



TYNWALD COURT OFFICIAL REPORT

RECORTYS OIKOIL
QUAIYL TINVAAL

PROCEEDINGS

DAALTYN

(HANSARD)

Douglas, Wednesday, 21st October, 2009

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Present:

The President of Tynwald (The Hon. N Q Cringle, OBE)

In the Council:

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),
The Attorney General (Mr W J H Corlett QC),
Mr D M W Butt, Mr D A Callister, Mrs C M Christian, Mr E A Crowe, Mr A F Downie,
Mr E G Lowey, and Mr G H Waft,
with Mr J King, Deputy Clerk of Tynwald.

In the Keys:

The Speaker (Hon. S C Rodan) (Garff); The Chief Minister (The Hon. J A Brown) (Castletown);
Hon. D M Anderson (Glenfaba); Hon. A V Craine and Hon. A R Bell (Ramsey);
Hon. W E Teare (Ayre); Mr J D Q Cannan (Michael); Mr T Crookall (Peel); Mr P Karran,
Hon. A J Earnshaw and Mr D J Quirk (Onchan); Hon. G M Quayle (Middle); Mr R W Henderson
and Mr J R Houghton (Douglas North); Hon. D C Cretney and Mr W M Malarkey (Douglas
South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr C G Corkish MBE and
Hon. J P Shimmin (Douglas West); Mr G D Cregeen (Malew and Santon); Mr J P Watterson,
Hon. P A Gawne and Mr Q B Gill (Rushen); with Mr R I S Phillips, Clerk of Tynwald.

Tynwald

The Court met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The Deputy Clerk: Hon. Members, please be upstanding for the President of Tynwald.

The President: Hon. Members, I call upon the Lord Bishop to lead us in prayer.

PRAYERS

The Lord Bishop

Leave of absence granted

The President: Hon. Members, the Hon. Member of Council, Mr Turner, is indisposed and will not be joining us this morning.

It is good to see Mrs Cannell back in her seat this morning as well.

Mr Cretney, Hon. Members, will be leaving us later this morning to attend a funeral.

Orders of the Day

Ending of UK-Isle of Man Reciprocal Health Agreement Debate commenced

12. The Minister for Health and Social Security to move:

That Tynwald notes that as from 1st April 2010 the United Kingdom Department of Health will no longer provide a Reciprocal Health Agreement under which Isle of Man residents visiting the United Kingdom will receive free health care, except for the provision of GP services and treatment at Accident and Emergency facilities.

As a consequence, the report of the Department entitled 'The Ending of the Reciprocal Health Agreement between the United Kingdom and the Isle of Man' be received by Tynwald and its recommendations approved.

(a) That from April 1st 2010, the payment of any NHS charges incurred by Manx residents visiting the UK is an individual responsibility and further that the Department of Health and Social Security will continue to cover the costs associated with any medical referrals off-Island for Isle of Man residents.

(b) That the Department undertakes these actions

(i) Seeks to replace the contribution currently made by the UK DoH to the DHSS budget bearing in mind that the recovery of funds from patients is expected to fall significantly below the allowance given by the UK for the treatment of their residents whilst visiting the Isle of Man.

(ii) Ensures that all Manx residents travelling to the UK are aware that if they require emergency treatment in the UK which requires admission, it will be given but they will have to pay for it, either personally or through travel insurance.

(iii) Proposes amendments to the NHS Act 2001 as necessary.

- 40 *(iv) Clarifies the position and continues dialogue with the other devolved administrations within the UK jurisdiction.*
 (v) Continues to support developments in the Insurance Industry.
 (vi) Continues dialogue and information-sharing with the Channel Islands.
45 *(vii) Continues a public awareness campaign on the Isle of Man.*
 (viii) Conducts specific insurance-awareness campaign for sports, cultural, trade and other organisations and for other Government Departments.
 (ix) Addresses any ongoing or emerging detailed aspects of the ending of the Agreement, through the DHSS Reciprocal Agreement Sub-group chaired by the Member for Health.

50 **The President:** Hon. Members, we made good progress yesterday: let us see if we can continue to make that same sort of progress today. This morning we commence at Item 12.
 I call on the Minister for Health and Social Security, Mr Teare.

55 **The Minister for Health and Social Security (Mr Teare):** Thank you, Mr President.
 I rise to move the motion standing in my name, drawing on the Report provided to Hon. Members, which sets out the present situation and contains recommendations for the way forward. There are a number of important points that I think it is essential I confirm to this Hon. Court today. The first of them is that the ending of the Reciprocal Health Agreement was not sought by the Department, nor by the Isle of Man Government as a whole and was an entirely unilateral
60 decision by the Westminster government. It is disappointing, particularly when one considers that the Reciprocal Health Agreement has existed since the inception of the Health Service in 1948. The UK government wishes to ensure that its residents visiting the Isle of Man are in the same position as UK residents visiting any other country. There is a consequential effect on Manx residents who, after 1st April 2010 visit the UK.

65 A further point, indeed a crucial one, is that I reiterate that the ending of the Reciprocal Agreement does not in any way affect those residents of the Isle of Man who are referred for treatment to UK hospitals. This, of course, is the majority of off-Island treatment relating to our residents. The consequences are that, from 1st April next year, emergency treatment required by Manx residents when they are in the UK and which involves their being admitted to hospital will
70 incur charges. I would stress, Mr President, that no charge will apply to treatment provided by GPs in the UK or to treatment in the accident and emergency departments or the equivalent provided by NHS walk-in centres. They will come about when Manx residents require hospital admission.

 Some Manx residents will be exempt from any charges, but this will depend on their individual circumstances and details are set out in the Report. Under the Agreement, the Department received
75 a financial allowance from the UK Department of Health, in respect of the cost that we incur providing emergency medical treatment to UK citizens on a visit to the Island, which will cease when the Agreement ends and UK citizens visiting the Island will become liable to meet their own emergency healthcare costs. The UK Government will no longer reimburse the Department. In the current financial year, this is expected to be in the order of £2.9 million.

80 In deciding the way forward, the working party considered several factors. It is important to understand, Mr President, that the Department does not have a statutory duty to provide NHS services to Manx residents, whilst they are outside the Island, unless of course they have been referred for treatment.

85 Manx residents will continue to be able to receive immediate and necessary treatment from NHS providers in the UK and, as I have already stressed, charges will only come about if that treatment involves hospital admission. It is also true that some Manx residents visiting the UK will be a category of person who is exempt from charges.

 The Department will also be placed in the position of having to find at least £2.9 million to cover the deficit that will come about when it no longer receives a payment from the United
90 Kingdom Department of Health in respect of UK citizens receiving emergency treatment in the Isle of Man. If the Department, or if you wish, the Isle of Man Government as a whole, was to provide the necessary resources to cover the emergency medical costs of Manx residents in the UK, this would, firstly, involve extending the duty of the Department to provide NHS services outside the Isle of Man. Even if this were done, through what mechanism or vehicle could the
95 provision of such support be equitably, fairly and reasonably achieved and from where could resources be identified? Quite simply, the necessary cost could be raised through taxation of one form or another, straightforward income tax, or possibly through a National Insurance contribution.

100 There would be a direct effect on the economy as a whole. Such a move would be clearly unfair on those who rarely, or indeed never, travel and on those who are travellers, but have taken

out adequate personal travel insurance. The same risks of inequity and a somewhat arbitrary approach would apply if revenue was raised through the introduction of a levy on travel costs, whether by air or sea. The suggestion was floated, but the response was why should those who already have adequate travel insurance pay twice by the payment of a levy? There are also significant questions as to the appropriateness and the wisdom of Government extending its activities into, effectively, the provision of travel insurance for Manx residents.

On a broader perspective, Mr President, if we use the example of travelling to visit relatives and friends – a common reason for trips off the Island – many Manx residents have families and friends in other countries, for example, France, Spain and the Republic of Ireland. The Department does not indemnify Manx residents visiting these countries against the risk of emergency hospital admission and were we to do so simply for the UK, this would present something of a paradox that also raised questions of fairness and equity.

Whilst both the Department and the working party and, I am sure, this Hon. Court, deeply regret the ending of the Reciprocal Agreement at the instigation of the UK, the proposal is that any NHS charges incurred by Manx residents visiting the UK become an individual responsibility. It is only right that I should point out that the Department's advice to residents travelling off the Island, even if only to the UK, has always been that they should have adequate travel insurance because medical repatriation to the Isle of Man, if required, has always been an individual responsibility. The proposal may raise some concerns, particularly in respect of those who presently do not have travel insurance or who believe it will be difficult to obtain. Of course, any individual planning to travel to the UK could trust to luck that they are not taken ill and require hospital admission while they are there, but this would not be, I have to say, a prudent or wise approach to take. Some people may self fund, but it is highly likely that most people would take out travel insurance. Members will have seen that, in appendix B of the Report, there are some indicative insurance costs from one local supplier. These are based on cover for necessary and unavoidable emergency medical expenses for stabilisation of the medical condition and, importantly, include repatriation. The Department will support developments in the insurance industry which provide products that benefit local residents. It certainly appears to be the case that policies very much tailored to Manx residents at affordable rates will be available, including to older persons.

I would now like, Mr President, to address one or two other matters. As I have said, from 1st April 2010, the Department will have to replace the financial contribution currently made by the UK Department of Health to our budget. The Department will therefore seek to recover costs in future from the individual UK residents that we treat. This will most probably be from their travel insurance policies. The necessary regulations to allow us to do this will now be taken forward. It will also be the Department's intention that such changes will allow the recovery of health care costs from motor vehicle insurance companies following road traffic accidents. Whereas the UK Department of Health has indicated that it will be reiterating advice to its residents that they will not receive free emergency medical treatment in the Isle of Man, the Department will also take direct steps to ensure that all UK residents travelling to the Isle of Man are aware of the circumstances in which they will be charged for medical treatment. It goes without saying, Mr President, that the Department will also make strenuous efforts to publicise to Manx residents that they should have adequate medical insurance before travelling to the UK.

The Department will also continue its current dialogue with the devolved jurisdictions. It is not presently clear to what extent the individual component parts of the United Kingdom – Scotland, Wales and Northern Ireland – could, if they were willing to do so, create separate health-related agreements with the Island. Indeed, options vary, and the Department continues to pursue the matter with them. In terms of our colleagues in Scotland, the Department is also in discussion with the relevant authorities concerning matters relating to health that are broader than simply the Reciprocal Agreement.

In other words, we are examining to what extent we may be able to source from within Scotland, medical treatment for Manx residents who may need to be referred off the Island. We similarly intend to continue our long-standing dialogue and information sharing with the Channel Islands. This is largely because they are already operating without a Reciprocal Agreement and would be in a position to alert us to any potential problem areas or developments, particularly if we were to discover that the UK Department of Health was treating Manx residents less favourably than those of the Channel Islands. However, in terms of entering into a Reciprocal Agreement with the Channel Islands, it is the view of the Department that this would not be in the interests of the Island's residents, though the Department will keep this matter under review.

Additionally, we have commenced a dialogue with the shadow health minister of the Conservative party and I have recently spoken to him and provided a briefing. If they are successful in the UK election, which is anticipated to be held in May next year, then we will seek

to restore the agreement. However, we are faced with the ending of the agreement at the end of March 2010 and must deal with a situation in which we find ourselves now. There is also no certainty that a new administration would reverse the decision of its predecessors. However, we will continue in our efforts to have this decision overturned.

In conclusion, Mr President, I am aware that some people may hold the view that the Department should underwrite any costs incurred by Manx residents, if they are admitted to hospital in the UK as an emergency case. Unfortunately I cannot accept this premise. It would extend the financial burden to the Department that it does not presently incur and it would not bear scrutiny from the point of view of equity and fairness, because we would not be providing the same safeguard or support to our residents who may be taken ill in any other country. We will work collaboratively with our colleagues in the Department of Tourism and Leisure to ensure that visitors to the Island are fully aware of the need for insurance cover in respect of emergency hospital admission, but it is equally untenable for the Department itself to absorb these costs.

The financial challenges that the Department continues to face – and Government as a whole – are such that it cannot simply incur additional expenditure that it presently is not required to meet. Our challenge is now to maintain the existing level of services provided by the Department, which is already experiencing difficulty with continued pressure on resources.

Mr President, I commend the motion and the Report to this Hon. Court.

The President: Mr Crowe, Hon. Member.

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

The President: Mr Speaker.

The Speaker: Mr President, I think what is disappointing about this Report is that the Department seems to have accepted, as a *fait accompli*, that this longstanding reciprocal health arrangement with the United Kingdom is at an end and that there is nothing we can do about it. When Tynwald debated the matter in April, there were high hopes that, by giving a few months' breathing space to the Department, they would be able to report back about some tangible progress being made on a political front and the alternatives that might be possible. The introduction to this Report on page 1 says the Department submits a Report describing the circumstances leading to the ending of the Reciprocal Health Agreement and it also says that the Report addresses the implications of the change and a possible way ahead for the future.

The Report certainly has addressed the implications of the change. I think we know what has to be done, but what the Report does not do, is describe the circumstances leading to the ending of the Reciprocal Health Agreement. The only explanation that is given is at paragraph 3.1 when it says:

'A meeting with the UK Department of Health on 1st July 2008 to discuss the Reciprocal Agreement. Without any pre-warning, the Department was notified that the UK Government intended to end the Reciprocal Agreement and formal notice was then given.'

The Report does not say why. Well, I think it is right that Members know why and the public of the Isle of Man know why. It was a political decision by the UK Government and the Minister of Health, Dawn Primarolo, who reacted to the situation with the Reciprocal Health Agreement, as it related in Jersey and Guernsey.

Mr President, I did circulate to Hon. Members newspaper reports, going back to May of this year, of the Channel Islands press, which make perfectly clear where the problem arose. In the words of a senior former health official in Jersey, Jersey 'fiddled the books'. I quote from this Report that has been circulated:

'The British Government axed the arrangements at the end of March, complaining that it was handing over £3.9 million a year for the treatment of UK visitors when it was only costing Jersey an estimated £300,000 to provide the service.'

In the case of Guernsey, their bill was £500,000, and the UK quite naturally wondered why it was that two similar Channel Islands had such a large discrepancy. Well, Mr President, the cat was let out of the bag, in the sense that what was happening was that BUPA rates were being charged to the UK Government, activity was being over-reported, and it is small wonder that Health Minister Primarolo saw red, hit the roof – 'A plague on all your houses!' – and the upshot was that the Isle of Man and, it should be said, Gibraltar, were caught up in the backwash of this reaction to

225 the situation in the Channel Islands with their health agreement. So I think it is important to realise that, yes, this came without pre-warning, but the background to the ending of the Agreement was precisely that: a political decision.

230 So the question to be asked is: what political action was taken by the Isle of Man Government and the Department *at political level* to protect the interests of the Isle of Man? The history of our engagement is set out in the Report, and with the previous briefing, whereby the annual accounting exercise that has been in place for the last few years has ensured that the Isle of Man has fully accounted quite honestly for the health arrangements under the Agreement.

235 Mr President, I would therefore say that there is still a long way to go before we ought to accept this as a *fait accompli*. There is still political action that could, and should, be taken on behalf of the Isle of Man. The Minister has alluded in his introduction to contact with the shadow Minister for Health. That is to be welcomed. I would have hoped that, in the six months since we last debated this issue, there would have been more to show for these efforts.

240 I have just returned, Mr President, from the British Irish Parliamentary Assembly and I can tell you that the Westminster representatives at that, none of them had a clue that this was going on. Two members of the Cabinet, one present and one past, had no idea that this was being done, and I should tell you that this was raised from the floor in the context of cross-border co-operation in Ireland, where the notion that members of the public should be able to access public services – the nearest school, the nearest hospital, whatever side of the border they lived on... so the question was asked, how does this sit with the ending of a long-standing Agreement with a partner in the British Isles, and no answer could naturally be given.

245 Mr President, there is a long way to go before we need accept this decision. (**A Member:** Hear, hear.) The other reason I say that is that we do have some bargaining potential ourselves. The Report makes clear that the referrals the Department make to the United Kingdom each year, whereby we buy elective services in from the North West of England Health Authority... NHS services are now at the value of £8.4 million a year, referrals to England. I would have thought that this could have been a bargaining counter on the basis that the Isle of Man, geographically, does not necessarily have to place this NHS business with north-west England. We are a similar distance away from Belfast, for example. There is a devolved health service there, there is a devolved health service in Scotland, and it is disappointing that the Department, having had this possible way forward to negotiate new agreements with the devolved health administrations, should only merit a very short paragraph in the Report, and, if I am not mistaken, no mention at all from the Minister in moving the motion. What the Report has said is that the Department has written to the appropriate politicians within each of the relevant administrations, but has received conflicting advice on their powers to create separate agreements with overseas jurisdictions. My understanding is that Nicola Sturgeon, the Scottish Health Minister, has written positively.

260 We do not know exactly what the conflicting advice has been in the case of Wales or Northern Ireland; I think it is important that we do know. But I say again, when this was raised in Tynwald back in April, six months ought to be long enough to clarify the issue and just what powers are available to negotiate separately. Okay, it is not a complete substitute, but it indicates that surely the right direction of travel is that we should look afresh at all the options open to us, particularly in respect of the devolved health services in the adjacent isle.

265 Mr President, with that in mind, I think it is premature to conclude that the matter cannot be improved upon, that we have to accept this as a *fait accompli* and start putting in place now the provisions. It is clear that, if nothing else happens, this Agreement will formally be at an end on 1st April, but, Mr President, I would say that there is merit in this Hon. Court adjourning the debate until February next year to give the Department a clear message from Tynwald Court that we expect further action to be taken on behalf of the people of the Isle of Man, not just to accept this political decision by the UK Government, that most of Westminster apparently is not even aware of, that we should really start to make a bit of noise about this, because I think we are all getting pretty fed up with the way the United Kingdom is treating the Isle of Man. (**Mrs Cannell:** Hear, hear.)

270 This might be an area we can do something about it, Mr President. We have nothing to lose by adjourning this debate for a period of months to give the Department a renewed mandate to take political action with the Conservative opposition, certainly to report a bit more meaningfully about what is going on with the devolved health administrations, and report back, sir. With that, I beg to move:

That this debate be adjourned until the sitting of the Court in February 2010.

The President: Hon. Member, Mr Houghton.

285

Mr Houghton: Thank you, Mr President.

I am very happy to second this adjournment debate today, sir, and I acknowledge that I only have five minutes, is that correct, in what I say? What I have to say, Mr President, in the time I have got to speak, unless the debate goes on – and I will have an amendment to move later, if that is the case – is that there is very large public disquiet about this matter and there was a petition collected in Douglas town centre on Saturday, which only has to be viewed as a specimen number of signatures. There would have been many more people who would have signed this petition but it gained, in Douglas town centre, over 700 signatures in the short period of time that the desk was there open for people to sign.

The petition has been further signed by a great number of people and, in fact, there were a number of people from the Manx Blind Welfare, totalling 144, and another great many from the National Autistic Society, which totalled some 868 signatures on this petition. I would like very much to present this petition this morning, Mr President, to the Minister for Health and Social Security, so if I hand this to the messenger to take to him and formally present this petition, which is the public asking for something to be done –

The Chief Minister: Point of order, Mr President. I thought we had Standing Orders to control how procedures worked in this Hon. Court and I did not know this was one of them.

The President: We do, sir, and I will make it quite plain that yesterday... Mr Houghton, before you continue – and you are seconding the adjournment, I acknowledge that, sir. Mr Houghton yesterday alerted me to the fact that there was a petition and he wished to submit the petition, along with a letter, to Members of this Hon. Court.

Hon. Members, as I understand it now, the letter is being circulated, or part of the letter, is being circulated to you. Whilst I acknowledge that the petition could be accepted and was in order, Hon. Members, I was not prepared to have the letter circulated which contained a considerable length of hearsay. On that ground, Hon. Members, there is no need, Mr Houghton, to present the petition any further. We acknowledge that the petition is there. I acknowledge that there are 700-plus signatures on it.

Continue with your adjournment, sir.

Mr Houghton: I thank you, Mr President.

The petition, which is to be presented to the Minister this morning, states that:

‘The undersigned demand the Government to do something to remedy the anomaly created by the rescinding of the Reciprocal Health Agreement and act as underwriters to the people of the Isle of Man at reasonable rates to ensure that the Manx people and visitors to the Island can travel to and from the United Kingdom with impunity.’

Mr President, some of the comments that the public were making when they were signing this petition I have put in in a small order and I would like to just mention some of them. Some of them state that they have paid National Insurance for all their lives to be looked after and now it was up to the Government to look after them and not hand them to private concerns that will not give them the insurance because of their age or medical problems. If the Government does nothing to resolve their problems, many will leave the Island.

An elderly lady commented that she had two daughters in the United Kingdom and her grandchildren, whom she visited regularly, and, because of her age she will not be able to do so after 1st April, as they cannot guarantee the insurance.

Another one, who said her son has a nut allergy and other allergies, could only take him to the United Kingdom as they were able to ascertain what he was eating from the labels. He cannot get insurance, so as from 1st April next, the Government will have incarcerated that child on the Island for the rest of his life. It is the fault of the Government for doing nothing to help.

Someone who was in remission for cancer was in the same boat as the above child, and he was extremely annoyed that he would also be subject to insurance factors, that he would not be able to get full cover.

Mr President, there were many other comments, but in the time that I have I would like to just read out this letter that says it all in the short period of time. It was written by Simon Richardson, the Managing Editor of Mannin Media Group, directly as an open letter to David Cameron, and it says it all. I congratulate Mr Richardson for publishing it in his latest edition. It states:

‘Dear Mr Cameron, I am the editor of a magazine called ‘Manx Tails’, which is distributed to householders of the Isle of Man. I would like to bring your attention to a campaign we are running against the ending of the Reciprocal Health

Agreement between the Isle of Man and the United Kingdom, which the United Kingdom Government has given notice will take effect on April 1st next year.

350

Under the current arrangements, which have been in place since the birth of the Health Service...’ –

The President: Mr Houghton, you have got 15 seconds, sir.

355

Mr Houghton: Mr President, what I will do, with your call, if this is adjournment debate fails, I will read this letter out again because it needs to be read and understood by everyone.

The President: Mr Houghton, thank you.

360

Mr Houghton: Mr President, I thank you for your patience in this matter and I would ask Hon. Members to support the adjournment, sir.

The President: Mr Teare.

The Minister: Thank you, Mr President.

365

I have to say that an adjournment of this is not going to solve anything. What we need to reflect on here is that the Isle of Man and the Channel Islands, indeed, have not been picked out or singled out by the UK Government. What the UK Government has decided is that these Reciprocal Agreements with the overseas territories and the Crown dependencies are no longer relevant in the current day and age, and they have only looked at maintaining their existing treaty obligations with the European Community members. It has been said to us by the UK authorities that they cannot justify the expenditure on health cover for people who are travelling outside the UK, and that is exactly what they are doing.

370

To adjourn until February, as Mr Speaker has said, to give a clear message to the UK and the DHSS, is not going to achieve anything. I did say we are going to continue working, and that does remain an objective of the Department, but we must also give a clear message of certainty to the people who will be planning their travel outside the Island from 1st April next. I have to say, Mr President, that this, to me, looks like a Mr Micawber moment: ‘Something’s going to pop up and it’ll be alright.’ All that happens, if we keep our heads down, is we expose the other end of our body and somebody comes along and kicks it.

375

We need, especially in the light of what we were told yesterday, to take decisions and to be prepared to take decisions, and not to move and be deflected from what we should do. We are faced with circumstances here now, we have to react to them, and I would be strongly of the opinion that an adjournment will not achieve anything. We will be here again in February, during which time there will be very little time to reorganise the way forward for private health insurers to put their policies in place, and also, more importantly, for the Department and the Department of Tourism and Leisure to educate both travellers to and from the Isle of Man.

385

A point was made by the Hon. Member for Douglas North, Mr Houghton, that a cancer patient who was in remission would not be able to get treatment. Well, we have done a search this morning on the Cancer Organisation website and it gives links for people who are currently having treatment, people who are also in remission, so to blindly say that there will not be cover available is not correct. I acknowledge it will be there at a price and the premium could well be loaded, but to make sweeping statements does nothing to advance their argument.

390

Mr President, I feel that we should get on with it and do it and decide the way forward now, sir.

395

The President: Mrs Cannell, Hon. Member.

Mrs Cannell: Thank you, Mr President.

400

I fully support the Speaker this morning because I think he has presented to the Court a lot of common sense – and he says why do I say that? The reason I say that is that I do not believe that we have called upon any of our political allies to any great extent to ask for their help. Why, you know, during... what I can say, Mr President, on 6th July this year at the Tynwald banquet, I was fortunate enough to sit next to Andrew Rossendale MP, who is member of the Conservative party. I told him about our concerns with regard to the ending of this Reciprocal Agreement and he had no knowledge of it whatsoever. He asked me, ‘Why haven’t I been contacted by the Chief Secretary’s Office?’ I could not answer. I am not answerable to the Chief Secretary’s Office. He said, ‘If it is left too long, I will not be in a position to lobby for you.’

405

410 Then, when I saw this Report come with our bundle of papers, I contacted him by e-mail on 9th October and asked him for his assistance. I mean, for goodness' sake, Mr President, we invite these people to celebrate our national day, we cultivate good working relationships with them and yet we do not use that friendship to try and get a sensible compromise or, at least, an open door to try and renegotiate this Reciprocal Agreement.

On 15th October, Jamie White, who is Andrew Rossendale's research officer, responded and he said:

415 'Andrew will do all that he can to raise attention to this issue in Westminster and will be contacting the Health Secretary and shadow Health Secretary, to request that they clarify their position on this important issue.'

420 He also asked me for further information, so on the same date, 15th October, I spent a considerable amount of time, e-mailing him back with more detailed information, which I was able to gain from the Report that is before us today and some background information. I thank Mr Speaker for circulating... recirculating this press coverage, because I did see it. I did have sight of it when it first came out and it is very interesting and, of course, it is alleged, is it not, that Jersey – apart from fiddling the books, which is the headline in this paper – also caused problems because they asked for more. They got greedy and they asked for more. That brought sharp focus by the UK Health Secretary into really studying the figures of what they actually pay out for their own people, I have to say, not paying out for our people, not for Jersey's people, but for their own people, should they fall ill or be hospitalised and she did make the knee-jerk reaction and, quite rightly so, because that particular Channel Island was not playing fair.

430 **The President:** Mrs Cannell, you should be speaking to the adjournment. You have a minute left.

Mrs Cannell: Thank you, Mr President.

435 What I am saying is, we have been playing fair. I do not believe for a minute that we should be on our backs, belly up and accepting it. (**Mr Houghton:** Hear, hear.) I do not accept the Health Minister's rebuttal of an adjournment today, because he said we have to do this, we have to do that. The Department can still continue to make people aware of the importance of private health insurance, about taking out adequate medical insurance or health insurance. They can still promote that. They can still, in fact, bring change regulations and bring them forward under the NHS Act 440 2001, because that is obviously sensible to do that in case everything fails, the adjournment fails, we are not able to get any kind of compromise situation with the UK after our lobbying and we have to resort to it.

445 All the things he is proposing can still happen. He does not need Tynwald approval to do that, to negotiate, to continue to talk, to make preparation and to continue to research the ramifications and how and in what way, if we have to bring in these changes, it is going to affect our visitors. There is nothing stopping the Department from continuing to do that, but what I would say is, we should not support this, because we will be condoning... this is the end, we accept it, these are the recommendations and we will just turn our backs and march on and get used to it. Well, I am saying no. It ain't over till the fat lady sings and I have not heard that lady sing yet.

450 **The President:** Mr Callister.

Mr Callister: Thank you, Mr President.

455 I just rise to say that I agree with what Mr Speaker had to say to us. I agree that there should be an adjournment of this matter, and I think the Manx public would not thank us if we just went ahead today (**Two Members:** Hear, hear.) and said this is fine.

460 It may well be that there is no further scope to make progress in the UK, with the authorities there, even with parliamentarians. We may have to accept that, and it looks as if we would have to accept it, but what the Manx people are concerned about is what is going to happen to elderly people, to people who are ill, who will not be able to get insurance to go off the Island that either they can afford or even will be able to get at all.

On appendix B of this Report, we are told:

465 'Indicative insurance costs from one supplier are as follows...'

One supplier, not named by the Department, so we have no idea who that is. The figures look very good, but it makes no reference to people with medical conditions.

470 **Mr Houghton:** They would not get cover.

Mr Callister: It has no example premiums for people, say, with heart conditions, with worse health conditions.

475 **Mr Henderson:** They would be exempt.

Mr Callister: So the job is not done yet. As far as the people of the Isle of Man are concerned, they are not going to thank us for saying, 'Well, that's it, get on with it, you're on your own.' There is more to be done in the area of insurance, or at least to find some means of alleviating difficulties for elderly people who will be in a position, no doubt about it... many of them who
480 will be trapped on the Isle of Man.

There is also no reference to the fact that most, as far as I know, but certainly many, insurance companies require that people who have health insurance in the UK are required to stay for two nights in hotel accommodation, (**Mr Houghton:** Hear, hear.) and that is another factor that needs to be taken into account.

485 Thank you, Mr President.

The President: Chief Minister.

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

490 I would urge Members not to support the adjournment. The reality is that the Reciprocal Agreement, whatever we do between the Isle of Man and the United Kingdom and vice versa, will cease and it will cease because the United Kingdom government has made a decision that they no longer wish to have a Reciprocal Agreement with the Isle of Man, or any of their overseas territories or with other Crown dependencies. This is an ending of a Reciprocal Agreement, *only*
495 where it affects in-hospital care, not referrals, where somebody is away on holiday, and suddenly needs to go into hospital for care, not if you need to go to accident and emergency, not if they need to go to see a GP. All that bit is covered in the issue of the Report, as the Minister said.

Mr Speaker has made out in his adjournment that he has spoken to MPs and spoken to some ministers, and they know nothing about this. Well, they won't and I would remind Hon. Members, those of you who were willing to go along, pay to go along to the CPA's annual dinner on the Commonwealth evening that if you listened to Kate Hoey MP, she did not know, either, and that was back in March. So, no, they do not know and the reason they do not know is because the Westminster parliamentary system is not as democratic as ours. They do not tell their parliamentarians anything! (**A Member:** Hear, hear.) It gets up my nose in here sometimes when
500 we get accused of not being democratic. We are more democratic than Westminster: that is why we all know about it and they do not.

So the issue is, Mr President, will the adjournment make any difference? One thing it will do, is create a lot of uncertainty about the reality that is coming forward because then, if Tynwald in February makes a decision, you will have six weeks before the agreement is ending. So that is the
510 first thing.

The other issue is, regardless of the ending of the Reciprocal Agreement, everybody who lives on the Isle of Man, when they go to the UK, should have always had travel insurance, because they have never been covered for repatriation to the Isle of Man! We have just drifted into this sense of security that we do not need it but, in fact, the reality is, we have always needed it,
515 whatever age we are. I would say to Members, there is a lot more to come out in the debate: let us debate it, let us get some certainty. The issue is quite straightforward, and it was said about clarifying the position on this.

The Minister, Dawn Primarolo, was extremely straightforward and unequivocal and said the agreement *will end*. There were no ifs or buts. It will end and why is it ending? Because they are paying us more money than we are entitled to because of the change of how the Isle of Man now operates and they have just said, no, we are not willing to do it any more – but not just the Isle of Man, with all their other overseas territories. They are redrawing their own lines. The Commonwealth, in UK government terms, as far as I can see, is not worth anything to them. They do not care about the connections any more. They are just dismantling them because they do not want to be spending money on other countries, like the Isle of Man, where they provided this sort of support. The reality is, whether we like it or not, we have got to move on. We have a decision that the UK is making from 1st April and it will apply and I would say, the more certainty we give
520 our people the better it is, sir.

530 **The President:** Mrs Christian.

Mrs Christian: Thank you, Mr President.

I think we have heard arguments on both sides which make it difficult to decide whether an adjournment is valuable or not, but what I think is important is that if there is an adjournment, and
535 even if there is not, there is still an awful lot of work to be done to develop those areas which are of concern to the population of the Island.

Looking at this, it seems to me that the UK is creating for itself a huge bureaucracy which its primary health care trusts are going to have to manage. That is a jolly good reason for them not to do this, it seems to me. We know from the statistics, I believe, that where individuals are paying,
540 there is much more work to be done by all these trusts to collect their payments, and indeed collection is an issue, in that they may not receive payments ultimately. So they may lose out in that respect.

Looking at the list of questions and answers that we have had before us, there are exceptions to the rule. If you have lived in the United Kingdom for 10 years and paid National Insurance, you
545 will get your treatment free in the UK. Can you imagine the questionnaires in those health trusts way down in wherever it may be, Devon or Norfolk? Do you think they will know about this?

Mr Houghton: Good point.

Mrs Christian: I do not think that they will, and I think that people are going to be exposed to quite a lot of debate and argument to prove whether or not they are entitled to their health care in the United Kingdom. (**Mr Houghton:** Hear, hear.) That is possibly a UK problem, but it is also a problem that our residents may have to face. Indeed, they are going to have to prove... If they are
550 working for a UK company but from the Isle of Man, they will be covered, apparently. Again, I do not believe the health care trusts and the people who are collecting the fees will be very familiar with all these issues. We can see clearly that trickle-down of information in the UK can be a problem, even trickling down to the Members of Westminster.

So I do think, if there is an adjournment, there is still a huge amount of work to be done, and if there is not, the Department needs to focus on some of these issues. I do not know whether it can be put to the UK that the bureaucracy of all this is not worth the candle and that they would be better off sticking with the reciprocal arrangement. That may not have any credence. However, the issues that are important are the issues of insurance and developing insurance policies to ensure that our people who do have severe health problems can get insurance one way or another.

It has been mentioned that it is intended, because of this change, to charge for road traffic accidents. That has been happening in the United Kingdom in the past and that may make some impact on costs here, but I think the public need to be alerted to the fact that if they do have a road traffic accident their policies are going to be called upon.

The other issue I do think that we need, as individuals, to be sure about is that our cover, if we have existing policies, does include repatriation from the United Kingdom to the Isle of Man, because I have heard of circumstances where that is not the case. They tend to think in general terms of repatriation, shall we say, from a European country to the British Isles, but not necessarily from the UK to the Isle of Man, and I think we all need to check that on our policies.

So, whilst there is much in the recommendations, Mr President, which indicates that work is going to be ongoing – and it certainly needs to be ongoing – I think, on balance, I would feel that we perhaps should not adjourn, because we need to alert people now to the steps that they need to take in preparedness for a change which we may not be able to reverse.

The President: Mr Earnshaw.

580 **Mr Earnshaw:** Thank you, Eaghtyrane.

I would just like to add to the comments of my colleague, the Minister, Mr Teare, and to those of the Chief Minister regarding this, because this is an issue where temperatures were bound to be raised. Passions run high when we get an issue such as this before us. I think we all recognise the Minister has been faced with a most unwelcome problem – the whole Island has – but we have got
585 to find some resolution to it.

We know the Minister – and I think it is generally recognised around the Island – is an extremely hard-working and up-front sort of person with the public and with Hon. Members, and I would like to say he is not the rolling-over type. I know he has done his absolute best so far with this matter and he has given you his undertaking this morning that he will continue his efforts to

590 change the views of counterparts in the UK. While I can understand Mr Speaker's wish to adjourn
this, I think we should give the Minister the opportunity to do what he wants. It is his problem that
he has got to wrestle with. We are all affected by it. So I would urge Hon. Members, Mr President,
to support the Minister. Do not support the amendment. If he thinks he can find a solution, I am
quite confident he will do his very best to achieve that end.

595

The President: Mr Cannan.

Mr Cannan: Thank you, Mr President.

600 It may come as a surprise to Members that I support the Minister and the Chief Minister in this
matter that going for an adjournment would achieve very, very little. It appears to me, as has been
said by the Chief Minister, the UK has made up its mind. It is not just to the Isle of Man, it is to
Jersey, Guernsey, Gibraltar and the Crown colonies. If we think that we would be an exception
and all the others would pay, then that is not realpolitik, that is just dreamland. If they are going to
make any concession to the Isle of Man, then who will be the first on their doorstep? Gibraltar,
605 Jersey, Guernsey, St Helena and everybody else. They have made their decision. It is now for us
not to delay by an adjournment, because that will cause tremendous uncertainty in the community.

