions that has been asked: why was some of the revenue capitalised? Of course, that was done in a way that would remove the need for increasing electricity charges.

But, again, that is something for the future that will have to be decided, once we have the inquiry results of the first phase, ‘How did we get this situation we have?’

Also, I must comment on the statement that we must suspend suspected wrongdoers. Now, at this time it might be something – and I would share the concerns of that fact that we do not like what we are hearing, we do not like, perhaps, what we feel has gone on – but it might very well be that everything that has happened has been purely legally acceptable, and legally correct.

Now, we cannot, therefore... It is a bit like the Fiduciaries Bill: we said there about exchanging information between regulators. At the moment, we are exchanging information between Treasury, ongoing, with the MEA, and at the end of the day, whatever the results of the inquiry are, we end up with having, then, to make a decision on what then you do. But you must have the facts of what it is has happened, before you, actually, make that decision.

Then, of course, Mr Lowey said, ‘Well, why have the financial regulators, like the FSC or the fraud squad, not been brought in?’ Well, the Financial Supervision Commission, of course: it is broadening out, now, to, perhaps, suggest that there was wrongdoing by licence-holders, not the MEA, because the FSC, of course, does not have control over the MEA. Perhaps Mr Lowey could confirm: is he saying that the banks that were licensed to, perhaps, operate in...?

And then the question was put there was no tender. Now, we come into the realms, again, of interpretation. What is a tender? When has a tender taken place? If you have been invited to tender, and your tender has not been accepted, or you are invited to tender and you ask a question, and then your tender has not been accepted...

It is all information that we await, because we have had suggestions that the tender process, as we would expect, was not followed. Okay, but it is only what we have been told, or what information we have. Now, I know the Hon. Member on my right gets frustrated, but I also get frustrated, (*Interjection by Mrs Crowe*) because I would like to be in the position to be able to answer to Members, exactly how the Government feel, and how they can actually take this, and give Members the answers. But until we get the answers, we cannot very well give them the information, to have an informed debate, because we are all going on what has been said here, what has been said there, what somebody said on the radio.

All I can say, Mr President, at the moment, is that we have co-operation with the MEA. The new Chief Executive is being extremely co-operative with the Treasury. So,

therefore, this is an ongoing process, outwith the actual inquiry that is going on by an outside agency, that has been employed, through a tendering process, to be able to take on...

And their remit is not just to audit. Their remit is quite clear: why; how; now; where do we go from here? So, they know exactly what is expected from them. Now, again, there was expressed concern. Members are concerned.

I can assure you: Treasury are extremely concerned, and also the Council of Ministers is concerned. We spent a long time, last Thursday, discussing the very point in (b) of the motion, and that was: is this the right time to put a parliament Member into an Authority? Now, I would suggest the outcome that we had, after that discussion, was: it is, probably, too late and too early.

It is in that position whereby to put someone in there now... are you saying that that person is being put in to come back and tell tales to Government as to what is going on? Well, I would suggest, again, if you look at the MEA regulations and the MEA legislation, it is quite clear that, even if we put a Member of parliament into there, they become an MEA board member, and they will have to adhere to the rules and regulations of a board member in the MEA. So, after a long period of discussion, it was decided that it would be unfair, also, to someone to put them in there, at this time.

Now then, when the inquiry comes forward with the information that we need, so that we really know what we have got and what we want to discuss, I would suggest that that, probably, is the time that we should be saying, ‘Well, now we should be putting a member in there who is a member of Government.’ But the same thing will apply: that person becomes a member of the MEA, and, therefore, is a conduit through which information can flow, but their allegiance must be to the board of the MEA.

I have already said: when is a tender not a tender? We are hearing all kinds of statements that it was not a proper tender process. That is something that we have to find out. What was the process? What did happen? How did it end up which tender was received? How can you make a statement that somebody was not involved in the tendering process, and then receive a document which shows that, after the tendering process, that person signed on behalf of the MEA?

