



TYNWALD COURT OFFICIAL REPORT

RECORTYS OIKOIL
QUAIYL TINVAAL

PROCEEDINGS DAALTYN

HANSARD

Douglas, Wednesday, 22nd January 2014

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Present:

The President of Tynwald (Hon. C M Christian)

In the Council:

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),
The Acting Attorney General (Mr J Quinn),
Mr R P Braidwood, Mr D M W Butt, Mr M R Coleman, Mr C G Corkish MBE,
Mr E A Crowe, Mr A F Downie OBE and Mr J R Turner
with Mrs E M Lambden, Third Clerk of Tynwald.

In the Keys:

The Deputy Speaker (Mr L I Singer) (Ramsey);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael); Hon. T M Crookall (Peel);
Mr P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Mr R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Hon. D C Cretney and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Hon. J P Shimmin and Mr C C Thomas (Douglas West);
Mr R A Ronan (Castletown); Hon. G D Cregeen (Malew and Santon);
Hon. J P Watterson, Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr J D C King, Deputy Clerk of Tynwald.

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Tynwald

The Court met at 10.30 a.m.

[MADAM PRESIDENT *in the Chair*]

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

The President: Moghrey mie, Hon. Members.

5 **Members:** Moghrey mie, Madam President.

The President: The Lord Bishop will lead us in prayer.

PRAYERS

The Lord Bishop

Order of the Day

18. Town and Country Planning Act 1999 – Town and Country Planning (Registered Buildings) Regulations 2013 approved

The Minister for Infrastructure to move:

*That the Town and Country Planning (Registered Buildings) Regulations 2013 be approved.
[SD No 0432/13]*

The President: We resume consideration of our Order Paper, Hon. Members, at Item 18, and I call on the Minister for Infrastructure.

10

The Minister for Infrastructure (Mr Cretney): Thank you.

The Town and Country Planning (Development Procedure) (No. 2) Order 2013 was approved by Tynwald at its sitting in July 2013.

15

In essence, the 2013 Order, which revoked the earlier provisions of the Town and Country Planning (Development Procedure) Order 2005, brought forward changes to the procedural operation of the planning function, undertaken essentially by the Department but also by the Council of Ministers in respect to its function in determining applications for planning approval which raise considerations of general importance to the Island and the operation of the planning appeals process.

20 Following the making of the 2013 Order, a number of consequential amendments are required to other secondary legislation measures to ensure that similar procedures are put in place for the determination of applications under these three pieces of secondary legislation.

If approved, the legislation will come into force on 1st February 2014, and this applies to Items 18, 19 and 20 on today's agenda.

25 The key features of the consequential amendments for Item 18 are – and this is the Town and Country Planning (Registered Buildings) Regulations 2013: (a) an application to de-register a building must now state the reasons for making the application on the application form; (b) an appeal from decisions of the Department in respect of works approval or refusal of works to a registered building or in respect of a proposal to de-register a building must now be
30 accompanied by the payment of a planning appeal fee, as prescribed in an Order made by the Department under section 1(1) of the Fees and Duties Act 1989; (c) references to the Planning Committee are substituted with references to the Department – the function of the Planning Committee is now the subject of a delegation under the Government Departments Act 1987;
35 (d) references to the Minister are removed, as references to the Department, by virtue of the Government Departments Act, already mean the Minister; (e) the persons appointed to deal with appeals or certain applications under the regulations are now called planning inspectors; and (f) the power to designate to voluntary organisations is omitted.

I beg to move the motion standing in my name.

40 **The President:** The Hon. Member for Rushen, Mr Skelly.

Mr Skelly: I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Thomas.

45 **Mr Thomas:** Thank you very much, Madam President.

Just one question for the Minister, please, which is that this power to designate voluntary organisations being omitted was also in the July Order from which these stem, and I just wanted a bit more explanation about which sort of voluntary organisations had been designated in the
50 past and which would no longer be able to be designated.

The President: The Minister to reply.

The Minister: I thank the Hon. Member for his question. No voluntary organisations were
55 ever delegated. The power was not used. It is as simple as that.

I beg to move.

The President: The motion before the Court is set out at Item 18 on your Order Papers. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**19. Town and Country Planning Act 1999 –
Town and Country Planning (Permitted Development) (Telecommunications) Order 2013
approved**

The Minister for Infrastructure to move:

That the Town and Country Planning (Permitted Development) (Telecommunications) Order 2013 be approved. [SD No 0433/13]

60 **The President:** Item 19. The Minister for Infrastructure to move.

The Minister for Infrastructure (Mr Cretney): Thank you.

The Town and Country Planning (Development Procedure) (No. 2) Order 2013 was approved, as I said in the previous Item, by Tynwald at its sitting in July 2013.

65 The second item, in line with the previous explanation in Item 18, is the Town and Country Planning (Permitted Development) (Telecommunications) Order 2013. The amendments to the Town and Country Planning (Permitted Development) (Telecommunications) Order 2013 confirm that applications are to be assessed in accordance with the provisions of the Town and Country Planning (Development Procedure) (No. 2) Order 2013, as opposed to the revoked
70 Town and Country Planning (Permitted Development) (Telecommunications) Order 2012, which relied on the provisions of the Town and Country Planning (Development Procedure) Order 2005.

I beg to move the motion standing in my name.

75 **The President:** The Hon. Member, Mr Skelly.

Mr Skelly: I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Thomas.

80 **Mr Thomas:** Thank you very much, Madam President.

It says in our explanatory memorandum that the changes are solely textual. Can the Minister confirm that issues with telecoms masts, like were in Bemahague and in our constituency of West Douglas, are not in any way affected, or what happened then is different now compared to
85 what it was in the past?

The President: The Minister to reply.

The Minister: Yes, I am very happy to confirm that is the case.
90 I beg to move.

The President: The motion before the Court is set out at Item 19: that the Town and Country Planning (Permitted Development) (Telecommunications) Order 2013 be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**20. Town and Country Planning Act 1999 –
Town and Country Planning (Control of Advertisements) Regulations 2013 approved**

The Minister for Infrastructure to move:

That the Town and Country Planning (Control of Advertisements) Regulations 2013 be approved. [SD No 0434/13]

95 **The President:** Item 20. The Minister for Infrastructure.

The Minister for Infrastructure (Mr Cretney): The third of these Orders is the Control of Advertisement Regulations 2013, and in this references to the Minister are removed, as

100 references to the Department, by virtue of the Government Departments Act, already mean the Minister.

An application for express consent shall be determined by the Department unless the application is made by the Department or its agent or is made in relation to a site in which any interest is vested in, or which is occupied or controlled by the Department, whereupon it must be referred to and determined by the Council of Ministers.

105 The persons appointed to deal with written representations and inquiries under the Regulations and Orders are now called planning inspectors.

I beg to move.

The President: The Hon. Member, Mr Skelly.

110 **Mr Skelly:** I second and reserve my remarks.

The President: The Hon. Member, Mr Thomas.

115 **Mr Thomas:** Thank you, Madam President.

Back in 2005, when the original Development Order came, it came with these three Orders; whereas this time we had the Order and then we have got the three Orders, what would it be, six months later. Could the Minister please give any explanation about which one is better? Which process is better?