We have got an issue in the Reciprocal Health Agreement that we had yesterday in the
Customs agreement and the sharing arrangements. Yesterday we had been getting allegedly too
much from the sharing agreement and it had been levelled out. We had been getting too much – or
610 it has been more advantageous to us with the Reciprocal Health Agreement. They have changed it.
There is no use banging on about the UK. They are, as I understand it, looking for a level playing
field, whether it is with Jersey, Guernsey, the Isle of Man or wherever. I believe we have got to
make a decision today, we have got to focus and concentrate. I know the shock news yesterday
and the implications may not have sunk in, it takes time, but I have already tabled a motion for
615 November Tynwald that:

'Tynwald views with concern the major reduction in the Common Purse sharing agreement and resolves to take
appropriate action.'

620 So that will... 'take appropriate action to restore public finances.' That is a debate we need, but
it would, but... no, of course it does, there is a parliamentary democracy here – not a benign
dictatorship, as one or two might like to have – and we will pre-empt it; before we can take that
motion we are being pre-empted by what he have today. Later on, if there is no adjournment, I will
be putting forward an amendment and the amendment will be that the costs are £4 million – £2
625 million to bring the tourists in and £2 million for Manx residents receiving outside. It will be
make-your-mind-up time about priorities. Life is about priorities; priorities for healthcare,
priorities for the Department of Transport, priorities for any other department of government, the
Department of Tourism and Leisure and so on.

We will have to, as we said yesterday, determine our priorities of expenditure, but I go back to
630 what I have said, Mr President. I see no useful purpose in adjourning a debate, which I am quite
certain the UK government, with just five months to run before an election and four months before
they are busy campaigning – and as we have not got a constituency in the Isle of Man, the last
people they will be worrying about is the Isle of Man – they will be worrying about getting
elected. They will not be worrying about the Isle of Man, and if the Conservatives win, then there
635 may be a chance to meet them. The Minister says that they may reconsider, but that will be after
1st April and if we can somehow with the others – because I do not think they will make an
exception for the Isle of Man – have some sort of restoration, hopefully, then so much the better,
but I get the feeling that, even if the Conservatives are elected, they will be concentrating on the
needs of 640 constituencies and we are not one of those 640 constituencies.

640

The President: Thank you, Mr Cannan.

Mr Cannan: Thank you, sir.

645

The President: Hon. Member, Mr Quayle.

Mr Quayle: Thank you, Mr President.

I, too, have to say that I would be against an adjournment at this stage.

650 Certainly, while we are clearly thinking about the residents of the Isle of Man, as Minister for
Tourism and Leisure I also am thinking of the visitors to our Island –

A Member: There won't be any!

655 **Mr Quayle:** – and with the production of the tourism guide, which will be due very shortly,
then we do, as I mentioned yesterday, in answer to a Question, have an agreed clear statement
advising potential visitors of the need for health insurance from 1st April 2010. That wording has
been agreed with the Department of Health and Social Security. I am obviously speaking to the
660 amendment, but I feel that the lack of certainty which would be engendered by this adjournment
would be far from helpful, both, I believe, to our residents, as well as to our visitors, and I think
the Hon. Member for Michael made some very telling points just a few moments ago.

I find it inconceivable that the United Kingdom would come to an advantageous agreement for
the Isle of Man when they have bluntly told the Channel Islands that they are ending that
agreement. If anybody did read the correspondence from Mr Speaker, there is absolutely no doubt
665 the way that they made it crystal clear to the Channel Islands that that agreement was ending and
they were very reluctant indeed to even have a meeting with them and that they had made their
decision! I do not see how they are realistically going to do a different agreement for the Isle of
Man, compared to the Channel Islands, so I will be voting against the adjournment.

670 **The President:** Mr Malarkey.

Mr Malarkey: Thank you, Mr President.

In June, Members will know that I joined the Department of Health and Social Security. Prior
to accepting the appointment to the Department, I had a meeting with the Minister and made it
quite clear that I am nobody's yes man. There were issues in my manifesto regarding pensions,
675 issues regarding this particular agreement that I felt at the time and made it clear with the Minister
that I would be standing outside, if I felt it was against my own policies.

The short period of time that I have actually been in the Department – and we have discussed
this in great depth – I do believe that we have to make this decision soon, allow the Department to
get on and make some very important decisions before next April. It has not been an easy time –
680 let me tell this Court. There has been an awful lot of work done and had I been standing on the
outside last June, I would have been sitting in here and saying I am voting against all of this, but
having been privy to what work has been done within the Department, how the Department is
driving forward...

We are aware that certain people are going to be hit very hard. There are insurance companies
685 trying very hard from the outside to come up with very reasonable agreements for the people of
the Isle of Man. They need certainty, they cannot move forward, unless we have some time. So
what I say, Mr President, is I will not vote for the adjournment today. I do believe that what the
Department has come forward with today we need time to finish this off and come up with maybe
690 a few more solutions and carry on negotiating, because I do not think that Minister Teare will sit
down for a minute of rest until he knows he has sorted this out. So I ask the Court today to support
the debate in here.

There was some interesting information coming up and everyone is entitled to their view, but
let me just say that, from somebody coming from the outside to the inside, I do know what hard
work is getting done within the Department.
695

The President: Mr Karran, Hon. Member.

Mr Karran: Eaghtyrane, it is a shame that we have not seen it in this Report, that is the
700 problem!

Talking to the adjournment, the problem is, I believe that we would be doing the very same
thing that this Report is doing – promenading, posturing, not making a decision, not getting on
with it. By adjourning this, we are doing a disservice to our people, as far as that is concerned. I
will kick the Council of Ministers when they deserve kicking and they do deserve kicking over
705 this, but to then try and pinch their clothes by saying we will put it off to the month before the
agreement is *nonsense*, absolutely irresponsible nonsense.

We are going to have a debate today and there are going to be choices. We have heard the Hon.
Member for Michael, who says he is going to move that the DHSS should pay for it. I am putting
up another alternative, which will be another way of dealing with this problem. We have got to
look at the reality. What is happening to the Channel Islands and us, happened to Australia and
710 New Zealand a decade ago and the fact of the matter is that we have got to be more diverse, more
smart and more visionary on issues. As far as I am concerned, all we would be doing... we are

where we are and we have got to get on with it and we have got to stop treating our people like children.

715 The fact of the matter is, what we need to do, we need a national government that has national policies and I believe that this Report is an excuse of a Report trying to destroy the way forward. If we allow an adjournment to go on, what we will end up with is the usual ostrich syndrome and us running around in ever decreasing circles. That is not what we want as a parliament. I believe today Tynwald, the national parliament, needs to make decisions. If we are going with £4 million with Mr Cannan, then that is £4 million, but let us take all our digital hearing aids and all the other
720 issues that we are going to have to do.

I think the Hon. Member of Council, Mrs Christian, as a former Minister, has hit it on the head, the situation is, the idea that they are going to do anything, I think is wrong and I think it is doing a disservice. So, Hon. Members, support the Council of Ministers not to have an adjournment, because I have to be honest with you, this is a disgrace. If this is allowed to happen and we support
725 this thing, it is a cancer which will slowly grow, as far as our commitment to an inclusive society. We are in here to protect the weakest and most vulnerable in our society. This Report reminds me of the American system: if you are up, you are up; if you are down, you are down and we do not care. That is not what we want, so, Hon. Members, I think it would be irresponsible to support the adjournment. It might be popular, but it is certainly irresponsible. I believe that what we should do is come up with the realistic alternatives in front us now. We should be getting off the fence and we should be saying that the fact is we are not going to get anywhere with the UK at the present time. They are bankrupt. For a socialist Government to be proposing such items is appalling, in my opinion, (**A Member:** Hear, hear.) but the fact is they are in a corner, they are in a hole, and we have to be responsible. I believe adjournment would be the wrong way.

730 I am delighted that Mr Cannan is coming up with his proposals for £4 million. I am delighted that... I will be putting my alternatives. What I would suggest is that maybe this Court should, when we get to a full debate, send it to a select committee for three months, with the Health Services coming to account for their actions and coming back to the December Tynwald, and saying we want to know what is happening.

740 Hon. Members, do not support the adjournment. It might be well meaning, but we have seen there is no confidence in the Department to address this problem. It is free-fall and it is up to this parliament to tell its Government where it gets off and what it does.

745 **The President:** Mr Crowe, Hon. Member.

Mr Crowe: Thank you, Mr President.

I, too, would ask Members not to support the adjournment. As other Members have said, we have to accept the reality of the situation. We have had an Agreement, since 1948, which is cancellable on six months' notice. We could have cancelled; the UK could have cancelled. They
750 have decided to cancel. That is their right in the terms of the Agreement. We have until 1st April 2010 to get our act together and get everything in place for the new changes that are going to take place. Jersey and Guernsey have had their agreements cancelled already.

We have to move forward and allow those in the Department to get on with the work that needs to be done. There is a lot of work needed on finalising regulations, legislation, charging
755 procedures, giving out all the information to local people and formulating solutions to some of the problems we know about, and some others which Mrs Christian has mentioned. As she said, and I agree entirely with her, there is yet a huge amount of work to be done.

As far as insurance is concerned, although there is only one example in our Report, all the travel agents, most of the banks, supermarkets, local insurance brokers, insurance companies, all
760 offer travel and health insurance.

Mr Karran: If you are fit and young.

765 **Mr Crowe:** If you go on your website, if you need an airline ticket, there is a box that says 'Tick here if you want insurance', and I am sure that the Steam Packet will probably offer it, too, when the details are known today, if this Report is approved. (*Interjection*)

Just on insurance, I think every household in the Isle of Man was given a leaflet a few months ago on travel insurance, and it says:

770 'Travelling abroad with a medical condition? Worried that your travel cover is not comprehensive? Declined cover due to age or medical condition?'

and then it goes on to say the name of the company, which I will not repeat or advertise, but it says:

775

‘All ages, all conditions, all destinations, annual or single trips, travelling companions, weightingless cover.’

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So, where there is a market, companies will come in and fill that market place. It is like a vacuum: air will come in to fill a vacuum. What we have to do is see that there is a fair deal going forward, that Manx people, Isle of Man residents, have a chance to get reasonable cover at reasonable prices, but it is just one of the issues that we have to talk about.

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I really do not want to see an adjournment. I would like to see the debate take place today. If you do not like the report, reject it. If you want to amend it, then move amendments and then see how they go on on the floor. But I think we cannot delay. We have so much work to do in the few months available and we have no luxury of time, so I would ask that you do not approve the adjournment.

The President: Mr Gill, Hon. Member.

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Mr Gill: Thank you, Eaghtyrane.

I think there have been a great many very valid and valuable points raised today, both in support of the adjournment and, in fairness, in support of getting on and addressing the issue before us.

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I want to focus on some comments that the Minister made in his prepared speech, in which he told us about the dialogue he had with the Conservative member. It was not a dialogue, it was a conversation because they happened to meet at the conference and I commend him for attending that. Had they sent him a briefing, we do not know, frankly, if he has even opened that briefing, if he has understood it, if he has done anything with it, because it has not been followed up –

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The Minister: Point of clarification, Mr President.

It has been opened, I have had feedback from it and I am now talking to another official, but it has been acted on.

805

Mr Gill: That is the first comfort that we have had in that relation, sir. It was not forthcoming earlier and in a way that is the nub of this whole issue that, yes, we are told by Mr Malarkey a lot of hard work has gone on, a lot of hard thinking has gone on, a lot of tough talk and decision-making. We do not know that; it is not in the Report, it has not been put before us today. We are advised now in an interjection and I accept that and I welcome that.

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One of the prepared speech comments was, we think it is inequitable – this is the DHSS Minister thinks and his Department thinks it is inequitable – for all to pay for the services of some. That, sir, is what the welfare state is about. We pay taxes to pay for the needs of others; that is the whole basis of it. It is not a mean-spirited, means-tested system and to move away from that is a crucial difference and I think that that is the rub of where we are at. It is the confidence of whether – and the Chief Minister is absolutely right, 1st April, this agreement *will end*. This government will not change and that is a done job.

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Whether we can exert some influence afterwards, we do not know and that is the decision we have to have. Do we think that there is scope for it, as Mr Speaker says, and I tend to agree with him, or do we do what the Minister says in his summing up, to adjourn is not going to achieve anything. Well, that is defeatist talk. You might say it is pragmatic, you might say it is realistic. I heard it as defeatist – we are not going to change, anyway, we are not minded to change, so if you adjourn it, well, three months down the line we will be back, it will be the same. Maybe we will have another Report like this, it does not actually tell us any of the history that we are advised is so exhaustively explored.

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So, I hope that an adjournment would have the effect that it would allow people to be better informed and perhaps we all have a responsibility. Some have a governmental duty to do that, to comfort people, to reassure them and it will actually test the options much better than we have had to date. It will test them and then we make that decision. Do we want to test that or do we go along with the, ‘Well, look lads, you will have to trust us, it is too late.’ I have my view, I share the Speaker’s opinion that there is scope to move on this. I appreciate others have alternative views and I entirely respect the sincerity of those views. That is the purpose of our being here; we make a decision. My decision is that we go with the adjournment, unless I hear something compelling from a Member of Government or one of their supporters, sir.

830

835 **The President:** Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I just want to put some clarifying points into the adjournment debate for Hon. Members to consider, when we get to the vote. Those are these. The issue that is being purported round here by some Hon. Members, that we are all confused and that you cannot stop the UK doing what it is doing, is an absolute misrepresentation of the concerns that Hon. Members are expressing and those of the people outside. We know perfectly well that we cannot stop the UK from severing the Reciprocal Agreement. I do not think that is the issue, and I will return to what the issue is for Hon. Members in a minute.

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845 The other thing we need to consider is, of course, the Report is a Chief Minister's working party Report issued through the conduit of the DHSS: the Chief Minister chaired it up. So we need to be clear in that. Back to the matter in hand and I find it... it was the issue that has brought me to my feet, really. I was not going to speak, but I feel insulted that some Hon. Members should feel that our concerns, which I have expressed to the Minister, are based on the proviso that we think we can do something to the UK to make them reconsider our position and the fact of the Channel Islands and Gibraltar and other jurisdictions. We know all that. Eaghtyrane, I am not a complete fool in this, I can see exactly the arguments there and, of course, they are not going to retract their position for us.

855 The thing that the Report is – and I have said it to the Minister – the Report examines the situation to a point and then there is nothing, there is a blank. That is the concern. What did the committee do, or what do they propose to do, in the next month or two? Do they continue... will they propose to continue to keep things under review, which will be interesting, and also, Eaghtyrane, there does not appear to be a fact-finding mission to see what the impact is and how many UK residents are in here, treated in the last few years, how many over there treated in the last three years, the financial impact here.

860 Can we do nothing, can we do a charging regime between health authorities to here? Options, anything, or even a sentence that says, we will continue to review the situation and we are not going to give up hope, even if we can do an Isle of Man response to assist our own residents. Something on those lines. It is completely silent on that and that is what has caught Members' attention.

865 It is not the fact of what Mr Cannan rallied out before and one or two others in regard to the fact that you cannot make the UK do a U-turn on this, now that it has done it to all the other places. We know that, but Hon. Members need to take that on board, the points I am saying when they are considering things. The issue is that Members, as far as I have spoken to, are concerned that we have not done enough to see if there is anything we can do locally, even despite the announcement, from yesterday, there may be a cost-neutral way forward to assist in some small way. Even that would help to mitigate the blow that is perceived by the public.

The President: Mr Speaker, do you wish to reply?

875 Mr Downie.

Mr Downie: Just a few brief points, Mr President.

880 One of the things I would have liked to have heard today was actually how many people this will affect. I have looked at the document that is before us, issued by the Health Services Department, and if you look at the make-up of the Isle of Man and look that the indigenous Manx people are in a minority, you may find, with some investigation, that there are a significant number of people who are exempt from this. They will, in their own right, qualify. I think it would be a good exercise for the Department to carry out.

885 We may find that, at the end of carrying out an investigation into who does qualify, who does not qualify, we may only be looking at 10,000 or 15,000 people. An awful lot of people of my generation – I am one of them – worked in the UK, served on British ships. You have people who have served in the armed forces. Most of the older generation, a lot of those who are in the critical area now – people who may find it difficult to get health insurance – went away to the UK to work. They had no option. So I think it would be a useful exercise just to get somebody to see if they can compile the figures and actually see if there is a way of finding how many people would actually be caught up in this. We may find that, at the end of the day, it is not quite so many as we thought. There is no way it is going to be 80,000 people. I would think it is going to be an awful lot less, and it may be possible, then, to come up with some sort of a solution.

890 I will not be voting for the adjournment. I think the Department has got an uphill task against it, and if they take on board the issues I have raised today, and starting with people in the Isle of

895 Man, where it is very simple to see... If you have got a UK National Insurance number, right away we know you have worked in the Isle of Man...

Mr Earnshaw: Is the Hon. Member talking about the adjournment or about something else?

900 **The President:** He is talking about the adjournment.

Mr Downie: I am talking about the adjournment, Hon. Member, and –

905 **Mr Houghton:** You've been asleep, Adrian.

Mr Downie: I feel that that this is something we need more background information on. We may well find that we are only talking about 10,000 or 15,000 people, where the rest of them, by some means or other, will have access to health care in both systems.

910 **The President:** Mr Speaker, do you wish to reply, sir?

The Speaker: Yes, if I may briefly, Mr President.

The case against an adjournment can be summarised as follows. Delay will cause uncertainty, there is an implication that the work of the Department will stop and we need to accept the reality of the situation, because it is already too late.

915 Mr President, I do not accept that it is already too late. Perhaps we need to try and direct events a little bit more. I do not think a case has been made that we have exhausted the political route. (Mr Houghton: Hear, hear.) I have no information at all. We have not been given it in the Report as to what contact has been made with the Ministry of Justice, who have the responsibility and the duty to convey our interests and uphold our interests with the UK Government. There is nothing in the Report about that. The notion that somehow by delaying to February, six weeks before the change is made and then we will be scrabbling around having to inform the public, it is nonsense. The terms of the motion on your Order Paper includes such words as, 'that the Department' – asking us to support the Department – 'the Department continues to support developments in the insurance industry', 'the Department continues a public awareness campaign in the Isle of Man'. This implies that the Department is already doing it and is doing it now. Why would the Department stop doing all these other actions?

920 No, Mr President, the purpose of an adjournment is, I think Mr Gill probably expressed it best when he said, 'to allow for a better-informed debate that will test the options'. Mr Downie, Member of Council, paradoxically, he is not going to support the adjournment but made a very good case of where the uncertainty lies. How many people does it affect: is it 10,000 or 15,000? He is talking about needing more background information, questioning the figures. Again, Mrs Christian made some very good points about the NHS bureaucratic requirements on the part of health trusts to test entitlements by individuals that are indicated in this Report.

935 None of this is straightforward, an awful lot of work continues to be done. So before we accept this as a *fait accompli*, the question to ask is, does the Report give you the information to make a meaningful decision today and I do not think it does. I am not trying to shy away from a debate or a hard decision. It may well be that this decision is inevitable but I am far happier about accepting this on the basis, if I had more detail and more reassurance that we have exhausted the political route with Westminster – I do not believe we have – and nowhere in the debate – and I am sorry about this – is this point being picked up about alternatives of new agreements with other devolved authorities in the adjacent isle, who might well be disposed to entering into such agreements in the interests of their citizens and, correspondingly, in the interest of our citizens.

940 Mr President, this Report is tantalisingly incomplete to allow an informed debate today. Resuming the debate on the basis of the Department might be able to come back with more information about what is politically possible, I think would be a very good thing and I think we owe it to everyone to debate in that particular circumstance.

I beg to move.

950 **The President:** Hon. Members, the vote, as you know, requires 13 votes in the Keys and 5 in the Council. We will go straight to the vote. When the screen is lit, Hon. Members, you may vote.

Electronic voting resulted as follows:

In the Keys – Ayes 7, Noes 15

FOR

Mr Quirk
Mr Houghton
Mrs Cannell
Mr Braidwood
Mr Corkish
Mr Gill
The Speaker

AGAINST

Mr Earnshaw
Mr Karran
Mr Brown
Mr Crookall
Mr Anderson
Mrs Craine
Mr Bell
Mr Quayle
Mr Teare
Mr Cannan
Mr Henderson
Mr Malarkey
Mr Shimmin
Mr Watterson
Mr Gawne

The Speaker: Mr President, in the Keys, the motion fails to carry: 7 votes for, 15 against.

In the Council – Ayes 1, Noes 7

FOR

Mr Callister

AGAINST

Mr Crowe
Mr Downie
Mrs Christian
The Lord Bishop
Mr Lowey
Mr Waft
Mr Butt

The President: It fails to carry in the Council, Hon. Members: 1 for, 7 against.

955 Hon. Members, we continue, therefore, with the principal debate and, at this particular stage, I call on the Hon. Member, Mr Karran.

Mr Karran: Speaking to the Item that is before us today, I have to say that I was extremely disappointed with the Report, and I do hope that if these do not succeed today we do see some way of keeping the pressure on the Department, maybe in December Tynwald or further on.

960 There were points that the Minister made in his input into this debate about why should we pay twice. We pay twice on many things – the ones who earn more pay more National Insurance contributions, because that is what a civilised society does – and I believe that what we have got to do is decide where we stand on this issue. I believe that we, today, need to act like a national government and as a national parliament holding that national government to account.

965 We know that the United Kingdom government is not just bankrupt financially, but morally, when it has to do such actions as it has done, because a government which betrays its commitment to a generation of my father's age, who fought shoulder-to-shoulder so that they, like us, have the freedom to live in a democracy... We must make sure that the weakest and most vulnerable in our society do not befall such treacherous actions in their twilight years that they cannot even afford to go to the United Kingdom to see their loved ones. It will be a shame on this Government and on us, as well as the United Kingdom, whose actions highlight exactly what some of us have been saying for a long time. As I said before, in a previous debate, with New Zealand and Australia, this happened to them a decade ago. The fact is that there is no loyalty, as far as the United Kingdom Government is concerned. That is why we need to develop good governance that will protect and defend the weakest in our society and protect our nation.

970 I am very disappointed. We were promised so much on this front by Council of Ministers, but we have seen so little on what they have said in this Report to address the core principles, which should be addressed, if we believe ourselves to be an inclusive society and not an exclusive one.

980 It will cost me, Hon. Members, round about £100 a year, in order to have health cover for the whole of Europe, including the United Kingdom. For my father's generation, it will be unaffordable. Is that the way we, as the national government, should act? What about the children who have serious health problems? All of these people who will be marooned on the Island, like Alcatraz, because this Government is unwilling to have the flexibility and the vision that we have had in brighter times. We said collectively that the Isle of Man Government did not have the same policy, as far as the United Kingdom, regarding loans. We kept the vision that the poorest children in our society could have the chance to go to university and, yes, in that case, it has cost us

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millions, but what we have achieved is that we have got a situation, where while Mr Brown and Mr Bell might not have my highest regard as the ways that they run the place, as far as the Government is concerned, we were shoulder to shoulder on that principle.

990 We all understand that we have difficult times. We know that the policy that I have been promoting on bringing a levy on both sea and air services for a blanket insurance, not just for people like us in this Hon. Court, but for people who are fortunate not to be too old or have good health, as I have said before, the success of a nation is how we base it on how we look after the weakest. That is what we call a welfare state.

995 My motion says:

1000 *‘That Tynwald notes that as from 1st April 2010 the United Kingdom Department of Health will no longer provide a Reciprocal Health Agreement under which Isle of Man residents visiting the United Kingdom will receive free healthcare, except for the provision of GP services and treatment at accident and emergency facilities and is of the opinion that the Council of Ministers should consider the imposition of a levy on all sea and air travel off-Island to pay for a compulsory insurance scheme for medical treatment in the UK; and is further of the opinion that no charges should be levied on visitors to the Island for healthcare during their stay; and requests the Council of Ministers to report to Tynwald on this matter at its December sitting.’*

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Remember this gives the opportunity, this amendment, for them to come back and tell us what is fish and what is fowl on this important issue. It gives you the opportunity to debate and keep the pressure on our national Government to come back to the December Tynwald, and if it is not up to it, then let’s hear why it is not up to it. This is not rocket science. You do not need to send someone on a jolly on the space programme around the world to realise that this is a practical, sensible solution – a solution that may penalise the majority of us who have the wealth of good health, but that is what an inclusive society is about, and it should be our responsibility to protect the less well-off in our society.

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1015 I believe this proposal needs to be investigated, and not added to the pyramid-selling, as far as the public sector pension deficit is concerned. So what we should be investigating is an insurance company who will be coming up with a quote, a sensible way forward, so this section of the community does not have to make the decision that they need to leave their homeland to live in United Kingdom because their children live over there.

1020 Hon. Members, I said at the beginning of this speech I want to see a national Government. I want to see a national parliament. Tynwald is my national parliament. Tynwald should be acting nationally. The present Report from the Council of Ministers is not acceptable, so I hope that no-one will complain about the extra costs, as far as the off-Island transport is concerned. We were not allowed even to read the User Agreement that tied this Island to an Agreement until 2026, so let’s not have any point-scoring about this issue, because it is too important.

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The challenge has got to be that we have got to help these people and they are looking to us for leadership. I will be more than happy to sit on any working party in order to process this most important social policy. If it can be done, I would hope that we would follow what we did, like we did with student grants. Everyone says it could not have been done then, and here we have a generation of student grants because we had the vision, and have had the benefit of us taking a decisive way forward.

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Hon. Members, they should be made to come back to December, with recommendations. If you allow them to run away today, then I am perfectly happy to bring a Private Member’s Bill in the House Keys in order to pursue such a policy if this Court has not got the political stomach to protect this section of the community. I believe most in this Court have got that stomach and I hope that we will make sure that we address this issue.

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The second part of my motion is:

1040 *‘and is further of the opinion that no charges should be levied on visitors to the Island for healthcare during their stay;’*

The first proposal will help to cover the anomaly and if it is done on both ways, that should help the costs, as far as this issue is concerned because, Hon. Members, if we lose the TT, then half the viability of the tourist industry will go. The TT fortnight almost certainly brings in and pays the industry’s bills for the whole year.

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If we destroy the second arm of the tourist industry, which is the coach parties of pensioners who visit this Island, then the Chief Minister should sack Mr Quayle and close down the Department of Tourism because it has lost any ability to attract pensioners to our shores. We might

1050 as well accept the reality that tourism is finished. We should save this industry because it is the right thing to do, not just economically, but morally. Let us see if we can turn the page to a new chapter, where we have a Government that does not just act like a suburb of Surrey, but a Government which comes up with robust, diverse ways of protecting the vulnerable in our society. This is the only sensible proposal we have.

1055 It is sad that a socialist government which was in the vanguard of creating a Health Service, which was the most important social improvement in living history... but now the government is about to destroy one of the core services. A person... a principle of corporate, a principle of services. A person's need is not on its ability to pay, but on the fact that it needs healthcare.

1060 We have to make a stand. If this is allowed to go unchecked, then it will become a cancer which will consume everything we have worked for and that we have come to expect as normal. We have responsibilities to protect the great inheritance that we have seen over the last 25 years, regarding the weak, the poor and the sick. I want Tynwald to be shoulder to shoulder with me to act for the people of the Isle of Man, act like a national parliament, holding its Government to account and telling them to get their blinkers off and get on with dealing with an important issue, which has so many ramifications as far as so many aspects if we do not make a stand here.

1065 Mr President, I hope this Court will support this proposal. I believe this is a way forward in light of the problems that we have had with the announcement yesterday, as far as the severe economic problems. Do not allow them to say to you, 'Oh, this is something new.' Item 25 on the speech with the air passenger: we already have an air passenger levy. It is not rocket science, it is common sense. If we cannot afford the public purse to pay for it, if we cannot afford a situation where we want to increase the number of civil servants on the Island, then this is the way forward. We need the vision and the ability, just like what happened in the early 1990s with the student loan system. We had the vision there and Mr Brown, Mr Bell and the Council of Ministers supported our stance, as far as keeping the old grant system. We need that vision. I hope this Court will support this proposal, because at least it gives you the courtesy of an in-depth reason why they should not investigate this reasonably sensible proposal that is in front of us today. We heard that an extra £300,000 will be added by the item to the £3 million that comes in from that levy, as far as flights are concerned.

1070 Hon. Members, this is the way forward, in my opinion. This is the sort of vision we need and thinking outside the box. Yes, it will be unpopular. No-one in this Court needs care about this agreement, because we are all wealthy enough. None of us are too old and none of us is in a dire situation, apart from one or two with health problems. We can afford it, but the success of a nation is how you protect the weakest in that nation and I think that the one thing where I have been shoulder to shoulder with the different gangs, as far as being in the Council of Ministers, is we have got a proud record there and I hope this proposal will be seconded, because I believe this Court deserves the information, if they are not going to try and develop this policy.

1085 I beg to move.

The President: According to my listing, Hon. Members, the next to speak was Mrs Cannell, followed by Mr Houghton. Neither are currently with us, so I call Mrs Christian.

1090 **Mrs Christian:** Mr President, I do not want to second the amendment.

I do not think I have anything to add to what I said in respect of the adjournment debate, except to say that I do think it is important... well, I will have perhaps an opportunity to speak to other amendments if they are moved, Mr President, but I do not wish to add anything to the main debate at this point.

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The President: Mr Cannan, Hon. Member.

Mr Cannan: Thank you, Mr President.

1100 As regards the closing of the Agreement, I have already said in the adjournment debate, I believe we are where we are. We have now got to look at what is in the best interests of the people of the Isle of Man, and the economy of the Isle of Man. My amendment, Mr President, looks at them in that order.

1105 The people of the Isle of Man have been used, by custom and practice, to travelling freely between the United Kingdom and the Isle of Man, in the full knowledge that there was reciprocal healthcare. That is not going to happen from 1st April. For people going to the United Kingdom, we have to, I believe, make arrangements, or we will tell people to make their own arrangements. To make your own arrangements, for those of the majority of the population, the well remunerated, sophisticated people will not have any problem in getting travel insurance. Many

1110 will have travel insurance incorporated in their bank accounts. But there are people at the bottom, the elderly, who have not got all the privileges of cover.

There are many in the finance sector who automatically have cover for themselves and their families. Again, there is that section of the community, the elderly and the seriously ill and so on, who do not have that sort of privilege, and we have to consider them. There are also those who have 10 years' National Insurance contributions in the United Kingdom, as has been pointed out by Mr Downie. They are covered. I happen to be one of them.

1115 The problem is separating those in need and those that are covered. I believe that if the DHSS could find out – and it is not beyond them finding out through Social Security – those in the Isle of Man who have paid 10 years or more National Insurance in the United Kingdom... There are those who will have UK insurance numbers, but there will also be others, like myself, who did National Service. You have a Manx insurance number, and then, when you worked in the UK, carried on using that Manx insurance number. In other words, my insurance number starts 'MA' and has never changed, but I have the entitlement in the UK. So that takes those people out of the equation. The big financial institutions, who pay and cover their staff for travel: it should not be beyond the wit of the DHSS to ride round and find out to whom they give cover.

1120 I believe, therefore, when they have found that out, inform these people in the Isle of Man, we are not 60 million people, we are only 80,000 people, and of those 80,000 only 60,000 are adult, or just over 60,000. So it is not a horrendous job and those people will have – once we have found out from the DHSS – free medical treatment within the UK and it is for those that do not have that, I believe, because we have a welfare state, that we should accept the premise that we will pay for their treatment in the United Kingdom.

1130 That is the first part of my amendment and whilst I have been informed by the DHSS that – the e-mail said Mr Cannell, but it meant Mr Cannan – they have apologised! – said cost £2 million. I do not believe it will cost anything like £2 million, because I have just listed the exceptions which were not taken into consideration when making that assumption. I would suggest it is probably only a third of the cost, if we took into consideration those with NHS UK contributions and those in the Isle of Man who are already provided, through their employers, with travel insurance.

1135 Then we move to those coming and visiting the Isle of Man. As a person who has been in business for some considerable time and dabbles on the sidelines now, if you want to keep your customers, you do what Tesco does – and Tesco is probably one of the world's most successful firms – it absorbs a cost, a loss leader, call it what you will, in order to keep its customers. From yesterday the importance of generating business in the Isle of Man through tourism and all the other sectors, but to tourism, cannot be over-emphasised. It is important that people can freely come here in the knowledge, as they had previously, that they will have healthcare and to put that charge, to continue that, will, I believe, be of great benefit. To give an example: if your turnover is £100,000 – you are running a business – and your costs are £20,000, and suddenly you will have to increase your costs by £2,000 or your turnover because people will be put off, maybe, it has been already said, by the hassle and aggravation of having to get insurance to come here and then... so your turnover drops to 80. It is better, in the Tesco philosophy – and they are successful – to pay that charge on your expenses and keep your business turnover up.

1140 I think it is a great advantage that people know that they can freely travel between the Isle of Man and the United Kingdom, as they have done for over 60 years and knowing there is health cover. They can either obtain health cover in the UK by the reasons of what I have already said, and where there are those that cannot claim it, then they can pick it up from the Health Service, and to give people coming to the Isle of Man the health service they need. Now, alright, that will be £2 million.

1145 It is a charge not on the DHSS budget that you will need to think about. It is a charge on your priorities and focus. The revenues of the Government are falling by £90 million in April, and £140 million in 2011. It will be for Hon. Members to determine where you want the cuts and what you are prioritising. In that prioritising and the cutting, it is for you to decide. I personally would, for the sake of business activity, bear the cost of £2 million and reduce it in those other Departments, other than Health or Education, and slim them down by another £2 million spread over the other six Departments. Six into £2 million is about £300,000. So Departments will have to cut and then there may be, to have the general revenue, another £300,000.

1150 Alternatively, you go along and say you have the bureaucracy where the visitor comes to the Isle of Man, falls ill, a civil servant then with a clipboard takes all their details, hopes that they will pay. They get better, they are on the plane or the boat, and I suggest that a lot of that payment will not be collected; or, alternatively, DHSS then pursues them through the county courts in the UK and the costs of retrieving £200 are £250, so the Isle of Man is £50 worse off, if you go down that line.

1170 I would personally say, stand the cost of everybody coming to the Isle of Man, and put it down
as a business expense. I believe you would far better benefit – you would be more rewarded, on
the Tesco theory – than you would by imposing a charge, than employing people to pursue the
money they owe and then finally find that you cannot recover it, anyway, or the cost of recovery is
greater than the amount you want to cover.

1175 So I move this amendment in good faith, that the DHSS, through their knowledge, and Social
Security, find out who, from their National Insurance, have made more than 10 years’
contributions in the UK; find out from the big employers if their staff are insured – as I understand
from many that they are covered... themselves and their families; and determine whether you want
to put down as an increase business charge, just like the rates increase or anything else increases...
1180 the business charge of providing the healthcare.

One of things the Minister said in his address was, ‘Oh, well, it is unfair and it is unbalanced
and people travelling to Cyprus, Greece, Australia, Canada or wherever, they do not get the same
cover.’ Well, of course they do not. They never have done. So why should they have that now? All
I am trying to restore is the *status quo* to what we have all been accustomed to for 60 years. It is
1185 for Tynwald to decide and also to bear in mind your priorities when you come to public
expenditure. If this is not a priority, that is fine with me. I happen to think it is a priority and if it is
not, then all Members of the House of Keys will be accountable to the public, and the public may
not think this is a priority, but the message I am getting very loud and very clear is that this is a
priority.

1190 Mr President, I move, sir.

To leave out all the words after ‘facilities’ and add:

*‘; and further that Tynwald is of the opinion that the Isle of Man Government should cover the
cost of:*

- 1195 (a) *Isle of Man residents receiving NHS treatment in the United Kingdom; and*
(b) *United Kingdom residents receiving NHS treatment in the Isle of Man’.*

The President: Hon. Members, neither amendment has been seconded.

I call Mr Houghton.

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Mr Houghton: Thank you, Mr President.

I rise this afternoon to oppose the motion before us, simply on the grounds that there has not
been enough work done to research this matter. Through the presentation and the speech given by
the Hon. Minister this morning, I am completely dissatisfied with the information and depth into
1205 which the Department has gone looking into this matter.

I am further dissatisfied, Mr President, with the fact that, even though we are told that this is a
fait accompli – and they are hard-nosed people in the United Kingdom – there has not really been
any *meaningful* dialogue with those senior political people in the United Kingdom in order to try
and move this forward. I am repeating what has been said by many Members this morning, Mr
1210 President, but those are the fundamental aspects why this motion before us today must not be
supported.