Now, these are the areas of difficulty, where I would say that it is not just accountancy, but we need the accountancy information as to how all this happened, to then get legal interpretation, and legal advice, as to whether or not all this was, in fact, done correctly and properly.

We moved on, and the hon. mover mentioned it, and also the hon. seconder mentioned it, about the Skyward Committee. Now, you can have all kinds of thoughts as to how a committee was formed, when the Skyward company was, in fact, dormant, and that is another area that the Hon. Member who seconded it had, actually, asked me about, himself, personally, as to whether this money was being paid and whether it had been paid, and so on.

The information I have, at the moment, is that it is paid on a monthly basis. It is not paid as an annual fee, it is paid on a monthly basis, and I understand that, in fact, the situation is that it only started, I think, after October of last year.

Now, because of the concern expressed to me, I, in fact, have written to the MEA Chairman. I cannot demand, I cannot direct, but I have suggested that, perhaps, it might be something for them to consider that those payments might

very well not be made until the inquiry has finished. That is because that is how, legally and lawfully, we can actually do that, otherwise we cannot direct.

Again, it is assuming that, in fact, they are incorrect. Now, we could find that there is a very good explanation, when it all comes to the fore, that those payments have been made for work done in that committee. I am not in a position to actually say, one way or the other, but I take on board the concerns.

Now, again, the statement was made by the person who was on the radio that it will be alright in 18 months' time. Now, it could very well be alright in the minds of him, and, perhaps, his advice to his board members, at that time, was: 'Yes, it will be alright,' because the way in which the financial affairs of the MEA are structured, in the future, could very well make it that it is alright, because of the way in which that finance is spread over a number of years.

Of course, we come, then, to the situation which I know has concerned Members – it concerned Treasury – and that was we went out for one bond, with another Authority, and, immediately, the rates went up, because of the revenue implications of a sinking fund, and the way in which the interest would be paid, and some of the capital. That is the way we have always, I think, understood that when you get a loan you do not just pay the interest, you pay the capital, so that it comes to a finality, at some time. This was another way in which they have done it.

Now, they have done it in a way that was spreading it over the years, that, come 30 years' hence, the amount of £185 million will appear to be very small. I would suggest that is the way they were doing it, and it would be refunded, again.

I can only say, when the Tholt y Will reservoir was built, at the time it sounded an awful lot of money, but now, when we look back, and think of what it cost, we think what a wonderful idea it was, because we have now got plenty of water, and, in fact, if we had not had it, and it had not been built, and the parliamentarians of the day had not gone for that extra – I do not know – 12 metres, or whatever it was, we would, probably, have trouble with our supply of water.

The committee asking questions, now, that was posed: why is there not a committee asking questions? I would, again, suggest that, when the facts are all brought to us, that is the time that we are in a position to start asking the questions as to how, in fact, these decisions were made, why were they made, whether everybody was informed of the decisions and so on. These are all the suggestions that have been made to me.

All I can say is that board was set up with men of high integrity of the industrial and manufacturing Isle of Man. We all knew them very well, as being very successful, and all I can say is: I would be extremely surprised, if those men had knowingly entered into anything that they thought was improper, illegal or not the way an authority should, in fact, be working.

So that is all I want to say on that, Mr President, except to come in... Mr Singer has gone. Mr Singer has questioned the point I have already raised about suspending suspected wrongdoers. Well, you cannot do it on a suspicion. You have to make sure that you hold it fast, at this time, and I would suggest that is what Treasury have done. They have held it fast, at this time, to enable the inquiry, which is independent – we must not interfere – so that they can come forward with their account of their inquiry into the financial situation at the MEA.

I think, basically, Mr Kniveton comes from exactly the same situation of: when we have got the full facts, then we can certainly make a decision as to... We might find it was all perfectly legal, but it might not be what we want, or it might not be what we like, and it might not be what the public, out there, would like. Then, I believe we have got to, actually, take the action that is required.