120 **The President:** The Minister to reply. (*Interjection and laughter*)

The Minister: It seems to be going through Tynwald alright, so I am quite content...
[Inaudible] (Laughter)

125 I beg to move.

The President: The motion before the Court, Hon. Members, is set out at Item 20. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**21. Road Traffic Act 1985 –
Electrically Assisted Pedal Cycles (Amendment) Regulations 2013 approved**

The Minister for Infrastructure to move:

*That the Electrically Assisted Pedal Cycles (Amendment) Regulations 2013 be approved.
[SD No 0418/13]*

130 **The President:** Item 21. The Minister for Infrastructure to move.

The Minister for Infrastructure (Mr Cretney): Thank you.

The purpose of these Regulations is to update the specification for electrically assisted pedal cycles in the related Regulations of 1990.

135 If such cycles meet the specification, they are treated as not being motor vehicles. Therefore, no driving or vehicle licence is necessary and they are not required to be insured.

The minimum driving age, set by the Motor Vehicles (Driving Ages) (No. 2) Regulations 2012, is 14.

140 The reason why the specification needs updating is that it no longer conforms to the specification used by manufacturers of such cycles today. As a result, contemporary cycles do not at present qualify to be treated as not being motor vehicles.

The first problem is with the electric motor, which is at present limited to a continuous rated output of no more than 0.2 kilowatts – currently, cycles are designed to a 0.25 kilowatt figure.

145 The second problem is the speed at which the electric motor must cut out. In the 1990 Regulations this is set at 15 miles per hour, whereas with contemporary cycles the cut-off figure is 15.5 miles per hour.

150 Accordingly, these Regulations amend the specification of the 1990 Regulations by substituting 0.25 kilowatts and 15.5 miles per hour respectively. The only practical effect, as far as the use of such cycles on highways is concerned, is to increase the cut-off of the electric motor by 0.5 miles per hour.

Apart from benefitting the users of electrically assisted pedal cycles generally, the updated specification will enable an interesting tourist proposal to proceed. Beginning in April, tours of the Island using these machines are being proposed by a new company. The motion therefore makes minor changes, but will allow a potential economic development opportunity to be realised – and I wish him good luck with that.

I beg to move the motion standing in my name.

The President: The Hon. Member, Mr Deputy Speaker.

160 **The Deputy Speaker:** Thank you, Madam President.
I second the motion and reserve my remarks.

The President: The Hon. Member, Mr Quirk.

165 **Mr Quirk:** Thank you, Madam President.

Could I just ask the Minister, just for clarification on these particular vehicle, that they are vehicles, classified under the Act – if he could confirm that – and they should not be ridden on pavements. I just want that strength.

170 **The President:** Minister.

The Minister: I think the case is that bicycles should not be ridden on pavements, full stop. Any bicycle should not be ridden on pavements.

175 What I would say is that the Department recognises that cycling... and indeed electric cycles are something for the future. There is more and more interest in them and I think we should be encouraging that, so we will be going out of our way to try and facilitate and help such examples and to help cyclists generally in the future.

But yes, the Hon. Member is correct: they should not be ridden on pavements.

I beg to move.

180

The President: The motion before the Court is set out at Item 21, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**22-24. Social Security Contributions and Benefits Act 1992 –
Child Benefit (Rates) Regulations 2013 approved –
Social Security Act 2000 –
Social Security Legislation (Benefits) (Application) (Amendment) (No. 4) Order 2013
approved –
Social Security Legislation (Credits) (Application) (Amendment) Order 2013 approved**

The Minister for Social Care to move:

22. That the Child Benefit (Rates) Regulations 2013 be approved. [SD No 0421/13]

23. That the Social Security Legislation (Benefits) (Application) (Amendment) (No. 4) Order 2013 be approved. [SD No 0422/13]

24. That the Social Security Legislation (Credits) (Application) (Amendment) Order 2013 be approved. [SD No 0423/13]

The President: The Minister for Social Care has requested that he be allowed to move Items 22, 23 and 24 together, but to be voted on separately. Is that agreed, Hon. Members? (Members: Agreed.)

I call on the Minister for Social Care.

The Minister for Social Care (Mr Robertshaw): Madam President, thank you very much.

As Hon. Members will recall, at its November sitting last year this Hon. Court approved legislation providing for the broad framework for the income testing of Child Benefit from 7th April 2014.

The first two of the Items currently before Hon. Members build on that framework, in particular by setting out the rates of Child Benefit that will be payable from 7th April 2014, and requiring people claiming Child Benefit to tell my Department of certain changes in their circumstances.

The third Item currently before Hon. Members ensures that a person who cares for a child under the age of 12 in a week, and who has little or no income in their own right, may still be credited with a National Insurance contribution for that week, notwithstanding that they are not entitled to Child Benefit because their annual income, when aggregated with their partner's, exceeds the upper income threshold of £90,000.

Full details are set out in the memorandum which has been circulated to Hon. Members.

Madam President, I beg to move the Items numbered 22, 23 and 24 on the Order paper.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Houghton.

Mr Houghton: Thank you, Madam President.

In respect of Item 22 – that the Child Benefit (Rates) Regulations be approved, of course, and that is a foregone conclusion by this Hon. Court; these are just the Regulations being put before – the Minister must be aware that, in respect of all Child Benefit recipients, they have had a form sent to them with a covering letter asking them to reclaim their benefit.

Can the Minister explain why that was the case, that that form has gone out to all beneficiaries, when these Regulations before us this morning only deal with parents of children who are on an income of £60,000 and above?

220 It does not take much to decide that there will be very few people – perhaps a small number of hundreds of people – who will be affected by the change of these Regulations this morning, so why has the Minister gone for such a bureaucratic measure of sending out a form asking everyone to reclaim them and upsetting many people, for which his Department will receive many complaints about having to reclaim their Child Benefit.

225 I would like to further state that I have seen this Child Benefit reclaim form, and of course the Department has gone to some effort in filling in the form for the claimant and then they are left with a couple of boxes to tick and a signature to go on the form... especially when checks can be done in the Income Tax Division, who obviously communicate with the Department of Social Care Social Security Division on this matter and identify simply those small number of people
230 who will be affected by this legislation.

There is one other issue to do with this, for which I have a Question down in Keys next week, Madam President, which I will desist from this time, which is vitally important, and that is to do with the payment in Child Benefit at post office counters (**Mr Corkish:** Hear, hear.) and a trick that the Minister is up with – and that will be dealt with on Tuesday.

235 So I would just like to ask the Minister if he would constrain his answers as to why he has gone through such a very costly bureaucratic measure. Can he also explain what the cost is, because it is the size of an A3 sheet of paper folded – it is four sides – and partially filled in by his computer information anyway, because obviously all these people are recorded on the central computer system. Why have they gone to all this, when all you needed to do was identify those
240 people who were in the upper earnings bracket?

This is the sort of thing that needs to be stopped in this Government, Madam President, all this unnecessary bureaucracy. (**A Member:** Red tape.) A simple letter informing beneficiaries and a notice in the paper would have been all that is required. This reclaim form itself has a covering letter with it explaining what is happening, helpfully. That would have done, but I guess
245 the reason for the reclaim will be the subject of my Question to the Minister on Tuesday.

Thank you, Madam President.

The President: The Hon. Member, Mr Thomas.

250 **Mr Thomas:** Thank you, Madam President.

This is about Item 24, the Social Security Legislation (Credits) (Application) (Amendment) Order. I just wanted to say that, although the benefit itself is not actually affected, carers might perceive that they are already giving up an awful lot by being carers, whether they are rich or poor. Do we really need to have that application made for this particular benefit?

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

The Minister: Thank you, Madam President.

260 It would be nice if the situation was as simple as the Hon. Member for North Douglas describes.

Mr Houghton: It is not more complicated.