Now, Mr President, if I can just deal with the aspect where the Department is telling us – and
again it has been pointed out by other Members today about the insurance cover, and they say that
everybody can get insurance cover up to 80 years of age – can we just look at the demographics
1215 dealing with people of that area of age, Mr President, as far as the consideration of Hon. Members
this morning. The demographics are – and these come from the 2006 census – those who are
between 76 and 95-plus are, in number, over 6,000 people, 6,141 people to be exact. Those who
are between 80 and 95-plus years of age are over 4,000. So, Mr President, because those people
who are caught up in 80 years or plus, and that is a lot of people... We understand, now, the way
1220 demographics have gone, you are young at 80 years of age. Those people who have got long-term
illnesses and specified medical conditions are unable to get insurance cover for those specified
medical conditions – they are unable to get that – or, depending on the state of their medical
condition, their premiums are severely loaded, which will mean that they will not be able to leave
the Island and take the risk of falling ill in the United Kingdom.

1225 Mr President, I would just like now, because I have had more time to do so, to return to the
petition that was presented to the Minister earlier this morning. That petition had 868 signatures on
it. It was a specimen example of the public’s feeling, for one point, where the signatures were
collected, and others that were sent in afterwards. There would have been many more if the effort
had been more concerted throughout the Island. That has got to tell this Court something, Mr
1230 President. The public are very angry and they feel let down, because many members of the public

who do not have medical conditions have people in families who indeed do. We all understand that, and I cannot for the life of me understand for a moment, Mr President, how Hon. Members round this Court just seem to dismiss this fact. It is a very serious matter.

1235 We are stuck, I do agree, with the point that it would be very difficult, if not impossible to overturn this policy by the United Kingdom Government, but we have to do absolutely everything and in the time that the Department had to do something about it, they have failed this Island very miserably.

1240 Mr President, for what it is worth, my suggestion to the Minister, whether this motion is approved or otherwise today, would be to arrange with the United Kingdom to pay for the treatment of Manx people who fall ill in the United Kingdom, because the people who fall ill, and I mean fall ill, not necessarily involving road accidents, because if you are involved in a road accident, likely you may be insured. Those who fall ill, may well have fallen ill on the Isle of Man, anyway, and require treatment at Noble's Hospital.

1245 So in order to allow the freedom of movement of our Manx people, I feel that we are committed to pay for them, but in respect of those United Kingdom health authorities and people living within those health authorities and who are hospitalised over here, we must simply charge their respective Area Health Authority, rather than try to charge them. The Minister is looking at me rather strangely, so I want to clearly set this out, so there is no misunderstanding, because everybody does understand what I am trying to say here. Rather than ruin our tourist industry for what bit there is left of it, rather than ruin that, we must simply, when we have people who are welcome visitors coming to the Isle of Man, they fall ill on the Isle of Man, they simply can be back charged against the Area Health Authority in which they live. There needs to be an awful lot of work done on that. So we are not charging the patient and ruining our tourist sector, which we need to understand, we would be charging their Area Health Authority because that is what I understand happens throughout the United Kingdom anyway.

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So if somebody living in Manchester falls ill in Bristol, the Bristol Area Health Authority charges the Manchester Area Health Authority. We can operate in that way alone. That will assist us in saving us from the very, very poor name and poor reputation we will get because, by gosh, one thing will happen if we start pursuing people before they leave Noble's Hospital for the care of their hospitalisation, no matter how much that is: they will go back to their area, they will go to the press and that will be the end of tourism as we know it. So it is very serious and we need to do that.

1265 There are no suggestions from the Minister on that as to how far we have gone into things like that, how much they have done about it, and so on. It is no good just blaming it on them. To say, 'Well, you will have notes at all the ports, notices up on all the ports stating you need insurance because if you fall ill in the Isle of Man, you will be charged.' We just cannot do that. We are not in the position to be able to be as hard-nosed as the United Kingdom Government is on us.

1270 I have to say, Mr President, the Hon. Member Mr Karran's amendment is the nearest amendment that I would support. I am not seconding it, but it is the nearest one I would support because that is the one – on the research that I have done and the information I have received – where people would support in reality, which is a levy at the port leaving the Island. That would be most helpful. That, if it was a reasonable levy without being too financially onerous, would bring a sufficient amount of funds into the Treasury to pay for those medical costs that would be sustained by people coming to and from the Island. But again, that would have to be linked.

1275 The Hon. Member for Onchan's suggestion would have to be linked, Mr President, with a charge against the Area Health Authority in which one of our Manx residents takes ill within because, dealing with our Manx residents at this time – and an awful lot of very, very valuable input from other Hon. Members today where they state that, of course, those people who worked in the United Kingdom for 10 years or more, and National Insurance numbers will be able to support that, etc etc, so they are saying – that would be in support of the fact that when the billing – if this is what was adopted – the charging, came back to the Isle of Man, i.e. the DHSS in the Isle of Man, that is where those charges could be turned away by the fact that that person is not an indigenous Manx person and they are already exempt. That would have to be watched also.

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1285 But turning back to the indigenous Manx person, the indigenous Manx people we have here, who themselves have never had any contact with the United Kingdom Forces or worked in the UK, or whatever, those are the ones who are going to seriously fall foul of that. In support of what the Hon. Member of Council, Mr Downie, said earlier, insofar as figures could be worked up and we could look at all the costings on that, which has not been done, or, if it has, we do not know about it properly... could be worked up to see exactly what the costings are, so the Treasury would be able to get a more realistic view of it.

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These are only some of the many considerations that need to be taken, that we all expected to have been taken, but were not taken and have not been advised to us to support this motion that is on the Order Paper this morning.

1295 Mr President, I began to read this letter out that I have circulated amongst Hon. Members, and I would like to read it out in full now for the information of Hon. Members, because, as I say, this is a letter that was put in the edition of the Manx Media Group's *Manx Tails*, written by the managing editor, Mr Richardson. This is an open letter to Mr David Cameron –

1300 **The President:** Hon. Member, this letter has been circulated. I am sure Members have read it, but if you wish to put it on record, sir, go ahead.

1305 **Mr Houghton:** Mr President, I would like to, I was stopped unfortunately due to time earlier. I would just like to read it out and I would like Members to home in on this. This is the work done by someone outside Tynwald, who has done his own thing for the Isle of Man and he is to be congratulated for it. He makes these points and he has written this open letter to David Cameron, leader of the Conservative party:

Dear Mr Cameron,

1310 I am the editor of a magazine called *Manx Tails*, which is distributed to all householders in the Isle of Man. I would like to bring your attention to a campaign we are running against the ending of the Reciprocal Health Agreement between the Isle of Man and the United Kingdom, which the UK government has given notice will take effect on April 1st next year.

1315 Under the current arrangements, which have been in place since the birth of the Health Service, people from the Island have been entitled to free treatment, should they be unfortunate enough to require hospitalisation during a visit to the UK. In return, visitors from the UK have been afforded the same courtesy in the Isle of Man.

1320 Manx people are proud to be British. History shows that hundreds have fought and died for Britain and others have been proud to represent Great Britain at the highest sporting level. A current example is the racing cyclist, Mark Cavendish. Now, as a result of the proposed change, they will be considered foreign nationals by the UK Health Service and therefore be required to pay for unscheduled hospitalisation. Meanwhile, people from countries such as Germany, France, Spain – in fact, all members of the EU can continue to expect free care, if they need it.

1325 The result is that many people – particularly the elderly and the infirm – will be marooned on the Island and unable to visit friends and relatives in the UK. As I'm sure you are aware, most travel insurance policies become prohibitively expensive, or impossible to obtain for the sick and the old. We feel that this decision by the UK Government is an affront to the people of the Isle of Man. Also, given the reciprocal nature of the current agreement, we do not believe ending it would result in measurable savings for the United Kingdom Health Service.

1330 As editor of the magazine, I have received many calls from worried people, mainly pensioners. I have also received the full backing of our campaign from the local branch of the Royal Artillery Association, which has a membership of 180. Just to put things in context in terms of recent history, 24 Manx service personnel have died while serving in the British Armed Forces since the end of the Second World War. During that campaign, many more died and three Isle of Man Steam Packet ferries were lost in the evacuation of Dunkirk.

1335 Manx people don't want something for nothing. They simply ask for the *status quo* of reciprocal health treatment to remain in place. If it ends, as planned, on 1st April next year, it will increase their sense of isolation and effectively destroy the sense of Britishness and the strong bond of loyalty they feel to the Crown.

I appreciate you are a very busy man, but on behalf of the people of this Isle, I would ask you to examine the issue and, if you feel sympathetic to our plight, apply pressure on the British government to change its mind on this important and highly sensitive issue.

Yours sincerely,
Simon Richardson'

1340 Mr President, I congratulate Simon Richardson for writing that letter. That letter says it all.

The Chief Minister: What was the reply?

1345 **A Member:** Yes, exactly.

A Member: It's in the post!

1350 **Mr Houghton:** I wonder what the reply... I just wonder. Perhaps, Hon. Members, the Isle of Man Government may have a copy of that reply?

The Minister: No, we don't.

1355 **Mr Houghton:** If not, I am sure, if Mr Richardson is listening, he will circulate a copy to those Hon. Members who require a copy, and I will certainly arrange that.

Now, Mr President, can I turn to a legal issue. Indeed, I have given notice to the learned Attorney this morning, but I have a legal question on this matter and I would beg the learned Attorney to offer some advice in this particular area. The legal question is this: has the Department

1360 of Health and Social Security asked the United Kingdom to carry out an equalities and Human Rights impact assessment in respect of the effect on the withdrawal of the Reciprocal Agreement? If not, what, if any, legal advice have they received in respect of the civil rights of Manx patients falling ill in the United Kingdom?

Mr President, with your leave, may I call upon the learned Attorney?

1365 **The President:** I will call Mr Attorney when you have finished your contribution, sir.

Mr Houghton: I thank you for that, sir. That would be very much appreciated.

1370 Mr President, picking up on the point that the Hon. Member for Douglas, Mrs Cannell, made, when she spoke to Mr Andrew Rossendale MP, and friend to this Isle, who comes on a number of occasions to support us at Tynwald, who had no knowledge of this happening and now is doing all he can. Mr Rossendale, I would say, Hon. Members, is likely to become a Minister, or a more senior politician, when the Conservative Government are elected as soon as possible, no doubt early in the New Year.

1375 Mr President, I intend to finish on this point and, as I say, I look forward to what the learned Attorney tells us, as far as this legal point is concerned, but then we really have not engaged our friends to this Island. I have heard many a wonderful speech, indeed yourself, Mr President, and other senior politicians throughout the Isle of Man on Tynwald Day after the banquet where such very, very, high opinions and praise and thanks is given to the support this Island gets from those friends of this Island who are welcomed here by us all. They have never been called upon to assist us! Mr President, I can say no more.

1380 The job has not been done. We all know that and those supportive Ministers, who will all be supporting their colleague – they have to – must know that also. They are not fools. They understand and it is no good saying that it is a *fait accompli*. There really has been so little done, especially when we are in such distress, sir.

1385 I thank you.

The President: Mr Attorney, have you got any comment to make, sir?

The Attorney General: Thank you, Mr President.

1390 The Hon. Member handed to me, immediately before this session, a copy of an e-mail which contained the question the Hon. Member has just raised. I do not know whether the e-mail has been circulated or not, Mr President, but I think it would be helpful, if I may, just to read out the next sentence in the e-mail, because I think it answers the question that the Hon. Member has raised.

1395 This is an e-mail from Susie Alegre to ‘Penny and Henry’, which I think is Penny Creighton and Henry Rammage, and the question is this:

‘I think that it would be worth asking in Tynwald whether or not they have asked the UK government to carry out an equalities and Human Rights impact assessment, particularly as age is one of the equalities’ strand.’

1400 And this, I think, is the answer to the question:

‘I know that the UK government has not, because they have told me, but I think that the IOM Government could possibly be held to account under its own legislation for failing to make adequate representations on behalf of Isle of Man residents.’

1405 Mr President, just to answer that, or to take up that point, therefore, it would seem that the answer to the question posed by the Hon. Member is that the UK government has not carried out an equalities and Human Rights impact assessment, and I suppose the question, therefore, must be, Mr President, whether or not the Isle of Man Government and Tynwald should be aware of any Human Rights aspects of this.

1410 In the relatively short time I have had just to consider it, it seems to me that what we are being asked to do today, Mr President – subject to amendments, of course, to the resolution – is that Tynwald is simply noting that this Reciprocal Health Agreement is likely to be terminated with effect from April of next year. In other words, Tynwald is not passing any legislation or any subordinate legislation to bring this about, nor indeed is any public authority in the Isle of Man required to do anything as a result of the Agreement being terminated. As we have heard, Mr President, this is a unilateral termination by the United Kingdom authorities. It is a political decision taken by, as I understand it, the Minister, Mrs Dawn Primarolo.

1420 So, Mr President, I think, in the relatively short time... I do not think that Tynwald or the Department is exposed to any Human Rights challenge, because we are not passing any legislation or subordinate legislation which is incompatible with the Human Rights Convention. Nor is Tynwald susceptible to attack, because the relevant section we have to look at is section 6 of the Human Rights Act, which says it is unlawful for a public authority to act in a way which is incompatible with a Convention right – and ‘to act’ also means failure to act.

1425 So the first thing to say, Mr President, is that Tynwald is not a public authority, so Tynwald can never be held to be in breach of the Human Rights Act or the Human Rights Conventions, and insofar as the Department is concerned, it seems to me we are not being asked, the Department is not being asked, to do, or refrain from doing, anything at all. It is simply being asked to note the situation, which is that the termination of this Agreement is being foisted upon us.

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

Mrs Cannell: Thank you, Mr President.

1435 If I could just say while it is still fresh in my mind, with all due respect, I think the Hon. Attorney General has missed the point. When he read out the e-mail to Hon. Members, the question was put to him that there is a belief that the UK have not done this assessment on the implications of abandoning its own people and *vis-à-vis* the implication for our people, but I think the question was and, of course, it went on to say that it was felt that our Government should make the United Kingdom government aware that it has not done it and, as a consequence, potentially

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there could be, or there is, potential for a legal challenge. That is the inference I got from the e-mail. The learned Attorney General has not actually said whether he agrees with that or not.

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What we do know is that there is nowhere within this Report before us to say whether there is sufficient there to even consider mounting a legal challenge or – and I know the cost implications of that or even just pursuing an intention to possible litigation could be sufficient in itself for the UK Government to abandon this ridiculous idea.

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I was pleased that a former Health Minister got on her feet earlier on and she talked about the bureaucracy and the mechanics of this and, quite clearly, what I see before us is, if we move and rush forward by approving everything that is before us today, then the House of Keys and another place will be faced, possibly, with changes and amendments to the Act or subsequently Tynwald faced with regulations under the 2001 NHS Act, that we may well be rushing to put in place a mechanism to charge people visiting here, when in reality this, because of its over-bureaucracy – because the Labour Government is probably going to be ousted next year by the Conservatives – because of their economic situation and they have got bigger fish to fry, because of the fact that they do not want to lose any votes, in reality, it is highly likely that this will not happen, in terms of area health authorities or trusts being aware that the person who has just been admitted, or has just fallen ill, or had a car crash and somebody who needs treatment or surgery is not in fact, a UK resident as such. Nevertheless, they are a British subject. We are part of the British Isles, are we not? What happened to Britain and British? That seems to have gone in favour of the United Kingdom. We are a closed Island, that is the feeling I get.

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So that is why I supported the adjournment, because I believe that once members of Westminster become aware of the ramifications for their *own* people... Let us put our own people to one side. Reciprocity is two ways, is it not? Let us just focus on the UK situation. Once they become aware that, if this was to go through, and the bureaucracy that will follow, which will also have a cost implication on health authorities or trusts, and of administration – more administrators – that was going to affect their own people, the less likely that, in fact, it will happen. The United Kingdom are abandoning their own people, by this initiative. The reaction by the Health Secretary was simply a case that this is not sustainable; we cannot sustain this. If Jersey had not put the bowl out and asked for more, and done the Oliver Twist, then this arrangement probably would have carried on for some considerable time. It brought sharper focus into an area.

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I dare say ministries over there are under the same direction from the Prime Minister that we are here, in terms of we have to look at budgeting; we have to look at costs. Where we can save costs, we have to do it. We have to look to generate more income. They are in a worse position than we are, so that is probably what they are looking at. Her focus, her attention was brought onto this issue, and she has just swiped it and slashed it, without any thought, without any assessment of the impact, the implication, the civil liberties or the Human Rights of the individuals affected. (**Mr Houghton:** Hear, hear.) I believe that that is a really sound case for standing our ground (**Mr Houghton:** Hear, hear.) and fighting this! If we come away with a bloody nose, we come away with a bloody nose. If we have to make the changes, we have to make the changes. But I do not believe that we should be just surrendering! (**Mr Houghton:** Hear, hear.)

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1480 Now, you look at the wording of the actual recommendation before us. It says Tynwald notes that it is ending from 1st April next year and, as a consequence, they state that what they are putting before us be received by Tynwald and its recommendations approved. So, they are not just saying note the situation; they are saying approve the recommendations. Let us have a look at the recommendations.

1485 They are stating fact in (a): they are saying that we will continue to cover the costs of medical referrals – thank heavens! Part (b): that the Department undertakes various actions, and they are all specified; seeks to replace the contribution currently made by the UK to our budget of £2.9 million – bearing in mind that, as of yesterday, we now know, through a very late e-mail that came through from the Department of Health, that it costs us around £2,000,000 to accommodate UK visitors who fall ill and become hospitalised in a year. We have been receiving £2.9 million, but it has been costing us £2 million, so £0.9 million is perhaps where we have had a little too much. I do not see why we cannot renegotiate and be prepared to lose the 0.9. I believe the UK should be covering the costs of its people.

1495 Then it goes on, they are going to seek to replace the contribution. They do not tell us how or what they are looking at. Then it goes on, ensures that all Manx residents travelling to the UK are aware that if they require emergency treatment in the UK, which requires admission, it will be given, but they will have to pay for it, either personally or through travel insurance. If the Hon. Court supports that, then that is a limitation on being able to recharge for the costs of that care. As the Hon. Member for North Douglas stated, and he is a former Member of Health at the same time as the Hon. Member of Council was Minister. So he has a certain knowledge; they both have a certain knowledge of this and the way he has advised us that it works is one area health authority bills the other for the treatment of that individual.

1500 So why should we be doing anything different? Why charge the person personally or through travel insurance? The likely scenario is that somebody, regrettably, will have an accident here, they will be taken into hospital here. This is looking forward, if we have to go down this road. If they are unconscious, there is not an awful lot of information you can get out of them. You are going to have to stabilise them. You may have to do emergency surgery before they are actually able to discuss where they are from, what kind of insurance they have got or what area authority they have got. The likelihood is that you have already done the work. You may or may not... the person might not have personal cover, they might not have travel insurance and they may not have the financial means to pay for it. So what do we do then? Well, under this recommendation you cannot do anything because it is so closely focused on the person, as either personally responsible, or his or her travel insurance will cover it. If neither is in place then we have not got the authority to do anything and the most sensible thing would be to charge the local Health Authority. (A
1515 **Member:** Hear, hear.)Then it goes on:

‘proposes amendments to the NHS Act 2001, as necessary’

1520 So what changes does the Department believe are necessary? It is almost endorsing amendments to a piece of legislation before we had the case for them. Why do they want to? Is it so that they can charge? Why?

There is a lot of detail that is missing, an awful lot of detail, and then it goes on:

‘clarifies the position and continues dialogue with the devolved administrations within the UK jurisdiction.’

1525 It supports the insurance industry, continues dialogue with the Channel Islands and then it goes on to public awareness. There is no continued dialogue with the United Kingdom, who are currently providing this under reciprocity with us until 31st March next year. It is sort of abandoning that that will never happen again and so we have to look elsewhere. Yes, it is sensible to look at all jurisdictions and elsewhere, but you do not abandon continuing to lobby for the best deal with the UK on a reciprocal basis. You just do not give up. That is not politics.

1530 The Hon. Member for Treasury said that the world has changed. Politics has changed. You go to Westminster now and they are ruthless and they are lethal. Well, yes, they will be because they have a mess of the economy. They have made a mess of most things and they are facing a General Election next year and, as I said at the onset, the likelihood is they will be ousted and the Conservatives will come back in.

1535 There is not going to be instant recovery with any other party coming back in but, I have to say, history shows that the Isle of Man has always fared better under a Conservative Government within the UK. There are all sorts of theories as to why that is the case, but in fact we have always

1540 fared better. So I would see the Conservatives coming in next year and that things will improve, but it might take two or three years. I think things can improve.

When we look at the newspaper coverage that Mr Speaker had re-circulated to us, there was one thing that came into sharp focus for me and it is the one – all Members have copies of this, Mr President – the article is entitled ‘Bitter End.’ An ending that came by e-mail and in it they quote sections of Dawn Primarolo’s letter to them, because they are trying to open up negotiations. She says, and I quote:

‘Ending the bilateral agreement need not have a major impact on patient care.’

1550 We already know they have not judged that.

‘Channel Islands tourists will continue to receive free emergency treatment in the UK but will now be expected to pay for non-emergency secondary care services, and British tourists in the Channel Islands will continue to pay for the same services as they did, in practice, under the terms of the Agreement.’

1555 So what it is saying there, then, is that their situation was anybody visiting their shores had to pay if they were hospitalised. That is what this is saying. That is not the case here; it has never been the case here. So we are a different case. We are not just one of a raft of Crown dependencies that are being treated the same. We had a different situation. Our visitors have never had to pay for treatment here, unless they have been non-European nationals. In the Channel Islands, they have had to. So she took the decision, because of what happened there, under the misguided belief that we are the same and we charge their people. We do not. We do not charge their people at all, never have done.

1565 So I will not, obviously, be supporting the motion as worded, because I think we will be tying ourselves up into a tight corner. I will, just to give the Court a choice, second the amendment moved by Mr Cannan, that we take the decision and Tynwald is of the opinion that we continue to facilitate our people. This time, we will not be getting it free. This time, we will have to pay.

Thank you, Mr President.

1570 **The President:** Lord Bishop.

The Lord Bishop: Thank you, Mr President.

1575 I do not think there is any disagreement in the Court that there is an absolute that we should support the weak and the vulnerable. They matter. It is not negotiable that they need to be protected. But if we whine and bleat, we will get nowhere.

The Department and the Council of Ministers is acting with a great deal of stature, it seems to me, and clearly dealing with the issues. If we keep repeating the mantra, ‘we are all really very British’, what we are heard to say on the other side is ‘we want all the advantages of being in the UK, while distancing ourselves from all the perceived disadvantages of being an independent nation.’ Nice one, and it cuts no ice. That attitude closes doors, ends discussion.

1580 There do remain issues. My hon. friend, Mr Downie, pointed to a very important one: the numbers and the cost of raising the income by NHS trusts in the UK. Another one: we have had that e-mail with the estimate of the number of the costs in both directions, and so forth. Have we done, for instance, an estimate of how many days are spent by Isle of Man citizens in the UK, as compared with the number of days spent by UK citizens in the Isle of Man? You cannot do those sums, unless you know that sort of fact, in the first place.

1585 Our job now, it seems to me, is to keep the door open, and to continue to present a mature case to the UK Government, in the light of a number of things which have come out today which the Council of Ministers will have noted and will be able to add into that discussion.

1590 Thank you, Mr President.

The President: Now, Hon. Members, I think it is an appropriate time at which we took our break. Mr Watterson are you indicating that you wish to speak, sir?

1595 **Mr Watterson:** After lunch, yes, Mr President.

The President: You are. In that case you will be the first to speak after lunchtime. I was intent on calling the Minister, but Mr Watterson will now start at two thirty.

Thank you, Hon. Members.

The Court adjourned 1.06 p.m. and resumed its sitting at 2.30 p.m.

**Ending of UK-Isle of Man Reciprocal Health Agreement
Debate continued
DHSS Report received and recommendations approved**

1600 **The President:** Hon. Members, as I indicated when we broke off for our lunch, the next to speak on Item 12 is the Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Thank you, Mr President.

1605 I can see that this debate is drawing to a close and do not intend to prolong it, but I would like to introduce a few elements to it. I am not alone in saying that I am not happy with this Report. No-one is – I am sure the Minister presenting it is not happy with this Report, but the situation that we have been forced into is not one that we would have allowed of our own choosing. I would also agree with a lot of comments that we had, especially in the adjournment debate, that we cannot let uncertainty spread.

1610 I think we do need to make a definitive choice today about how we are going to go forward. The adjournment sought to ensure that the work of the DHSS goes on and I will certainly echo those comments. I hope that it does with vigour and I have not heard anyone say, and I am sure the Minister will be up at the end of the debate, promising to do this. He would be a fool not to, but where I end up with is, voting against this paper does not solve anyone's problems. It achieves absolutely nothing. I do not think it is the final word on the matter. I hope it is not the final word on the matter, but I think we need to lay out a map, so the people of this Island know where we are going and know to prepare for the situation that has been forced upon us.

1615 I agree that the Report is not ideal, there is plenty more information that should be in there. There is certainly no evidence trail as to the work that has been done and I know that the work started during the time that I was in the Department. I know it has been done, but it is not reflected in this Report and I think, to that extent, the DHSS has slightly let itself down by not showing in detail to Members all the work that it has been doing: who it has spoken to, when, where, how. A lot of it happened and I think it should be in here. I think it was slightly unfortunate that the Department did not seize the opportunity to show to Members what has been going on and I hope that, over time, that information will come out. I do hope that the Minister will take that away and will come forward with that audit trail of the work that has been done.

1620 One of the things we have not heard today, it is the only possible new thing that I am going to introduce: I have not got such a great imagination! The Insurance and Pensions Authority, maybe we can also look to them to provide some sort of standard, quality assurance for any travel insurance products sold on the Isle of Man, that it should include items such as repatriation, which are not even covered now, to make sure that there is a certain minimum baseline, and I would look again to the Minister to just have a few conversations in that regard, to ensure that if people buy a travel insurance product on the Isle of Man, that there is a certain minimum coverage that they are going to get. That is perhaps something that can be taken away and worked on.

1635 In terms of the amendments... well, the amendment, I should say, that is before us, I certainly appreciate Mr Cannan's remarks that this is a priority for the Government, but whether this is the right way to do it, I am not convinced. This actually.... and there are a few indicative costs in the Report, but this actually expands the scope of what is there already. At the moment, if you go to the UK and you fall ill, yes, the costs of in-patient care are covered, but the cost of your repatriation is not. But it looks, according to this, that it would be. I think we have got to be careful of actually broadening out, without really knowing what the costs are, and then undertaking that liability before we even know how it is going to pan out.

1640 This is a big problem. This is a massive problem for people on the Island. That has been replicated from people around the Court by many people's submissions. I would like to see moves to protect the most vulnerable in our society – those who really will experience premiums that will be absolutely extortionate, but again I am hoping – and it will probably come out in Questions over the next few months as this develops and as the Government prepares for 1st April, when this comes out, just how these measures can be bought in. This is about narrowing the levels of uncertainty, not broadening them out and, as such, I will not be pursuing either of the two amendments that are before us.

1645 To that end, I will just wind up and say that I think the people of the Isle of Man need certainty. They need to know that the Government is working hard on their behalf. That is something that is not blatantly evident in the Report, and something that I do want the Minister to build on, but I think that we need to start preparing now for what is a *fait accompli* by the United Kingdom government. It should not stop us working on it, it should not stop us making sure that

we have got the best system in place come 1st April, but I do believe that we have got to start preparing, so I will be supporting the motion on the Order Paper.

1660 **The President:** Mr Henderson, Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

1665 I think we need to clear up again – I said it earlier in this debate – some anomalies, for the public of this Island, for the people who are listening to this debate in our Visitors’ Gallery and elsewhere, who have taken a keen interest in this, and quite rightly so. There seems to be an impression given – I can certainly pick up, as each contributor gives us the input – that there may be something that we can do to cause the UK to take a step backwards. There is an impression that this debate, if we vote yes, we will have a reciprocal arrangement; if we vote no, we will not have a reciprocal arrangement. I can say that with a fair degree of authority, Eaghtyrane. That is the perception that is out there in the public now.

1670 I think, with the Minister doing his winding up, we need to clear up that perception, to make it absolutely clear. I am not sticking up for the UK, Eaghtyrane, one bit, or making excuses, but the sad fact is that the decision has been taken. The ministerial decision has been taken at their governmental level, that this is going to happen. It is signed off, Eaghtyrane.

1675 I believe that our Government has been talking to them, has tried, but the reality of the situation is it is not a case of a *fait accompli*; it is a case that the ministerial decision is signed off – and not today, either. It is done. What we need to do today is to send a clear message to the Council of Ministers, to see what we can do, from an Isle of Man perspective, to help our own. (**Mr Houghton:** Hear, hear.) That is something that is worth exploring.

1680 We cannot go to London and say, ‘Please think again.’ The ministerial decision has been taken. It is finished. That part of it is done. In UK eyes, in their terminology, the reciprocal arrangement in the Isle of Man has finished. So when we get to April next year... we might as well call it from now, Eaghtyrane, and we need to make that clear. We need to make it clear that the Report is from the Chief Minister’s working group, and the DHSS is but the conduit that it is put through here. What worries me with the Report, Eaghtyrane, is the fact that certain aspects have not flowed on from it, which I will touch on in a minute.

1685 Why we are here: that is simple because, as far as I am concerned, Eaghtyrane, we are paying for the mistakes of bullying Britain. They took our KSF money, they have sliced off a fifth of our national income within 24 months, and now they have sliced off our healthcare arrangements – not even, ‘Look, there is an imbalance; we need to talk about this.’ They have just sliced it off, stuck another nail into our community’s body. These are the actions of a mediaeval robber baron: when stuck, will stoop as low as to turn on their own.

1690 Eaghtyrane, the UK have done this, it is gone, so whatever we decide here will never alter that.

1695 I agree with Mr Houghton. There is nothing in the Report that tells us what robust talks have taken place with the UK and the UK Health Secretary etc, and I can accept, if it does not reflect a true situation, then we seek terms and negotiate, but as I have said, Eaghtyrane, that would appear to have been tried, and so on.

One thing I have noticed, Eaghtyrane, is a despondency around the Legislative Buildings in the last week or so. There seems to be no fight, no mettle, no pride.

1700 **A Member:** Maybe where you live! (*Interjections*)

Mr Henderson: I have spoken to many Members now on this and other matters, and the general view is, ‘Tough. Nothing we can do. They can do this, we just roll over.’

1705 **Mr Earnshaw:** Get out of here!

Mr Henderson: I cannot believe the despondency in the face of this national crisis that is unfolding, one thing after the next.

1710 **A Member:** Rubbish!

Mr Houghton: It’s the truth!

1715 **Mr Henderson:** How can we all work together when the mood is down as far as it is? (*Interjection*) Some Members seem to have rolled over for more of the same. (**Mr Houghton:** Hear, hear.) I say that, Eaghtyrane, because I have been picking up on what has been said to my

face outside of here and it has made me feel despondent in... We are supposed to be an energised team, a national team, to be pushing forward in the face of adversity –

1720 **Mr Houghton:** Supposed to be.

Mr Henderson: – whereas some of the comments I have had... Quite literally, Eaghtyrane: ‘Oh, well, it’s happened, there’s nothing we can do. Get on with it, lad.’ That is not the way of it at all, Eaghtyrane.

1725 This Island has been totally loyal to the UK. Our young men and women are out now in Afghanistan and Iraq, and our pensioners, whom this is affecting, have been there before. (**Mr Houghton:** Hear, hear.) What a wicked paradox we find ourselves in.

1730 I have also been contacted by the secretaries of the Isle of Man ex-service personnel associations to make their views known and concerns stated. I will not go through that, Eaghtyrane, because some of the Hon. Members who have put their views in here today have amply put the concerns of the ex-servicemen and women onto the floor of Tynwald.

Mr Houghton: The Royal Artillery Association.

1735 **Mr Henderson:** Including – yes, indeed, Hon. Member – the Royal Artillery Association, amongst others, and the joint secretaries, as I say.

1740 Another issue that worries me that has been touched upon is the tourism issue. I know, Eaghtyrane, that questions are being raised in Stormont, if they have not been already, certainly by David McClarty, in relation to this and the impact it will have on folk coming over from Northern Ireland. They are concerned with the implications of this because, at the end of the day, Eaghtyrane, the Island is quite a unique holiday destination. It is uniquely placed in the middle of the Irish Sea, and for many people – Glasgow, Manchester, Liverpool, Belfast, Dublin, for instance – if you cannot afford a big flash European holiday, this place almost feels like you have gone away on a big holiday, because you have to take air or boat to get here, and it is special. Yet what is happening here might... we need to look at that, and the Ministers need to talk further on the situation and the effects on our industry there.

1745 What I would like the Minister to come back with is to say, ‘Well, this is where we are today, but we will keep the situation under review. We will look at the *Hansards* and check Members’ points of view, ideas and initiatives that have been put forward today.’ I realise we are in hard times now. I realise, from the Chief Minister’s Statement yesterday, just how incredibly hard things are and that you cannot just pull rabbits out of a hat any more. It just is not going to work.

1755 The thing with the Report that I think has failed – and Mr Watterson touched on it, Eaghtyrane – was the fact that there is missing detail there and, really, we could have told the public better how we have looked at things, how we are possibly going to look at things, and that this might not be the end of the story. It is in UK terms, but it might not be for an Isle of Man response to an Isle of Man situation, Eaghtyrane.

1760 I think if the public had a little bit of... not false hope, but realisation that things are going to be kept under review and that the Government will do what it can and does recognise there is a problem here, that is a good message to get out, Eaghtyrane.

The President: Hon. Members, I was always fearful that a lunchbreak would mean you would get a second wind. (**A Member:** Yes!) (*Laughter*) Can I ask Hon. Members to try not to be repetitive.

1765 Mr Waft, Hon. Member.

Mr Waft: Thank you, Mr President.

1770 Talking about reciprocal agreements, when we have done in the past, especially when we get those directives that we report on, every month in Tynwald, the DHSS says, ‘So and so, so and so – it’s an agreement. Reciprocity demands that we follow this.’ Well, that reciprocity seems to have gone out of the window. So as far as I am concerned, anything is in the pot now. It is no good coming along and saying, ‘I’m sorry, that’s reciprocity.’ Just hang on there: it is reciprocity when the UK wants it to be reciprocity, but when it does not, it is not. So, I think we will have to think very carefully, when we say... if we criticise anything that is happening in the name of reciprocity, let us not be so cut and dried.

1775 I just wondered, with regard to the agreement generally... I am fully supportive of the fact that we cannot do anything about it, inasmuch as we can make as much noise as we can at the UK, but

nevertheless I am sure that is being done, and the way we have to try and soften the fall, for one reason or another, we will put our views forward.

1780 Just one little item here: I was looking at the frequently asked questions, down at the bottom of page 11. It says:

1785 'I am a pensioner and live in the Isle of Man. I was previously a resident of the UK and have UK state pension, although it is paid in the Isle of Man. Will I have to pay for my treatment if I fall ill when visiting my family in the UK?'

The answer is:

1790 'If you receive a UK state pension, there will be no charge for health treatment while visiting the UK, as long as you can prove you have lived in the UK for 10 continuous years...'

I just wondered... nobody has asked the question: can you receive treatment in the Isle of Man? Have you got residential qualifications to actually receive treatment in the Isle of Man; or can they be classed as visiting the Isle of Man, because they have not been here for 10 years?

1795 I know we had a similar sort of situation when we had a select committee looking into the benefits – the supplement benefit – for pensioners and the argument then was, for people who lived in the Isle of Man, if they had not paid the continuous 10 years, they could not receive the supplement – which I know will probably be phased out in a short space of time, but nevertheless, it was an argument at that time.

1800 The proposition that was put forward, at that time, was if you have lived here one year, you get one tenth of the supplement; two years, two tenths of the supplement. I think Mr Cannan was on that committee with me and, at that time, we had three tenths, four tenths, of the Manx supplement, which was thrown out by the courts – in my view, quite rightly so. Nevertheless, it was an argument that was put forward and the argument was strong enough for us to actually set up a select committee. I am just adding that to the working party that is looking at possibilities to work on.

1805 I have made requests in the past, and I think actually Mr Speaker did at one time, when we discussed the E111 form and why couldn't we take part in that. That of course did not get the light of day, either. So, the basic care that you need when you are in Europe... you have got reciprocity from the UK residents for some areas. You still have to buy your own insurance, anyway, but there is a situation there that has been agreed with because the UK have put a lump of their EU money into the pot for reciprocity in certain areas.

1810 We have not actually, according to the Report here, visited all the implementations that might be considered. I agree that the amendment perhaps will put things off making a decision, but actually it is not up to us to make a decision – the UK has made the decision. So, in view of the fact that the working party is still looking at the situation, and with regard to the situation with insurances, the situation with the devolved governments, the situation with Europe, perhaps, and the possibility of all the eventualities that can be brought forth in any sort of change... I do not think that has all been gone into yet, but I think it can still be considered before the decision day, or the day when this comes into force.