Mrs Crowe says she supports the motion on the board, and being a chairman of a Board, does the Board allow this to happen? Another Board could make it happen. Well, again, this is where we come into the Authorities and the Boards, and the way in which they are constructed – much different from Departments of Government, where the Minister is the Department. In a Board, you have the chair, and you have the other members, and, if the chair is outvoted, that is the democracy of the Board.

Now, it is up to Government, therefore, if this is not a situation that they like, to look at this. I can tell you, we are already looking at that situation, but I, again, just question whether having a political member on the Board actually will do anything, other than they would then become accountable, I would suggest, and probably have to be the spokesperson in Tynwald for the Board, which I do not think is possible. I do not think they could be expected to be the spokesperson for the Board, because they might very well find themselves outvoted, as well, in that scenario.

Mr President, what I am trying to say is: I can understand the frustration, I can understand the concern of Mr Lowey, I can understand the concern of Members. They are asking questions which, at the moment, I, certainly, cannot answer, and I would say that nobody can answer just at this time.

All I can assure you is that we are holding the fort, at the moment, in the situation we are. We are getting co-operation from the MEA, they are co-operating. We have got that in writing, as well as the Chairman's spoken word, and all I can say is I would rather not support the motion, at this time.

I would, certainly, feel that it is only timing, that the motion will probably come forward at a later date, but I would not like it to be thought that that is saying that I, for one, and the Council of Ministers, expect it to be a report that is going to be one of wrongdoing, because I just do not think we can make that suggestion, at this time.

So, certainly, I have taken on board everything that has been said, both in here and by other Members in another place, and I can assure you that the concern is just as readily in the Treasury and in the Council of Ministers, but we want to do the right thing, at the right time, and I would suggest the time is not just at this moment, Mr President.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

First of all, can I say, I think that this motion is produced as a result of a feeling of impotence, on the part of Members of the Council, and other people, and so I understand that.

I have to say I am more comfortable with it in this format, Mr President, where we have a specific resolution, than I was last week, when we were asked simply to suspend Standing Orders.

So, we come to the wording of the resolution. Much has been said about what has happened in other places, what has been said on Manx Radio by various participants, what has been said within the corridors about tendering processes, about remuneration, and so on. Part of the frustration is that

we are not yet in possession of all the facts. Some of the facts are being elucidated or elicited through the mechanism of Questions in another place, and that leads to, in its own way, frustrations here, because we are not all receiving the same information at the same time, as Members of Tynwald.

So, it is, perhaps, unfortunate that we are not, as Members, being kept up to date with what information is available by the Treasury, not necessarily through the mechanisms of the Chambers, but, simply, by presentations to Members, when they have information that they could give to us of a factual nature.

Much has been said about our concerns, in relation to the expenditure which has been undertaken, and the borrowings which have been undertaken by the MEA. Not only that, we are also rather astonished by the levels of remuneration that have been awarded to members of committees, and other corporate entities which have been created by the MEA.

Our concern is, I think, that this has happened notwithstanding what we would, normally, expect to be the case, and I think we are running into difficulties here of what is legal or illegal. We are running into situations where it is not a question of 'legal' or 'illegal', it is a question of 'not provided for under the rules as we know them', and it is more a question of 'moral', in my view. Perhaps that is not the right word; perhaps it is a question of integrity.

It has not been practice, in the past, as far as I am aware, that Statutory Boards create corporate entities within their structure, and that they designate committees to do work on behalf of those entities, (*Interjection by Mrs Crowe*) and remunerate themselves extremely generously for that purpose. So, we are into, in some ways, a new ball game.

It is regrettable, in my view, Mr President, that we have to legislate for everything, (**Mr Lowey and Mrs Crowe:** Yes.) and that there will be people who will look and say, 'Well, it doesn't prevent us from doing that, therefore we can do it.'