265 **The Minister:** If I can just remind Members of the situation: around 70% of families will continue to receive the same rate of Child Benefit as they do now; around 20% of families will receive a reduced rate of Child Benefit, half of which will have their benefits reduced by 25%; and approximately 10% of families will no longer be entitled to Child Benefit.

270 I am grateful to the Hon. Member for pointing out that my Department has gone as far as they possibly can in pre-populating the form for claimants, and we did our very best to make it as simple as possible, but there is a fundamental principle here which I think the Hon. Member for North Douglas is missing. That is that yes, although we are entitled to engage with Treasury

and the tax authority on identifying income, we cannot be certain of relationships and it is therefore necessary to get the baseline correct in the first instance: is there a couple; is that clear on the claim form? We cannot second-guess that; that would be quite improper.

275 He calls it bureaucratic. *(Interjection by Mr Houghton)* We have to do this once. We do not have to do it every year. Once we have started the process, then it runs itself forward. It is a major change: there is a certain amount of paperwork involved.

I would like to use this opportunity as well this morning to point out that we do have some concern about the return rate. In the first instance we were sending forms out in tranches. We
280 found that the return rate in the first tranche was not as fast as we thought it should be, and therefore we have sent all the forms out and I will now continually, in the coming weeks and months, remind people how important it is to get their claim form back.

I hope that covers the Hon. Member's questions and I look forward to his further Question next week in Keys.

285

Mr Houghton: I am sure you will!

The Minister: I think the third element, Item 24, is clear with regard to the re-credit process, but if the Hon. Member for West Douglas has any particular concerns about it and he can
290 reiterate them to me some time later, I would be happy to consider his thoughts further.

With that, Madam President, I beg to move.

The President: The motion before the Court is set out at Item 22, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

295 Item 23: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Item 24: those in favour, please say aye. The ayes have it. The ayes have it.

25. Financial Services Act 2008 – Financial Services Rule Book 2013 approved

The Minister for the Treasury to move:

That the Financial Services Rule Book 2013 be approved. [SD No 0372/13] [Document circulated electronically – approval given at the November 2013 sitting of Tynwald]

The President: We move on to Item 25. I call on the Minister for the Treasury to move.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

300 Section 18 of the Financial Services Act 2008 empowers the Financial Supervision Commission to make a Rule Book concerning licence-holders and regulated activities

The Rule Book is the principal document detailing requirements placed on the Financial Supervision Commission's licence-holders, and it is revised every one or two years so as to update requirements. The aim is to ensure adequate protection for licence-holders' customers
305 without placing an excessive burden on licence-holders' businesses or restricting their capacity for business development.

A public consultation was carried out from 28th June to 31st August 2013, which was notified to all licence-holders, professional bodies and associations, Tynwald Members and the Department of Economic Development, amongst others. Subsequent discussions were held with
310 many affected parties, including licence-holders, lawyers and insurance brokers, so as to achieve the optimum solutions, taking all factors into consideration. Consultation responses were

received from 46 parties, including one association, and I will provide further information on key topics in a moment.

315 The Rule Book is frequently referred to by the industry and other users. Therefore, when changes are made to that document, it is easier for users if the changes are implemented via a complete new Rule Book, rather than via amending legislation. As a result, although the Rule Book is a large new document, most of the content is unchanged from the current Rule Book.

320 The changes that have been made from the current Rule Book reflect changes to international standards, changes to other legislation and variations in perceived risk, as well as clarifying terminology and expectations. Guidance will be provided, where necessary, to inform Rule Book users of how the Financial Supervision Commission expects licence-holders to comply with the requirements.

325 The Commission has almost 300 licence-holders and its Rule Book covers them all. The rules are therefore drafted to reflect the standards required for most licence-holders most of the time. However, if a rule is considered inappropriate for a particular licence-holder due to special circumstances, the Financial Supervision Commission has the power to modify that rule to suit those circumstances if this is appropriate.

I will now explain the key changes from the current version of the Rule Book, which has been in operation since January 2012.

330 Professional indemnity insurance (PII) requirements have been enhanced to increase consumer protection and the rule has been reformatted for simplicity and to clarify requirements. The limits have been increased by less than originally planned, as the quality of required cover is now more prescribed so as to ensure that licence-holders' insurance policies cover the business they undertake. Although the Rule Book comes into operation in 2014, the new requirements for professional indemnity insurance will not come into operation before 335 January 2015 to allow time for licence-holders and their brokers to prepare.

The reconciliation frequency requirements have been increased for those licence-holders that are responsible for client and trust money, to help protect their underlying customers.

340 The Financial Supervision Commission now expects to be pre-notified of any other business activities that a licence-holder commences so that it may assess the potential impact on the licence-holder's regulated activities.

Following a change to the Financial Services Act 2008 earlier in 2013, the contents of returns to be submitted to the Financial Supervision Commission no longer have to be specified in legislation and have thus been removed from the Rule Book.

345 The criteria for qualifying subordinated loans in financial resources reporting has been clarified so that licence-holders must have net tangible assets in excess of their share capital.

Complaints processing requirements have been enhanced to reflect difficulties experienced by some customers and to match the new deadline imposed by the Financial Services Ombudsman Scheme.

350 Licence-holders that undertake payment services activities are now subject to more rules in the Rule Book, which brings them into line with most of the licence-holder classes and increases the protection for their customers.

355 Rules for financial advisers have been substantially enhanced in light of the requirements on this sector that are imposed in the UK. This increase in regulation reflects the risk to advisers' clients and a recent increase in claims against the sector. Advisers in the Isle of Man are now required to meet professional and competency standards equivalent to those of UK advisers.

Specific briefing sessions are being held to assist relevant licence-holders.

360 Stockbrokers and deposit takers are now subject to internal audit requirements, and banks are also subject to more comprehensive risk policy and risk management requirements. These reflect international expectations.

International expectations and standards have driven some other changes to the Rule Book – for example, in respect of staff fitness and propriety and business continuity planning.

Madam President, I beg to move that the Financial Services Rule Book 2013 be approved.

The President: The Hon. Member, Mr Braidwood.

365

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

The President: The Hon. Member, Mrs Beecroft.

370 **Mrs Beecroft:** Thank you, Madam President.

I have got no problem at all with the Rule Book as such, but I do have a couple of queries that I would be grateful if the Minister can clarify, because it seems to me a lot of what is in the Rule Book should actually apply to the IPA or similar, and I am wondering why we have the two different organisations – the FSC and the IPA.

375 If there is a good rationale for keeping the two separate, what measures is the Minister taking to ensure consistency of both regulation and supervision?

The President: The Hon. Member for Douglas West, Mr Thomas.

380 **Mr Thomas:** Thank you, Madam President.

I too would like to congratulate the FSC on the massive task of updating the Rule Book, and also to thank the Treasury Minister for outlining some of the changes.

385 There have been some questions about regulation in this Court and in the House since my time here, and somebody even, I think, has referred the idea that the Economic Affairs Policy Review Committee should consider regulation.

In some parliaments, periodically, the regulator comes and presents its annual report – which is an excellent document; very thorough, very discursive – and I invite the Treasury Minister to think whether it might be appropriate to have a debate about financial services regulation, more generally than just a merger of the IPA and the FSC, at some point in the near future.

390

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

Mr Karran: Eaghtyrane, I would just ask the Shirveishagh Tashtee, in view of the Louis Group fiasco, whether there has been any improvement as far as trying to stop this sort of phenomenon happening again, as far as... Will this Rule Book tighten up procedures so that that sort of practice will be stopped?