1820 Just one other small thing that probably has gone unnoticed by many: if somebody is actually in hospital at the time this comes in, and when they entered hospital it was not in, are you going to divide up the time from when it came in to the time they came into hospital, or not? Just something that I thought somebody might look at some time.

1825 I wish them well in their audit trail, as Mr Watterson has described, and I hope that the audit trail will include everything that has been discussed today, and hopefully something positive will come out of it before the dreaded day when it comes into place.

Thank you, Mr President.

1830 **The President:** Chief Minister.

The Chief Minister: Thank you, Mr President.

1835 Just partly to cover, first, if I can, the point made by the last speaker. The issue about healthcare in the Isle of Man is that anybody who is normally resident in the Isle of Man will receive free healthcare from our Health Service, so if they are not a visitor – if they are normally resident – they reside here.

As far as the issue of what he called the E111 form, which now has been changed to some other format, the United Kingdom government give quite clear advice to their own residents if they are travelling into Europe, and their advice is quite clear, in that they say that everybody who

1840 travels into Europe, even with that card, should take travel insurance out because it does not, and will not – the card – cover all their needs for healthcare if they end up in hospital, subject again to, partly, the country’s own health system.

1845 We have been fortunate, is the right way to put it, that we have had a system that we evolved with the UK since the National Health Service in the UK was introduced in 1948, or whenever it was, and we have been part of that and we have developed with it. Unfortunately, the Health Service in the UK has decided – the United Kingdom government – that they are ending the Agreement. We have no say on that. It is an Agreement with two parties while the two parties are happy. If one party steps away from it and says, ‘We are giving notice under the Agreement,’ then there is not anything one party can do, whether that be us to the UK or, in this case, the UK to ourselves.

1850 Dawn Primarolo MP, who is Minister for State in the Health Service, was quite straightforward when she indicated to the Isle of Man and advised us of what was happening. What she said was something like: ‘UK citizens who travel abroad are now expected to take out travel insurance and this should be the same when travelling to the Isle of Man,’ and went on to say, most importantly, ‘The United Kingdom Government is of the view that the current Agreement does not offer the United Kingdom taxpayer value for money.’ Whatever we argue, that is their stance, and I have to say, Mr President, they are rigid on it.

1860 This point was indicated – unfortunately, I thought – by the Hon. Member, Mr Henderson, when he said that people are despondent, that we are rolling, there is no fight. The reality is that the larger country has said to the Isle of Man, whether we like it or not, ‘We are ending that Agreement,’ and they can do that, as we could do it to them. That is because of the reasons I have just spelt out.

1865 We then have to manage that situation and say how do we best go forward for the Isle of Man. No matter what comes out of this debate today, Mr President, one thing is absolutely sure: from 1st April 2010, there will be no Reciprocal Agreement for healthcare between the Isle of Man and the United Kingdom. The healthcare we are talking about is when you are admitted into hospital, into a bed in the hospital. Not if you need accident and emergency – that will still be free; not if you need to go and see a GP; or a prescription – that will be at the same rate as it is in the United Kingdom. The same will then apply to United Kingdom visitors to the Isle of Man. We need to just recognise that that is what will happen, whatever we do here today.

1870 Clearly, part of the argument today is that we should do more to it from an Isle of Man perspective. Again, we have not the resources. If we make this a priority... and the Hon. Member for Michael made the point: I am giving you the option, you could do it, but you will have to take money from somewhere else. Absolutely, we all know that, but there is a question which we have to ask. None of us likes what is happening here, none of us, including myself, the Minister, every Member of Tynwald, because, again, this is a step of breaking ties with the United Kingdom – which they are breaking with us, not us breaking with them, which is quite an irony, really. They are distancing their relationship, and it is not just with us, it is with all the Crown dependencies, it is with all the overseas territories, and again as somebody said, as they did with New Zealand and Australia 10 years or more ago when they made those changes. That is where the United Kingdom are coming from.

1885 The point that there is an indication that we have rolled over: no, we have not. Even though the letter said to us... because the original letter was it will cease from 1st April 2009, and the Isle of Man Government made very strong representation to the Health Minister, the Minister of State and her Department, making the point that the timescale again was unreasonable, that we were in a different position to Guernsey and Jersey, where we do not pay because we have an extensive free National Health Service, which they do not. You pay to go to the GP there and you pay for different things that you get under their Health Service, so we have this different situation and our Agreement was slightly different with the UK than theirs was. We made the point very firmly that this change was too short.

1890 The Minister reconsidered it and agreed that, instead of it applying from 1st April 2009, she would give us another year’s grace so that it would start from 1st April 2010. So we did not roll over. We did try and get some way forward. What we did know was they were absolutely adamant the Agreement was ceasing. There are no ifs or buts on that: there is nothing to negotiate. It is just ceasing and that is the end of it. We do not like it, but that is what is happening and, as a community, it means we have got to slightly readjust how we deal with this issue.

1895 Mr President, most of my holidays with my family have been to the United Kingdom and I have travelled all over the place in cars or on trains with them to enjoy holidays for all their young life. I never took out insurance. What I did not realise was that, if anything serious had happened to us, we could not be repatriated, except at our own cost.

1900 You grow up with this complacency that we have a Health Service Agreement, that we are just covered. I did not know, until a few years ago, until a constituent of mine had an accident in Southern Ireland and had to be repatriated back to the Isle of Man, that there was no cover. There is cover for care, similar to what the UK is now doing, but not for getting that person back to the Isle of Man. I tried very hard to see if we could find a way out of this. I know that family paid a lot of money for the mother to be transported back from Southern Ireland to the Isle of Man. When we talked about this, first, I did not realise you needed insurance for Southern Ireland, but they did not, either, and again the perception is it is all part of the British Isles and we are okay because we have had this free movement. The reality is we have had certain health care but there have been certain restrictions and we have not... I suspect nobody in here has ever insured to go to the UK as a clear objective – ‘Oh, we’re going on holiday there, I’ll take out travel insurance’ – because we have always thought we are covered. That is something that we just need to keep in mind, and this is changing that situation.

1905 All I would say is I am sorry that Members do not feel that the information in the Report provides them with the fullest of information. That is not trying to hide anything. It was actually trying to keep the Report pretty focused and meaningful: the Reciprocal Agreement is ending on that date. We have looked at some of these issues that have been raised with us before, and this is where we think we should go, because we believe that it is a responsibility that will fall on the individual – it has to – and there is insurance available, and it will develop, and so on. Furthermore, the Department of Health and Social Security are in discussions with the Department of Tourism and Leisure to make sure that people who are going to visit the Isle of Man are going to be aware of it, and so on. Nothing new to what they do when they are travelling to America or, as I say, to Europe.

1920 So, already there has been work done to try and look at that. We have examined the different options that have been raised and, quite honestly, we need to get some certainty into this. The reason I say that is because there is planning to be done on this measure. Every month lost means there is uncertainty for the people we represent, uncertainty to get the message over that the thing is changing and that, as from 1st April, there will be a change.

1925 The exemption list is in the Report. Quite a few categories of people are covered: students who are in the UK are covered because they then become resident in the UK. I think the Hon. Member of Council, Mr Waft, read out another. They are on the Government website. That will be updated, because some of the information... as it gets sorted out we will be able to give more information. The Minister sent a leaflet to every household in the Isle of Man months ago, to give some comfort to people, so that they understood what was happening. I can say, Mr President, because of some of the debate that has gone on, I know of at least one family who made the decision to leave the Isle of Man, sold their house, and then found out after, that what they thought was happening was not happening. They thought, from what they had picked up from what had been said, that in fact being referred, even, to the UK, they would not be covered, and therefore the medical treatment that was required would not be available to them here on the Isle of Man, they could not get it unless they paid for it themselves. Of course, quite clearly – and the Minister has gone to great lengths to say this – if you are an Isle of Man resident and you are referred for hospital treatment in the UK, or anywhere else, then the Isle of Man Health Service pays for that referral and for the costs for the treatment that you have.

1930 Finally, the other issue that was raised is that we have these links with the hospitals in the UK, and should we not now be looking at whether or not we have other options? The answer to that is yes, we should. The Minister has already had that raised, as to the point – and this was raised quite some time on – that we want to look at, now, our options, because that link with the UK NHS has been slightly altered. We are not going to cut our nose off to spite our face, but quite clearly, we could potentially be able to negotiate better agreements, as long as the standard of healthcare remains at a level that we are happy with, and try to make sure that we can continue to provide the best health care for the people we represent.

1940 The real issue is there is a change happening on 1st April 2010. We need to be ready for it. I believe the Minister has provided the Report that gives the information and I am sure he will respond to the points about some of the other issues that have been raised, about considering even some other issues that Members have concerns about, which they have raised today. I am sure he will give a positive response to that.

1955 So I hope Members will support the motion, sir.

The President: Mr Crowe, Hon. Member.

1960 **Mr Crowe:** I was going to say a few words, but I think the Chief Minister has covered everything I was going to say.

The President: Mr Gill, Hon. Member.

1965 **Mr Gill:** Thank you, Eaghtyrane.

Just briefly, I thank the Chief Minister for his input because it does cover some realities, that this is going to happen. I accept it has happened to us and we cannot affect that, we are told – maybe we can, maybe we cannot – but, come April, it is going to be a fact of life. It is also a fact of life, and probably a wake-up call for many of us, that we have to be more responsible for our own cover. That is the way it is moving.

1970 I would reflect on the comments from Mrs Christian, as I heard them – and bearing in mind her previous experience as DHSS Minister – and Mr Cannan and his amendment. Mrs Christian and Mr Cannan do not always see eye to eye politically, I think would be a fair comment, but they both made the pragmatic case for consideration that it is actually a false investment to say ‘You’re all on your own,’ because the case that Mr Cannan put forward, that I heard, actually made a lot of sense, in as far as if we pay for cover for our people, yes, we might be saying most people, most of the time, will be able to pay, but there will be a significant... possibly a minority, who will not be able to travel, will not be able to get cover, will not be able to afford that cover, and what are we doing about them? The answer, as far as the Department is concerned is, ‘Well, we will keep thinking about it,’ but effectively it means nothing. They are on their own. I am sorry to be so blunt, but that is the take I get.

1985 The other argument Mr Cannan made, I think is equally valid: if push comes to shove... and let us have a scenario of a motorcyclist fan coming over for the TT or the Grand Prix and he or she falls off their bike or suffers an injury, whether it is an RTC or just another injury. They wind up with broken legs and they are hospitalised here in the Isle of Man for a period of time, and then, when they are well enough, they can travel back under their own cover to get back to the UK, but they owe the Isle of Man a figure for that hospitalised treatment, which I think is the scenario they would be looking at. Are we really going to say to that person, if they are not insured, because they have not been on the Foreign and Commonwealth Office website, or they have not read the notice in the guide, or whatever – for whatever reason, they are not insured – are we really going to say, as a Government, we are going to pursue them? If we are, let’s just imagine the scenario of a national motorbike magazine or newspaper – some of which are quite hostile to the Isle of Man, periodically – the headline, ‘Isle of Man takes house off biker!’ Fantastic!

1995 **Mr Houghton:** Takes bike off biker! (*Laughter*)

Mr Gill: They will take the house, potentially. (**A Member:** Insured.)

2000 That would be the scenario we would be facing. How would that benefit us? I think the point Mr Cannan made was not one about being sappy and soft. It was a very hard-nosed business case, but that is actually a pragmatic consideration. Sometimes you prioritise.

2005 The Chief Minister says – and he is quite right – he faces challenges and he has my support in being an assertive leader. I might not always agree with him. That is fine, but I will always expect him to show leadership. He knows my views, where we could find that kind of money, without any residents suffering in the Isle of Man. Others will entirely disagree with my view, and I do not want to have a big debate about other issues here and now, but Mr Cannan makes the point, this is a business decision.

2010 This is a pragmatic political decision. It is not politicising in the opportunistic manner; it is decision time. If we decide that we will go with the Ministry, the effect of that is that there will be people who will not be able to travel. We will even accept that that is a fact, and we are happy to live with it. It will not be any of us; it will not be our families; but it will be people in the communities we live in. And, as usual, it will be the least able to care for themselves who will be the ones who are most severely hit.

2015 So we decide whether we serve their interests in some better manner than is proposed, and the best manner I have heard is the amendment by Mr Cannan, or we do not. That is the decision before us today, Eaghtyrane.

The President: Mr Braidwood, Hon. Member.

Mr Braidwood: Thank you, Mr President.

2020 One subject which always causes an emotional debate in this Court is health and it is not a debate of our own choosing. If my heart ruled my head, I could go along with the amendment by the Hon. Member for Michael, Mr Cannan; but my head says a different thing.

I agree with the sentiments which are expressed by the Hon. Member of Council, Mr Downie. We have not got sufficient figures. How many people are going to be actually a problem, if they
2025 visit the UK? Do we know how many people would need medical insurance? Do we know how many people are in receipt of a UK pension who now are resident here; how many people are in the armed forces; how many students we have? We should have those figures and they should have been in the Report. (**Mr Houghton:** Hear, hear.)

I have to disagree with the Hon. Member for North Douglas, Mr Houghton, when he says, what we will do is we will charge the regional health authority in the UK for the charges. They will turn round and say, 'Sorry, the individual should have known that they should have taken out insurance, if they were visiting the Isle of Man. You are not part of the UK; you are not part of the EU; and we are not going to pay the DHSS in the Isle of Man.' That would be the scenario. If we
2030 put a charge to them, they would just refuse to pay it, and say it would be the individual. It has just been quoted by the Hon. Member for Rushen, Mr Gill, who says how are we going to get that money off that individual if he has not got insurance? Are we going to take him to court, are we going to follow him and demand this money? It would be very difficult to get that money back.

Mr President, yes, we have to protect the most vulnerable in our society. I agree with the Bishop, the majority of... everybody in this Court wants to help the most vulnerable of our
2040 society. We are in a very difficult situation and my view is that the DHSS, it is ongoing, it is continuous, the recommendations which are in front of us now.

Mr Cannan, when he was putting forward his amendment, if we feel that a change in the UK, a Conservative government are going to say, it is okay, Isle of Man, you can have your reciprocal agreement back, I am sorry, that is fantasy land. There is no way they will change the decision,
2045 which is being made by the Labour government now. Everybody will be trying to save money. The Conservatives will try to save as much money as they possibly can, because they want to balance the budget in the UK. It is finished. We will not get back that reciprocal agreement. The Chief Minister was quite right.

Mr President, I have to go along with the recommendations. I think the DHSS – and a lot of people have already said so in this Hon. Court – need to do a little bit more work on it. We need to have more figures and they need to continue working. Developments in the insurance industry, there are a list of the recommendations, there are nine of them.

I have just come back from holiday. I have different types of insurance through banking, having an account with a bank: there are other people have that situation as well. I have to pay an
2055 additional premium, because I had a medical problem in 1991, so I have to pay additional monies to cover myself. I have just been told I can afford it! Yes, I am fortunate. I can afford it, as everybody in this Hon. Court can afford it and there are others who, unfortunately, cannot afford it and that is what I am saying. If we get the number, the figures properly, and we can do some sort of costing for those vulnerable people who might go across, then the DHSS may be able to look at it but, at the present time, I feel that that we have no alternative but to go ahead and vote for the recommendations of the DHSS, of the working party, which again, it has been mentioned by Mr Henderson, DHSS is only a conduit of the working group. I feel that we have to go along with the recommendations in the Report.

2060 Thank you, Mr President.

2065 **The President:** Minister to reply.

I am having a bit of a debate with the Hon. Member for Onchan, so I had better see what his response to me is.

2070 **Mr Karran:** I have a right to have an input into the amendment that has been put by Mr Cannan, Mr President.

The President: One moment. When was that? Mr Cannan's amendment...
2075 Speaking to the amendment, sir. Mrs Cannell seconded it.

Mr Karran: Yes, absolutely.

The President: Speaking to the amendment.

2080 **Mr Karran:** Eaghtyrane, I think that the problem is today... I cannot believe the debate today. When I have just heard the Chief Minister say, 'We have managed the situation,' and then he tells us we have had an extra year...

This Report is a joke, an absolute joke, and if the only show in town happens to be Mr Cannan's amendment in order for us to have something... I asked about my national parliament. 2085 Well, my national parliament has reminded me more of a playground at a primary school today, because I will be perfectly honest with you: this is an insult – an insult – if you are supposed to be national politicians. There are no figures in here about anything. The only reason why I will support Mr Cannan's amendment today is because it will actually have to force them to actually do some work.

2090 The pious remarks that we have heard from the Member for East Douglas – pious – and too many in here... What are we wanting? Are we wanting a society of 'I'm alright Jack, sod everybody else'? Is that what we want? There was a sensible proposal put here to try and look at a way which did not create an extra bureaucracy within the Isle of Man. It did not create any extra liability to the taxpayer in the Isle of Man, and we have acted like a playground. That has gone. 2095 We cannot get a seconder for something that should have been debated and would have actually forced the Court to come back and listen to their excuses in the December sitting, to come back with some reasons for why not.

If this is the only way forward for us to get some action on this front... because this is an excuse. We should know some idea of some detailed figures, as far as what the implications are, 2100 because I can tell you now, when I have heard the nonsense that has been talked about, I reckon you would find that when we looked at it properly and thoroughly, without fear of favour, I believe that we are not talking about an awful lot of money, as far as this is concerned.

It is about being pragmatic. It is about, for a change, instead of looking after the Hooray Henrys and the boys at the top, we start looking after the boys at the bottom, instead of the spoils of the table. I believe that the reason why I am supporting, even though I have to say that I would not have preferred to do it that way... but if that is the way to get this Court to try and get this Government, that should be coming back with detailed proposals of what... What are we talking about? We are none the wiser, apart from what we have been told: it is the Pontius Pilate bit, you will have to get your insurance! We should be coming up with pragmatic, visionary ideas, just like 2105 we came up with, when the student grant system was done away with and, in that case, we had plenty of money to deal with that. We should have been today, coming up with a proposal.

Hon. Members, do not give us the rubbish that we are concerned about the people who are my father's age or the families that have got kids with chronic illnesses and say that we are we doing our best, because if this is your best, then you should resign, Mr Teare, and the Council of 2110 Ministers should resign and the rest of you should go to the general election, because if you are not going to hold the Government to account, then you should give up, because you are not a parliament that holds a parliamentary democracy. That is the problem today.

That is why I think, unfortunately, it is not the best way forward, as far as it is concerned, because I would hope, then, the Council of Ministers would come back to this Hon. Court before 2120 next year and say to us, well, these are the costings, this is what it is going to cost. At the moment this is a joke – a joke – and what the joke is that, once again, you are trying to con people that we believe in an inclusive society. When I listen to the amount of money that more likely is involved with this proposal and the people that would be – and if it was done properly, I do not think we would be talking about an awful lot.

2125 So, Hon. Members, it is a sad day today. It is a sad day today that we have ended up with a debate, where we have had all the other different sides, saying all the different issues, but the problem is, we are no more clear, no more wise about the real costs involved, as far as this is concerned, allowing for the exemptions that have been there. This Court – and forget your 40-per-centers and your 30-per-centers and your whatever-per-centers, as far as your loyalty to this 2130 Government, you should be doing what is right, by the people of the Isle of Man.

Be a parliament. Tell the Council of Ministers, if they have had an extra year to come up with a proposal on such an important, fundamental point as this, but to end up with 13 pages for such an important issue, because, Eaghtyrane, the reason why we should support this proposal, this is a cancer and this cancer will grow if we do not start becoming more pragmatic. Today it is a few war heroes that fought in the war and a few sick kids. What will it be the next time that we cannot afford to do, because we have not got the vision or the ability to do it? I believe this Hon. Court should support David Cannan, if only to make sure that the Government comes back with some costings and then we need to address the issue again.

2140 **The President:** Mr Teare to reply.

The Minister: Thank you, Mr President.

I would like to thank everybody for their contribution. I did anticipate that it would be a lively debate and I have not been disappointed, sir.

2145 If I could just give a quick general overview, what I would say is that this was not the decision of the DHSS or the Island's Government. It was just plonked in our lap. We tried to have it overturned during our dialogue with the UK, and we did get some movement, in that we did get a 12-month deferment, and I would like to thank our officials for negotiating and achieving that, which was not given to other jurisdictions, I understand.

2150 Just because we have reached this stage does not mean to say that we have come to a dead stop. We will continue our dialogue with both the UK government and the opposition party, but we have to respond to the situation in which we now find ourselves. We cannot just carry on and then, all of a sudden, on 31st March, no decision is made, no advice given to the public, and then the issue confronts us. We have to deal with it now.

2155 In some respects, I take on board the comments that have been made by Hon. Members, and what I would say is that this is an interim Report. In some respects, it is a work in progress. It is always a difficult balancing act to give a report which is readable and the information can be easily assimilated, or to put a considerable amount of detail in, which turns the reader off, and I apologise if it is felt that we could have put more into the Report. What we will do is... I have taken copious notes and my colleagues in the Department have been doing likewise. We will look at those notes and also Hansard, and we will attempt to deal with the observations and the reservations of Hon. Members.

2160 I am also concerned with the effect on the vulnerable in society. What we are trying to do is to deal with the issue. We will continue the dialogue and also discussions with the insurance industry to ensure that all relevant points and relevant risks are covered in policies. We need to bring certainty to this to enable us all to prepare, but we must remember, Mr President, that referrals from the Isle of Man to the UK for treatment will not be affected. No change there, then.

Accident and emergency treatment in the UK: that will not be affected.

2170 The only issue we are talking about here is when a patient has to move beyond the accident and emergency theatre, as it were, into the general hospital itself. Then a charge will be incurred. This definitely was not our wish and, in some respects, it has been highlighted that we have been caught up in the general backwash which has been created by other countries. But we are where we are, and we have to deal with the problem now.

2175 If I could just quickly deal with the amendments, I know that Mr Karran's, the Hon. Member for Onchan, was not seconded. But it has the advantage of being simple and straightforward, but the disadvantage that the public were definitely not in favour of it. I received many representations from people to say that they were not happy with it, on the basis that they would have to pay twice, because they already had personal insurance in place, maybe as part of a financial product that they bought, like a bank account or home contents insurance.

2180 Mr Karran has made the point about being pragmatic. I am being pragmatic, Mr President. We are in this position, and we have to deal with it. On an affordability basis, we cannot commit the Government to any further expenditure, because we definitely cannot pay for it.

2185 Turning to the Hon. Member for Michael's amendment, he has made the bland assertion that money could be top-sliced from other Department budgets. I have got the feeling that money will be sliced from Department budgets anyway. At the end of the day, regardless of how we look at it, we are still taking on an additional commitment. How that is funded is another issue, but we are still taking on an additional commitment and, in a way, providing an additional service. I think here there is a bit of a contradiction, with what the Hon. Member was telling us earlier, that he is putting down a motion for next month's sitting of this Hon. Court, bringing forward the opportunity and proposals to balance the budget.

2190 One thing this would not do is help us to balance the budget.

Mr Cannan: It's choice! It's choice!

2195 **The Minister:** I have the floor, Hon. Member, and I am proceeding.

Mr Houghton made the comments that the Government should pay. What I would say to the Hon. Member is he has had a very short memory span. If I could just refresh his memory, on Question 8, yesterday – not last year, but yesterday – he said:

2200 'In the current circumstances, we cannot increase public expenditure in any shape or form.'

In Item 8, also yesterday, he said – and I made a note of this:

2205 ‘We have to support savings to Government cash right now.’

How does that fit in? There is an old banking expression, ‘words and figures differ’.

2210 Mr President, I feel, myself, that the situation has been well addressed. We have not accepted this as a *fait accompli*. We have tried to deal with it. The proposals brought forward, I think, are a practical approach. I acknowledge that it does not meet everybody’s wishes. We are not able to meet everybody’s wishes in this world. This is the real world; we are dealing with real circumstances. I feel that we have to move on, put certainty down, send out a message and enable people to plan – not only the people who we represent, but indeed, the Department which will have to bring forward supplementary legislation, and additionally, the insurance industry, which will now have an opportunity to bring forward suitable products.

2215 With that, Mr President, I beg to move the motion standing in my name, sir.

2220 **The President:** Hon. Members, the motion that I put to the Court is that printed at Item 12 on your Order Paper. To that, Hon. Members, we have the amendment, moved by the Hon. Member for Michael, Mr Cannan, and seconded by the Hon. Member, Mrs Cannell. It has been circulated to you, Hon. Members, on the white paper.

I put to you, first, the amendment in the name of the Hon. Member for Michael, Mr Cannan. Those in favour of the amendment, please say aye; against, no. The noes have it.

A division was called for and electronic voting resulted as follows:

In the Keys – Ayes 6, Noes 16

FOR

Mr Karran
Mr Cannan
Mr Houghton
Mrs Cannell
Mr Gill
The Speaker

AGAINST

Mr Quirk
Mr Earnshaw
Mr Brown
Mr Crookall
Mr Anderson
Mrs Craine
Mr Bell
Mr Quayle
Mr Teare
Mr Malarkey
Mr Braidwood
Mr Corkish
Mr Shimmin
Mr Cretney
Mr Watterson
Mr Gawne

The Speaker: Mr President, the amendment fails to carry in the Keys: 6 votes for, 16 against.

In the Council – Ayes 2, Noes 6

FOR

Mr Waft
Mr Butt

AGAINST

Mr Callister
Mr Crowe
Mr Downie
Mrs Christian
The Lord Bishop
Mr Lowey

2225 **The President:** It fails in the Council, Hon. Members: 2 for, 6 against. The amendment therefore fails to carry, Hon. Members.

The subsequent amendment not being seconded, Hon. Members, I now put to you the motion, as printed on the Order Paper. Motion 12 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

In the Keys – Ayes 16, Noes 6

FOR	AGAINST
Mr Quirk	Mr Karran
Mr Earnshaw	Mr Cannan
Mr Brown	Mr Houghton
Mr Crookall	Mrs Cannell
Mr Anderson	Mr Gill
Mrs Craine	The Speaker
Mr Bell	
Mr Quayle	
Mr Teare	
Mr Malarkey	
Mr Braidwood	
Mr Corkish	
Mr Shimmin	
Mr Cretney	
Mr Watterson	
Mr Gawne	

The Speaker: Mr President, in the Keys the motion carries: 16 votes for, 6 against.

In the Council – Ayes 8, Noes 0

FOR	AGAINST
Mr Callister	None
Mr Crowe	
Mr Downie	
Mrs Christian	
The Lord Bishop	
Mr Lowey	
Mr Waft	
Mr Butt	

2230 **The President:** In the Council, Hon. Members, there are 8 votes for, no votes being cast against, Hon. Members. The motion therefore carries.

Mr Cannan: Mr President, may I have a print-out, or all Members have a print-out, of the amendment and of the motion, sir?

2235

The President: Yes, sir.

Tynwald Membership Pension Scheme Management Committee Draft Rules of the Members' Pension Scheme approved

13. A member of the Tynwald Membership Pension Scheme Management Committee (Mr Speaker) to move:

2240 *That Tynwald approves the draft Rules of the Members' Pension Scheme [PP119/09], laid before this Hon. Court, which reflect the technical changes to the Scheme Rules agreed in principle by both Branches of Tynwald on 27th January 2009.*

2245 **The President:** We go on, then, to Item 13, Hon. Members, the Tynwald Membership Pension Scheme Management Committee and I call on Mr Speaker to move.

The Speaker: Thank you, Mr President.

2250 As Hon. Members know, the legal document underpinning Members' pensions is known as the Tynwald Membership Pension Scheme 1995. This Scheme was approved by this Hon. Court on 22nd May 1996. The Scheme has been amended on three occasions since that time: twice in 2003 and once earlier this very year. In all cases, the amendments have been technical in nature.

The document before the Court today is simply a consolidated edition of this Scheme, incorporating all the amendments to date. Such a document has not existed until now. I hope that all Hon. Members will find it helpful and will be able to rely on it for reference in future.

2255 Mr President, the two sets of amendments which were made in 2003 were recommended directly to this Hon. Court by the Members' Pension Scheme Management Committee. Those amendments were accepted by the Court on 18th March and 20th May 2003. The amendments made this year were handled in a different way. They were recommended separately to the branches by the Emoluments Committee and accepted in principle by both branches on 27th 2260 January 2009. Subsequently, the two Committees were advised that as Tynwald Court had originally made this Scheme, only Tynwald Court could amend it. Therefore, another purpose of the present motion is to ensure that the 2009 amendments formally come before this Tynwald Court. The substance of the amendments, Mr President, was debated in detail in both branches in January and approved. Therefore, I would indeed expect both branches to support them at today's 2265 vote in Tynwald Court .

Mr President, in concluding, I would say I am conscious that there is, of course, a wider review of public sector pensions underway at present and I am sorry I missed the Chief Minister's statement about that review earlier in this sitting. The Emoluments Committee has undertaken already that it will monitor the current wider review of public sector pensions, as the Committee believes the outcome of the review may well have implications for the Tynwald Members' Schemes. 2270

The motion on the Order Paper today is only a technical motion. It is, however, an essential first step in any future review, in that it seeks to make clear exactly what the position with Members' pensions is at the present point in time.

2275 Mr President, I beg to move.

The President: Hon. Member, Mr Lowey.

2280 **Mr Lowey:** I beg to second, sir, and reserve my remarks.

The President: Hon. Members, the motion I put to the Court is that printed at Item 13. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Standing Committee on Public Accounts
Report on Fines Collection received and recommendations approved**

14. The Chairman of the Standing Committee on Public Accounts (Mrs Christian) to move:

2285 *That the Report of the Standing Committee on Public Accounts on Fines Collection be received and the following recommendations approved:*

(i) that the Council of Ministers

(a) designate a body, with the authority and powers to direct all the various bodies who have responsibility for the collection of court financial penalties and fixed penalties;

2290 *(b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between all those responsible bodies; and*

(c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties and fixed penalties could be extended.

2295 *(ii) that the Working Party should consider whether changes to legislation are required to –*

(a) simplify the Attachment of Earnings procedure, and

(b) provide for Attachment of Benefits Orders.

(iii) that the Working Party's Review should evaluate the following measures:

2300 • *Additional financial penalties in respect of late payment to offset the additional expense incurred in attempting to obtain*

payment

• *Registration of outstanding court debts which would potentially affect the defaulter's credit rating, as is the case with*

civil debts

• *Collection of outstanding amounts via the Income Tax system*

2305 • *Community Service as an alternative to imprisonment*

• *Clamping**

- *Penalty points or cancellation of driving licences**
- *Refusal to re-licence cars until fines/fixed penalties are paid**
- 2310 • *Investigate whether reciprocal agreements with neighbouring jurisdictions over the collection of outstanding financial penalties (including costs) would be a feasible option*
- *Using debt collection agencies to recover debts from persons living in other jurisdictions, and that any of the above options which are approved should be progressed without further delay.*
- 2315 * *Only in respect of parking and motoring offences.*
- *(iv) that the Insolvency Services Office Bill should be progressed as a matter of urgency. If there are practical difficulties which may delay this Bill, then other interim measures to address the issues set out in section 6.3 of this Report should be introduced.*
- 2320 • *(v) that the Council of Ministers should consult with the Attorney General's Chambers to investigate the feasibility of the introduction of legislation which would provide for automatic regular increases to fines and fixed penalties and report back to Tynwald by April 2010.*

2325 **The President:** Item 14, the Standing Committee on Public Accounts. Mrs Christian to move, please.

The Chairman of the Standing Committee on Public Accounts (Mrs Christian): Thank you, Mr President.

2330 As Hon. Members can see from the Introduction to this Report, the Public Accounts Committee has been monitoring the collection of fines and other financial penalties since 2003. When the working party was set up in 2004, as described in the Report, partly in response to the PAC's concerns, this matter was put on the Committee's back burner, as it was assumed that the actions, which we have identified as necessary, would be put into place by that working party.

2335 After the new PAC was appointed in 2007, we decided to revisit this matter and check on what progress had been made. We talked to the various departments involved in the collection process and identified what action had been taken by the working party. What we found was that, although the working party had identified some potentially effective changes and some of those have been introduced, progress had, in our opinion, been far too slow.

2340 One of the problems has always been that the responsibility for the collection of fines has been spread over various agencies, with no one agency being identified as a lead department. The working party is a cross-departmental body but it has limited powers. It reports to the Council of Ministers with recommendations, but has no powers to ensure that any recommendations approved by the Council of Ministers are implemented.

2345 A major problem, which was first identified in 2003, was that the various agencies did not have compatible computer software, with the result that up-to-date data on debtors and outstanding arrears could not easily be shared between the various agencies. We have been assured that this software is to be in place this year, but we are very concerned that it has taken six years, since we first became aware of this problem, for it to be rectified.

2350 Our first recommendation, therefore, is that a body should be in place with the powers to direct all those agencies involved, that there should be efficient procedures for the exchange of information and that investigations should be undertaken as to whether it is possible to extend the facility to share information with other departments who are not directly involved in fines collection. As you will see from Appendix 18, Treasury has agreed with this recommendation and stated that it intends to reconstitute the working group under a political chairman.

2355 Our next two recommendations concern incentives and penalties intended to improve collection rates. The ultimate deterrent for non-payment is imprisonment but it is the least cost-effective for Government.

2360 Appendix 16 gives data on terms of imprisonment for non-payment of financial penalties. In many cases serving a sentence of a few days cancels out the debt, so there is a dual cost to Government in lost income and the cost of imprisonment. We therefore looked at ways of improving collection rates and reducing imprisonment rates. One method of collection, which is not frequently used at present, is attachment of earnings or attachment of benefits. So we recommended that the working party should investigate why these options are not used and suggest improvements. Again, Treasury agrees with this recommendation and it will be included in the remit of the working party.

2365 We also looked at various other possible incentives. Some of these have already been considered by the working party, but they had divided the various options into short- medium- and long-term aims. However, we are of the opinion that all the various options should be evaluated at

2370 the outset and any which are agreed should be implemented without delay. We have listed various suggestions for consideration, recognising that some may prove impractical in the Isle of Man, but we think they should all be evaluated at an early stage. Treasury again agrees with this recommendation, and the working group will be required to evaluate these suggestions and report within six months.

2375 In the course of our investigations we looked at the Insolvency Services Office Bill, which received First Reading in the Keys in December 2003 and was then withdrawn. To refresh Members' memories of the intentions of that Bill, we have included it in the Report at appendix 5. One of its provisions was to appoint an official receiver and part of the duties of that officer would have been the supervision of the Coroners. As we advise in section 5.8 of our Report, there has been no statutory provision for the supervision of the Coroners since 1987, although General Registry does have regular meetings with them, which gives them an opportunity to raise any concerns.

2380 Various incentives to improve collection rates by the Coroners have been introduced, such as 'no collection, no fee'. However, it is considered unsatisfactory that there is no formal supervision or performance monitoring of their role. We have, therefore, recommended that the necessary legislation is introduced without delay and Treasury have confirmed that this legislation is in the 2385 2009-10 legislative programme.

Our final recommendation deals with the procedure for the regular uprating of the many fines etc included in our legislation. At present, a separate order is required for each increase. This is very time consuming and inefficient, which sometimes results in delays in uprating. If it has been some years since a particular penalty has been increased, the amount required to allow for inflationary increases over the intervening years can seem inordinately high and frequently brings opposition from Members. However, in the United Kingdom, penalties throughout a large range of legislation are set according to standard scales, which allows for one order to be made which provides for all the standard scales to be increased. Those increased rates are then automatically applied to all the legislation where the penalties have been set to those standard scales. We have, therefore, recommended that the Attorney General be consulted about the feasibility of the introduction of similar legislation in the Island. Again, Treasury has agreed with this recommendation and the working party will be required to report within six months.

2390 We are pleased that the recommendations of this Committee, Mr President, in the new procedure which we have to follow – that is, circulating our recommendations first to Treasury for their observations – has met with their agreement, and we hope that Members will also give their support to this Report.

I beg to move.

2400 **The President:** Hon. Member for Rushen, Mr Gill.

2405 **Mr Gill:** Thank you, Eaghtyrane.

I am very pleased to second this and, in doing so, I would just anticipate the amendment we have had circulated, which relates to clamping.

2410 **The President:** There is no such thing, sir.

Mr Gill: Well, if there were to be, could I make the point in advance of such an event that the Report does make it clear that an evaluation of clamping, amongst other measures, is worthy of consideration.

2415 I think – certainly the Chairman and I discussed this just recently – that is not the same thing as us promoting that as a measure. It is really for consideration only, sir.