However, in terms of the comment from the Chief Minister, he has indicated that the Council of Ministers will, in due course... And I have a sympathy with this. I do not believe that there is something substantial that they can do, in respect of the MEA, until this report, in its entirety, is submitted to them, otherwise you are clutching at straws, you are grasping at pieces of information, but not the whole story.

On the other hand, the Hon. Member who has moved this has concerns, and I do not think there is any difficulty in supporting the wording of part (a) of his motion. We do want the Council of Ministers and the Chief Minister to examine what has gone on at the MEA. The benefit of this resolution is that it does not have a timeframe in it.

Now, if they consider it appropriate that they undertake this function when they have got that report, well and good. I think what the resolution does is it allows us, as Council Members, to express concern, and I have no doubt that the Chief Minister and the Council of Ministers will be giving that report – as will every other Member of Tynwald – their fullest attention, in due course.

Now, I had it in mind, Mr President, in respect of part (b), to amend it to ask the Council of Ministers to consider whether or not it would be useful to place a Member of Tynwald or an officer on the board, but I am now of a mind, having heard the Chief Minister's comments, if this motion is moved in two parts... There has not been a request, but then, I am not sure, under Standing Orders, whether I could

now request – but I will! (*Laughter*) – that it be moved in two parts, and voted upon separately, because I think that the Chief Minister has given some good reasons why there would be difficulties at this point with placing a...

He has explained that they have already considered it, and decided against, so I am not sure that this part (b) has any validity, except to ask them to go and reconsider, maybe.

What is of concern – and, again, I think the Chief Minister has indicated that some action is being taken – is the situation in relation to other Statutory Boards, and this issue of actions being taken which are not covered by statute, but which are new to us. I do think that we would all have some concern there, and would wish to give a steer, or wish the Council of Ministers to give a steer, to those Boards, if a steer is possible under the law, and if not, to rapidly come forward with some constraints which would prevent these sorts of structures from being established because... And, again, it is difficult to act in haste, in case you make the wrong move.

But I do think it needs (*Interjection by Mrs Crowe*) the Council of Ministers to give serious consideration to, at least, give an indication that we do not believe that this is the way in which Statutory Boards should conduct themselves – *certainly*, without any communication with Government. If they wanted to do that, and they came along and said, 'This is what we want to do, do you deem it appropriate?' fine, well and good – as long as if we said, 'No, we don't', they could not do it! (*Interjections*) That is the other problem!

But, Mr President, in terms of the resolution, I will, because there is not a time limit on it, and because what part (a) says is entirely reasonable, support part (a). I have reservations about (b). I do not think that there is any great value in that, at this particular time.

**The President:** Chief Minister.

**Mr Gelling:** Mr President, I was just about to ask Marilyn if she could do an amendment, to which she, promptly, brought over Mrs Christian's, and the only difference, actually, is that I was going to delete, 'as an interim measure'. In other words, it would read: 'the Council of Ministers consider whether to place a Member of Tynwald or Officer on the Board of the Electricity Authority', and delete 'as an interim measure'. That is something I could sit comfortably with, and I just wondered whether Mrs Christian would be co-operative in, perhaps –

**Mrs Crowe:** Amending an amendment.

**Mr Gelling:** – amending her amendment to read that deletion.

**Mrs Christian:** Mr President, if, having stopped speaking, I am allowed to start up again (*Laughter*) –

**The President:** I am perfectly happy for you to –

**Mrs Christian:** – I would be happy to move an amendment in those terms:

*In para (b) after 'Council of Ministers' insert 'consider whether' and delete 'as an interim measure'.*

I do think that the interim measure is the one that you have considered and found difficult, but, in the longer term, it is,

certainly, something that may well need to be considered.