395

The President: The Minister to reply.

400 **The Minister:** Thank you, Madam President.

405 Taking the last contribution first, from the Hon. Member for Onchan, Mr Karran, and what he calls ‘the Louis Group fiasco’, I would just like to remind Hon. Members that this was a non-regulated scheme, and the issue seems to be, from enquiries which have been made, inappropriate selling. This new Rule Book and the changes to the Rule Book are going to help the FSC to deal with that, where there are elements of inappropriate selling. Also, the new insurance requirements – the PII insurance requirements that practitioners have to take out – will give more cover and more protection. So it is a very positive step, and we have learnt from the Louis Group failure.

410 The Hon. Member for Douglas West, Mr Thomas, has suggested that we have a debate on regulation. We are, to a certain extent, having a discussion about it now, through the Rule Book. He has also – as has the Hon. Member for South Douglas, Mrs Beecroft – said that there should be consistency across regulation. To a certain extent, there is already.

415 We have to recognise that there has to be a balance between consumer protection and also growing the economy and supporting the businesses that operate on the Isle of Man. I have given consideration to potential merger between the IPA and the FSC. I am not convinced at the

moment that that is the right way ahead. I have taken soundings in the industry and it would appear, from the feedback that I have received, that there is a view, especially in the insurance sector, that the two bodies should stand apart, although I do appreciate that that is not the situation in some other jurisdictions.

420 It is very much an open door and I would need to be persuaded that there is a strong case. We need to consider how we can support industry on the Isle of Man. I think at the moment, by having a separate Financial Supervision Commission... In the IPA and the FSC we have discrete bodies dealing with, in effect, discrete business streams.

With that, Madam President, I would like to move the motion standing in my name.

425

The President: The motion before the Court is set out at Item 25 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**26. Financial Services Act 2008 –
Regulated Activities (Amendment) Order 2013 approved**

The Minister for the Treasury to move:

That the Regulated Activities (Amendment) Order 2013 be approved. [SD No 0373/13]

The President: Item 26. The Minister for the Treasury to move.

430

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

Section 3 of the Financial Services Act 2008 empowers the Treasury to make an Order to specify the financial services that are regulated activities. These activities are regulated by the Financial Supervision Commission.

435 The Regulated Activities Order 2011 requires updating so as to reflect changes to other legislation, to widen two exclusions from legislation from licensing, to modify some definitions, and to clarify meaning. The changes are considered to be minor in nature and do not substantially alter the legislation, so an amendment Order is proposed instead of replacement legislation.

440 The most significant changes are that, for the purposes of the Regulated Activities Order, limited partnerships are equivalent to companies, and those who provide administration services to exempt collective investment schemes must be licensed. The latter corrects a lacuna regarding different treatment of exempt schemes managers versus administrators.

The Financial Supervision Commission consulted on the draft amendment Order in summer 2013 and made some minor changes as a result of the suggestions received.

445 Madam President, I beg to move that the Regulated Activities (Amendment) Order 2013 be approved.

The President: Hon. Member, Mr Braidwood.

450

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

The President: The Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Madam President.

455

Just a brief query. I was reading through as someone who does not use the word 'lacuna' in their English too often. I just wanted a little bit of clarification. In the reasons for the measure, the Treasury Minister states that was the part missing, which he has mentioned on the floor just

now, but could he just clarify – have there been any consequences as a result of this missing part from the Act since it was passed in 2011 to when it is being corrected now?

460

The President: The Minister to reply.

The Minister: No, I am not aware of any issues that have arisen out of this.

It is a technical Order. A lacuna, as I understand it, is an inconsistency.

465

With that, Madam President, I beg to move the motion standing in my name.

The President: The motion before the Court is set out at Item 26, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**27. Financial Services Act 2008 –
Financial Services (Exemptions) (Amendment) Regulations 2013 approved**

The Minister for the Treasury to move:

*That the Financial Services (Exemptions) (Amendment) Regulations 2013 be approved.
[SD No 0374/13]*

The President: Item 27. The Minister for the Treasury to move.

470

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

Section 44 of the Financial Services Act 2008 empowers the Financial Supervision Commission to make regulations to exempt from licensing any person or class of persons.

475

The Financial Services (Exemptions) (Amendment) Regulations 2013 make a few minor amendments to the Financial Services (Exemptions) Regulations 2011. These Regulations amend three matters.

Firstly, they exempt certain nominee companies from holding class 2 or investment business licenses if they are subsidiaries of certain class 3 licence-holders that provide services to funds.

Secondly, they remove redundant reference to sole traders and partnerships.

480

Thirdly, they add limited partnership to an exemption from class 4 which relates to corporate service providers. This latter change corrects a contemporaneous change to the Regulated Activities Order.

As the changes are minor, amendment regulations have been made instead of replacing regulations.

485

The Financial Supervision Commission consulted publicly on the proposed changes during summer 2013 and made a small change to the draft legislation to reflect a suggestion made.

Madam President, I beg to move that the Financial Services (Exemptions) (Amendment) Regulations 2013 be approved.

490

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

The President: The motion before the Court is set out at Item 27 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**28. Financial Services Act 2008 –
Transfer of Business Including Deposit-Taking Regulations 2013 approved**

The Minister for the Treasury to move:

*That the Transfer of Business Including Deposit-Taking Regulations 2013 be approved.
[SD No 0413/13]*

495 **The President:** Item 28. The Minister for the Treasury to move.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

The Financial Supervision Commission may make regulations to impose requirements in respect of applications to transfer business, including deposit-taking, from one entity to another.
500 This power is contained in schedule 1A to the Financial Services Act 2008.

Such applications for transfer schemes must be made to the High Court, which may sanction them subject to certain factors. These factors include that the requirements imposed by the regulations made under the schedule have been met.

This process replaces the need for Private Members' Bills as a means of transferring business, including deposit-taking, from one entity to another. It thereby facilitates the transfer of such business via a less costly and quicker method than Acts of Tynwald. This means there is less cost for the deposit takers concerned, as well as for Government and Tynwald.

The process is supported by industry and is likely to be used soon after implementation.

The process allows for transfers from a deposit-taking licence-holder to any other entity, but the transferee would need to have suitable regulatory permissions to undertake that business. The process does not replicate any regulatory requirements on either the transferor or the transferee; however, it facilitates business and does not impose any regulatory burdens.

The regulations include suitable safeguards for affected customers, such as the requirement to be notified at least a month before any transfer takes place; also, access to relevant information, including an auditor's report, which details the likely effects of the transfer scheme.
515

A transfer scheme may allow ancillary business to be transferred with the deposits so that there is no need for a deposit taker's other business to be subject to a separate process. However, the process would not be used unless deposit-taking formed a substantial part of the business to be transferred.

520 The Financial Supervision Commission consulted publicly on the draft regulations from 6th August to 18th September 2013.

The Financial Supervision Commission has also liaised with the Chief Registrar to ensure that the High Court is aware of the likely need to process such applications.

525 Madam President, I beg to move that the Transfer of Business Including Deposit-Taking Regulations 2013 be approved.

The President: The Hon. Member, Mr Braidwood.

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

The President: The motion before the Court is set out at Item 28 on your Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**29. Financial Services Act 2008 –
Depositors’ Compensation Scheme (Amendment) (No.2) Regulations 2013 approved**

The Minister for the Treasury to move:

That the Depositors’ Compensation Scheme (Amendment) (No.2) Regulations 2013 be approved. [SD No 0415/13]

535 **The President:** Item 29. I call on the Minister for the Treasury.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

These Regulations amend the Depositors’ Compensation Scheme Regulations 2010 to remove Nationwide Building Society from the list of institutions that are exempt from liability to contribute to the Depositors’ Compensation Scheme in the event of a default.