The President: Mr Callister, Hon. Member.

2420 **Mr Callister:** Yes, thank you, Mr President.

I fully support this Report, apart from this one aspect: there are numerous practices that we adopt from the UK, some of them are good and some of them are bad. The practice of clamping vehicles I regard as being in the bad category. I believe it is an abhorrent practice. I believe it is inappropriate for the Isle of Man, and I think to clamp is simply a cowardly and crude control mechanism.

2425 Therefore, I wish to move an amendment:

In recommendation (iii): to delete the word: '• clamping'.*

2430 It is unregulated in the UK. It is essentially unregulated in the Isle of Man on private land. The situation in the Isle of Man is that, in a clause of the Traffic (Amendment) Bill 2001, there is a matter which would deal with restrictions on the immobilisation of motor vehicles, though this clause has not yet had an Appointed Day Order, and I believe it should never have one. It was not promoted by the Department of Transport; it was requested by the Department of Home Affairs.

2435 Currently, wheel clamping on private land does not contravene any statute but there are no statutes which prohibit it. That is the reason: in fact, it is unregulated. In the UK, it is my understanding – though I have not been able, in the time available, to check the Act – that a driver, if his vehicle is clamped on private land, must give his consent to this happening, otherwise the clamping is illegal.

2440 The Report gives us in section (iii), a number of areas that the working party should evaluate, and I see no problem with any of those, apart from the fifth bullet point out of the nine, which is the matter of clamping.

2445 There are, in various locations around the Island, signs which threaten clamping in car parks, etc. They are on private land. I see those more as a deterrent. I have no evidence that anyone has been clamped, but it is possible that they have. I believe if a landowner or property owner wants to prevent unwanted parkers on their premises, they should ensure, in one way or another, outside of clamping, that the area concerned for parking is only available to permitted parkers. I think if the practice of clamping was adopted here, particularly under dealing with fines, we would have streets full of clamped cars before we knew where we were.

2450

Mr Watterson: Swipe access...

Mr Downie: Why not pay the fine in the first place?

2455

Mr Callister: Well, that is the answer. The Treasury might see it, of course, as a way of raising revenue. It certainly costs people in the UK in the hundreds of pounds to have cars unclamped and there are numerous cases which have been documented.

As far as I am concerned, I see it as a repugnant intrusion into the way of Manx life and I simply ask that time is not spent even considering it in this respect.

2460

Thank you, Mr President.

The President: Mr Crowe, Hon. Member.

Mr Crowe: Thank you.

2465

The Report is very comprehensive and I have no problem with the Report. The only appeal, I would make to the authors of the Report is that on a collection basis, you might like to consider using the Post Office network for the payment of fines. Somebody living in Andreas or Port St Mary or Castletown or Kirk Michael could go into their local post office and pay the fine, instead of having to come into the General Registry. So it is almost the advertising break!

2470

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

Mrs Craine: Thank you, Mr President, just two brief comments.

2475

The Hon. Member of Legislative Council, who has brought forward the amendment about clamping, has obviously never been in the position of having cars parked on their property illicitly – he refers to it as a repugnant intrusion into Manx life. Frankly, if the car should not be there, then that is the point in the first place, is it not? People do park in places where they should not, they abuse systems and I would not be able to support his amendment here on that basis.

2480

I would just like to pick up also on Mr Crowe's point about paying fines in post offices and I realise that much of the Report is at quite a high level, but I do think that there is a principle behind paying fines, very simply, that people should cough up when they are liable to do so, but we do not always make it easy for them to do that: I know that from my previous responsibilities, where we had people who were trying to pay fines. Not everybody has a bank account these days. Certainly, not everybody has a credit or debit card and can actually find it very difficult to find those things. Many people still get paid in cash and do not have bank accounts, and it was at a time, not many years ago, that people were actually having to take time off work to go to Douglas to pay their fine at the Registry, when in fact, I believe, like Mr Crowe, that it would be a darned sight easier to do that in your own local post office. I hope that is a facility that this working party will be able to look into.

2485

2490 **The President:** Mr Downie, Hon. Member.

Mr Downie: Thank you, Mr President.

2495 Could I start, first of all, by complimenting the Committee on an excellent Report. It is an ongoing Report, it is an issue that they have reviewed from time to time, and I think that they have actually done us proud today and they have produced a very comprehensive document and one which will be very beneficial when I assume the guise of heading up the Fines Working Group, which, ironically, has its first meeting this Friday at 2.00 p.m..

2500 Treasury has been concerned about the collection of fines and some of you will know that, last year, an initiative was carried out where there was an amnesty declared on fixed-penalty motoring fines. There then followed a doubling of the fixed-penalty fines, and I am quite pleased to report that that has had some considerable effect. Some people had actually run up as many as 50 parking fines. Of course, a lot of these were company rated, and while somebody else, or the client, was paying, it did not matter. Well, I think you will find there is a different scenario out there again.

2505 Payment of fines with the Post Office... It seems to me now ironic that we have a superb data system available in all the post offices, where we can see all the registration details of the vehicle. If there is a fine against that vehicle, or the owner, they should be able to pay in the post office, and as a deterrent – one of the things I want the Fines Working Group to look at – if there are outstanding fines on a vehicle and they are of a serious nature, perhaps the owner should be told you cannot re-register your vehicle until your fines have been sorted out.

2510 Let's be reasonable about this. People are not just fined indiscriminately, or they do not run up a series of fines without being irresponsible, in a lot of cases, and that leads me on to the next part of the Report, where I fully support a much better system of arrangements as to how a person will pay their fines before walking out of court. That has always been a problem. There is never the emphasis put on... When the High Bailiff, or whoever, issues a fine, they should not leave the premises until a resolution is made about how they are going to start to pay. People go off *(Interjection by Mr Houghton)* and we are left with this problem. *(Interjection by Mr Houghton)* Yes, I think Mr Houghton is absolutely right: you sort yourselves out!

I was concerned to read in the Report, on page 16, reference to the Chief Constable, that:

2520 'The police have no direct role in relation to the collection of fines. They are, however, involved in the execution of non-payment warrants issued in connection with criminal convictions. They are content with the recent change, such that they no longer enforce fixed penalties for parking offences. They had previously found this responsibility at odds with the need to build a constructive relationship with the community.'

2525 *(Laughter)* Well, you know, I think you need Mr Houghton up there for a while to bring a bit of common sense back. I think at the end of the day the Police have to accept responsibility that that is a role they have to play.

2530 Finally, there are two outstanding issues. One is that there are a number of outstanding fines that involve limited companies and it is very, very difficult for the coroners to deal with these matters. As has been stated earlier on, we are looking at a change in legislation because, when they go to serve their orders and papers, people actually move the goal posts and it is a very, very difficult problem to resolve.

2535 To finish off, with clamping, I personally would like to see clamping on the Isle of Man but if you want a system in the Isle of Man, you have to give people proper tools in their armoury. I would not like to see private companies involved in clamping. I think if we are going to have clamping as a deterrent on the public highway, it has to be carried out by a proper Government agency and there has to be contact details and numbers and so on and so forth. I would hate us to go down the route that they have gone down in the UK where if you have got a car on the highway now which is not taxed or insured, they take it away and crush it. *(Interjections)* That is how things have slipped over there.

2540 I think, by and large, people on the Isle of Man are fairly law abiding and the majority of them pay their fines but, sadly, as the Report has indicated, there is a minority who, when they get a ticket or they are given a fine, they just stick two fingers up to the courts.

2545 So I would plead with Hon. Members to let the Fines Working Group investigate this further and see if we can come up with some proper remedies. Once again, well done to the Committee for an excellent Report.

The President: Mr Houghton.

2550 **Mr Houghton:** Thank you, Mr President.

I have been pre-empted by a number of speakers now, and I support them very much about the fact that fines being simply paid in the fines office in the Courts division is just not good enough. It is quite unfair and improper for people to come all the way from Ramsey into Douglas at the loss of at least half a day's pay, if not more, to come in and pay a fine.

2555 Some Hon. Members will be aware that myself and Mrs Craine have been campaigning for this for some time in previous parliamentary questions and so on. I would just like to firm up the suggestion that was first made this afternoon by the Hon. Member of Council, Mr Crowe, Chairman of the Post Office: I am in the throes of arranging for an amendment to go forward in this, just to concrete this in, that the new designated authority sets up arrangements with the Post Office to collect and account for fines money, so that those monies by cash can be paid at post office counters throughout the Island and, as a result, there is no excuse for not paying your fines. Therefore, that may give greater credence to clamp people's cars and things like that. There is no excuse, if you can pay that fine at a post office counter.

2560 As I say, there is a number of us have been saying that for some time.

2565 So, Mr President, I am moving an amendment just to simply state that and that is being prepared as we speak, sir, so it is not in front of Members at this particular point in time, but Hon. Members will understand –

2570 **The President:** If you do not move the amendment, sir, now, you will not move it.

Mr Houghton: I move that amendment now, sir. It is signed and here it is, sir. *(Laughter)*

The President: Well, tell me what it is.

2575 **Mr Houghton:** How about that for moving quickly, sir! And I thank the Clerk of Tynwald.

The President: If you do not tell the Court what it is, sir...

2580 **Mr Houghton:** Okay, sir, I will do that, but just before I finish off with the amendment, I would like to take this opportunity of thanking the Public Accounts Committee for some sterling work. It is a very interesting Report, and I do feel that it is time that they handed this now on to a designated authority, to take over. They have done their bit. They need to relinquish this now from their portfolio, put it with a designated authority, and actually have all this work completed, possibly with a timescale. I did not see a timescale being made there, but a timescale. So let us say, 2585 if whoever is in charge of this designated authority reads *Hansard* in Tynwald, we want a timescale to see this in, at least within the next 12 months – *at the very least*. Time has gone on too long.

Mr President, my amendment for this simply states:

2590 *After the word 'Ministers' in paragraph (i) to leave out the remaining words in paragraphs (a) (b) and (c) and to insert the words:*
'(a) designate the Post Office as the main body with the authority and powers to have responsibility for the collection of court financial penalties and fixed penalties;
2595 *(b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between the Post Office and relevant bodies;*
and
(c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial
2600 *penalties and fixed penalties could be extended.'*
The further words in the motion to remain.

Just to put that section within that specific motion, and not interfere with anything else. Sir, I beg to move.

2605

The President: Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Mr President.

2610 I will just comment on several things. I do congratulate the Public Accounts Committee, as well.

2615 It is sad to reflect that some of the correspondence early in the document is from 2003, (**Mr Watterson:** Hear, hear.) where they were clearly indicating there that Government in those days was writing off something like £180,000 in fines. There were promises – as it comes forward, the correspondence – that agencies, including... I do not know who was Home Affairs Minister at the time... that things were going to be done.

Mr Earnshaw: Not me!

2620 **Mr Quirk:** I am sure it was not my colleague alongside me.

The other indication, too, is that other agencies were not pulling their weight, and we have had to wait six years to put this particular list of corrections down.

2625 The other one I am quite unhappy about, really, is regarding the Coroners and duties and functions of the Coroners, and on page 18 from the Value for Money Committee on debt recovery – 25th April 1995. It indicates that it has been difficult to obtain overall statistics on the performance of the Coroners, as their own records would seemingly lie outside the scope of the authority granted to the Internal Audit in its evaluation of the particular report. I find there is a weakness, too, there, that there are lots of people in the last few years who have been indicating that trying to get Coroners to engage... what I hinted at in Question Time yesterday was that there seems to be a policy that if the fine is not large enough they do not chase it, and I think that is morally wrong to persons who are in debt.

2630 Just regarding the issue regarding clamping, I know I share the sentiments viewed by Mr Callister, but I also share the views of the Member for Ramsey, too, Mrs Craine, because Government has been the object of indiscriminate dumping of vehicles. If Members want them, I will give them loads of photographs where people have been dumping containers all around the countryside on Government land, and it is very difficult and costly to get rid of them. So I would like the Committee to engage in it and look at it.

2635 I am not saying I will support it for everything on the roads. I think that should be done by a statutory body. I would hope that when the information comes out shortly, we will know the number of vehicles, commercial vehicles and motorcycles there are out on the Island and how many vehicles there are, potentially, on the Island, untaxed.

2640 The criticism I do give to the Police service, and I know the current Minister for Home Affairs, we share those particular views... It seems really appalling to me that we have vehicles that are left on our highway for two years without being taxed and they are still travelling round. That should not happen in this day and age, and I am just wondering, as a Government, and all Government Departments, and ourselves in the DoT, we need to get together. That should not happen in this day and age, and I am just wondering as a government and all public departments and ourselves in DoT, we all need to get together.

2650 **The President:** Mr Waft, Hon. Member.

Mr Waft: Thank you, Mr President.

I remember some time back, the Department of Transport Minister, who is not with us at the moment –

2655 **A Member:** Oh, yes he is!

Mr Waft: – not this one – he decided to increase the parking fines up to £40, many years ago, and this was before they built the Shaw's Brow car park. I mean... cart before the horse... and then they wondered why the fines were not getting paid. Very, very strange.

2660 I gave a chap a lift one day, down the hill. I said, 'Where are you going?' He said, 'Oh, drop me off at the Prison.' I said, 'Okay. Why are you going there?' and he said, 'Well, I have got a stack full of parking fines at home. It is easier to do a weekend in prison,' and that is what he did. (*Laughter and interjections*) Absolutely amazing!

2665 So this attachment of earnings thing, I think that is vital. It is vital that this attachment of earnings operates efficiently because the fines are just not getting collected... we know that.

2670 The clamping: I would like to second Mr Callister's idea of clamping. I think we have to realise where we are. This is the Isle of Man and we do not want to be clamping vehicles. Take them off and crush them if necessary, but do not clamp them. (*Laughter*) I do not think seeing clamped cars on our highway does the image of the Isle of Man any good whatsoever. It does not do us any good whatsoever. If the vehicle is uninsured, it should not be on the road; it is as simple as that.

The obvious choice of the Post Office to pay fines in, I think it is obviously... well, it should be done. It should have been done years ago. I wish them well in their endeavours, but the few points I have made, I hope somebody will be listening to.

2675 Thank you.

The President: Mr Crookall, Hon. Member.

Mr Crookall: Thank you, Mr President.

2680 I would just like to congratulate the Committee on this Report. It is a weighty document and there is a lot of good work in there.

I would just like to pick up on one point, really, and that is on part (i)(c) on the Order Paper today, and that is:

2685 'examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties...'

I have got a constituent who went through the small claims court, got everything approved in his favour: he is still waiting years on. He cannot get the help that he needs, to get addresses and information which is held on Government information sources. He needs to have that through the Coroner's order, as the case may be, and that is what I hope this will pick up. (*Interjection by Mr Houghton*)

2690

Besides that, Mr President, it is a great Report.

Thank you.

2695

The President: Mr Henderson, Hon. Member. No? Mrs Christian to reply.

Mr Karran: Eaghtyrane.

2700

The President: Mr Karran.

Mr Karran: Eaghtyrane, I will second the proposal from the Member for North Douglas. Anything that can get the viability of the Post Office up is needed and we need to support it.

2705

I think the problem is, Hon. Members, that whilst this is a fantastic Report, as I say, this Report that came about since 2003, six years ago... this is a fantastic Report and it just shows you that with the ability of the chairman, and I might not always agree with her political views, but the one thing she has is good ability, an asset as far as this Court is concerned.

2710

My concern is that this is part of the problem why I think we need so much change within this Hon. Court and the whole way Government is. Here is a Report which is a great Report, very informative, but the fact is that in 1986 we started a ministerial type government. This Report should have been done by the Home Affairs Department. This should have been something that the Home Affairs Department should have been sorting out years ago. This is just part of the accolade of people outside who actually listen to what we say when we were back in the early 1990s talking about the penal review and here we have now, in 2009, you are paying £66,000 a year for every prisoner; it would be cheaper to send them on a world cruise. (*Laughter*) It might win votes at election time!

2715

I look around and I know Mr Bell and one or two of us, we have had all the Dutch auctions over hanging, flogging and gay rights and all this sort of nonsense, where some of us have stood up and said that this is nonsense.

2720

The fact is this Report should have been done by the Home Affairs Department and what we should be asking is: why has it had to take six years of a Public Accounts Committee to come up with this Report? The reason is because (a) the Departments are not working right with everybody in the Departments and (b) on the Public Accounts Committee, everybody is on a Department of Government, so consequently they can never meet. So if you add six years on from when the former Member for Ayre proposed the situation, we are now seeing the Report. Six years!

2725

I really do think that we are going to have to take our blinkers off our eyes, as far as what we see, as far as this situation is concerned, because the blinkers are on, and the fact is that what we have got to do is we have got to get away from looking at these things in such a small way.

2730

We have got today the Report from the MEA. We have already given them £300 million. We have got a secret deal that is worth another £200 million –

The President: Mr Karran, I find it very difficult to come across the MEA in this one.

2735 **Mr Henderson:** Hear, hear.

Mr Karran: Eaghtyrane, the reason I am saying that is that what I am saying is this Report should have been done by the likes of the Home Affairs Department.

2740 **The President:** You have already made that point.

Mr Karran: It is a great Report –

The President: Mr Karran, you have already made that point, I think, three times.

2745 **Mr Karran:** Yes, but I am justifying that point, Eaghtyrane.

I am justifying that point, that we have a situation where what we are... the time spent on this, when we are told now we have got a £24 million deficit on the MEA. That is where a Public Accounts Committee should be, more on the strategic things, the issues such as we have spent £100-odd million on an IRIS project and now we are having to go for regional... That is the sort of thing, the real killer issues that are going to make a real difference to the way we change the situation.

2750 The fact that we can kick a few people who do not pay their thing... They should be kicked, and I am not denying that, and they should pay their fines and their duties to society, but if it is between... It is a lot easier for us to go on about them, the £40 fines, than the £27 million that we have got on the MEA deficiency, or whatever it is – £27 million, I think it is this year – when we have put £300 million in it.

2755 I think the point is that what I would say to the Chairman of the Committee, who has got the ability, is there are big issues, issues that are costing millions of pounds to the taxpayer. We heard it yesterday from the Chief Minister over this agreement. We have got to get our act together. We have got an incinerator where we did not read the small print, and I believe –

2760 **The President:** Mr Karran, I really have to take you to account, sir. Are you supporting or not supporting the motion? Because we are nowhere near it at the moment.

2765 **Mr Karran:** Eaghtyrane, I am arguing why I should support the motion, but the problem is the fact that what we should be doing is getting the Public Accounts Committee dealing with the real scandals, and that is the problem.

2770 That is the problem today. Fantastic Report, but when it comes down to it, we should be prioritising. It took us six years for a Report on fines that should have been done by the Home Affairs Department, and not this man, because he has only been here 18 months, or whatever, a couple of years –

Mr Quayle: A point of clarification, Mr President.

2775 The Hon. Member has been a member of this Public Accounts Committee in the last six years, I understand, and he can, at any stage, as Member of Tynwald, refer matters to the Public Accounts Committee.

2780 **The President:** Mr Karran, I shall allow you, but don't go over the same ground again, which you have done three times already.

Mr Karran: And it is quite right.

2785 Remember that this is from a Member who has not been a Member of this Court for four years. There is a long list of issues the Public Accounts Committee needs to address, and this is why I am bringing this into reality. It is about the priorities, it is about the resources, and it is about other important issues. Yes, they have done a good job today, there is no doubt about it, but when we are talking about millions and millions of pounds, I think we need to prioritise better.

2790 We need to make sure we have a Public Accounts Committee that is resourced and is staffed decently enough by full-time Members on the Public Accounts Committee to address the real issues, and the real issues... Whilst the fines are important, the fine issue is a small little cog, and there are massive big cogs that are not getting addressed, and that is what I am saying today.

I have no problem with you heckling me because I am saying what a lot of people want to say, but what I am saying –

2795 **The President:** Mr Karran –

Mr Karran: – is I think we need to change the way things are.

The President: Mr Karran, resume your seat, sir. I am not heckling you any longer. Thank you.
2800 Mr Watterson.

Mr Watterson: Thank you, Mr President.

I do rise as a member of the Public Accounts Committee. I would like to address some of the points related to some of the amendments and just throw my views into the mix on them.
2805

I was one of the ones on the Public Accounts Committee who felt that we should be looking at clamping. I would also agree with the comments made around the Chamber that clamping is not a tool to be used indiscriminately, but we have to have the right sanctions in our armoury – I think it was Mrs Craine who said that – to ensure that you have the appropriate sanctions.

2810 I would say to Mr Waft it is about proportionality, isn't it? The first step is not to take it off and crush it. I think clamping is an intermediate step. I would not want it done by cowboys. I think you are absolutely right, it does need to be done by responsible individuals. But I think it is something worth looking at, so I will not be going with the amendment from Mr Callister.

2815 I also think that the amendment that Mr Houghton has put slightly skews what the intention of the original motion is for. I take his point about the possibilities of the Post Office, I think that is a valid point. One of the concerns that was raised, and I think also fairly, was that people might feel embarrassed, awkward, ashamed rather, to go into the Post Office with a big long queue of people... 'I'm here to pay a fine' for whatever it is – not so much parking fines, but maybe other things. So there is an appropriate balance there, but I would certainly want to see the Post Office used as a tool to collect this. What I think the amendment does, though, is it makes the Post Office the exclusive body for this.
2820

Mr Houghton: Why not?

2825 **Mr Watterson:** What we were looking for was a body within Government to co-ordinate the efforts of relevant Government Departments in terms of sharing information and all that sort of thing, rather than just looking at a collection body and somewhere to go and pay your fine. That is the difference.

I certainly think that Mr Houghton has made his point and I certainly think there is a strong role for the Post Office, but I would caution about the amendment because it is going to make the Post Office responsible for the Coroners, potentially, and liaison with the Coroners, the Department of Transport and all the other actors that are in this, and I do not think that is certainly what we envisioned in our Report, that the Post Office should somehow be the co-ordinating and over-arching authority. (*Interjection by Mr Houghton*)
2830

2835 Then I have to say it has really cheered me up today, Peter talking about priorities, Mr President! I have to say it has really lightened my mood.

This is the guy who was talking about referring a £3,500 re-brand of the Department of Transport to the Public Accounts Committee, lecturing us on talking more strategically. I have to say I found it good fun.

2840 **Mr Henderson:** Has he found the real figure, then?

Mr Watterson: When I got there I was surprised at some of the things that we were looking at, about tendering procedures and things like that.

2845 I am absolutely delighted that the Public Accounts Committee in the last three years has really been looking at the big issues. The last Report we did was on reserves and that is over £1 billion worth, making sure that there was the appropriate governance surrounding it.

2850 There are subcommittees at the moment working on really large areas of expenditure, really looking at big meaty subjects within Government and I hope that that really continues. I would rather that the Public Accounts report once every two years with something of this size and this quality, than every six months on trivial little issues.

Mr Karran: About £25 million, you have got –

The President: Mr Karran!

2855 **Mr Watterson:** I honestly think that we do need to think strategically. We do need to see the big picture, as the Public Accounts Committee, but I think we are definitely going in the right direction on that one.

In terms of the length of time that this has taken to achieve, I think that frustration was felt by a lot of members of the Public Accounts Committee, who felt like they were grasping at fog, at times, trying to get answers out of public servants. It was a case of ‘whose responsibility is it?’ We did feel passed from pillar to post, so I think the concern as to how long it has taken has certainly been reflected in the Committee, by how long it has taken, sometimes, to get answers out of Government and to work out whose responsibility it is.

2865 So, at least now, it is here, it is on the table and it is something to work from. I do not think that the amendments that we have here actually assist Government in moving this forward. That is, perhaps, something for the Finance Working Group to consider, but I certainly do not think that the amendments we have here actually help, or would help what the Public Accounts Committee envisioned when putting together its Report.

2870 **Mr Houghton:** Surprise!

The President: Mr Downie, Hon. Member.

2875 **Mr Downie:** Thank you, Mr President.

Just to carry on from the comments made by the Hon. Member for Rushen, Mr Watterson, I think Mr Houghton’s amendment is very well intended, but the problem that Mr Watterson alluded to is that it is contrary to the statute law that is in being at the present time, in that there are a number of agencies in Government with responsibility for collecting fines.

2880 If we stick to what Mr Houghton said, in section (a), ‘designate the Post Office as the main body with the authority and powers to have responsibility for the collection of court financial penalties and fixed penalties’... whereas if Mr Houghton is prepared to accept a simple amendment from me to designate the Post Office as a body with the authority empowered to have responsibility for the collections of court financial and fixed penalties, they can be used with everybody else.

2885 The original amendment was making them the main body, and that is not really... That complicates the issue. So, if the Court is prepared to accept the amendment, which I will have seconded by Mr Crowe, we can start to throw all this in when we have the Fines Working Group meeting on Friday, and hopefully we can get on with the job in hand.

2890 I move:

After the word ‘Ministers’ in paragraph (i) to leave out the remaining words in paragraphs (a) (b) and (c) and to insert the words:

2895 *‘(a) designate the Post Office as a body with the authority and powers to have responsibility for the collection of court financial penalties and fixed penalties;*

(b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between the Post Office and relevant bodies;
and

2900 *(c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties and fixed penalties could be extended.’*

The further words in the motion to remain.

2905 **Mr Houghton:** Sir, may I withdraw my amendment, then, in favour of Mr Downie’s?

The President: Thank you, sir. That is fine.
Mr Crowe will now second, I think.

2910 **Mr Crowe:** Yes, in view of what Mr Watterson has said and Mr Downie has said, and the withdrawal of Mr Houghton’s, I am happy to second that.

2915 **The President:** Okay. Has every Hon. Member got that, which in fact is what Mr Downie is suggesting?

Mr Quirk: Do we have a paper from him?

The President: Pardon?

2920 **Mr Quirk:** The piece of paper.

The President: You have it on a paper.

2925 **Mrs Christian:** No, we don't. Not Mr Downie's amendment.

The President: You have got Mr Houghton's and all you are doing is deleting two words and adding 'a'.

2930 **Mr Crowe:** Taking out two words and adding in one word.

The President: I will explain that when we come to it.
Mr Butt.

2935 **Mr Butt:** Thank you, Mr President.

Can I just clarify a point which I think, maybe, Members have missed about clamping. People talking about clamping being used for no insurance and for no tax etc... The reason clamping is in this Report is for those who have not paid their fines. If they have not paid their fines and they have a car on the road, then the car can be clamped. Like Mr Callister, I would not like to see clamping in the Isle of Man, but this is not clamping vehicles for committing offences, this is clamping vehicles for failing to pay their fines.

2940 That is the main point, but I am actually brought to my feet by the remarks of Mr Karran, who seemed to say that there are more important things than dealing with the fines issues for the Public Accounts. Actually, I think it is one of the most important things we can look at because this is about upholding the law. If people do not pay their fines, do not follow through what the sanctions are against them, if they know there is no sanction at the end, the rule of law will not be upheld. (A **Member:** hear, hear.) People who are not law-abiding, who know they may be able to get away with it, will do so. It is very important that fines are enforced properly. And that is more important, perhaps, than the multi-million pound schemes that Mr Karran talked about. The rule of law must be upheld.

2950 I can tell a story to Mr Waft about certain criminals that would come to my station on a Friday night and say: 'Can you give me a run to the Prison, please. I'm handing myself in.' They knew that they would get three or four days in prison, and the actual fine, for some serious offences, including criminal offences, was not really a deterrent for them or a sanction.

2955 It is very important that we have a proper fines system in place, where they are properly collected. This is a very important issue, and I think the Public Accounts Committee – with the help of Mr King, our Clerk, who has done an excellent job (A **Member:** Hear, hear.) – have done the right thing in making this an issue that should be followed through.

Thank you, Mr President.

2960 **The President:** Now, Hon. Members, I call on Mrs Christian to reply.

Mrs Christian: Thank you, Mr President.

2965 The debate has been interesting and I think that various Members have commented on aspects of our Report, in turn almost. Certainly, there has been an indication that there is dissatisfaction with the way in which fines are failing to be collected at the present time.

2970 There has been reference by my hon. colleague, Mr Downie, to the fact that there was an amnesty, which was successful, but only to the extent of collecting 2,000 out of 11,000, and it is clearly unsatisfactory that people can work up 50 fines and not be concerned about it, or even pursued properly about it. (A **Member:** Hear, hear.) So I welcome the announcement that he is to now chair the working group and take it forward.

2975 I acknowledge the concerns of the Hon. Member, Mr Karran, that this has taken a long time. We thought it was being done, and it was because we went back to see how much progress had been made that we revealed the fact that very little progress had been made. Our concern now is to have a focus on this, and by having recommendations which are approved by this Hon. Court, which will go into the annual report of the Scrutiny Committee if it is not acted upon, we have more of an emphasis on getting something done. It is not only important, as has been said, to get

2980 something done because there is a revenue implication in this, and that is quite critical at this moment, but as my colleague, Mr Butt, has indicated, it is also important for the credibility of our judicial systems, though, clearly, from the Public Accounts perspective, it is the financial dimension of it which is the prime mover.

2985 There are concerns, as has been indicated by the comments of some Members, on the data protection issues, and I do think that data protection is a matter which is inhibiting us in many ways (**Mr Houghton:** Hear, hear.) from aspects of what could provide better service for our whole community. It is fine having data protection for the individual, but sometimes we need to take the community into account, (**Mr Houghton:** Yes.) in applying this law. So the Working Party will also... our recommendation is that they do look at this exchange of information between various Departments. I do hope that some way can be found to move that particular issue forward.

2990 There is concern about clamping, from certain Members, and clearly the Court will express its view. We have the Hon. 'Crusher' Waft over here, (*Laughter*) who was pretty dramatic, in terms of wanting to go straight to the final solution, as it were! (*Laughter*) We will leave it with the Court to determine on that one. All we have asked is that the situation be evaluated in a list of matters which can be pursued.

2995 If Members have read the original Report of the Working Party, they will see that, amongst the recommendations, all those years ago, was that, as part of the collection procedures, there should be use of devolved collection points, e.g. Post Office and Coroner's offices. (**Mr Houghton:** Hear, hear.) Nothing has moved on that, although it had been suggested for some time. So it certainly needs to be moved forward, and I hear from my hon. colleague that, at his meeting on Friday, he is having the Post Office to attend. (**Mr Houghton:** Good.) So we look forward to some outcome from that. (**Mr Houghton:** Hear, hear.)

3000 Now, my colleague on the Committee, Mr Watterson, has responded to the question of whether or not the Public Accounts Committee is prioritising its work properly. We accept, and I think we have moved on to prioritising our work. We have many letters coming in on smaller issues, which we are putting in a list of priorities, but we are dealing with major matters at the moment. However, this matter had been ongoing for so long that we really thought it needed to be tidied up and finished off. I hope that this Committee will succeed in doing that and improving our fines collection systems.

3005 The question of the amendment... Mr Houghton has withdrawn his amendment. However, I do have some concerns, as a member of the Committee, in supporting the amendment as moved by Mr Downie.

3010 **Mr Houghton:** What's wrong with that?

Mrs Christian: He is deleting the first paragraph, I think... yes, he is deleting all paragraphs –

3015 **The President:** If I may... Mr Downie will correct me, if I am wrong, but as I understood it, Mr Downie was using Mr Houghton's paper, Hon. Members, which has been circulated to the whole Court, and where it says in (a):

3020 '...designate the Post Office as the main body with the authority...'

Mr Downie's amendment deletes 'the main' and puts in 'as a body'. That, as I understand it, was the amendment.

3025 **Mrs Christian:** However, Mr –

Mr Watterson: As a point of order, then, that would not change (b) of Mr Houghton's amendment, would it, which I think would give rise to concerns, because you are then still designating the Post Office as the relevant body.

3030 **The President:** Mr Downie was not making any proposal to alter (b) or (c), sir.

3035 **Mrs Christian:** Yes, but Mr Downie, Mr President, is altering (b) and (c) as they sit on the Order Paper. His (b) and (c) are different from those which are before the Court originally, and I do have concerns that we are rather jumping the gun here with this willingness to insert the Post Office into the proceedings. I think it is very worthy of consideration to work on the proposition that the Post Office be a collection point of fines, (**A Member:** Hear, hear.) but let us look at recommendation (a) in our Report at the bottom of page 29:

3040 'designate a body, with the authority and powers to direct all the various bodies who have responsibility to the collection of court financial penalties and fixed penalties;'

We have got the Police, we have got the Coroners, we have got the court. There are any number of people who currently are involved with that issue. There is a great danger that we are rushing into an amendment here that will give the Post Office –

3045

A Member: Total responsibility.

3050 **Mrs Christian:** – a responsibility for co-ordinating all those bodies. I am not sure that that is what we are after. I do not think it is from the Public Accounts Committee, most certainly. Whilst I would be happy for them to go away and decide which body shall direct these various bodies, and maybe they want to take into account the Post Office, this is not the place to make that decision (**A Member:** Hear, hear.) by having it in a specific amendment.

3055 So, Hon. Members, I would ask you not to support the amendment, to support the motion as it stands on the Order Paper, and hope that we can make some progress on this issue and improve revenues and, indeed, regard for the judicial system by improving procedures for the collection of fines.

Mr Watterson: Hear, hear.

3060 **The President:** Hon. Members, the motion that I put to the Court is that printed at Item 14 on your Order Paper, headed up: Standing Committee on Public Accounts.

To that, Hon. Members, you have the two amendments.

3065 Putting to you first, the amendment in the name of the Hon. Member of Council, Mr Callister. Hon. Members, those in favour of Mr Callister's amendment, please say aye; against, no. The noes have it.

A division was called for and electronic voting resulted as follows:

In the Keys – Ayes 2, Noes 18

FOR

Mr Karran
The Speaker

AGAINST

Mr Quirk
Mr Earnshaw
Mr Crookall
Mr Anderson
Mrs Craine
Mr Bell
Mr Quayle
Mr Teare
Mr Cannan
Mr Houghton
Mr Henderson
Mr Malarkey
Mr Corkish
Mr Shimmin
Mr Cretney
Mr Watterson
Mr Gawne
Mr Gill

The Speaker: Mr President, in the Keys the amendment fails to carry: 2 votes for, 18 against.

In the Council – Ayes 2, Noes 6

FOR

Mr Callister
Mr Waft

AGAINST

Mr Crowe
Mr Downie
Mrs Christian
The Lord Bishop
Mr Lowey
Mr Butt

The President: In the Council, Hon. Members, 2 for, 6 against. Mr Callister's amendment therefore fails to carry.

3070 Hon. Members, I turn to the amendment in the name of the Hon. Member, Mr Downie, seconded by Mr Crowe. Now, Hon. Members, although not circulated to you in its own right, Mr Downie's amendment uses the words exactly as circulated to you under the name of Mr Houghton, with the exception that in (a) where it says 'designate the Post Office as the main body,' Mr Downie's amendment will delete 'the main' so that it reads 'designate the Post Office as a body with the authority and powers.'

3075 Hon. Members, I put to you now, Mr Downie's amendment. Those in favour, please say aye; against, no. The noes have it.

A division was called for and electronic voting resulted as follows:

In the Keys – Ayes 3, Noes 17

FOR	AGAINST
Mr Houghton	Mr Quirk
Mr Henderson	Mr Earnshaw
Mr Cretney	Mr Karran
	Mr Crookall
	Mr Anderson
	Mrs Craine
	Mr Bell
	Mr Quayle
	Mr Teare
	Mr Cannan
	Mr Malarkey
	Mr Corkish
	Mr Shimmin
	Mr Watterson
	Mr Gawne
	Mr Gill
	The Speaker

The Speaker: Mr President, in the Keys the amendment fails: 3 votes for, 17 against.

In the Council – Ayes 2, Noes 6

FOR	AGAINST
Mr Crowe	Mr Callister
Mr Waft	Mr Downie
	Mrs Christian
	The Lord Bishop
	Mr Lowey
	Mr Butt

3080 **The President:** In the Council, there were 2 for, 6 against, Hon. Members. Mr Downie's amendment fails to carry.

Hon. Members, I now put to you the motion printed at Item 14 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Income Tax Act 1970
Income Tax (New Zealand) (Double Taxation) Order 2009 approved
Income Tax Act 2003
Income Tax (New Zealand) Order 2009 approved

3085 27-28. The Minister for the Treasury to move:

27. *That the Income Tax (New Zealand) (Double Taxation) Order 2009 be approved [SD No 667/09]*

28. *That the Income Tax (New Zealand) Order 2009 be approved [SD No 666/09]*

3090 **The President:** Hon. Members, having made good progress last evening, we move on this time to Item 27 and I call on the Minister for the Treasury, Mr Bell, please.