**Mr Delaney:** Well, as we are being fairly informal on this, Mr President –

**The President:** Within reason, Mr Delaney.

**Mr Delaney:** Yes, well, could I just ask, then, why... I asked specific questions here, in relation to matters which are relevant, and I was hoping the Chief Minister would indicate to me he would look into them. I need a reassurance, particularly in relation to the question –

**The President:** I feel the windmill spinning.

**Mr Gelling:** Yes.

**Mr Delaney:** Sorry?

**The President:** I feel the windmill spinning. Sorry!

**Mr Delaney:** I am sorry, Mr President, this is not a joking matter. I have got a better sense of humour than most people, but when I see the people queuing up to ask about their electricity bills, I do not think it is funny at all.

**The President:** But this is where you are coming from.

**Mr Delaney:** I am coming from the questions I asked – an assurance that, at least, that information will be sought from the existing people down there.

**The President:** Mr Gelling.

**Mr Gelling:** Mr President, first, my apologies to Mr Delaney for not answering that specific question. All I can say is that the strategy that they had, for electricity for the future, incorporated wind farms, of which an element of that was put down as £10 million. We would like to know why.

So, that really is the answer. It was put aside. We would like to know why they did not go down that particular... There might be a very good reason why they did not go down wind farms.

**Mrs Crowe:** Where's the £10 million?

**Mr Delaney:** What happened to the money?

**Mr Gelling:** Exactly, that is something we want to know.

The overspend: why did they not inform Treasury? Well, again, that is another question. We would like to know why they did not come to Treasury, because it is rather a puzzle to us, after having borrowed the original bond through the Treasury and through the Government machine, (**Mrs Crowe:** Yes.) that, in fact, the others were done in a different way. We would like to know why.

So, I am sorry I did not answer that, but that is the case. These are the details we need, and when we have them, we will inform Members.

**The President:** Mr Waft.

**Mr Waft:** Thank you, Mr President.

I just cannot understand why this motion is, actually, necessary. If we have got a Council of Ministers who know exactly what has gone on, as much as everybody else knows, I would, surely, think that they are doing their damndest to find out what is going on! All this motion is is that they examine the past activities of the MEA, the present situation and try and make sure it does not happen in the future.

But to have a resolution have to be put down to that effect, I find quite amazing! I would think the Council of Ministers should be doing that, anyway. I am surprised that we have to go along with that.

However, I will certainly support that, and the situation with regard to the evidence that we have heard here today, most of it is only hearsay.

**A Member:** Yes.

**Mr Lowey:** No, it is not.

**Mr Waft:** Most of it is only hearsay.

**Mr Delaney:** Generated by the ex-Chairman.

**Mr Lowey:** Wait and see.

**Mr Waft:** Fine, but until we see the tape of the information that was purportedly put over the radio, we really cannot comment on that, and we cannot go any further on that one.

What I am very surprised at is the fact that we have not had any legal interpretation, as to what has gone on. There has been a silence. The silence is deafening!

**Mr Delaney:** That is why I am asking questions.

**Mr Waft:** Nobody wants to make any comment at all, as to the legal implications of what is going on. We are left to flounder, and that is what we are doing – we are floundering. We are hearing information from all bodies. It is surprising the amount of information you get from third parties, in this situation –

**Mrs Crowe:** Yes!

**Mr Lowey:** And every one of them right.

**Mr Waft:** – and your own mind says, 'Well, that can't be true, surely,' or, 'That could be true,' and this is the way we are floundering.

Now, to put a motion down that the Council of Ministers do this, they should have done it, as soon as they got wind of what was going on, and I fully support that, and the fact of having a Member of Tynwald up there would, certainly, look at any future borrowings, that have to come through the Court.

**Mr Lowey:** There are not going to be any, are there? A third of a billion.

**Mr Waft:** Well, we do not know at the moment.

**Mr Lowey:** A third of a billion.

**Mr Waft:** We do not know what is going on, and a Member would, certainly, be able to look at what is

happening in the future, anyway, and I think that would be mandatory, to have a Member on there, (**Mr Lowey:** Absolutely.) because of what has gone on. But I do support this, and I support the amendment, which I think is coming through, that a Member be appointed there, immediately, in my view.

Thank you, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** Thank you, Mr President.