540 Nationwide International Ltd is currently a wholly owned subsidiary of Nationwide Building Society and is presently listed as a participant in the Depositors’ Compensation Scheme. As part of a group strategic change, Nationwide International Ltd will be transferring its customer deposits to the Nationwide Building Society, which is a branch of the parent company.

545 Nationwide International Ltd will then cease to be a licensed deposit-taker in the Isle of Man and will therefore no longer be a participant in the Depositors’ Compensation Scheme.

Hon. Members, the Nationwide Building Society will be taking customer deposits in the Isle of Man with effect from 28th February 2014, and therefore should become a participant in the depositors’ scheme with effect from that date.

550 The effect of this amendment is that the Nationwide Building Society will be required to pay the levy in the event of the future default of a participant bank.

Madam President, I beg to move that the Financial Services Act 2008 Depositors’ Compensation Scheme (Amendment) (No.2) Regulations 2013 be approved.

555 **The President:** The Hon. Member, Mr Braidwood.

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

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

560

Mr Karran: Eaghtyrane, I would just like to ask, with the Depositors’ Compensation Scheme, can the mover tell us how many banks or financial institutions are required to pay a levy at the present time? Has there been an increase or decrease in the last year?

565 Also, has there been any movement on the Vickers Report, as far as actually addressing the long-term liabilities of the Depositors’ Compensation Scheme in the adjacent island?

Is the Treasury looking at any other aspects of how we can protect the liabilities for the taxpayer as far as depositors’ compensation in the future?

The President: The Minister to reply.

570

The Minister: Thank you, Madam President.

There are currently 23 licensed deposit-takers who are participants in the Isle of Man Depositors’ Compensation Scheme.

575 The Hon. Member and colleagues in this Hon. Court will probably be aware that the banking industry in the UK is in a state of flux at the moment as a result of the Independent Commission on Banking, known as the Vickers Report. This is going to have major implications for the future structure of our Depositors’ Compensation Scheme, and indeed the structure of banking on the Island.

580 A white paper was released towards the end of last year. Representations have been made
back to the UK, and we are waiting for final decisions on the way forward. So, at the moment, I
cannot give any clarity. It is very much a state of flux, Madam President.

With that, I would like to move the motion standing in my name.

585 **The President:** The motion before the Court is set out at Item 29, Hon. Members. Those in
favour, please say aye; against, no. The ayes have it. The ayes have it.

**30. Collective Investment Schemes Act 2008 –
Collective Investment Schemes (Authorised Schemes)
(Trustee and Fiduciary Custodian) Order 2013 approved**

The Minister for the Treasury to move:

*That the Collective Investment Schemes (Authorised Schemes) (Trustee and Fiduciary
Custodian) Order 2013 be approved. [SD No 0412/13]*

590 **The President:** Item 30. I call on the Minister for the Treasury.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

The Collective Investment Schemes Act 2008 empowers the Financial Supervision
Commission to amend paragraph 2 to schedule 1 of that Act.

595 The Financial Supervision Commission considers it necessary to amend this paragraph so as
to allow authorised collective investment schemes to have off-Isle trustee and fiduciary
custodians.

600 Currently, the Collective Investment Schemes Act says that such services may only be
provided by Isle of Man-based businesses that are licence-holders of the Financial Supervision
Commission. The change is necessary because the only provider currently offering this service in
the Isle of Man has given notice that it will cease providing the service in mid-2014. This will
leave existing and new authorised schemes unable to comply with the Collective Investment
Schemes Act.

605 It is therefore important to enable non-Isle of Man providers to offer the trustee and
fiduciary custodian service as long as they are suitable for the role and there is adequate
protection for investors in the underlying schemes. It is also important that the legislative
change is made soon, so that prospective providers have certainty of the requirements to enable
them to assess whether they wish to offer the service to Isle of Man authorised schemes.

610 There will be no detriment to any Isle of Man business from the Order. In fact, it will benefit
other scheme functionaries to know that the legislation allows for continuation of the custodian
service. The Order is therefore facilitative for business, rather than imposing a regulatory
burden.

Madam President, I beg to move that the Collective Investment Schemes (Authorised
Schemes) (Trustee and Fiduciary Custodian) Order 2013 be approved.

615 **The President:** The Hon. Member, Mr Braidwood.

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

620 **The President:** The motion before the Court is set out at Item 30, Hon. Members. Those in
favour, please say aye; against, no. The ayes have it. The ayes have it.

**31. Customs and Excise Act 1993 –
Statistics of Trade (Customs and Excise) (Amendment) Regulations 2013
(Application) Order 2013 approved**

The Minister for the Treasury to move:

That the Statistics of Trade (Customs and Excise) (Amendment) Regulations 2013 (Application) Order 2013 be approved. [SD No 0430/13]

The President: Item 31. The Minister for the Treasury to move.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

625 This Order applies in law the Statistics of Trade (Customs and Excise) (Amendment) Regulations 2013, which are concerned with changes to the Intrastat system for the collection of intra-EU trade statistics from VAT-registered businesses.

630 The applied Regulations make certain amendments to the principal 1992 Regulations so as to (1) increase the threshold above which a business is required to provide additional information on arrivals from £600,000 per annum to £1.2 million per annum, and (2) increase the threshold above which detailed delivery-terms information is required from £16 million to £24 million per annum. These changes have effect from 1st January 2014.

635 The amendments made by the applied Regulations ensure that the Intrastat system captures the correct number of businesses and proportion of trade required by EU law to provide the necessary arrivals and additional delivery-terms information.

Madam President, I beg to move the motion standing in my name.

The President: Hon. Member, Mr Braidwood.

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

The President: The motion before the Court is set out at Item 31. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**32. Animal Health Act 1996 –
Bovine Viral Diarrhoea Order 2013 approved**

The Minister for Environment, Food and Agriculture to move:

That the Bovine Viral Diarrhoea Order 2013 be approved. [SD No 0419/13]

The President: Item 32. The Minister for Environment, Food and Agriculture to move.

645

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

This Order introduces a regime of compulsory testing for the bovine viral diarrhoea (BVD) virus. It also restricts the movement of livestock which are subject to a test for the virus where a result is awaited.

650

I am sure that Members will agree that a move to eradicate this disease from the Isle of Man will ensure a healthy national herd for the future. (**A Member:** Hear, hear.)

The economic benefits to the farming community and to the Isle of Man as a whole cannot be emphasised enough and I would urge Members to approve the Order before them today, which has the full support of the agricultural industry.

655

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

The President: The Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Madam President.
I wish to second the motion and reserve my remarks.

660

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you.

665 I am very supportive of this measure, but could the Minister just give some reassurance that, as soon as the Island is clear of BVD, testing restrictions will be lifted, because it is quite an onerous burden on the industry – the extra paperwork involved, as well as the extra costs that are going to be levied on farmers.

670 **The President:** Hon. Members, there is a slight technicality which I would just like the Acting Attorney General to advise on.

The document apparently comes into operation on 1st January. I think animal keepers have to register the birth of an animal within 20 days. If an animal was born on 1st January, and this has come into effect, are they now in breach if they have not yet registered?

675 Would the Minister care to respond to that? I just wonder about the technicalities of this document.

The Minister: Gura mie eu, Eaghtyrane.