The Minister for the Treasury (Mr Bell): Mr President, if I could present Items 27 and 28 together and then take them on separately please –
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The President: Yes, sir.

The Minister: – because they are connected.

3100 Mr President, on 27th July I signed two agreements on behalf of the Isle of Man Government with New Zealand. These agreements concerned taxation and economic co-operation matters and are for the benefit of each country. They deal with the exchange of information on tax matters, the allocation of taxing rights with respect to certain income of individuals and establishing a mutual agreement procedure in respect of transfer pricing adjustments.

3105 In 2003 Tynwald gave the Treasury a mandate to continue to negotiate Tax Information Exchange Agreements in the absence of a level playing field in relation to international tax co-operation, provided that mutual economic benefits for the Isle of Man were also negotiated. The Isle of Man's commitment to information exchange received further support in July 2009, when Tynwald approved the international taxation strategy.

3110 The negotiation, signing and ratification of tax co-operation agreements demonstrates the Isle of Man to international standards, and the global effort to establish a system based on co-operation between countries, transparency and effective exchange of information in tax matters, all of which strengthen financial stability.

3115 Tax Information Exchange Agreements deliver the OECD's agreed international standards on tax transparency and exchange of information. The TIEA signed with New Zealand is the seventeenth agreement to be signed by the Isle of Man Government which meets this standard. It will therefore further strengthen the Isle of Man's position on the OECD white list of jurisdictions that have substantially implemented internationally agreed tax standards.

Mr President, to ratify these agreements, two Orders must be approved by this Hon. Court.

3120 The first Order brings into force the Tax Information Exchange Agreement between the Isle of Man and New Zealand. The text of this agreement is included in schedule 1.

Schedule 2 details consequential amendments to sections 105C to 105O of the Income Tax Act 1970, which are necessary to enable the Assessor to obtain information that may be subject to a request in accordance with this agreement.

3125 The second Order brings into effect a double taxation agreement in respect of certain income on individuals and puts in place a mutual agreement procedure in respect of transfer pricing adjustments. The Isle of Man and New Zealand have committed to work together to ensure that income and profits are not charged to income tax twice.

3130 Again, Mr President, as yesterday, if this Court considers it right to approve these Orders, the Chief Minister will write to the Government of New Zealand to inform them that we have now completed our ratification procedures. Once New Zealand has carried out a similar process, these agreements will enter into force.

I beg to move, Mr President, Items 27 and 28 on the Agenda.

3135 **The President:** Mr Braidwood.

Mr Braidwood: I beg to second, Mr President, and reserve my remarks.

3140 **The President:** The motion, Hon. Members, that I put to the Court – and I will put them separately – is that Item 27 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Item 28, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Income Tax Act 1970

Income Tax (Disclosure of Information) (Enforcing Authority) Order 2009 approved

29. The Minister for the Treasury to move:

3145 *That the Income Tax (Disclosure of Information) (Enforcing Authority) Order 2009 be approved [SD No 707/09]*

The President: Item 29. Treasury Minister.

3150 **The Minister for the Treasury (Mr Bell):** Mr President, the effect of this Order is to provide for the exchange of information between the Assessor of Income Tax and senior health and safety inspectors of the Department of Local Government and the Environment. Information will be disclosed in accordance with the provisions contained in section 160 of Income Tax Act 1970.

3155 Health and Safety inspectors appointed by DoLGE enforce statutory safety legislation in conjunction with the Attorney General's Chambers and prepare reports for the Coroner of Inquests. The primary purpose of the information gateway is to provide the inspectors with access to employment information, including personal details, to demonstrate that a person is an employer, or is employed or self employed. The inspectors are required to present this and other evidence to the Attorney General's Chambers and the Coroner of Inquests. Such information could be essential in a criminal case or in determining the cause of death at work. A small number of suspects have demonstrated their ability to be both verbally and physically violent to inspectors and are unwilling to provide evidence face to face with them. Providing access to this information via the gateway will therefore reduce the potential for violence against inspectors and will allow statutory safety requirements to be achieved and aid the prompt presentation of cases.

3165 Mr President, I beg to move.

The President: Mr Braidwood.

Mr Braidwood: I beg to second, Mr President and reserve my remarks.

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

Mr Quirk: Small comment if I can, Mr President. I may be on the wrong track here. Could the Minister give us an assurance that there will be no frivolous activity? That is all I am looking for, that they just will not be fishing.

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The President: Minister.

3180 **The Minister:** I do not think anyone has ever described the health and safety office as frivolous, (*Laughter*) but I take what the Hon. Member means. This is purely... it is unlikely to be used on very many occasions, but it is to give clarity in some instances where the area of responsibility might lie, should there be any problems to do with Health and Safety.

3185 **The President:** Hon. Members, the motion I put to the Court is printed at Item 29: that the Income Tax (Disclosure of Information) (Enforcing Authority) Order 2009 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Income Tax Act 1995
Income Tax (Individuals) (Temporary Taxation) Order 2009 approved**

30. The Minister for the Treasury to move:

3190 *That the Income Tax (Individuals) (Temporary Taxation) Order 2009 be approved [SD No 708/09]*

The President: Item 30. Minister for the Treasury.

3195 **The Minister for the Treasury (Mr Bell):** Mr President, Treasury launched an online tax service for individuals in 2007 and intends to enhance this service with the introduction of an online income tax return in April 2010.

The introduction of an electronic return will offer the taxpayer greater choice and flexibility over how and when they can complete their return and will further support the Government's commitment to increase the provision of services online. As the online return can only be

3200 submitted by one person, this Temporary Taxation Order amends section 65A and section 65C(2) of the Income Tax Act 1970 to enable one spouse of a jointly assessed married couple to complete and submit an electronic return of behalf of both spouses.

I beg to move.

3205 **The President:** Mr Braidwood.

Mr Braidwood: I beg to second, Mr President, and reserve my remarks.

3210 **The President:** The motion that I put to the Court is printed at Item 30. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Financial Services Act 2008
Compensation of Depositors (Amendment) (No. 3) Regulations 2009 approved

31. The Minister for the Treasury to move:

That the Compensation of Depositors (Amendment) (No. 3) Regulations 2009 be approved [SD No 671/09]

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The President: Item 31, please. Mr Bell.

3220 **The Minister for the Treasury (Mr Bell):** Mr President, following on from my statement to this Hon. Court yesterday, I am sure that it will be clear to all that the so-called sunset clause which provides for a higher threshold of compensation of £50,000 to individual depositors has already been revoked by previous amendment regulations. This now needs no further provision to remain at that level, whilst the Depositors' Compensation Scheme is subject to review. However, while we have embarked upon the public consultation exercise for new DCS arrangements, it is essential that we also deal with an extension of time during which the associated funding provisions relating to the maximum ceiling on contributions by the contributing banks, and that of the Treasury, will continue to apply.

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For reference, Hon. Members will recall that these sums were set at a maximum of £200 million in levies on the banks and a total sum, not exceeding £150 million to be met by the Treasury. Hon. Members will no doubt also recall and appreciate that the existing regulations only provide for these levels of aggregate compensation to be made available in the event of a bank default occurring prior to 23rd October 2009. The amending regulations now proposed will extend this provision for a further six months up to 23rd April 2010, by which time it is envisaged that the consultation process will have been concluded and the report produced for this Court to consider various options put forward at that time.

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Mr President, I believe it is vitally important to make these points perfectly clear at this stage, in order to continue to provide confidence and certainty to depositors between now and that time, when Tynwald hopefully will reconsider the details of any future scheme.

I beg to move.

3240 **The President:** Mr Braidwood.

Mr Braidwood: Mr President, I beg to second and reserve my remarks.

3245 **The President:** Again, Hon. Members, the motion that I put to the Court is that printed at Item 31 on your Order Paper. Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Financial Services Act 2008
Compensation of Depositors (Amendment) (No. 4) Regulations 2009 approved

32. The Minister for the Treasury to move:

3250 *That the Compensation of Depositors (Amendment) (No. 4) Regulations 2009 be approved [SD No 645/09]*

The President: We turn to Item 32. Again, I call Mr Bell.

3255 **The Minister for the Treasury (Mr Bell):** Mr President, the Compensation of Depositors Regulations 2008 are commonly known as the Depositors' Compensation Scheme (DCS). The schedule to the DCS Regulations lists those deposit takers that are banks that are excluded from participation in the DCS because they do not take retail deposits in the Isle of Man.

3260 Following an amendment to the DCS schedule in the last session, Mr Michael Simpson and Mr Peter Spratt were added to the schedule in their capacity as joint provisional liquidators and joint deemed official receivers of Kaupthing Singer and Friedlander (Isle of Man) Ltd (in liquidation). In July 2009, these provisional liquidators were appointed as full liquidators of Kaupthing Singer and Friedlander (Isle of Man) Ltd (in liquidation), and accordingly issued with a deposit-taking licence to enable them to wind up the Bank.

3265 As a result, a further amendment is needed to this DCS schedule. Adding the liquidators of Kaupthing Singer and Friedlander (Isle of Man) Ltd to the DCS schedule will exclude them from participation in any claim under the DCS in respect of another bank. In the past, the liquidator of BCCI was included in the schedule to the DCS.

The date of issue of the liquidators' deposit-taking licence is the operative date of this amendment to the DCS schedule, which is 6th August 2009.

3270 I beg to move, Mr President.

The President: Mr Braidwood.

3275 **Mr Braidwood:** I beg to second, Mr President, and reserve my remarks.

The President: The motion I put to the Court is that printed at Item 32: That the Compensation of Depositors (Amendment) (No. 4) Regulations 2009 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Gaming (Amendment) Act 1984

Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 approved

3280 33. The Minister for the Treasury to move:

That the Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 be approved [SD No 718/09]

3285 **The President:** Item 33.

The Minister for the Treasury (Mr Bell): The Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 replace the Controlled Machines (Prescribed Amounts) Regulations 2009 and are made under section 1(4) and (5) of the Gaming (Amendment) Act 1984.

3290 The Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 specify the maximum stake and maximum prize for amusement machines. The amounts are increased to a maximum stake of £1 and a maximum prize of £70. The amendment is made to bring controlled machines situated in the Isle of Man in line with those machines operated in the United Kingdom.

I beg to move.

3295 **The President:** Mr Braidwood.

Mr Braidwood: I beg to second, Mr President, and reserve my remarks.

3300 **The President:** The motion I put to the Court is that printed at Item 33: That the Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Fees and Duties Act 1989
Passport Fees Order 2009 approved

34. The Minister for the Treasury to move:

3305 *That the Passport Fees Order 2009 be approved [SD No 713/09]*

The President: Item 34. Fees and duties.

The Minister for the Treasury (Mr Bell): Mr President, the Passport Fees Order sets new fees for services relating to the issue of passports.

3310 Although the issue of passports is an exercise of the Royal Prerogative, it is considered appropriate in the interest of parliamentary scrutiny and good governance to prescribe these fees by legislation, subject to the approval of Tynwald. British passports are issued by the Passport and Immigration Office in the Isle of Man. The last increase in passport fees took place in October 2007.

3315 The United Kingdom Identity and Passport Service, which has overall responsibility for the design and security of British passports worldwide, increased the fees for passports issued in the UK with effect from 3rd September 2009. It stated that the fee increases were to support continued high levels of service delivery and to pay for the continued development of security enhancements to passports.

3320 This Order will bring the cost of a British passport issued in the Isle of Man back into line with the fee for a British passport issued in the United Kingdom. A standard adult passport will, therefore, increase by £5.50, which is a rise of 7.6 per cent and a child's passport by £3, which is a rise of 6.5 per cent.

3325 Mr President, I beg to move.

The President: Mr Braidwood.

Mr Braidwood: I beg to second, Mr President, and reserve my remarks.

3330 **The President:** Mr Speaker.

The Speaker: Mr President, I appreciate the Treasury Minister is moving a financial resolution this afternoon and that there are no changes in existing policy and that we are simply mirroring the UK passport service fees. However, he did say in his presentation, and the explanatory memorandum also indicates, that one of the reasons for this increase in fees is the enhanced security arrangements for the British passport that are being intended, and my understanding is that in 2011-12 the British passport will have fingerprints upon it as a new security enhancement, for which legal entitlement to collect has been put in place in the UK through the UK Identity Cards Act 2006 and the creation of a national register, measures which we have not replicated.

3340 Mr President, I appreciate that we are going into matters of policy and detail but, nonetheless, people in the Isle of Man are now paying through these enhanced passport fees for new security measures that are being dictated by the UK and such things as the collection of passport fingerprints, for which we have not made, as yet, separate provision. I simply say to the Treasury Minister if he would note that situation... I do not expect him to give the policy explanation for any of that. If he could note that and take it back to the Council of Ministers because, in due course, and sooner rather than later, we are going to have to be informed about this situation if our passports are to be aligned with the form, design and security enhancement of the British passport.

3350 **The President:** Mr Lowey, Hon. Member.

Mr Lowey: Just three questions for the Minister.

3355 Firstly, do we keep the money from these passports or do they go into the general pool? And, secondly, is he aware that we already, in the United States and in Canada, if you wish to go into those countries you have to have fingerprints taken already and that was my experience recently?

The President: Mr Bell to reply, please.

3360 **The Minister:** Mr President, all I do here, really, is bring forward the fees aspect of this. We must recognise that the passport we issue – although we like to refer to it as a Manx passport – is a British passport. We do not have any choice in that and, as UK policy develops with various aspects of biometric passports and fingerprints etc, we will be following suit on that. I do take the point that Mr Speaker has made and I am sure that, at some point, we will need to cover that.

3365 The fees Mr Lowey has referred to: we keep the money. Indeed, this is the whole rationale behind this fee increase, to try and cover as best we can the costs of producing passports here to make it cost neutral and, of course, in the present climate, that is going to be more in demand than before.

3370 Yes, of course, I am aware of what the situation is in the US. I am not sure about Canada, but certainly I have been fingerprinted going into the US. Presumably, politicians look just as suspicious as anyone else, so... but these things are out of our hands. We have to follow what is dictated in other countries.

The purpose of this Order is simply to bring our charges in line with the United Kingdom and to go some way to cover the costs within the Isle of Man of actually providing this service.

I beg to move.

3375 **The President:** Hon. Members, the motion I put to the Court is printed at Item 34: That the Passport Fees Order 2009 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, I think that it is an appropriate time at which we took a break. We will resume our deliberations at twenty past five by the Court clock. Thank you.

The Court adjourned at 4.50 p.m. and resumed its sitting at 5.20 p.m.

Agricultural Wages Act 1952
Agricultural Wages Regulations 2009 approved

3380 35. The Minister for Agriculture, Fisheries and Forestry to move:

That the Agricultural Wages Regulations 2009 be approved [SD No 703/09]

3385 **The President:** Hon. Members, we resume our deliberations at Item 35 on the Order Paper, and I call the Hon. Member for Rushen, Minister for Agriculture, Fisheries and Forestry.

Mr Gawne, please.

3390 **The Minister for Agriculture, Fisheries and Forestry (Mr Gawne):** Gura mie eu, Eaghtyrane.

The Agricultural Wages Board determines the rates of pay for agricultural workers and sets them down in an Order. This Order requires no reference to Tynwald. A 2009 Order has already been made and was effective from 1st October 2009.

3395 In addition to dealing with minimum wages for agriculture, the Board also has the power to set the maximum amounts that may be reckoned as payment in lieu of cash in respect of a tied house for agricultural workers. The instrument in this respect is the Agricultural Wages Regulations which must, by virtue of the Act, be referred to Tynwald for approval.

3400 In terms of the Regulations, the Board's policy has been to establish an analogue between agricultural rent and Isle of Man public authority rent scales. In view of the range of properties involved and the difference between large urban housing developments and individual rural housing, it is often, however, difficult to compare like for like. The Regulations increase rents by 2.2%, which is the same as the increase in the agricultural wages.

I would therefore, Eaghtyrane, like to move the resolution in my name.

3405 **The President:** Mr Butt, Hon. Member.

Mr Butt: I beg to second, Mr President, and reserve my remarks.

The President: Mr Watterson.

3410 **Mr Watterson:** I was just wondering how the Minister makes the remark that this is analogous, to a large extent, with the local authority housing element, which went up by 5% – and this is going up by 2.2%?

3415 **The President:** Minister, reply, sir.

The Minister: Gura mie eu, Eaghtyrane.
What I went on to say, though, was that the rent increase is in line with the agricultural wages rents. I also mentioned – and, perhaps, the Hon. Member had not quite caught this – that we endeavoured to keep them analogous. However, the differences between rural and urban values also have to be taken into account.

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The President: Hon. Members, the motion I put to the Court is printed at Item 35. Those in favour please say aye, against no. The ayes have it. The ayes have it.

**Inland Fisheries Act 1976
Inland Fisheries (Winter Fishing) Regulations 2009 approved**

3425 36. The Minister for Agriculture, Fisheries and Forestry to move:

That the Inland Fisheries (Winter Fishing) Regulations 2009 be approved [SD No 705/09]

The President: Item 36. Minister for Agriculture, please. Mr Gawne.

3430 **The Minister for Agriculture, Fisheries and Forestry (Mr Gawne):** Gura mie eu, Eaghtyrane.

These Regulations are being brought forward by the Department in order to continue a trial for a period of winter fishing on the Island introduced last year and allowed in four reservoirs, namely the Sulby, Injebreck, Clypse and Kerrowdhoo.

3435 For this further trial period, anglers will be able to fish in Ballure and Cringle reservoirs, which were not included last year. The further trial period is to run from 1st November to 31st January 2010, with consideration by the Department of making it available in future years once catch returns are provided at the end of the period in question by anglers taking the opportunity to fish over the winter months. The Department intends to discuss the option of making this a permanent arrangement with the Water Authority for future years.

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I therefore, Eaghtyrane, move the resolution in my name.

The President: Mr Butt, Hon. Member.

3445 **Mr Butt:** I beg to second, Mr President, and also to comment that I recently attended and chaired a meeting of the Anglers Forum and prominent on that Forum were reservoir fishermen. They were very pleased with the fact that winter fishing is continuing and they welcomed the extra reservoirs that were being fished. I asked the question about the increase in fee and, again, they said they thought it was value for money and they did say they hoped it would be approved at this Court.

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The President: Mr Lowey, Hon. Member.

3455 **Mr Lowey:** Yes, I rise and I do welcome, too, the extension to the south of the Island the ability to fish. There are only two questions I have got to ask.

The Regulations impose certain restrictions. Were these restrictions in there last year: ‘Must only use barbless or ‘crimped’ hooks.’ Perhaps you can tell me why we are only using barbless hooks in the winter and not in the summer? ‘Must only capture and kill a maximum of two trout a day.’ Now I read into that that they can only catch two trout and kill two trout in a day. Does that mean that after they have caught two trout, and maybe have them in the keep net, they are not allowed to fish on after they have caught two trout?

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The President: Mr Earnshaw.

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Mr Earnshaw: Thank you, Eaghtyrane.

I just wanted to echo the comments of other Members who have contributed to this to say that I have had feedback also from local anglers who use the Clypse and Kerrowdhoo reservoirs in the Onchan area and I would like to just acquaint the Minister with those comments, that it is very much appreciated, this facility, (**A Member:** Hear, hear.) so thank you for that.

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The President: Mr Braidwood.

Mr Braidwood: Thank you, Mr President.

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I would like to congratulate the Minister in the additional reservoirs which have been added, the Ballure and the Cringle reservoirs, but as the Cringle reservoir is not now used by the Water Authority for water, for potable water, would the Minister have a word with the Chairman of the Water Authority because I believe the Cringle reservoir has a lot of weed in it at the moment – the Attorney General might be able to elaborate on that –and it is causing problems for the anglers at the Cringle reservoir?

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The President: Mr Gawne to reply, please.

The Minister: Gura mie eu, Eaghtyrane.

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I am always happy to have a word with the Chairman of the Water Authority. I also thank Mr Earnshaw for his support and Mr Butt for seconding and, indeed, for his support as Member for Fisheries.

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Mr Lowey, I also thank him for his support. There were two questions he had. The first was with regard to a take of two fish a day. That actually means taking the two fish, bringing them home and sticking them in the frying pan. That is as many as you are allowed to do. You can catch the fish and you can toss them gently back into the reservoir if you so wish, but you are not allowed to take more than two home with you.

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As far as the changes by way of the legislation from this year to last year, as far as I understood it, this was the same as what we had in last year. However, I am not an expert angler, so I do not know all the ins and outs of crimped or barbless hooks but I am happy, if Hon. Members so wish, to circulate all the information about what the difference is between which and what....

I beg to move.

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The President: Hon. Members, the motion I put to the Court is that printed at Item 36 on the Order Paper, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Pig Premium Quota Scheme 2009
Pig Premium Quota Scheme 2009 approved

37. The Minister for Agriculture, Fisheries and Forestry to move:

That the Pig Premium Quota Scheme 2009 be approved [GC No 28/09]

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The President: Item 37. Minister Gawne, please.

The Minister for Agriculture, Fisheries and Forestry (Mr Gawne): Gura mie eu, Eaghtyrane.

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This is a consolidating and amending Scheme, which effectively lifts the upper weight limit of carcasses eligible for support under the Scheme. This amended Scheme will enable Isle of Man Meats to meet demand for heavier carcasses by butchers who wish to meet the demands of the consumer. It is felt that this provision will not be called upon frequently, but has been shown to fall at specific periods, such as Christmas, where larger cuts are in demand. The industry has been consulted on and supports these changes.

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I would, therefore, Eaghtyrane, move the resolution in my name.

The President: Mr Butt, Hon. Member.

Mr Butt: I beg to second, Mr President, and reserve my remarks.

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The President: Hon. Members, the motion I put to the Court is printed at Item 37, that the Pig Premium Quota Scheme 2009 be approved. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Announcement of Royal Assent

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The President: Now, Hon. Members before we move on to Item 38 the Social Security Act items, I have to announce that the Royal Assent has been given to the Animal Health (Amendment) Act 2009, and also to the Church (Miscellaneous Provisions) Measure (Isle of Man) 2009.

Social Security Act 2000 Social Security Act 2000 (Amendment) Order 2009 approved

Pension Schemes Act 1995 Pension Schemes Order 2009 approved

38-39. The Minister for Health and Social Security to move:

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38. That the Social Security Act 2000 (Amendment) Order 2009 be approved [SD No 592/09]

39. That the Pension Schemes Order 2009 be approved [SD No 593/09]

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The President: Having dealt with, then, our legislation, Hon. Members, we turn to Item 38, headed up Social Security Act 2000 and I call on the Minister for Health and Social Security to move, please.

The Minister for Health and Social Security (Mr Teare): Thank you, Mr President.

I ask Hon. Members to note, with your approval, sir, I am moving Items 38 and 39 together. However, they will subsequently be voted on separately.

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Under the provisions of the Social Security reciprocal agreement between the Isle of Man and the United Kingdom, it is necessary to apply certain parts of the United Kingdom Parliament Pensions Act 2008 to the Isle of Man. That Act provides for, *inter alia*, certain changes to the current state pension, national insurance and contracting out arrangements, as well as private pension regulatory provisions. These Orders will enable this to happen.

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Mr President, these Orders do not, in themselves, amend Isle of Man Social Security or pensions legislation. However, subject to the approval of these Orders today, I shall be moving a further Order at a subsequent sitting of this Hon. Court, which, if approved, will bring the relevant parts of the United Kingdom Pensions Act 2008 into Isle of Man Social Security and pensions law. It is necessary to take these two steps, as I am not authorised under the legislation to make any Orders applying the United Kingdom Pensions Act 2008 to the Isle of Man until Tynwald approves the addition of that Act of Parliament to the Social Security Act 2000, and the Pension Schemes Act 1995. These two Acts of Tynwald are effectively the conduit through which UK Social Security and pensions legislation may be applied to the Island.

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Hon. Members may recall that I wrote to them on 11th August 2009 giving advance notice of my intention to move these Orders today. To that letter, I attached a summary of the main provisions of the UK Pensions Act 2008, divided into those provisions which it is appropriate to apply to the Island and those which it is not appropriate to apply to the Island at the present time.

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The provisions to be applied to the Island today will, *inter alia*, allow certain people who do not have a full work history to buy back up to 6 years of National Health Insurance contributions, in addition to those which can be bought for the last six years under the existing arrangements, in order to improve their contribution record and, therefore, their basic state pension entitlement. This will likely be of particular benefit to women, although it may also benefit some men who have broken insurance records on account of domestic and homemaking responsibilities. The additional contributions will count towards basic pension entitlement only and will not count towards meeting the minimum of 10 years of Isle of Man contributions required for entitlement to the pension supplement. However, for those who are entitled to the supplement, any increase in

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their basic state pension entitlement would cause a consequential increase in the rate of supplement payable to them.

3570 The Act also consolidates different types of additional state pension entitlements accrued up to and including the 2011-12 tax year into a simple cash valuation for those who will reach state pension age on or after 6th April 2020. That cash valuation will subsequently be revalued annually, in line with UK average earnings, until the person reaches state pension age. As a result of this measure, people should be able to work out more easily what state pension they can look forward to and subsequently be able to plan for their retirement.

3575 The Act also contains a number of measures which stem from the Department for Work and Pensions Deregulatory Review of Private Pensions, conducted in 2007. The purpose of that Review was to simplify the private pensions regulatory framework and to reduce regulatory burdens, bearing in mind the need to strike a balance between protecting members benefits and encouraging employer provision of pensions. The Act provides that, from 6th April 2009, 3580 safeguarded rights, that is rights which are derived from the contracted out element of the pension credit granted to an ex spouse, are to be treated in the same way as other pension benefits being shared.

The Act also provides that the cap, in relation to the revaluation of accrued benefits in certain defined benefit occupational pensions for future service, is to be reduced from 5 per cent to 2.5 per cent. This is aimed at encouraging employers to continue to provide defined benefit pensions by 3585 reducing their potential costs.

The Act further provides that consequent to the abolition of contracting out of the State second pension on a money purchase basis, probably from 2012 as provided by the Pensions Act 2007, all 3590 existing rules concerning protected rights – that is those rights derived from contracted out rebates already built up in defined contribution pension schemes – will be removed. Protected rights will then be able to be used however an individual pension scheme member prefers. Henceforth, Schemes will no longer have to keep separate records of members' protected rights.

Mr President, I beg to move Items numbered 38 and 39 standing in my name, sir.

3595 **The President:** Mr Henderson, Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

I wish to second, sir, and reserve my remarks.

3600 **The President:** Hon. Members, the motion I put to the Court is printed at Item 38, that the Social Security Act 2000 (Amendment) Order 2009 be approved. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Again, Item 39, Hon. Members, that the Pension Schemes Order 2009 be approved. Those in favour, please say aye, against no. The ayes have it. The ayes have it.

Social Security Act 2000
Social Security Legislation (Benefits) (Application) (No. 4) Order 2009 approved

3605 40. The Minister for Health and Social Security to move:

That the Social Security Legislation (Benefits) (Application) (No. 4) Order 2009 be approved [SD No 594/09]

3610 **The President:** Item 40. Minister Teare, please

The Minister for Health and Social Security (Mr Teare): Thank you, Mr President.

This Order applies to the Isle of Man two UK Parliament Statutory Instruments, both relating to industrial injuries disablement benefit.

3615 The first instrument provides for an inflationary increase in the amount a person's partner can earn before they no longer qualify for an increase in unemployability supplement paid with the industrial injuries benefit for any dependent children of theirs.

The second instrument adds osteoarthritis of the knee, as it relates to certain occupations in the coalmining industry... for which industrial injuries benefit is payable. Further details are set out in the memorandum which has been circulated to Hon. Members.

3620 Mr President, I beg to move motion 40 in my name, sir.

The President: Mr Henderson.

3625 **Mr Henderson:** I beg to second, sir, and reserve my remarks.

The President: The motion I put to the Court is that the Social Security Legislation (Benefits) (Application) (No. 4) Order 2009 be approved. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Fireworks Act 2004
Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 approved

3630 41. The Political Member for Home Affairs (Mr Malarkey) to move:

That the Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 be approved [SD No 714/09]

3635 **The President:** Item 41, headed up Fireworks Act. Mr Teare, please. *(Interjection)* Mr Malarkey, sorry!

Mr Malarkey: Thank you, Mr President. I knew that would confuse you, sir!

3640 Mr President, it may be asked why I am moving this motion today and not the Minister. The reason is quite simple. While the Minister was away on business, when an Order was made under delegation, I signed the notice off, and then found out afterwards that I had to move it, so I am pleased to do so today. I wish the Minister would stop laughing at that one!

3645 Thank you, Mr President. The Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 revises the dates when fireworks may be let off around bonfire night and New Year's Eve. As Hon. Members are aware, the Fireworks Act 2004 specified periods around bonfire night and New Year's Eve when fireworks may be let off without notification to the Department and the need to put notices in the newspaper. This period was fixed from 25th October to 7th November for the bonfire period, and from 26th December to 1st January for the New Year period. Section 8 of the Act enables these dates to be changed by the Order.

3650 Mr President, where bonfire night, for example, falls on a Tuesday under the current dates, the last date fireworks may be let off without fulfilling notification would be on Thursday, 7th November. This would then cause problems for people wishing to arrange for a firework display on either the following Friday, Saturday or Sunday. Following a consultation with the Office of Fair Trading, the Department is proposing, through our Order before the Court to provide for greater flexibility in setting the dates for when fireworks may be let off without notification. The purpose of this change would be to enable firework displays to take place without notification during the period when bonfire night falls on, maybe, a Monday to a Friday, of that week or weekend. In all cases where weekends will be provided for firework displays, basically, we will now be allowing firework displays on the Saturdays before and after bonfire night.

3660 In respect of the firework displays relating to bonfire nights, the effect of the Order will reduce the number of days from 10 to 14, but will, of course, incorporate two weekends –

Mr Watterson: *Reduce* from 10 to 14?

3665 **Mr Malarkey:** From 14 to 10 – I do apologise! This Order also shortens the period before 31st December, when fireworks can be displayed without the need to comply with a notification. However, the Order provides for fireworks to be let off without notification on at least one weekend after the New Year period.

3670 The Department does recognise that the Order, if approved, will mean that the dates between which fireworks may be let off, without notification, will vary each year. The Department will continue in partnership with the Office of Fair Trading and its safety campaign in respect of fireworks and, in doing so, will ensure that the public are informed as to when fireworks may or may not be let off without notification. The Department will also place details of dates of when the fireworks may be let off without notification on its website.

3675 Mr President, I therefore beg to move that the Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 may be moved, sir.

The President: Mr Earnshaw.

3680 **Mr Earnshaw:** Thank you, Eaghtyrane.
I beg to second and reserve my remarks.

The President: Mr Watterson.

3685 **Mr Watterson:** I am just wondering how seriously we actually take these Regulations. Whilst I think they are all in the best of spirits, to prevent public disorder, I am just wondering if we have actually prosecuted anybody since these were in, or cautioned anyone since these were brought in in 2004 and whether it has been such a problem?

3690 I do recognise that this is a good step forward and, provided that the information campaign is right, it seems a very pragmatic move but I was just wondering on that enforcement side, if there is a response?

The President: Mr Anderson.

3695 **Mr Anderson:** Yes, thank you, Mr President.
I just wondered if the mover of this motion thinks, in the light of Westminster's actions recently, we should be changing the celebration of this event?

The President: Mr Henderson.

3700 **Mr Henderson:** Gura mie eu, Eaghtyrane.

To answer some of Mr Watterson's questions, Eaghtyrane, as input into this debate, I can assure him that these Orders are essential and the reason that my colleague in Council, Mr Downie – who is not here, unfortunately, but I am sure he would have loved to have had a small input here – had this put in, was the fact that certainly Douglas and other areas were suffering from a three-to four-week bonfire night celebration which got to such a crescendo of public disorder that it was causing general public, widespread public concern and, as a result, this is what we have got.

3705 It is slightly amended to allow for the more formal firework displays and get-togethers as it was too tight in the way it was originally worded. It did cause one or two problems. We recognised that and are happy to be moderately flexible on it to allow for that, but also to keep the enforcement side there.

3710 With regard to enforcement, I cannot give you any figures on that but we do know that the Department of Home Affairs, the Police, have new initiatives since this Order was in and, indeed, very effective community policing initiatives on the couple of weeks preceding bonfire night. It covers over Hop-Tu-Naa, through bonfire night and so on, where additional staff, specials and community liaison folk are used in joint operations around the most built-up areas and that has proven to be most effective. Indeed, we need to thank those staff involved and again, as ever, I would certainly thank Inspector Alan Mason, from a North Douglas point of view, for their input into our small area of Douglas.

3715 **The President:** Lord Bishop.

3720 **The Lord Bishop:** Mr President, I thoroughly agree with this in principle, but I am just a bit worried about what a 'last Friday' is. Does that mean the previous Friday, before the two clear days before 5th November, in which case if 5th November is a Friday, two clear days before – the 3rd – is a Wednesday and the Friday before that is 29th October? So I assume that would mean, if the last Friday is the previous Friday two clear days before 5th November, that I must be correct. Am I correct?

3725 **A Member:** Yes! (*Laughter*)

The President: You are correct, sir.

3730 **The Bishop:** It is crazy! (*Laughter*)

3735 **The President:** Mrs Christian.

3740 **Mrs Christian:** Mr President, I just feel that, whilst I can see that they are trying to give flexibility in here, the tendency for most people is to wish to celebrate on the 5th and the reasons for not doing that might be that it is bad weather, in which case you don't know until the day that you want to hold it after the 5th! This is restrictive in that sense. Would it not have been better to have moved the other way, so that you can celebrate after the 5th, if the weather prevents you celebrating on the 5th?

3745 **Mrs Craine:** Hear, hear.

The President: Mr Earnshaw.

3750 **Mr Earnshaw:** Thank you, Eaghtyrane.
 Just to clear up some of these points, if I can. I do not want to tread on my hon. colleague's toes.

3755 Mrs Christian's comments and the Lord Bishop's about the dates: if I can give this year as an example, the Friday beforehand is 30th October, and my understanding is from 30th October through until midnight on Monday morning, the 9th, will be the inclusive dates for this year. So that allows two weekends. So if 5th November – most people do have their bonfires and their fireworks on 5th November, as you would expect – was a bad night, it allows the following weekend to come into play, when they can utilise that night of Friday or a Saturday night instead.

3760 I think, essentially, this was, from what I recall of the original debate with Mr Downie – or the legislation Mr Downie produced, which was very helpful to a lot of people – it will... There are a lot of abuses going on... The Hon. Member for North Douglas has referred to that: he lives in a heavily built-up area. So do I. It went on for weeks and people were absolutely sick and tired of fireworks being let off or discharged during that period of time. This has done a lot to, I do not think it was to kill anybody's fun, it was just to control excesses, really. And I think Mr Downie achieved that objective. Now what we have got is a tidying up exercise from a practicality point of view and common sense. It has shortened the timescale but introduced two weekends into that timescale, so I think it's a pretty good move in that respect.

3765 I have to say, as somebody who lives in a built-up area, a large residential area – I live on Birchill in Onchan – lots of people living in built-up areas like that, it was a nightmare. It ranged from unwelcome intrusion to a nightmare for a lot of people, particularly those who have got animals who are of a nervous disposition and was very upsetting to owners of those (*Interjection*) – and the elderly, yes.

3770 I have not got any information regarding the enforcement of.... It is not part of my brief. I will be quite happy to find that information out and supply it to the Hon. Member. I have got a feeling that there have been some prosecutions, but I have not got the details about that, I'm sorry. But I do think the legislation, so far, has proved its point and proved its worth.

The President: Mr Malarkey to reply.

3780 **Mr Malarkey:** Thank you, Mr President, and I thank my Minister for clearing up a lot of the questions being raised.

I think the key word in this motion today is flexibility and the flexibility that gives the displays to have two weekends, which seems to be the most prominent times for firework displays. I think that is most important...

3785 I will certainly try and find out for Mr Watterson whether there have been any prosecutions. I am happy to do that. But what I do know is since that came in we certainly have a lot less problem with fireworks going off at their periods up to weeks and weeks before bonfire night and, certainly, at different times of the year. Being a pet owner and a pet lover, if you've got fireworks, I know my dogs go absolutely berserk if people start setting fireworks off. When we know it is a bonfire period, we take steps to make sure they are secure and safe. So, once again, it really just restricts the time when fireworks can be let off.

3790 Interesting comment from Mr Henderson – Guy Fawkes – well, sorry, I do apologise – Mr Anderson – Guy Fawkes. Yes, well, I sometimes wonder why we do, actually, celebrate bonfire night (*Interjections and laughter*) Yes, maybe we should be promoting it in London now! (*Interjections and laughter*) I do personally.