First of all, I would like to thank every Member for taking part, (**Mr Delaney:** Hear, hear.) and it goes to show that there is a concern – a genuine concern. Yes, I can take the point that Mrs Christian says: we are frustrated, but I tried very hard to ask, publicly, the questions that are posed to me, from time to time.

The questions I have posed today are questions I posed to the Chief Minister, in writing, two months ago, but what we have seen, since that date, has been another drawing-out of evidence, which sustains every single word I said in November, when I put the Question down, in Tynwald Court, regarding the MEA.

Now, Mr President, I would, as I say, like to thank Members for the way in which they have addressed this. It is a serious problem. I have no difficulty with the amendments being moved by Mrs Christian, and, straight away, say that I would accept them.

Could I thank Mr Delaney, first of all, for seconding the resolution. He mentioned a magic circle, and that brings me to Mr Singer. (*Laughter and interjections*) Yes, well, he obviously is, because he says that I had blackened individuals. Now, I looked through my speech, and the only individual I have identified, as an individual, is the Chief Executive Officer.

**Mr Singer:** You talked about the board.

**Mr Lowey:** The board, yes, of course, I *must* talk about the board – but I have not named individuals. I drew as a parallel the treatment by Government of other individuals, and I highlighted them: civil servants, policemen and doctors, and let me leave them at that. None of them were found guilty, before they were suspended. They were suspected, and they were suspended.

Now, we taken an oath of office here, when we take on this job, that we will, without fear or favour, consanguinity et cetera, deal with people equally and fairly. Mr Delaney's point about a magic circle is that there are some being treated 'more equal than others'. That is being said. Mr Delaney is the mouthpiece for what is being said.

I have already said, in my opening remarks, about the individuals, I know all of them, individually. Some of them are personal friends of mine, I have known them that long. All of them are *eminent* people, but when we are dealing with the decisions collectively made... and we talk about the Chief Executive: he is an employee of the Board, the Authority. The Authority make the decisions and, in legal terms, they are responsible for all of the actions that took place – no denying or disguising that fact. The buck stops with the Authority. (**Mrs Crowe:** Yes.)

So, therefore, you have got to talk about the actions that were taken, even if it was by the servants of that Authority, of the Authority's responsibility. They cannot stand back

and say, 'We didn't know, boys'. They are responsible. So, let us get the facts right.

**Mr Singer:** No, no, no. You talked about bringing the police in –

**Mr Lowey:** Well, the implication being... Well, how else does one discern about when you have an inquiry? There has to be a reasonable case of doubt.

I would suggest some of the catalogue that I have said... Mr Waft says it is hearsay. All I can say is everything I... I spoke to Members in November, and I spelt out to them, privately, what I had been told. I defy any Member that I spoke to in November to tell me where it has differed *one jot*, from what I told them in November, and what we have discovered – and I use the word 'discovered', what has come out – since that time. There is not a syllable that was not correct that has come out.

Now, Mr Waft says it has not been proven yet. Of course, it has not been proven yet! My point is there are enough grounds to put an investigation, and I do come to the point – and it is Mr Waft, who has said about the Council of Ministers – the Chief Minister says he cannot direct.

With respect to my good friend, the Chief Minister, he *can* direct. The former Chief Minister, ultimately –

**Mr Gelling:** The Council of Ministers

**Mr Lowey:** Well, with the greatest respect, you are the leader of the pack, and I do not want to, again, argue with words. There is a power to direct, and I wish the Government would govern. We criticise you, from time to time, for not governing. You know that, we do. We say, 'Look, either you govern...'

I said in my opening speech: I am standing there, wringing my hands, because I cannot logically answer some of the legitimate questions that are placed to me. But when I say, 'Well, the Government will look at it, or they will do something,' and then I get the Chief Minister saying, 'Well, I cannot act,' I am sorry, Chief Minister, you have got to be able to say, 'I can direct,' or 'I will act' and 'I do act'.