680 Yes, as I understand it, this is made under animal health legislation which allows me to introduce the Order and then I have to come to Tynwald to get approval. If Tynwald does not give approval, then the Order, which has been in place since 1st January, is no longer a legal Order.

So, as my understanding goes, farmers are aware of this. They have been out there; they have been busily registering and doing all the right things.

685 **The President:** I take it then that nobody can be held to be in breach if it is approved today.

The Minister: No.

The President: Right.

690

The Acting General Attorney: I think I can confirm that position, Madam President. Thank you.

695 **The President:** Thank you Hon. Members. Any further comments?
Would the Minister care to reply?

The Minister: Gura mie eu, Eaghtyrane.
I thank my seconder.

700 In relation to the very reasonable question from my hon. friend, the Member for Glenfaba, clearly the Department will do everything it can to reduce the testing as quickly as possible. However, to be meaningful and for this to work properly, to get proper eradication we have to make sure that the testing is done in compliance with the advice of our animal health professionals.

705 I beg to move.

The President: The motion before the Court, Hon. Members, is set out at Item 32 on your Order Papers. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**33. Wild Animals (Restriction on Importation, Etc.) Act 1980 –
Wild Animals (Restriction on Importation, Etc.) Act 1980 (Amendment) Order 2013 approved**

The Minister for Environment, Food and Agriculture to move:

That the Wild Animals (Restriction on Importation, Etc.) Act 1980 (Amendment) Order 2013 be approved. [SD No 0420/13]

The President: Item 33. I call on the Minister for Environment, Food and Agriculture.

710 **The Minister for Environment, Food and Agriculture (Mr Gawne):** Gura mie eu, Eaghtyrane.
This Order replaces and updates the schedule to the Wild Animals (Restriction on Importation, Etc.) Act 1980 by adding certain wild and exotic species to the list of animals which are prohibited from being imported into the Isle of Man.

715 The schedule of the 1980 Act has been amended several times in recent years to add animals that are considered potentially dangerous or a nuisance to the public should they escape or be released on the Isle of Man. A small number of people remain interested in keeping certain species which fall into these categories, as pets.

Our neighbouring jurisdictions have recently reviewed and updated their lists, and it is evident that there are species considered by their experts as potentially dangerous which are not listed on the Manx schedule. Hence this change.

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

The President: The Hon. Member, Mrs Cannell.

725 **Mrs Cannell:** Thank you, Madam President.
I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Deputy Speaker.

730 **The Deputy Speaker:** Thank you, Madam President.
I found it very interesting reading through this list, particularly when I read that it does not allow any primates here 'with the exception of humans', which was very helpful.

735 Under the item 'birds, struthionidae, ostriches', what would the position be if somebody actually wanted to come here and breed ostriches commercially? What would the process be if the import of ostriches is actually banned?

A Member: A very good question.

The President: The Minister to reply.

740 **The Minister:** Well, certainly I would not want to bury my head in the sand over that! *(Laughter)* I had to do that, didn't I?

745 My understanding is that, for certain purposes, various licences can be applied for, which allow people to import these animals that we are designating in this Order. So that would be the way in which that could be done.

However, it is important that we update our legislation so that we are not seen as a convenient little loophole for people importing dangerous or wild animals and using the Isle of Man as a base for doing so. So I think it is important that we keep our legislation in line with our neighbours on this particular point.

750 I beg to move.

The President: The motion before the Court is set out at Item 33, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**34. Airports and Civil Aviation Act 1987 –
Civil Aviation (Dangerous Goods) (Application) Order 2014 approved**

The Minister for Economic Development to move:

*That the Civil Aviation (Dangerous Goods) (Application) Order 2014 be approved.
[SD No 2014/0001]*

755 **The President:** Item 34. The Minister for Economic Development to move.

The Minister for Economic Development (Mr Shimmin): Thank you, Madam President.

The purpose of this Order is to apply to the Isle of Man the latest international standards for the safe transport of dangerous goods by air. The standards are contained in technical literature approved and published by the International Civil Aviation Organisation.

760 Dangerous goods are carried regularly and routinely by the Royal Mail and Isle of Man Post Office to and from the Island. There are also a small number of corporate operations which carry dangerous goods by air using Isle of Man registered aircraft. This measure ensures we continue to meet our international obligations and gives worldwide harmonisation of safety standards.

765 The Order applies to the Isle of Man, with modifications, the UK Air Navigation (Dangerous Goods) (Amendment) Regulations 2012.

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

770 **Mr Karran:** I will second and reserve my remarks.

The President: It has been seconded. Just seeing if anybody wanted to speak.

The motion before the Court, Hon. Members, is set out at Item 34. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**35. Isle of Man Exclusive Economic Zone –
Motion lost**

The Hon. Member for Onchan (Mr Karran) to move:

That Tynwald is of the opinion that the Isle of Man Government should demand that the United Kingdom should establish on behalf of the Isle of Man an EEZ or equivalent, under Chapter XI of the United Nations Charter, which places on Member States the obligation to promote as a sacred trust the interests and well-being of the inhabitants of the Administered Territories and which therefore imposes on the United Kingdom an obligation to promote the interests and well-being of the people of the Isle of Man.

775 **The President:** We turn now to Item 35. I call on the Hon. Member for Onchan, Mr Karran.

780 **Mr Karran:** Eaghtyrane, the International Convention on the Law of the Sea (UNCLOS) gives a coastal state sovereignty over its territorial sea extending up to 12 miles from its coast, plus the jurisdiction over the seas extending beyond the boundary of its territorial sea to the median line between the adjacent territories. The area between the coastal state's territorial sea and the median lines between it and adjacent territories, known as the Exclusive Economic Zone, or the EEZ, is 200 miles.

Constitutional status: the Isle of Man is not a sovereign state. It is a Crown dependency with the same constitutional relationship with the United Kingdom as the Channel Islands, Gibraltar

785 and a similar constitutional relationship with the United Kingdom as the Falkland Islands, which
is a British Overseas Territory. In other words, the UK is still the ex-colonial power responsible
for the administration of the Isle of Man.

To establish an Isle of Man EEZ would extend the Isle of Man's jurisdiction over a much larger
area of the Irish Sea than its current territorial sea, and would include the control over mineral
790 rights, fishing rights, potential oil and gas developments. There is already one gas field and
potentially part of another that would be in the Isle of Man's EEZ, were it to be established.

There is a precedent for the establishment of an Isle of Man EEZ. The United Kingdom has
established a Falkland Islands EEZ with its jurisdiction over the Falklands Islands EEZ ceded to the
Falkland Islands government in accordance with the United Nations Charter. The government of
795 Denmark has established an EEZ for Greenland, a country of 57,000 people; and the Faroe
Islands, a country of approximately 50,000 people. Both Greenland and the Faroe Islands have
jurisdiction over their own EEZ in accordance with the United Nations Charter. Therefore, the
precedent of the establishment of an Isle of Man EEZ.

The United Kingdom government's obligations to the Isle of Man: on the basis of Chapter XI
800 of the United Nations Charter, as a sovereign state with responsibility for the administration of
the Isle of Man, the United Kingdom has an obligation to accept as a sacred trust the obligation
to promote to the utmost the well-being of the people of the Isle of Man. This should include
the establishment of an Isle of Man EEZ, as described above.