3795 I have seen children with accidents from fireworks: it is not a pretty sight. I had a firework display, about three or four years ago, at my own house, when my wife decided to close the conservatory doors. I am so glad she did because I have still got the burn on the glass where my daughter was standing when a firework fell over. So they are really dangerous things, and on a

3800 personal note, I would like to see them only in controlled displays. I would not like to see them readily over the counter.

But I thank everyone for their comments, and your calculations, Lord Bishop, were absolutely spot-on.

3805 **The Lord Bishop:** Thank you.

Mr Malarkey: So, basically, we get two weekends, where without this you do not guarantee two weekends and at New Year, you guarantee a weekend.

With that, Mr President, I would like to move.

3810 **The President:** In that case, Hon. Members, the motion I put to the Court is printed at Item 41 on the Order Paper, that the Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 be approved. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Proceeds of Crime Act 2008
Proceeds of Crime (Prescribed Disclosure Form) Order 2009 approved

3815 42. The Minister for Home Affairs to move:

That the Proceeds of Crime (Prescribed Disclosure Form) Order 2009 be approved [SD No 715/09]

3820 **The President:** Proceeds of Crime Act, Item 42. Minister for Home Affairs, Mr Earnshaw, to move, please.

The Minister for Home Affairs (Mr Earnshaw): Thank you, Eaghtyrane.

3825 The Proceeds of Crime (Prescribed Disclosure Form) Order 2009 prescribes the form by which disclosures of information regarding possible money-laundering offences, terrorism financing and other financial crime can be made to the Financial Crime Unit, or the FCU, as they are more commonly known to us, of the Isle of Man Constabulary.

3830 The form set out in the schedule to this Order has been developed in partnership with the Island's financial services industry as a method for ensuring that the FCU receives enough information to ascertain whether or not a money-laundering offence has occurred. Whilst the form is presently used on a voluntary basis by a large majority of the Island's financial services industry, the FCU still receives a number of disclosures which do not utilise this form. These disclosures are often incomplete and hinder the efficient investigation of possible money-laundering offences. By placing the use of this form on a statutory basis, it will help the FCU to effectively investigate and determine whether or not a money-laundering offence, terrorism financing or other financial crime has, in fact, occurred and will assist the detection of financial crime, which is important for the reputation of the Island.

3835 Eaghtyrane, I beg to move that the Proceeds of Crime (Prescribed Disclosure Form) Order 2009 be approved.

3840 **The President:** Mr Waft.

Mr Waft: I beg to second, Mr President, and reserve my remarks.

3845 **The President:** Mr Malarkey.

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

The President: You were already beaten to it, Mr Malarkey. Mr Watterson.

3850 **Mr Watterson:** Whilst I appreciate there is a certain amount of administrative usefulness in making sure that this is a standard form with standard information on it, it is just a matter of ensuring that, from a pragmatic point of view, those who do report suspicious activity – and, as I say, I have been one in a previous life – if they submit a disclosure to the relevant body, the FCU,

3855 not on the prescribed form, there will be no detriment to the individual, as long as it is done in
good faith. They may have to follow it up later on by the reminder by the FCU, but they are not
going to commit an offence or be negligent in their duty by failing to use this form, certainly in the
interim while this beds in and people get more and more used to it.

3860 **The President:** Mr Earnshaw to reply.

The Minister: Thank you, Eaghtyrane.

I have got in my brief here that if a person fails to use this form when providing information
about possible money laundering, they would not be making disclosures required under the Act.
The forms are already in use widely already and this really is to introduce greater consistency in
the collection of the information that is required. It goes on to say that this would make the person
submitting the information still liable to a possible offence of failing to disclose information
regarding money laundering, but I would wholly expect the FCU to go back to the person making
the report and, like you, I have made reports in the past, as well, on this sort of subject, so I would
expect them to go back and, from an educational point of view, say, 'Look, this is not quite right.
You need to do it this way.'

3870 So I hope that helps the Hon. Member with his query, Eaghtyrane, and I beg to move.

The President: The motion that I put to the Court is printed at Item 42. Hon. Members, those
in favour, please say aye; against, no. The ayes have it. The ayes have it.

Litter Act 1972
Litter Control Notices (Amendment) Regulations 2009 approved

3875 43. The Minister for Local Government and the Environment to move:

That the Litter Control Notices (Amendment) Regulations 2009 be approved [SD No 717/09]

3880 **The President:** We turn now to Item 43, headed up 'Litter Act'. I call on Mr Shimmin,
Minister for Local Government and the Environment, to move.

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

3885 These amendment Regulations, made under section 4C of the Litter Act 1972, amend the Litter
Control Notices Regulations by modifying the types of prescribed commercial and retail premises
which may be the subject of a litter control notice. The effect of the amendment will be to allow
litter control notices to be issued in respect of litter generated from offices, shops, factories and all
pubs, bars, cafés, restaurants and other eating and drinking establishments outside which smoking-
related litter and other types of litter may be dropped in the street by employees or customers.

3890 Following the introduction of the smoking ban in enclosed public spaces in April 2008, the
Department has become aware of an increased number of complaints relating to cases where
cigarette litter has been discarded outside shops and offices, usually by employees and sometimes
customers. These amended Regulations will enable local authorities to take action to deal with
persistent littering outside of such premises. The Regulations give local authorities the power to
3895 place greater responsibility onto the occupiers or owners of the premises where there is a problem,
to clean up cigarette butts and other dropped materials in the area immediately around them and/or
install the appropriate disposal facilities. The local authority should only consider issuing a litter
control notice when a significant and recurrent litter problem occurs.

3900 There may be some minimal additional costs for businesses as the litter control notice may
require them to alleviate any litter problems through preventative measures, such as installing bins
for smoking litter outside their premises. However, costs would be small and outweighed by the
benefits associated with improved amenity, reduced cleaning costs and reduce fire risk.

3905 My Department will be issuing guidelines to all local authorities, which will help them to
understand the new Regulations. They will be encouraged to work in partnership with local
businesses to tackle the problem of street litter and look to remedy it through joint working and
good management practice. It is expected the litter control notices will, therefore, only be used as a
last resort.

I beg to move.

3910 **The President:** Mr Crookall, Hon. Member for Peel.

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

3915 **The President:** Mr Malarkey.

Mr Malarkey: Thank you, Mr President.

I rise to welcome this little bit of legislation. There is no doubt, since the smoking ban came in, that if you walk around many areas, certainly in Douglas that I see, the amount of cigarette butts outside is quite disgusting in places. We have spent many millions of pounds on getting the North Quay looking rather nice and it is very obvious when you walk along there these days that there are cigarette butts all over the place. A complete waste of our time, really, that people are throwing these cigarettes. A lot of the bins outside a lot of the public houses and, not just public houses, offices, are being put there but they are not being emptied and they are then getting scattered across the street.

3925 I would say to the Minister that, although cigarettes are a major issue, I wish we could do something to enforce people who are spitting gum out at the same time (**A Member:** Hear, hear.) because we have spent a fortune on that quayside down there and my heart bleeds, when I walk along it, the moment I see the amount of chewing gum that is actually pressed into the paving stones where we have tried to make a good impression along there.

3930 So I would say to the Minister when we are enforcing this, if there is any way we can enforce something a bit stronger on... outside. It does happen an awful lot with smokers. I remember when I used to smoke. People smoke, then chew gum. They get rid of the cigarette and then they spit the gum out. Unfortunately, that has to stop.

3935 So, yes, Mr President, I certainly welcome this and look forward to it being enforced.

The President: Mrs Christian, Hon. Member of Council.

Mrs Christian: I, too, welcome it, Mr President, and I am pleased to see that it has been extended to offices, as well as the food outlets and so on.

3940 It indicates a fairly softly-softly approach, and whilst local authorities have had powers for a little while now, we have not really seen very much action being taken. Some would say perhaps it is not easy to see someone throwing down a cigarette, but I think you know where it is going to happen and if you are there you can see it. I just feel that, whilst we may be taking a softly-softly approach for a while, there must come a point when we should say zero tolerance is what we are after. You go to other countries and there is not a spot of litter anywhere. It kind of reflects on what your view is of your own country. Are we proud of it, or are we not? If we are proud of it, we should not accept that people litter it.

3945 I agree with the Hon. Member, Mr Malarkey, that chewing gum is an absolute bane on the existence of pavements in the Isle of Man. I think some of the companies are developing chewing gums that do not stick or can be swallowed. I do not know how far off we are from a solution in that direction, but really it is a question of inculcating into people that it just is so easy for them to take it home, put it in their pockets, just put it in a bin that is nearby. We need to have a little bit more rigour about this, in my view.

3955 **The President:** Mr Karran, Hon. Member.

Mr Karran: Eaghtyrane, all I would like to know is... I have no problems with these Regulations, but what are these businesses paying rates for?

3960 I think the situation that we also need to be clear on is the fact that there are not many local authority functions that they have, and one of them is supposed to be for cleaning. Is there going to be any initiative by the Department of Local Government on local authorities, as far as their responsibilities as far as this issue is concerned? There must be an element of the fact that... how often... how much money do they prioritise out of their rates to clean up, as far as these issues are concerned? That is the only point that I would like to raise as far as these Regulations... is that we were talking before about we want to be full of enterprise for business, and I just think that it is important we do not lose sight of the fact that we do expect local government to provide services.

3965 They are there to actually do street cleaning, and I just think it is important we do not lose sight of that point about just putting it onto the responsibility of business to foot the bill, as far as this is concerned, because as the Minister will know himself, a business has got to pay an awful lot of

3970 money for its own refuse waste as it is, and I think it is just something that we need to bear in
mind, that it needs to be a three-way approach. By all means, the general public needs to be
encouraged out of their anti-social behaviour, we need to encourage business to be more proactive
3975 on the thing, but we also need the local authorities to be... When did you last see a street cleaner
around your street? Where I am, fair enough, they would not come and sweep my street for litter,
even though the DoT are very good with the trees, but the point is I do think it is important that we
do not lose sight... We have not got many functions for local authorities to do, and they are not
doing their part of the equation. I just think it needs to be highlighted.

3980 **The President:** Mr Callister, Hon. Member.

Mr Callister: Thank you, Mr President.

I was recently on holiday in a town called San Luis Obispo in California. The authorities there
must have thought, 'We'll try and solve this business of chewing gum on the pavements,' so there
is in that town a narrow alley which probably runs twice the length of the back wall of the
3985 Chamber here, and on both sides of these narrow alleys they have created a chewing-gum wall,
and persons who want to discard their chewing gum press this into the walls. It is the most
revolting thing I have ever seen, but there are people who think it is quite artistic. In fact, they now
are putting all sorts of coloured chewing gums on to create designs on it and so on. (*Interjections*)

3990 I would recommend we do not go down that route, please, but I would be interested to know
from the Minister what thoughts there might be for removal, or the prevention, of chewing gum on
the pavements. It is vile, and clean-ups are obviously costing ratepayers money. I have seen them
in London spending weeks on end in Oxford Street trying to get the stuff off the streets, and the
cost there must be colossal. Have we got an answer, Minister?

3995 **The President:** Hon. Member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr President.

I read from the explanatory memorandum that we have that new Regulations will place greater
responsibility onto the occupiers or owners of these premises where there is a problem, to clean up
4000 cigarette butts and other dropped materials in the area immediately around them. I hope that we
will be able to put our own house in order, Mr President, because the cigarette butts outside the
doors of this Chamber are a disgrace and I hope that the Regulations do not need to be brought in
to attend to that!

4005 **A Member:** Hear, hear.

Mr Bell: As do most Ministers.

4010 **The President:** Lord Bishop.

The Lord Bishop: Mr President, if you go to Singapore, you will find that you get sent to jail
for spitting out your chewing gum in the street. I wonder if Mr Waft has been there, starting that
law.

4015 One of the things that I find a bit offensive is that if you pull up at traffic lights or roundabouts
and you find the person in front of you just throws a cigarette butt out of the car window, and you
cannot really... The traffic lights are going to go green and you cannot get out and do something,
so I reckon we ought to start a... There used to be a bumper sticker, and I never understood it. It
said 'Hoot if you had it last night!' (*Laughter*) I certainly never understood it. Maybe you should
hoot if you see somebody throwing a cigarette butt out of a car.

4020 **Mr Watterson:** It is illegal.

The President: Mr Shimmin to reply, please.

4025 **The Minister:** Thank you, Mr President.

Only the six contributors on the litter Regulations and I am appreciative of the contributions.
I would commend Douglas Corporation in recent days have progressed activity on enforcement
with regard to derelict buildings. We have Douglas Corporation, I know, and maybe others, have
attempted to purchase chewing gum machine removal devices, which have not been overly
4030 successful.

4035 I know that last weekend Douglas Corporation had a clean up, which was promoted by the local authority to try and clean areas and so there are local authorities that do make efforts. Obviously, in the capital it is difficult because there is a constant stream of litter and to try... spread around the Douglas area. In local areas, some local authorities seem to see their main purpose as being to keep the rates low, rather than provide the services. The Hon. Member from Onchan, Mr Karran, was talking about it and that is a battle that we have in the Department, to try and ensure that those limited remaining responsibilities of local authorities are carried out to the best of their ability.

4040 I am planning to have a meeting with local authorities next week to discuss aspects relating to the Chief Minister's statement yesterday and I will use that opportunity of drawing to them, again, their responsibilities in this area. I do not have the solutions but, as long as we maintain 24 local authorities with some residual powers, I am not prepared to take those off them. Therefore, I will pass it on and would encourage all Members, and members of the public, that if they have a concern, to pass it on to the right responsibility area, which is the local authority.

4045 I beg to move.

The President: Hon. Members, the motion I put to the Court is printed at Item 43: that the Litter Control Notices (Amendment) Regulations 2009 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Petition for Redress of Grievance of Stephen Broad
Civil Legal Aid administration
Motion carried
Select Committee of three Members appointed

4050 44. The Hon. Member for Ayre (Mr Teare) to move:

4055 *That a Select Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider the Petition for Redress of Grievance of Stephen Broad presented at St John's on 6th July 2009 with regard to the impact on the administration of justice of awarding Civil Legal Aid to one side only in family cases in the Isle of Man and to report with recommendations.*

The President: Item 44. I call upon the Hon. Member for Ayre, Mr Teare, to move, please.

4060 **Mr Teare:** Thank you, Mr President.

The petition, as drafted, I feel, fulfils Standing Order 6.11(a) of this Hon. Court, in that it is a matter of public interest. I have been concerned for some time with the unintended consequences of the application of Legal Aid. My concern has been heightened by my experience at the Department of Health and Social Security and, to my mind, this petition illustrates the problem.

4065 The difficulty arises when one party to Civil Legal Aid proceedings, normally in the case of maintenance or childcare issues, is eligible for Legal Aid, but the other party is not. To my mind this puts the party which is not funded by Legal Aid at a disadvantage, as they are, in effect, out of pocket if the proceedings go to court. The Legal Aid funded party has no, or limited, liability as to advocate's or court expenses and, therefore, it could be viewed that they have no incentive to negotiate. However, the party which is paying their own costs will, to my mind, have an undue element of pressure upon them, in that they have to draw matters to a conclusion as quickly as possible to reduce the impact of the legal fees which they are paying from their own resources. I feel that this creates an unfair position, indeed, not a level playing field, and it has Human Rights implications in respect of access to justice and the right to a fair trial.

4070
4075 The existence of the Legal Aid certificate, as previously mentioned, reduces the incentive upon the legally-aided party to negotiate, and this can mean that extensive and acrimonious court proceedings ensue. This is to the detriment of any children of the relationship, who involuntarily are psychologically affected and are compelled to take one side or the other. The consequences are that one party is then viewed as the guilty party and the relationship between them and their children is seriously damaged. I have also come across instances where the non-legally-aided party has suffered a breakdown with the pressure and has had to be signed off work, resulting in the payment of Incapacity Benefit and an adverse effect upon the person's health. This can extend, Mr President, over a protracted period of time.

4085 The difficulties are compounded by the fact that there is no limit to the number of times a
 person can apply for a Legal Aid certificate in respect of the same case. This leads to the non-
 legally-aided party being under constant pressure, and I have seen instances where cases strain the
 definition of the merits test. For the benefit of Hon. Members, the merits test means that a case has
 4090 to be judged against the criteria that it would be economically worthwhile for a person who was
 funding their own cost to proceed. Some of the cases which I have seen involve very small
 variations in maintenance and I wonder whether this would be funded if the litigants were meeting
 the costs from their own resources. Would they forego a holiday to pay legal expenses where the
 benefit of success was highly marginal? I think not.

4095 In surrounding jurisdictions, in relation to family matters, Legal Aid is regarded as a loan and
 the parties have to repay the loan with interest out of their settlements. To my mind, this gives
 them an incentive to negotiate and settle the matter without entering into protracted and potentially
 acrimonious proceedings. I feel that if we were to look at the loan system, it would enable us to
 spread the limited resources further and also help to remedy some of the unintended social
 consequences of the present system.

4100 In addition, I feel that more priority should be given to negotiation and binding arbitration,
 which has been proved to reduce tension and hostility between the parties and is accepted
 worldwide as being preferable to court action, especially in family matters. This would, I feel, give
 a better quality of life for the children of the relationship. To proceed to a full court hearing is
 undoubtedly potentially very divisive.

4105 In the UK there is an organisation of lawyers engaged in family matters which follows a code
 of practice, which commits them to the constructive resolution of family disputes. The members
 encourage solutions that consider the needs of the whole family and, in particular, the best
 interests of the children. It is instructive that only one legal practice on the Island is listed on the
 organisation's website as being a member.

4110 Mr President, I feel that the petition, which is subject to my motion today, is a good
 opportunity for this Hon. Court to establish a committee to investigate the problem and to make
 recommendations on the way forward, to deal with the social malady.

Accordingly, Mr President, I beg to move the motion standing in my name, sir.

4115 **The President:** Mr Houghton.

Mr Houghton: Thank you, Mr President.

I am very happy to second the Hon. Member for Ayre in this particular motion.

4120 Mr President, the Member for Ayre and myself have been involved in the same case that he has
 alluded to this evening. We are both aware – and it would do other Hon. Members in this Court
 good to be aware – when you get involved in such very serious issues to do with legally aided
 people on the one side and non legally aided parties on the other that, indeed, these wide open
 opportunities and, I have to say, sometimes brought about by some of the advocates sometimes,
 who are milking the system. (**Two Members:** Hear, hear.) That has to be stopped.

4125 Mr President, as Hon. Members will recall, was it 12, perhaps a little longer than 12 months
 ago, we dealt with a Legal Aid Report. It was a good debate, there were some good
 recommendations made from that Report, and then the whole thing has fallen back asleep. I do not
 see any of those – and I would stand corrected – recommendations from that Report actually
 following through. Now, I stand corrected... I may be missing out some but some of the other
 4130 issues to do with merits test issues and so on have not been followed through. They are not
 material, Mr President, and they should be now because now – and the Hon. Treasury Minister is
 listening to what I have to say, and please note, Hon. Treasury Minister, that I have had an awful
 lot to do with constituents who are legally aided and most of it is utter nonsense – there is a big,
 wide, gaping hole of funding that is going out of the Government coffers that is absolutely
 unnecessary. So perhaps if his Treasury would look into those elements where they can tighten up
 4135 on all of that.

The Hon. Member, Mr Teare, alludes to some helpful suggestions, that have been debated in
 this Court before this day, and that is, and the one main one there is, negotiation and binding
 arbitration. (**A Member:** Hear, hear.) Bring them to the table and bang their heads together. 'Oh,
 you cannot do that. A mere misunderstanding and everybody starts misunderstanding what I am
 4140 saying' and this and that... We all know what we mean. We all know what we mean and what you
 want is not always necessarily legal people to do it, who themselves are on a big bill. People who
 have got experience of life, and there are a lot of those people, especially those – and perhaps I
 may look at retired social workers to a certain extent as it comes to mind, whomsoever –

4145 **A Member:** Not yet!

Mr Houghton: – who has got experience of life, knows the issues, understands the issues and can confer binding arbitration on those people, not with the linkage to go to court afterwards, because that is what we were looking at in the last Report.

4150 All of this could be looked at in an active select committee, and that active select committee needs to – needs and will, of course – bring forward practical suggestions to this court, and immediately those practical suggestions, which I am sure will be approved by this Court, possibly they will be able to work out a saving to the public purse.

4155 Just firing back on the hon. mover here – where he stated I was trying to spend money in the last debate to do with the Reciprocal Agreement, but not on an unwarranted fence in Ronaldsway – in this case, perhaps those savings could be sent to help to pay for some reciprocation. It would be much better use of public resources. I do know, from some Hon. Members who have had a viewing into this, there is a massive gaping hole here, and a lot of this is being brought on by greedy advocates – and I do not mind saying that – and that is what has caused an awful lot of trouble and strife.

4160 If an advocate would sit down on the first litigant that comes through the door and say, ‘Look, this is nonsense,’ and set up some way of sending them down a route, which we have not got at the moment, to bang these people’s heads together, it would not get worse. But by the time a family court issue... and that is what we are really looking at here in Legal Aid, Civil Legal Aid mainly for family courts, a very big gaping hole in that. By the time a family court case goes to court and comes out the other end, it absolutely exhausts both sides, brings absolute hatred of each other to the fore that will never ever be repaired, and that is not in the good interests of the children, as the hon. mover has said.

4165 Thank you, sir.

4170

The President: Mr Gill, Hon. Member.

Mr Gill: Thank you, Eaghtyrane.

4175 I should perhaps declare to the Court that I have some experience of mediation – or conciliation, whichever you want to call it – in a former role as a court welfare officer, and when it works well, it works very, very well, but I have to say the previous speaker is missing the entire point here: it only works well, not because heads are banged together or arbitration is binding, but because both sides enter into it freely and they will do that because they recognise it is in the best interests of themselves, but mostly of the children.

4180

Mr Houghton: But what about the ones who won’t?

Mr Gill: If you do not have that element, sir, it is doomed, absolutely doomed.

4185 It is doomed, frankly, in family court welfare cases, where a Deemster makes a judgment and one parent or the other ignores that ruling because they know that there is very little that the court will actually do to enforce those rulings. So even when a Deemster makes a determination, it is still doomed.

4190 I have to say... a sense of irony. I had a constituent, whom Mr Teare will recognise from the description without naming him. He was not legally aided. His former partner was – exactly the scenario that you have described – and the confusing issue in this was that Social Services were extremely questionable in their impartiality and in encouraging an abuse of legal aid to the advantage of one and the disadvantage of my constituent. So there is a degree of irony here that it does not seem to be a uniform concern that is expressed and brought forward.

4195 I think the issue of Legal Aid, whether it is fair that one side has it and the other does not, really you have got to back to why do we have Legal Aid. We have Legal Aid to provide for people who otherwise would not be able to access the justice system and, sooner or later, you will have to draw a threshold. You will always get somebody just on one side, just on the other side, but that is the system we have. It is not perfect. I do believe..

4200 The previous speaker talked about greedy advocates milking the system and pushing... I do not think that the courts are oblivious to any incidents like that, and they respond very strongly.

Mr Houghton: They don’t!

4205 **Mr Gill:** I do not know that there is that much experience and perhaps if any Member has evidence of that they should report it to the relevant authorities. The point is, the Legal Aid system

is not open house for everybody all the time; it is selective. If we want to move that selective element and say it is open house, there is a cost that will follow and it will not have the effect, I would say, Eaghtryrane, of slowing-down people going to law. Rather it will say, it is open door to go to law.

4210 So the provision that we should be looking for but, I repeat, not with banging heads together, not with making it binding... but makes it freely entered. There should be a process of conciliation or mediation. Just today we have had our answers and the Answer from the DHSS Minister to Written Question 40, the final paragraph, if I might read Eaghtryrane, is:

4215 ‘The DHA, following a Government working party, have been charged with the development of an Island Mediation Pilot operating in the Family Courts and this is being progressed in conjunction with the General Registry, subject to funding arrangements being agreed.’

4220 I do think it is entirely reasonable to say that before a court case, a family law case, can progress beyond a certain point, that at least mediation should be offered and, in fact, it should be almost a prerequisite (**A Member:** Hear, hear.) of a consideration for further Legal Aid. I do not know if that is a sensible or a workable arrangement but I think the principle of getting people engaged at the earliest opportunity into mediation, with the caveat that any outcome has to be owned by those individuals and not forced on them by any social worker. As an ex social worker, I would not want social workers with that level of authority, I can assure you, but I would want that opportunity for parents to have the opportunity to be in control of their destiny at the earliest juncture. I really do not think that I can say any more than that.

4225 In terms of the select committee, the select committee is about: should we have Legal Aid for everybody? I do not believe it is justified but when the summing-up comes back, perhaps we will hear a different argument to that. If it is in terms of alternative resolutions, that is already going on and the Minister himself knows that through his answer to my question. But, if the select committee is looking at the whole of these matters in the round, rather than just the narrow question of Legal Aid, I think there would be some merit in it. I am interested that the Minister’s personal view now seems to have changed from the experience we Rushen Members had on behalf

4230 of our constituent.

4235 So, is the system fair? No, it is not, but we have that system and we have that system knowingly. Are there better ways of running it? Yes, I believe there are, but this motion is not about that; this motion is about just the narrow question of Legal Aid. So maybe the Minister might, in summing up, want to clarify that. I would certainly look for that clarity before I could support this, but I would come back to congratulating all those authorities who are moving this forward through the DHA and the Island mediation pilot, and I hope that that model can be extended away from the family courts on a firm foundation of success and the whole model of mediation and conciliation can become much more entrenched and enshrined in our whole justice systems. For example, the Small Claims Court is crying out for that sort of service. With those

4240 comments, I would look to the Minister to clarify that before we vote, but I would urge against just voting on the widening of the Legal Aid question, because that of itself is no great service.

4245 Perhaps, finally, Eaghtryrane, I could maybe ask through you if my understanding of the Legal Aid system and how it works and how the thresholds are applied and set... I am not an expert on that, but perhaps Her Majesty’s Attorney General might be in a position to afford us the benefit of a brief briefing on that subject to better inform, certainly myself, and maybe other Members of this Hon. Court, sir.

The President: Mr Malarkey.

4255 **Mr Malarkey:** Thank you, Mr President.

I stand here quite openly and honestly saying that I know exactly what Legal Aid for the other partner is like, and having to pay for your own lawyer going through a divorce, because I have been down that road. I know exactly what the petitioner is saying when he brings this petition forward, and if the Minister had not picked this up I would have been more than happy to pick it up.

4260 As I say, I have been in this position. I did go through a divorce. My ex wife did go for Legal Aid, which then left me in a position where I had to go and get a lawyer, and before we knew it, two years down the line we had lawyers fighting with each other – or discussing with each other – and the only two people in the whole situation who were not actually talking were my ex wife and myself, and it was not until eventually, some time down the line when we actually got face to face,

that we managed to sort a lot of it out. I do believe that lawyers like to drag things out, (**Mr Houghton:** Hear, hear.) and out.

4270 I have been in the situation recently, on another civil matter, where a person – it was a tenant – went to Legal Aid because we had to ask them to be removed. He took Legal Aid. We had to have a lawyer. When we got to a certain stage – they know how to play the system – they sacked the Legal Aid lawyer, then went looking somewhere else for another Legal Aid lawyer, because our system allows that to happen. He can then start all over again... who then has to talk to my lawyer, who has to start all over again, and the only person whose bill is driving up all the time is mine, not his.

4275 I strongly support this today. I would like to be actively involved in looking at this, because I do think it needs to be looked at. I think a select committee does need to go forward with this. I believe that a lot of these family issues can be settled outside courts, outside lawyers. I do believe that all lawyers do is muddy the water. You make things worse. There is no better way than getting together and sorting things out without using solicitors all the time. I am very much in support of this.

4280

The President: Perhaps Mr Attorney could clear some water. Mr Attorney.

4285 **The Attorney General:** Thank you, Mr President. I will do my very best not to muddy the water.

Could I just, first of all, deal specifically with the question raised in the petition, which, as we have heard, is concerned with the issue of the difficulties which arise when one party has Legal Aid and the other one does not. There is actually a provision already in our Legal Aid Act 1986. If I may just read it out, it says:

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‘Where a party receives legal aid... in connection with any proceedings between him and a party not receiving legal aid (in this Part referred to as an ‘unassisted party’), and those proceedings are finally decided in favour of the unassisted party, the court by which the proceedings are so decided may, subject to the provisions of this section, in the exercise of its discretion make an order for the payment to the unassisted party by the Treasury of the costs incurred by him in those proceedings.’

4295

So dealing with the very narrow point, Mr President, in this case, as I understand it, the petitioner, Mr Broad, had to fund his own litigation against, I take it, his wife, who was legally aided. The Act makes it clear that there is a discretion vested in the court to say that Mr Broad, in this particular case, could have his costs paid by the Treasury, or part of the costs paid by the Treasury. So there is that provision already extant in our legislation. It depends on the discretion of the court, and presumably the discretion would be exercised in a case where the legally aided party had acted very unreasonably and had incurred additional costs which the privately funded lawyer had to counter. So there is that provision.

4300

4305 Mr President, clearly Hon. Members are concerned with family law cases and I suppose it is difficult to imagine a set of litigation which could be more stressful for both parties, and I have no doubt, Mr President – and I can say this, I think, from inside information – that the courts, the judges, are extremely keen to encourage mediation and to encourage mediation *before* the litigation is under way and the lawyers are firing from all cylinders, as it were. This is something I know that the First Deemster particularly is very keen to encourage. You will, I think, remember that at the tail-end of the last session, His Honour was here in Tynwald, and there was discussion about the new Rules of Court, and a central plank of the new Rules that mediation should play a part. I have no doubt that that should be extended and will be extended into the family law arena.

4310

4315 It does very much worry me and concern me, Mr President, when Hon. Members talk about lawyers milking the system and overcharging. Lawyers in the Isle of Man have an exclusive right to appear in courts, and all I can say is this: that certifying officers at the General Registry have the duty to police the amount of costs which are charged by lawyers, in all sorts of cases, not only family law cases. It is for the certifying officer to assess these costs and make sure that there is not an excessive award.

4320

I should also say, Mr President, that much of the work which I anticipate will be carried out by the Select Committee, if that is what this Hon. Court wants, is already being dealt with. As it happens, I know that, this coming Friday, there is a meeting of the Legal Aid Committee, of which I am a member. The First Deemster, the President of the Law Society and the Chairman of the Magistrates’ Association meet, from time to time, to discuss matters relating to Legal Aid, and I know that there will, for example, be discussion of the so-called statutory charge.

4325

If I could just very briefly refer to that, Mr President, we have heard that it is possible for a legally aided client to win his or her case against an opponent who is not legally aided, and in

4330 England, for example, if the wife in a divorce case is awarded the house, so that she and the children can live in the house, and as part of that award, she has incurred costs of, say, £5,000 to her lawyer, that £5,000 can be ordered to be repaid by the wife in due course, when she is able to pay it. Until it is paid, it remains as a charge on the house. Many people might think that is an entirely fair order to make: in other words, the state should not fund a transfer of property to a wife who is successful in the Legal Aid case, and she does not have to pay anything for that house, by way of legal costs.

4335 So that is something, I know, that is on the agenda. I know also that revision of maintenance cases which just involve mathematics... should those sorts of cases attract Legal Aid? That is the sort of thing which will be decided or at least discussed at our meeting on Friday.

4340 So I have no doubt, Mr President, that if the Select Committee is established, I would hope that the Legal Aid Committee, which is established by the Act, to deal with this very sort of thing, will be able to give assistance to the Select Committee. I hope I am not treading on the toes of His Honour, the First Deemster, but I am sure that that would be so.

4345 So, Mr President, I am not sure I can really help... If there are any specific points that Members would like me to address, I will try to do that, but I hope those comments will be helpful.

The President: Mr Waft, Hon. Member.

Mr Waft: Thank you, Mr President.

4350 Despite the conversation we have had about this, there appears to be an elephant in the room here, and that is the fact you cannot get Legal Aid when you actually want it.

A Member: That's true!

4355 **Mr Waft:** You do not just walk into an attorney's and say, 'Any possibility of getting Legal Aid?' 'No, I'm sorry, we haven't anybody available.' That does not happen once; it happens many, many times.

4360 Certainly a case that I was involved in, the lady tried several advocates to try and get some Legal Aid, to no avail. That was some time ago and I hope it has been changed since then, but it certainly was a case in point where it became very traumatic for the family because there was an eviction taking place and the locksmith was due up the following week to change the locks on the door. She was put before the High Bailiff, I think it was, to try and get a stay of execution while she was able to pay some of the back rent, because the family would have to be moved into different directions, including the cat, and there was much difficulty expressed by that family to try and find some help. We eventually did get some help, but it was not without extreme difficulty.

4365 That is not just one case; I know of two or three cases.
I sincerely hope that the amount of Legal Aid available... Despite the benefits that can be claimed in other areas of the profession, Legal Aid certainly comes very much down the list. It is a very serious issue and the amounts that sometimes are allowed to try and find the errant husband or the amounts that are claimed – £5 a week in some cases, £10 a week – to go through all that trauma – at the request of the DHSS, I might say – can be quite traumatic for everyone involved. So as long as this committee absorbs that as well and tries to find some regulated rota system that all the advocates that we have who put themselves down as available for Legal Aid actually have someone available... I know they do get swamped from time to time, and the high-value cases are an attraction. Nevertheless, there is a duty for them to comply with that. So I hope the committee looks at that side of it when they consider it.

4375 **The President:** Mr Karran, Hon. Member.

4380 **Mr Karran:** Could I ask the Attorney General about the issue that you can get costs awarded to you. It is not very often you get 100 per cent of your costs awarded to you, whether it is a civil or a criminal matter: is that not the case? It is only a proportion that you will get, and then it is generally taxed.

4385 **The President:** Mr Attorney.

The Attorney General: Mr President, the Hon. Member is absolutely correct.

Without going into technicalities, if you win your case against your opponent, ordinarily you get just a portion of the costs which you have paid to your own lawyer. This used to be called

4390 party and party costs, and so, yes, even though you are entirely successful, you are sometimes quite significantly out of pocket. But that, I must say, Mr President, is not unique to the Isle of Man.

The President: Mr Karran.

4395 **Mr Karran:** Eaghtyrane, I have no problem with this motion. I think it would do no harm, having a select committee. I have to say that I totally agree with Mr Waft about the reality of the situation, as one of the 'Last Hope Hotel' Members of the Court who seems to have these people often at one's door. It is very difficult and it is quite alarming to see how few advocates are prepared to do Legal Aid, especially civil Legal Aid. If it is something to do with taking the DHSS
4400 on, on medical negligence, it is like trying to find hen's teeth, at the present time – with the exception of a new practice, I believe, in Myrtle Street.

But the situation is that I have got no problem with this proposal. I think Mr Gill is perfectly right, what we need to try and get is jaw, jaw, instead of war, war. We have all been in the situation where you see people who get divorced and the children become the spoils of war. (**Two**
4405 **Members:** Hear, hear.) It is horrific, when you think about it. I know, I had somebody nearly attack me, a few years ago: there was a classmate of mine, when they split up, and I was saying, 'But your kids are going to be homeless!' and the abuse... But three or four weeks later, he came back and said, 'Right!', in a very abusive way. But the situation is we do want to be looking at the new ways, and I am really pleased to hear that they are looking at arbitration. It is not very easy
4410 when people are in so much pain, because of whatever, because of their divorce.

But what I would like to say, I do think it is a bit tongue-in-cheek for these Ministers to be coming here, telling us about this situation: the situation that we have had a Legal Services Commission, which we have betrayed the recommendations for about five years, now. I do think that it is about batting both sides against the middle. He is a Minister in the Government, and part
4415 of the problem is that the independent Commission's Report has not been adhered to. One of the cornerstones of our society is the access to justice, just like the access to affordable housing for our people; just like the access to education for all our people. I just think that the mover needs to just clarify what has he done as far as the broader picture, as far as the Legal Services Commission Report, because there was a lot of hard work put into that and I really do think that it needs to be
4420 looked at.

My other thing that I am concerned about is that this emphasis is on one issue. I think it is a very good issue that needs to be addressed, but what I would hope would happen is that any select committee's report coming back is not used as an excuse to cut, but if there is money to be cut
4425 from this place, maybe we can start levelling up the playing field, as far as different people, and maybe we can get what Mr Waft has been looking for, as far as trying to get a situation where we get more advocates doing their social responsibility. They have got a closed shop, just like any other closed shop is concerned. With rights there should be responsibilities, and I am afraid I do worry about that.

I will support this proposal, I am very pleased to see it, but I do think that the Minister needs to be making representations about the timescale for the Legal Services Commission about the access
4430 to better Legal Aid and access to justice for everyone.