The Council of Ministers, in my view, should be making sure that this does not happen again. The likelihood of borrowing this sort of money again... I should hope not! It is a third of a billion pounds that has been expended, in an area – let us be honest – of vital concern and interest! Power supply is very important. They may very well have got their money, if they had come back in the normal way.

*Still* the Chief Minister has not answered my basic questions: (a) why secrecy between a public utility and its owners, i.e the Government; and (b) why they had to be directed, in the final analysis, to even come and talk to the Council of Ministers. That, surely, poses some doubts in Members' minds, never mind the public's minds.

So, I say this resolution is to keep the subject in the public eye. It is to try to tell the people that some people are looking at this interest. There is a repercussion, whether we like it or not, in bills that are coming, and if Mr Waft is not aware of it, I suggest, as a former... I think he was a Chairman of the OFT, like I was, in another life, and I have great respect for them – they are, already, dealing with the afterflow of what these actions are going to be, and we know that they are going to be real, and they are going to be meaningful.

Mr President, I could go on and on. That is not the object

of the exercise. I said I was not looking for a 'John the Baptist', a head on a salver. What I *was* doing was putting the issue forward.

Now, other of my colleagues say this is not a matter for us. I would disagree. We have a responsibility in this Council, from time to time, along with another place, to hold the executive to account, and, also, to express our views on topical matters – not in the abstract, but topical matters. I believe it is a legitimate forum to discuss this, and if another place wishes to discuss it, fine, and if we could discuss it in Tynwald...

I would suggest that, even last week, if I had wanted to put it in Tynwald, I would have had to have gone to Mr President and asked for the suspension of Standing Orders, and we know we have just passed regulations, and the problems we got into, last Tynwald, in the suspension of Standing Orders.

Now, knowing Mr President, who is always trying to be helpful to Members, he may very well have said, 'Yes, you could', but I just chose not to do it. There was the opportunity here to do it, and I have done it.

Now, again, that is a matter of detail, and I do not wish to stress too much on that.

As I said, Mrs Christian's contribution, I welcomed. She was illustrating a thread that has gone through me of frustration, and the inability to relay what I think are legitimate questions, being posed in a reasonable way.

I do hope the Chief Minister, though...and I have got one or two points. One point that he said: when is a tender not a tender? It is not a question of 'either/or'. I said I supported the setting up of a committee, to be paid for by the taxpayer to inquire into this matter – no difficulty with that. What I do have great difficulty with is that my proposition is an either/or. I think both can go ahead. Both could go ahead at the same time, because I do believe there are questions that will be answered.

Remember, this is not three or four weeks ago. This is

over three months ago, that we started on this route, and, still, it would appear that the Government... I am pleased to hear that the Chief Minister says that there is a better relationship now between the MEA and the Treasury. I am pleased to hear it. I would have expected it, and it should have been like that, from the word go.

However, having said all of that, Mr President, I thank Members for the way in which they have dealt with this subject matter. I welcome their contributions, and I will support the amendment in Mrs Christian's name. I thank them for the courtesy they have given me this morning.

**The President:** Okay, Hon. Members, we have the Item, then, on the Order Paper printed at number 4, and, as indicated, I think we will take it in the two parts, and you have had circulated, now, the amendment by Mrs Christian.

So, Hon. Members, what I will do first is put to you part (a), as printed at 4(a) on your Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

And then on to part (b), and in part (b), Hon. Members, after 'Council of Ministers' insert 'consider whether' and delete 'as an interim measure' – the amendment moved by Mrs Christian – those in favour of the amendment, Hon. Members, please say aye; and against, no. The ayes have it. The ayes have it.

So, we will put the motion, as amended, Hon. Members. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Now, Hon. Members, that draws to a conclusion our sitting for this morning. We will adjourn, then, to Tynwald, commencing next week, on Tuesday, 15th February. Thereafter, we will sit ourselves, on the 22nd.

Thank you, Hon. Members.

*The Council adjourned at 1 p.m.*