The Kingdom of Denmark has established EEZs for both Greenland and the Faroe Islands and
805 the United Kingdom government has established an EEZ for the Falkland Islands. Why should the
Isle of Man Government be different? Why should the Isle of Man be different, its people? The
only reason that the Isle of Man is different is that an Isle of Man EEZ would infringe on the UK's
own national interests – and Hon. Members, this is unacceptable.

The historical background: in 1966, by exchange of letters, the UK accepted that the Isle of
810 Man had rights which extend beyond its territorial sea. On the basis of the agreement, the UK
agreed to pay the Isle of Man a percentage of royalties levied on the oil and gas production to
the whole of the United Kingdom Continental Shelf. In 1997, the Isle of Man entered into a
Common Purse or Revenue Sharing Agreement with the United Kingdom. This Agreement
confirmed the rights of the Isle of Man to extend beyond its territorial sea and agreed that the
815 Isle of Man should receive a share of all royalties levied from the oil and gas production from the
whole of the United Kingdom Continental Shelf – therefore, known as the Common Purse
Agreement.

In November 1995, the Government agreed that the Isle of Man accede to UNCLOS along
with the Channel Islands and tasked the Council of Ministers to commence negotiations with the
820 United Kingdom with a view to establishing an Isle of Man EEZ. There appears to have been little
or no action from the Isle of Man Government as a result of this motion.

In 2009, Tynwald passed a motion calling on the Government to initiate negotiations with the
United Kingdom government with the object of establishing in the United Kingdom and in Manx
law the equivalent of an EEZ for the Isle of Man Government and extending it from the Island's
825 territorial sea in every direction to the median line between the Island and the surrounding
islands. No action has been taken by the Isle of Man Government.

The request of the course of action: on the basis of the above, there appears to be no reason
why the UK government could refuse the right of the Isle of Man to have its own equivalent EEZ.
What has been the matter with the Isle of Man Government over the last 18 years? What stops
830 them from entering into pretty straightforward negotiations?

This motion therefore calls on Tynwald to require the Council of Ministers to immediately
commence negotiations with the United Kingdom with a view to establishing an Island EEZ or
equivalent, and to report back to Tynwald with the progress on these negotiations.

I beg to move the motion standing in my name.

835

The President: The Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Madam President.

I rise to second this motion because I too find it absolutely amazing that successive various Governments have been reluctant to act over even trying to establish an Isle of Man EEZ.

840 We are most definitely a coastal state and the international Convention on the Law of the Sea gives a coastal state sovereignty over its territorial sea extending up to 12 miles from its coast, *plus* jurisdiction over the seas extending beyond the boundary of its territorial sea up to the median line between it and adjacent territories. The area between a coastal state's territorial sea and the median line between it and adjacent territories is known as the Exclusive
845 Economic Zone, or EEZ.

The Isle of Man is not a sovereign state; it is a Crown dependency, with the same constitutional relationship with the United Kingdom as the Channel Islands and a similar constitutional relationship with the United Kingdom as the Falkland Islands, which is a British Overseas Territory. In the Channel Islands, the government of Jersey has established the
850 equivalent of an EEZ with France and the Falkland Islands has already established an EEZ between it and Argentina. As a result, oil exploration has already started in the Falkland Islands. The government of Denmark has established an EEZ for both Greenland and the Faroe Islands.

Madam President, there are seven main points, seven indisputable facts that I hope Members will consider when they are making up their minds as to whether to support this
855 motion, or not.

Firstly, the Isle of Man is not part of the United Kingdom; it is a Crown dependency.

Secondly, the Isle of Man is a coastal state; otherwise, it could not have had the territorial sea. The Isle of Man has a right to the jurisdiction beyond its territorial sea, as evidenced by the 1966 Revenue Sharing Agreement.

860 Three, the Isle of Man, in consequence, has a right to an EEZ, as defined under the international Convention on the Law of the Sea.

Four, the Isle of Man has a right to enter into international treaties on its own behalf, as reaffirmed by Lord Bach when he visited the Isle of Man.

865 Five, the establishment of an Isle of Man EEZ will probably bring at least one existing gas field and a significant part of another gas field within the Isle of Man's jurisdiction.

Six, the establishment of an Isle of Man EEZ would significantly increase the jurisdiction of the Isle of Man of oil exploration activities in the Irish Sea.

870 And seven, it will also give the Isle of Man a significant increase in its jurisdiction over fisheries and mining activities, and make the protection of the scallop beds much easier to monitor and control.

Initiating negotiations with the United Kingdom on the establishment of an Isle of Man EEZ will give the Government the opportunity to demonstrate clearly to the United Kingdom government that it is being proactive, as well as reactive, in the current financial situation.

875 We have to ask ourselves why is our Government so reluctant to fight our corner and negotiate an EEZ for the Isle of Man? Are they too much in awe of the UK, or do they doubt their own negotiating capabilities? Whatever the reason, it is unacceptable. There is no legitimate excuse for not pursuing this. There is no legitimate excuse for not even trying.

It is for those reasons, Madam President, that I do hope that Members will support this motion. Thank you.

880

The President: The Hon. Member for Castletown, Mr Ronan.

Mr Ronan: Thank you, Madam President.

885 I have to say that I feel this motion is well intended, but unfortunately I will not be able to support it today.

The Isle of Man, as we all know, is exploring new areas to grow our economy. One, as we all know, is with energy policy and the exploration of natural resources and renewables. In my role within DED I can assure Members that we are in discussions, and have been for a considerable

890 time, with potential investors and developers regarding potential energy projects within our territorial seas. The energy industry requires certainty, and if we were to pass this well-intended motion today, I fear that the resulting uncertainty for future developments in the Irish Sea would jeopardise years of hard work with no guarantees of a return.

If we were to pass this motion today, I feel it would leave us vulnerable at a time when we least need it. I would urge Members to reject the motion.

895 Thank you, Madam President.

The President: The Hon. Member, Mr Bell.

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

900 The Hon. Member appears to be somewhat confused about the facts of this issue, despite having raised this on several occasions over a number of years with both myself and my predecessor. In addition, this Hon. Court also debated this matter in 2009, arising from a similar motion put down by the Hon. Member.

905 What I am finding extremely disappointing, and to some extent extremely frustrating, is that the Hon. Member simply refuses to accept the facts of this matter, which have been fully explained to him. For the benefit of Hon. Members, though, I hope it will be helpful if I clarify the facts and demonstrate that to support this motion would be futile at best and damaging to the interests of the Isle of Man at worst.

910 Firstly, the legal basis in international law upon which an Exclusive Economic Zone, or EEZ, can be established is under the United Nations Convention on the Law of the Sea. Only independent nation states can be a state party to that Convention; and under the terms of the Convention, only state parties can declare an EEZ. Clearly, this excludes the Isle of Man, and so we ourselves cannot declare an EEZ.

915 **Mr Karran:** No-one is saying we can.

The Chief Minister: The second point I wish to make is that, as a state party, the UK is entitled under international law to declare an EEZ in waters which surround its territories or dependencies for its own benefit. As a state party, the UK is also entitled to declare an EEZ on behalf of a territory or dependency. This is what the UK has done on behalf of some of the Overseas Territories.

Therefore, if the UK was to declare an EEZ or an equivalent on behalf of the Isle of Man, it would be voluntarily giving away rights to an area in its own waters. The important issue here is whether the UK wishes to concede its own waters to one of its territories or dependencies.

925 In the case of the Falkland Islands, the UK has, for its own quite obvious political reasons, agreed to the Falkland Islands receiving economic benefit through the UK EEZ surrounding those Islands. We should not, though, confuse the geographical, political or economic situation in the Falkland Islands with that of the Isle of Man.