The President: Mr Speaker.

4435 **The Speaker:** Mr President, as the debate has gone on, it has become evident that there is some confusion as to what a select committee would achieve in terms of what it is it is being asked to examine. The contribution of the learned Attorney I think was very helpful in clarifying, but when one looks at the prayer of the petition and the actual grievance, what is the grievance, the way the grievance is framed is the impact on the administration of justice of awarding Civil Legal
4440 Aid to one side only in family cases in the Isle of Man.

When I first read that, I thought that therefore the grievance was to do with the criteria for awarding Civil Legal Aid, was it too tightly drawn, and knowing that the rules are reviewed periodically, surely it does not need a select committee to investigate the criteria for awarding
4445 Civil Legal Aid.

As the mover made his case, however, and as others have responded to the debate, the grievance is not about Legal Aid as much as, in principle, the involvement of advocates at all in family cases. That is where the grievance lies and the ability of one side, through Legal Aid, to have an advocate to argue the case in law... which is the reason we invent advocates and lawyers... is actually to settle a legal dispute. It is inevitable that however... If one side has an

4450 advocate, albeit engaged through Civil Legal Aid, the other side is similarly going to require an
 advocate to argue the legal point. So the grievance, I suggest, is not the financial ability to engage
 an advocate; it is the necessity for advocates being there at all in such cases, and I think that is
 where the concern lies.

4455 I think we then go on to considering such matters, as referred to by Mr Gill and stressed by Mr
 Attorney, that the alternative resolution mechanisms of having advocates, i.e. tribunals and
 mediation, which the courts are keen to encourage... This is the real answer to the grievance as
 expressed by the mover and by the petitioner. What would a select committee then investigate?
 4460 Would it be the rules for award of Civil Legal Aid? Is a select committee to be asked to examine
 the appropriateness of family cases having advocates in the first place; or should it be done by
 more informal means? I am not sure. A select committee is going have to stick with the remit it
 has been given by this Court, and that is in black and white. It is on the narrow focus of civil aid in
 one case; it is not on the broader issues of alternatives, like mediation and tribunals, to the
 involvement of advocates to settle a legal dispute.

4465 So I just make that point. Members need to be clear about what the actual grievance is and
 whether, given everything else that is going on that we have been advised about, it is necessary or
 appropriate to have a select committee which would only examine this particular narrow issue. It
 is all very well to say a select committee would want to look at the bigger picture, but I am not
 sure that it would have the ability to stray beyond the actual Petition.

4470 **The President:** Mr Teare to reply.

Mr Teare: Thank you, Mr President.

I would like to thank everybody who has contributed to this debate, and especially my
 seconder, the Hon. Member for Douglas North, Mr Houghton.

4475 Going to the individual contributions, the Hon. Member for Rushen, Mr Gill, said that
 arbitration is doomed if both parties do not co-operate. That is a very good point, but there needs
 to be a strong incentive on the parties to go to arbitration first before heels get stuck in and there is
 no negotiation. We have two sets of individuals with two sets of advisers and they are both
 entrenched and nobody is moving. So there must be some incentive to negotiate here.

4480 I acknowledge, and I think everybody would acknowledge, that the system is not perfect. What
 we are not doing is we are not talking about extending Legal Aid, but we must try to prevent cases
 becoming unduly complicated (**Mr Houghton:** Hear, hear.) to the detriment of both the litigants
 and their families as well. Mediation is a prerequisite, certainly under current guidelines, but from
 the experience that I have had, it does not seem to be enforced or encouraged very often, and I do
 4485 not seek to widen the Legal Aid question, or indeed the availability of Legal Aid question. We are
 focusing on the impact of the way that it currently works.

Mr Malarkey: I thank him for his very supportive comments. I think he has highlighted
 potential abuses of the system, and once again confrontation must be avoided.

4490 Mr Attorney: I would like to thank him for his learned input. I was aware that a non legally
 aided funded individual can obtain a refund, but what I would very respectfully suggest to him and
 the Hon. Court is that this can only happen after the event, after the case is heard. So in the
 meantime, the litigants and their families have to go through a most unpleasant experience in what
 can be a seemingly hostile environment. I know the learned Deemsters do take steps to make
 people feel more at home in courts – it certainly is not like 20 years ago – nevertheless, it is an
 4495 environment that people find themselves in, in the main, for the first time – not a difficult
 environment for anybody to go in... I would say that by the time the court considers the
 application of costs, it is too late. It is over and done.

I do recognise that the learned Deemsters are anxious to encourage mediation, but it would
 appear that some sections of the legal community are not particularly interested (**Mr Houghton:**
 4500 Hear, hear.) in mediation, and I would draw the Court's attention to a comment I made earlier on,
 that out of 5,000 legal practices who have signed up to a code of practice which supports
 constructive resolution of these matters, only one is from the Isle of Man. I think that, Hon.
 Members, should tell us something. (**Mr Houghton:** Hear, hear.)

4505 The learned Attorney did say that the learned Deemsters are already reviewing this issue and it
 is work in progress. I would suggest to Hon. Members that this committee would be able to bring
 another facet to the Legal Committee's debate, and also give the opportunity for others who may
 not, once again, feel comfortable talking in a legal settlement to contribute, so that together we can
 build up a picture. That is what I am trying to do.

4510 Turning to the Hon. Member of Council, Mr Waft, he made the point that it is difficult to get
 Legal Aid, and that I acknowledge. What I would say really is that we are talking about family

4515 matters here, not an eviction – even though an eviction could be a very dramatic experience for people. But he did hit the point. He was talking about relatively small amounts, which were subject to legal aid litigation and, once again, I go back to my original speaking notes, where I mentioned the merits tests. Would you, if you were funding it yourself, if you were putting your own cheque book on the table, put your own funds at risk? I would suggest that for a number of these cases, you definitely would not.

Turning to the Hon. Member for Onchan, Mr Karran, who was supportive, he made a comment which, in effect, sums it up: children are the spoils of war. This is what we have got to try and avoid. We have to protect the children and we must make sure that they are not scarred for life.

4520 I hasten to add here that I am not looking to cut costs – you may think that strange, coming from my mouth – but I am just trying to bring equity and fairness to what I perceive is an unfair and inequitable position as we speak. (**A Member:** Hear, hear.)

4525 Mr Speaker did make a point that the petition, as drafted, is quite narrow and I do acknowledge that, but what I would say is that the advocates should not be involved at the outset. That is in the current guidelines, but they do not seem to be administered very aggressively. The first point should always be arbitration and I would agree that the answer is alternative resolution, and it is definitely the best way forward.

4530 Mr President, I would like to thank everybody who has contributed, and once again I move the motion standing in my name, sir.

The President: Hon. Members, the motion I put to the Court is printed at Item 44: Petition for Redress of Grievance of Stephen Broad. Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

4535 We need now, Hon. Members, to have nominations for three Members to establish a select committee.

Mr Quayle: I would propose Mr Teare, Mr President.

4540 **Mr Watterson:** I beg to second.

Mr Cretney: I propose the Hon. Member for Douglas South, Mr Malarkey, Mr President.

Mr Quirk: I beg to second, sir.

4545 **The Speaker:** I propose Mr Gill, sir.

Mr Karran: I will second.

4550 **Mr Earnshaw:** I would like to propose Mr Crookall.

Mr Anderson: I will second Mr Crookall.

Mr Henderson: I propose nominations close.

4555 **The President:** Okay, Hon. Members, we will go to the vote. You are voting for three Members to serve on the Committee. The Clerk will read the names, when we are ready to go to the vote, Hon. Members. Once the names are entered, Hon. Members, the Clerk will read the names, and the screen will become lit. You may then vote – not until.

4560 **The Clerk:** Mr President, the Members nominated and seconded are Mr Crookall, Mr Gill, Mr Malarkey and Mr Teare.

The President: Voting for three, Hon. Members.

4565 *There were technical difficulties with the electronic ballot system.*

The President: Have we got the ballot papers, Hon. Members? Clerk? Yes. We will distribute the ballot papers. We will revert to pen and paper, Hon. Members.

4570 Right, Members having their ballot papers, the Clerk will again read the names and we will go through the usual procedure, Hon. Members.

The Clerk: The Members nominated, Mr President, are Mr Crookall, Mr Gill, Mr Malarkey and Mr Teare.

4575 **The President:** The teller for the Council, Hon. Members, will be the Lord Bishop.

The Speaker: For the Keys, Mr Quirk, please.

A ballot took place.

4580 **The President:** The result of the ballot, Hon. Members, is that the three Members elected to the Select Committee are: Mr Crookall, Mr Malarkey and Mr Teare.

4585 Hon. Members, we turn then to Item 45. Before we do, Hon. Members, I think it makes you realise that when the machine works, how quick it is.

Mr Anderson: Point of order, Mr President.
Can we have the votes on that?

4590 **Mr Houghton:** Did they not add them up?

Mr Crookall: No, it just looked like it!

4595 **The President:** They have now! (Laughter)
Mr Crookall received 22, Mr Gill received 11, Mr Malarkey 24, Mr Teare 27.

Mr Houghton: Hooray!

Petition for Redress of Grievance of Mrs Helen Parry
Free nursery education
Motion adjourned

45. The Hon. Member for Rushen (Mr Watterson) to move:

4600 *That a Select Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider the Petition for Redress of Grievance of Mrs Helen Parry presented at St John's on 6th July 2009 with regard to the provision in the Isle of Man of free nursery education for all children aged 3 to 4 in the year prior to their admission to school and to report with recommendations.*

4605

The President: Now, Hon. Members, we go on to Item 45, Petition for Redress of Grievance of Mrs Parry.

Hon. Member for Rushen, Mr Watterson, to move.

4610 **Mr Watterson:** Thank you very much, Mr President.

In a similar vein to the previous Private Member's motion, this is largely about bringing equality and fairness to an issue. Members will have had circulated the Petition of Mrs Helen Parry, which was presented on Tynwald Day this year. The petitioners seek that this Hon. Court should declare its commitment to make available free nursery places to all children in the year prior to their admission to school before the commencement of the school year 2010-11; and should direct the Department of Education to ensure that adequate provision of places is made, and in the locations where they are needed, in order to implement Tynwald's declared policy.

4615

4620 As we heard yesterday, now is not a great time to be coming to Tynwald with a shopping list looking for money, so I do not intend to do that today. There are, however, problems with the current system which can be summarised under two headings. Firstly, it is the postcode lottery; and, secondly, it is the perceived disparity of standards.

4625 I am concerned that, as far as pre-school education is concerned, there is not a level playing field, despite the fact that, earlier this year, the Department of Education went out to consultation on its admissions policy. I would just like to give Members a brief example. There was one centre serving Malew, Castletown, Rushen, Arbory, Port Erin and Port St Mary, and that is at Victoria

4630 Road, which has 20 places in the morning and 20 places in the afternoon. In any one year, there will be around 85 four-year-olds eligible to take up those places in those areas which I have just outlined. Special educational needs get the first priority and, after that, Castletown children get next priority, above all the children from the other areas of the south. About 25 per cent of the children come from Castletown, yet all of them must be offered places before they can be offered to anyone from Malew or the constituency of Rushen. The south cannot be unique in this regard, but it highlights the inequity of the system that prioritises people's likelihood of obtaining a pre-school place based purely on where they live, irrespective of income, ability, need or other significant factors.

4635 As it stands, I also understand that there are a number of hoops that the private education sector have to jump through that do not seem to apply to the Department of Education. We need a level playing-field for both types of providers.

4640 Now, I am aware of the hour, Hon. Members. I am keeping my remarks brief, and I have also been in discussions with the Minister for Education on this, who I understand has an amendment in the offing. Whilst it is not before you yet, it will be shortly and I am content to go with that and, hopefully, that will save Members' time this evening.

I hope that Members are seized of the issue and realise its importance, (**Mr Cretney:** Hear, hear.) and I look forward to Members' contributions for this debate.

4645 **A Member:** Hear, hear.

The President: Mr Crookall.

4650 **Mr Crookall:** Thank you, Mr President.
I beg to second and reserve my remarks.

The President: Mrs Craine.

4655 **The Minister for Education (Mrs Craine):** Thank you, Mr President.

For the benefit of Hon. Members, I would like to give some background information on the development of pre-school education provided by the Department of Education over the past two decades. The strategy for providing pre-school classes attached to schools began during the 1990s, when there were just two pre-school classes, one situated at Jurby and one at Manor Park. The Department of Education formulated its policy in 1997, and the policy principles were twofold. 4660 The first was to provide pre-school classes in areas of social need; and, secondly, to provide such classes when opportunities and resources permitted.

As a consequence of this, there has been a steady and planned expansion of pre-school classes across the Isle of Man. The strategy is not complete, but is well over halfway there. There are now 11 pre-school classes located at Ashley Hill, Auldyn, Ballacottier, Cronk y Berry, Jurby, Manor Park, Onchan, Peel Clothworkers', St John's, Victoria Road and Willaston. In total, these 11 pre-school classes provide places for 430 children.

At more than half of these schools, the pre-school class was planned as part of the new school building or an extension to the existing school. At others, use of a special mobile classroom has been made in order to create the pre-school class. A total of nine pre-school classes out of the 11 4670 have been established since 1998. Most are operated by directly employed staff, but those at Ashley Hill, Auldyn, Peel Clothworkers' and Willaston are operated on behalf of the Department by private organisations who have tendered for the contract.

Each of the pre-school facilities can provide places for 40 children. In addition, some schools are able to offer part-time, pre-school places, if they have space in their reception classes. This 4675 occurs regularly in six schools

In total, therefore, the Department provides 470 part-time places, which equates to 84,740 sessions per year. Currently, all of these places are filled. If every parent wanted a pre-school place for their child, the potential maximum number of places would be approximately 840. I am, of course, aware that certain areas of the Island do not have a pre-school facility, and these include 4680 the south and north-west of the Island, Marown and, perhaps surprisingly, central Douglas. Although we all often refer to these pre-school classes as 'nurseries', this can be a little bit confusing, because it can be mixed up with private childcare facilities. In fact, the pre-school classes provided by the Department are not intended to provide a child-minding service, but rather an educational facility. To this extent, the timings of the pre-school classes tend to mirror those of school, and each half-time session is of two and a half hours' duration. Each pre-school class has a 4685 staffing ratio of two adults to 20 children, and the two adults include one qualified teacher.

4690 The Department of Education pre-school classes make no provision for children below the age of three years, except for its pre-school assessment centre, which is specifically aimed at providing support to children with developmental difficulties. This, however, is nothing to do with what might be thought of as nursery education.

4695 Although the Department is under no statutory obligation to provide pre-school classes, the value of pre-school education has been noted and evaluated, in a range of studies conducted in different countries over many decades. Recent studies including the effective provision of pre-school education, which was based on detail-validated longitudinal research in England, indicated the value of group-based learning provision over the age of three, in the year prior to entry to school. This study indicated the learning benefits of such provision, especially social and emotional development, of three part-time sessions per week, and there was no evidence to indicate that the benefits of the provision increased if offered for longer hours or more sessions a week.

4700 Following public consultation on aspects of pre-school provision earlier this year, the Department has taken the opportunity to review its provision and consider a revision of its strategy. The work is taking place now, and a number of different options for moving forward with our strategy are being considered by the Department. We intend to consult the public on some of these options, and will be following the Government's consultation policy on this, in the next two months.

4705 With that in train, Mr President, I seek an adjournment to this debate, so that the Department might conclude the process it has begun. I would undertake to report back to Tynwald at its March 2010 sitting, and indicate at that time how universal provision of pre-school education for all children aged three to four might be achieved.

4710 Mr President, for the reasons that I have stated, I consider the motion to be both premature and unnecessary. The Department has the matter in hand. It has a long-established strategy for achieving its objective and, I believe, should be allowed to do so. Delivery of that strategy is resource heavy and in the difficult times ahead of us, we must not assume that this will be easy.

4715 With that, Mr President, I beg to move:

That this debate be adjourned to the sitting of the Court in March 2010, to enable the Department of Education to complete its policy considerations for free pre-school education and to report to Tynwald at that sitting.

4720 **The President:** Hon. Member, Mr Henderson.

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

4725 **The President:** Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane.

4730 I am certainly happy to support the adjournment, but before I say an awful lot on this, I should point out that I do have an interest in this area. My interest is certainly not a financial interest. My interest is that I am Chairman of one of the organisations which provides the service in three of the four nurseries that the Minister indicated earlier. The only thing that I gain from that particular service, or from my involvement with that particular charity, is a considerable amount of additional unpaid voluntary work! (*Interjection by Mr Watterson*)

4735 However, I do want to put a few points to the Minister, while she is considering matters. I think it is important that the Hon. Member for Ramsey bears in mind the issue that was touched on briefly by the mover, my hon. colleague, Mr Watterson, and that is in relation to, effectively, the competition between the Department of Education and private providers – not private providers of childcare, but private providers of playgroup facilities and other similar facilities. It is absolutely clear to me... I have been involved with Mooinjer Veggey for as many years as it has existed, and it is certainly 13, possibly 14, years now, when we began our mission, which was to introduce as many playgroups as we possibly could which were delivered through the Manx language. Unfortunately, due to additional pressures placed on us by the DHSS and, indeed, the competition from three places that the DoE provided, it has become increasingly difficult for us to operate playgroups. I know that that is reflected across the whole of the voluntary pre-school sector, so that is an important area and if, during the period of this adjournment, the Minister were able to have a look at that, and maybe discuss it with her colleague, the Minister for Health and Social Security, I think that would be very helpful.

I think it is important, this issue. I do fully support the motivation of the people who brought this petition, although I also support the Minister in endeavouring to respond positively to this particular issue. It is unfortunate. Obviously, I represent, along with my colleagues, Rushen, and we are very considerably disadvantaged in relation to the provision. That said, we do have excellent private providers in the south and perhaps there would be some way in which the Minister could look imaginatively at how we could encourage or work with the private providers.

That said, I do think it is premature to actually accept the motion. The Department is clearly still working on this. I know that there are some very good ideas that the Department already has and I am sure that, over the course of the next six months, the Department will come up with some solutions to this.

The President: Mr Quayle.

Mr Quayle: Thank you, Mr President.

I would like to congratulate the Mothers' Union for actually being involved in this particular matter and, in fact, the branch in Marown... When I went to collect the paperwork from the pigeon hole in Legislative Buildings, I found that I had more of these cards that were distributed in my pigeonhole than the rest of Tynwald Members put together. So, Marown, you can well imagine...
(Interjections) It has been an issue for Marown, and it is something that I had brought to the attention of the previous Minister – Minister Anderson, when he was Minister for Education.

Minister Craine: I am indebted to her for the fact that this issue is already being looked at by her Department. She is aware of my interest and support in this matter and, in fact, it was covered in my manifesto. **(Several Members: Hear, hear!)** *(Interjections)*

With that, Mr President, I am happy to support the adjournment.

Mr Henderson: Vote!

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

4775

Mr Butt: Thank you, sir.

I rise to support the adjournment motion. I speak as a member of the Department of only a few months, and I can confirm that, when I first arrived there, we had a Department meeting which lasted all day, where the issues of children were discussed; in particular, vulnerable children, which was the way I was looking at the issue. Early intervention strategies were discussed. The strategies for early intervention were found to be beneficial and were desirable for the Department, and also early nursery education, as per the motion brought by Mr Watterson of Rushen. Again, it was found that early nursery education would be beneficial to children – in particular, beneficial to vulnerable children: vulnerable children who have poor parenting at home; vulnerable children who have few social skills; vulnerable children who have been emotionally deprived at home. Once those children can be brought into a formal structure of school, where they can have structured play, structured activities, which help them develop in a social way, develop their skills, those are the main reasons why children need to come to school earlier than they would otherwise – in effect, to get away from the poor environment at home into a structured environment.

Now, that was being worked on with the Department some months ago. There has been a recent meeting where the Department was given options as to the way to progress. The points Mr Watterson mentioned – the two main things – were to try to provide universal education for three-year-olds at nursery education and to try to do away with the patchy coverage throughout the Isle of Man. Both these, of course, will imply costs, to some extent, and those proposals are being worked at by the Department.

The reason I am speaking is because there has been another factor come in recently, which you may know of, and that is known as the Cambridge Report, which came to fruition last week. This Report is the most extensive review of primary school education in the last 40 years. It has taken some five years to come to fruition. There have been thousands of submissions. It is a very seriously academic, well researched document. I think there are over 600 pages, and there have been many recommendations. Some of the recommendations show the best practice in other countries, which maybe need to be embraced. Some of the recommendations are already being embraced by the Department of Education, and have been for some time.

The two headline grabbers on the news – I just saw it last week – when you read the summary, the first one was to stop SATS tests for primary school children. **(Two Members: Hear, hear.)** The only test will be as they leave primary school to go to secondary education. I understand that the Department stopped those in 2005, so we are already ahead of the game in that regard.

4810 The second headline grabber was that children were not to start formal education until six
years of age, and the research showed that children who only start formal education at that age do
just as well as children who start earlier. By the time they have reached 11 or 12, they have
achieved just as much. The years before that, when they were in school, in a structured
environment, involved in play and other activities which develop them socially, are just as
important. I think that needs to be taken into account as well, when we are looking at our early
years strategy and at our nursery strategy. I know the Department have welcomed this Cambridge
4815 Report and are actively looking at how it will fit in the Isle of Man, and which parts we need to
look at. The UK Government have dismissed it, saying it is not relevant at the moment. I am sure,
when you look at the nature of the work, they will eventually embrace that Report, because it is so
radical and so good.

4820 Mr President, I am asking for an adjournment, because that needs to be looked at, as well as in
conjunction with the work the Department is doing in progressing the nursery education. I just
reiterate the point that the Minister made about the education. I have been lobbied by people, as
you all have, and a lot of people – not everybody – seem to think this is another way of having free
childcare, and it really is not free childcare. This is nursery education, in a structured way with
structured activities, and I hope that the general public realise this is not another way of providing
4825 a baby-sitting service for free by the Government. This is proper education.

Thank you.

The President: Mr Gill, Hon. Member.

4830 **Mr Gill:** Thank you.

The points I was going to raise Mr Butt has covered very fully and I would just ask the
Minister to confirm that the provisions of the Cambridge Report, and the suggestions about play
and pro-social behaviour will be a part of the report when it comes back in March.

4835 I suppose I should just finally declare an interest of sorts, in that my youngest daughter is
training to be a nursery nurse, or whatever the modern term is – I am sorry, I am not up to speed
on the modern terminology. I am delighted to say that, because I think it is... and I know the
Minister stated this view previously. The earlier the most appropriate input can be made into
families and in children's lives, the better foundation they have, and the better opportunities they
have. On top of that, we have moved away, thank goodness, from the 'test till destruction', in
4840 some cases, culture. It was far too long, damaging far too many children and I do not think I have
heard any evidence – and perhaps the Minister could tell me if she has – that moving away from
the 'test, test, test' culture has actually caused any detriment in academic achievement, or in
engagement generally by children across our Island.

4845 So, with those comments – perhaps the Minister could just bring that little bit of comfort – I
would be more than happy to support the adjournment, sir.

The President: Lord Bishop.

4850 **The Lord Bishop:** Mr President, I also declare an interest, in that the Mothers' Union is, of
course, not only a Christian group, but an Anglican Christian group, and therefore I am very happy
to be able to support both the motion and the adjournment motion. I am very grateful to the
Minister for her remarks, too, which I think have proved to be very helpful and will show a useful
way forward.

4855 I want to congratulate the Mothers' Union – it is a body which does not often get a good press;
a lot of people think it is all about flower arranging and things like that, and it is not – not only for
bringing this to the attention of this nation, but also because they have, for instance, appointed a
full-time family worker for the Island, as well. That is an organisation which is leading the way in
social concern on this Island.

4860 So I am glad to support both the motion and the adjournment.

The President: Mr Karran, Hon. Member.

4865 **Mr Karran:** Eaghtyrane, I was hoping that, if we were to have an adjournment, we would
have an adjournment to the next sitting, so that the Department of Education could actually give us
some meat on the bone on this important issue, and some timescale. There are fundamental issues
that need to be looked at. With the public sector pension liability, can we afford this service being
on the service and not the payment on the child? I think there are issues that are going to have to
be addressed, in the fact that there should be an amount of money given to each child for this

4870 service. Maybe that is the way we should be looking at this, instead of actually providing the
 4871 service totally within the Department of Education. That might be a more effective and more
 4872 efficient way of dealing with it. These are the sort of things we are going to have.

4873 What I fear about this adjournment is, basically, we know what tough times the Treasury
 4874 Minister has got, and tough decisions that are going to have to be made. Do not be surprised, next
 4875 March, when you are told you have got this, but there is no money here. I think we would have
 4876 been far better adjourning it to the next sitting, to November; let them make a report, let them
 4877 make a list, because there are issues like whether the payment should go with the service or go
 4878 with the child that needs to be addressed, as far as that is concerned.

4879 The other thing that I would like... It is alright, us all parish-pumping, but the fact is the real
 4880 priority we need at the moment is in central Douglas. It is a real concern, where we have certain
 4881 areas, where 25 to 30 per cent of the grown-ups do not speak English as the first language, and
 4882 they are going to have to be a priority. It may not win votes, but if we want an inclusive society,
 4883 we want these children to be part of our community – they are brought into this Island because we
 4884 have no residency... then we must make sure that they have to be our priority – not my voters in
 4885 Onchan, not Mr Quayle’s voters in Marown or the Rushen bench. They must be the priority – like
 4886 the Member of Council, Mr Butt, has expressed concern about that element, and I think it is
 4887 important. Obviously, there is no point me moving an amendment to the adjournment, to get that
 4888 information back, because I really do think we need to be looking at those sorts of issues, if we are
 4889 going to be able to work out the capital costs, as well as the revenue costs, if we are providing
 4890 them, or whether the money should be going with the service, and making the Department regulate
 4891 the providers of that service, allowing for the problems of mindsets.

4892 I do wish the Shirveishagh Ynsee, the Minister for Education, well on this proposal. I do think
 4893 maybe she could give some sort of interim report at the next sitting, to circulate where she is,
 4894 where her thinking is going, and where her priorities are, because priorities are going to have to be
 4895 picked up, Eaghtyrane. I think it is important that we remember there are certain areas which are
 4896 woefully short, worse than other areas, as far as this is concerned, and they must be the priority
 4897 areas – like central Douglas needs to be dealt with, especially around ‘flat land’, and especially
 4898 where the real vulnerable children are.

4900 **The President:** Mrs Christian.

Mrs Christian: Thank you, Mr President.

4901 Yes, I think we have to praise the Mothers’ Union for their persistence in this matter. It is not
 4902 the first time that it has come before the Court, and I do think we need to recognise, though, that
 4903 answers have been given previously; that the Department is working towards this; and that you
 4904 cannot click your fingers and provide all these places, in the terms of the Petition, by the start of
 4905 the school year 2010-11. I would doubt very much that is realistic.

4906 I do think that, by adjourning this, we will at least give the opportunity to the Department to
 4907 come forward with whatever its revised strategy is going to be; but let us not hold out hope to the
 4908 Mothers’ Union that their Petition is likely to be granted, because in the current financial climate, I
 4909 just do not think that is realistic. Not only is it an issue in financial terms, but in physical and
 4910 practical terms of getting staff who are suitable for this age-group, and having actual physical
 4911 places that they could go to, in that sort of time frame.

4912 So, yes, by all means, adjourn it, and the Department can come forward with its policy, and
 4913 then we will be considering whether it needs to go to a select committee for further consideration.
 4914 But in terms of the Petition, I just do not see that there is a realistic prospect of meeting what the
 4915 petitioners actually seek.

The President: Mr Lowey, Hon. Member.

4920 **Mr Lowey:** There is no party line on this, by the way, Hon. Members. The Minister has no
 4921 idea what I am about to say, but one thing I do want to praise is the attitude of the Minister. I know
 4922 when I arrived at the Board of Education, along with Mr Henderson, I was impressed with the
 4923 manner in which she addressed children, long before she was made responsible for children *per se*
 4924 – she has got a different title now. She is often referred to in this Court as the Minister for
 4925 Education; her official title is for Children and Education.

Mrs Christian said that it is not the first time that it has been mentioned in the Court. I do not
 know about the Court, but I do know it was mentioned by my good friend, from Mrs Parry, in the
 Legislative Council, where I tried to say that we were looking... it was a continuum of what we
 were doing.

4930 For example, the Minister has given a brief history this evening about the start. It was introduced not as a right for everybody, but for *social* reasons in two very deprived areas in the Island. No ifs and buts – it was deliberate action of this Court to support that, and I think we would all agree with it. We did agree with it, and it has been expanded ever since. It has not gone backwards; it has gone forwards.

4935 The Minister, in my first meeting with her, was determined to use capacity. So where we could not physically have a full school, where there was... not a shortfall of pupils, but a gap, we encouraged junior schools to take in children, into their spare capacity. So we have encouraged that all the way along the line. We have encouraged by building, with your kind permission, open plan... out in the open air, so we have eased the pain and we have squeezed more children in. So
4940 the Department is very keen on this.

When I answered in April, I think, in the Legislative Council, I said we were negotiating with the private sector, to see if there was a partnership deal – because we have got a happy working relationship in some of our schools with the private sector. I have to say, I and the Minister were very disappointed with the private sector's response: we got no response from them! That is what I
4945 said in April. We got no response.

Anyway –

Mr Gawne: Sorry, point of order.

I do not think that is entirely correct. I know we did.

4950

Mr Lowey: You did, certainly, but not from the private sector... Maybe, but I do not classify the Manx part as private sector. (*Interjections and laughter*)

Be that as it may, I was disappointed with the response – no response – which I made public and said so at the time. But it did not stop, and I said to my good friend, Mr Waft, at that Question,
4955 that we would go back and develop and we have done just that. We have not sat on our laurels; we have actually got on.

Now, I will give you some options. We might have 800 places. It could be that they are not all in the right place. It would mean that perhaps we could, instead of having five days of two-and-a-half-hour sessions, we have three days, and let people travel to it. But that would put at a
4960 disadvantage some people who have not got transport. So if we are looking for equality and fairness, unless we put them in all schools... and not all schools are equipped to take them. So there are pressures... These are the things that I know the Minister and the officers of the Department are looking at.

We are working at it, and to coin the phrase of the Chief Minister and Mr Karran, we have got to be innovative. We have got to be able to look: is this what we want? 'Here is an option: you can
4965 do it this way, or you can do it that way'.

The President: You have got 15 seconds, Mr Lowey.

4970

Mr Lowey: I will, sir, because I know it is on the amendment!

I would urge the Court... and I am pleased the Member who has got the proposal down is going to accept it. I can assure you, the Department is acting, and was acting even before the Petition was put forward on Tynwald Hill.

4975

The President: Mr Speaker.

The Speaker: Thank you, just very briefly, Mr President.

The Petition itself calls for the making available of free nursery places to all children, and it goes on then to direct the Department of Education to ensure provision in locations where they are
4980 needed. There seems to be a slight contradiction there. I do not expect the mover of the adjournment to answer that, but what I would ask is, how comprehensive is the Department's report going to be?

In terms of the history of this, which I think the Minister was right to outline, certainly I recall when I was in the Department as Minister, there being a policy for, in the case of new school
4985 buildings, there would be a provision made, and that was a pragmatic approach that was judged to be cost-effective, but it did end up meaning that new buildings that were being built were not necessarily in the areas of the social need; if you had had a clear choice, you might have done it where there was a greater social need identified, rather than where there happened to be a new school being built. But it was judged as the most cost-effective way of rolling out what would
4990 ideally have been a universal provision but, with the need to ration and prioritise, that was never

going to happen. I think quite remarkable progress has been made by the Department over the last 10 to 12 years, in most – certainly more than 50 per cent – of the requirement being met, but very much on a pragmatic basis.

4995 So I am just interested in hearing from the mover of the adjournment how comprehensive a root-and-branch exercise this is going to be looking at. What she was quite right to highlight is a system of education two and a half hours in the morning, three hours in the afternoon, and not an all-day nine-to-five child-minding service, which Mr Butt was quite right to emphasise, because lots of the pressure in our areas, I suspect, comes from parents, quite naturally, who are not finding the childcare provision that they would wish, and are looking to the Department. But really the children are being catered for half the working day, possibly, certainly not the full working day.

5000
5005 **The President:** Now, Hon. Members, Mr Watterson, I am aware that you did indicate in your opening address to the Court that you were supporting Mrs Craine's move for amendment. Nevertheless, you have told me you would like to say a few words. You have two minutes to speak to the adjournment, sir.

Several Members: Hear, hear.

5010 **Mr Watterson:** I do not see why I get two minutes, when everyone else gets five to speak to the adjournment.

The President: Because you have already indicated, Mr Watterson.

5015 **Mr Watterson:** Well, I will be really brief, then. (*Interjections*)

Mr Henderson: Vote!

5020 **Mr Watterson:** There is very little that anybody has said that anyone reasonable could disagree with. I think it is good. This is something that has been discussed by the Department, worked on and slowly built up over the last 10 years, and I am happy to hold off for five months.

5025 It is clearly shifting up a gear now. I think that is a positive move. I would like to think this has had something to do with it. It might be; it might not. I am happy to await a report back from the Department of Education in five months, mainly in the knowledge that it is going to be faster than a select committee report, if nothing else! But this is about a flying start for our young people. I hope that we are able to deliver this soon, and I welcome the work that the Department of Education is doing.

Mr Houghton: Hear, hear. Well done. (*Interjections*)

5030 **The President:** Mrs Craine to reply, if you wish.

Mr Corkish: You've got 30 seconds!

5035 **Mrs Craine:** Thank you, Mr President.

If it is alright with Hon. Members, I do not intend to go through everybody's contribution (**Several Members:** Hear, hear!), because most of those contributions have been supportive. But there are just a couple of things I would like to pick up on.

5040 Mr Gill, in his comments, asked about whether there were any detrimental effects of us not doing SAT testing and I can say that, no, there is no apparent detriment from our approach; quite the contrary. He sought reassurance that we would be taking into account the recommendations in the Cambridge Report, in our thinking when we go forward with them with our proposals and I certainly would like to do that, because there is a great deal of worth in that Report.

5045 Mr Karran was concerned about the timescale, but perhaps I might just explain that March was considered to be the earliest that we could come back reasonably, Mr President, because if we are going go out to public consultation with these suggestions and we are held up with the Christmas period, when, frankly, people do not want to give really serious concern to consultation, and then by the time we have done that, got back, it will be ready for us to report in March.

5050 I do not actually think that it would be a practical notion to allocate monies to each child. This is going to be quite a difficult conundrum to sort, because obviously there are those who will not wish to take up the places, even though they may be available in those areas, because it is not a child-minding service, and for that very reason, it will be difficult to calculate how many actually

might want to take it up. I do want to say, though, that I think that, in some of the approach that we will be able to bring forward, it will be cost neutral, and where there are issues of finance, then clearly it will be for the Department, and ultimately Tynwald, to make those decisions.

5055 I would like to thank Mr Henderson for seconding the adjournment, and Mr Butt and Mr Lowey, my Department colleagues, for making their contribution today.

I take Mr Speaker's point about us building new schools and making this provision, and that provision not always necessarily being in the right area. That is going to be difficult – well, perhaps not too difficult, because at the moment we are not building any more new schools!

5060 But I thank Mr Watterson for giving us the opportunity to air this here today. With the support of Hon. Members, we will be pleased to come back in March.

Thank you, Mr President.

5065 **The President:** Now, Hon. Members, the motion is at Item 45 that we are discussing, and to that, Hon. Members, you have the motion for adjournment in the name of the Hon. Member, Mrs Craine. Hon. Members, those in favour of the adjournment, please say aye; against no. The ayes have it. The ayes have it.

5070

Procedural

5075 **The President:** Hon. Members, that draws to conclusion the business before the Court this month. We have completed the Order Paper. Thank you for your deliberations, and thank you for the manner in which we got through, largely unscathed.

It appears, in fact, as if the computer got tired towards the end of our two days, even if Members did not, so we were unable to carry out that particular vote. It was suggested to me at one time, Hon. Members, during the proceedings that maybe we ought to have a computer program to work out the dates for the fireworks! (*Laughter*)

5080 That said, Hon. Members, the Council will now withdraw and leave Mr Speaker to conduct such business as he wishes to place before the Keys. Thank you, Hon. Members.

The Council withdrew.

The House of Keys

The Speaker: Hon. Members, the House will now stand adjourned until 10.00 a.m., Tuesday next, 27th October, in our own Chamber.

5085 Thank you, Hon. Members.

The House adjourned at 7.49 p.m.