930 When originally raising this issue, the Hon. Member held the view that the UK had an obligation to establish an EEZ under the terms of the Convention on behalf of the Island. However, the Hon. Member now appears to have accepted that the Isle of Man has no right to make a claim for an EEZ under the terms of that Convention.

935 The Hon. Member also appears to have accepted that the UK is not obliged to declare an EEZ on our behalf and so has now shifted his focus to Chapter XI of the United Nations Charter. This brings me to my third point. Chapter XI of the UN Charter was drafted at the end of the Second World War, when the UN was first established. Its fundamental aim was to ensure the fair and equitable treatment of territories which had been colonised and to support the decolonisation process of those territories that wished to attain full independence. I should also add that while the motion before us today refers to 'administered territories', this is not a term which is in use in international law, nor is it a term in use in Chapter XI. Chapter XI refers to non-self-governing

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territories, and describes those territories as territories whose peoples have not yet attained a full measure of self-government.

945 Many years ago, the UN determined that a self-governing territory was one which had reached a full measure of self-government as a sovereign independent state by integration within an independent state or by the free association with an independent state – the latter, of course, being the position of the Isle of Man as a British Crown dependency.

950 In confirmation of this, Hon. Members may be interested to know that paragraph 73(e) of Chapter XI calls for UN members to submit technical information to the UN relating to those territories to which this Chapter applies. In the 70 years this Chapter has existed, no submissions have been made by the UK in respect of the Isle of Man – or indeed the Channel Islands, which are of course also Crown dependencies – because the United Nations, the United Kingdom, the Isle of Man and Channel Islands recognised that these were not required. Consequently, I hope this clarifies to the Hon. Court that Chapter XI of the UN Charter simply does not apply to the Isle of Man.

955 Madam President, it would therefore be wrong to consider that the United Kingdom has an obligation to promote the interests and well-being of the people of the Isle of Man under this particular Chapter. I would also add that, as a Crown dependency, we have charted our own political, economic and social course. We have worked diligently and resiliently to build and diversify our economy through our own Government, our own parliament and our own legal system.

960 My final point refers to the language used in the motion. I have to say that I am very disappointed at this. The suggestion that the Isle of Man should be making a demand shows a lack of political sense and no understanding on the basis on which negotiations are usually conducted. Such an attitude can undermine all the good work we have done over a number of years to build a reputation for being constructive and pragmatic, entering into negotiations on issues which are important to us, and indeed where there is a reasonable case to negotiate. I would not wish to jeopardise our hard earned reputation by confronting the UK with the Hon. Member's entirely unrealistic demands. That being said, if it was considered that there was any merit whatsoever in this proposal, then of course I would not hesitate to take it up; and indeed I have already advised the Hon. Member of this.

970 I know the Hon. Member is of the view that there is no harm in asking, but I believe that this is a simplistic view which I cannot agree with. The best we could say to the United Kingdom government is that we think the Island might have a vague notion of a moral right to these additional waters. That is not an argument that I would expect to carry any weight in any negotiations, either with the UK or elsewhere, and it is certainly not one that would encourage me if the situation was reversed and the UK asked us on that basis alone.

975 My view is further strengthened by the fact that the UK is already actively exploiting for its own economic benefit some of the area of the Irish Sea that would be included in a hypothetical Isle of Man EEZ. This makes it even more unlikely that the UK would ever concede to the demand the Hon. Member considers we should make.

980 I would like, though, to take this opportunity to give an assurance that the Departments of Infrastructure, Economic Development, and Environment, Food and Agriculture are working hard to exploit the benefits of our 12-mile territorial waters, along with the seabed within those limits which we do control.

985 In summary, Madam President, I cannot support the motion before the Hon. Court today. As they have set out, the Isle of Man has no right to the additional area of the Irish Sea that this motion seeks, nor has the UK any obligation to hand it over to us, either under the Convention on the Law of the Sea or under the UN Charter. To demand that the UK voluntarily gives this area of its own waters to the Isle of Man simply has no chance of succeeding and to advance such a request, I believe, would make us look extremely foolish. Therefore, I would urge the Hon. Court to reject this motion.

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

995 **Mr Quirk:** Madam President, after the clarification of the Chief Minister, I am more than content, happy.

The President: The Hon. Member for Douglas West, Mr Thomas.

1000 **Mr Thomas:** Thank you very much, Madam President.

I cannot actually support the motion, but I thank both Members who have spoken for it, and in fact soliciting the answer from the Chief Minister was a success of that motion – because now, in public, there has been a more full presentation of some of the facts of international law and the history of international law.

1005 I do actually think, myself, that in the 1960s we had an opportunity to get more than we have got, at the time of the 1966 agreement. At the time when this Court actually had a Standing Committee on Common Interests of the Continental Shelf Agreement back in 1981, I think they made quite a strong case that could be negotiated at that time. And given that the Hon. Member for Castletown raised the alternative energy issue as well as the mineral rights, perhaps
1010 during even the last decade, when we had the Energy Act 2004 and the Energy Act 2008 in the adjacent isle, we could have gone in and, as part of our general negotiations, looked at the wind farms and actually tried to influence more the UK renewable energy zone and to what extent revenues from it, and also the risks and the costs from it, were shared in our interests.

1015 Saying that, it was the language of the motion that makes it impossible for me to vote for it, because in negotiations you cannot demand something: you just know what you are trying to achieve and you have got to work out what the shared common interests are and how to get there. So it is the language, principally. If the motion had been more along the lines of the speech, which was about continuing negotiations that started long ago, I would have been more minded to support it.

1020 I wanted to pick up one thing on the Chief Minister's presentation, which was that he talked about 'voluntarily'. In international negotiations, it is not only voluntarily. We paid £800,000 for our territorial seas and there will be a price now for the Exclusive Economic Zone, so I would hope that the External Relations department would have ideas about those sorts of things and what it might cost us in terms of negotiating other things to achieve something, given all the
1025 revenue that it seems might be available in the Irish Sea – and also all the risks, in the sense that when you have companies that go bankrupt, having built something, somebody has got to take them away, and take them down before you put them away, and it could end up being that sort of situation.

1030 So, in closing, the reality is that we are a small state. We are not like the Falklands. We are continentally insular, because we are close to the United Kingdom and we are close to the rest of Europe. We are powerless, in the sense that we have a thousand times smaller the size than our partner. But to me, when it comes to thinking about the Irish Sea, we are at the centre of it and therefore our interests have got to be taken into account by the planning inspectorate in the UK; and as we renegotiate everything – from social care to health to revenue sharing to
1035 rights – this is another element to that negotiation.

Thank you, Madam President.

The President: The mover to reply.

1040 **Mr Karran:** Eaghtyrane, it is a shame there are not more people who have put input into it, but that is the way it goes.

The first thing is I cannot support the notion from the Hon. Member for Castletown that somehow this would take away anything. What we have got we have got, and it would not affect anything that we have already got and is recognised. So this is just a red-herring that is being put

1045 out to frighten a few of the Members in this Hon. Court – that somehow we would lose what we have got.

We all know that we are not a national state and we cannot demand the benefit of an EEZ, but Chapter XI, under the United Nations, puts a sacred promise on member nation states that they have a responsibility for administrated areas, and under that Chapter they have a
1050 responsibility for that. What I cannot understand, and what I find would be totally indefensible is the fact that when it is in the UK government's interests it will provide an EEZ for the Falkland Islands, when it will not provide its responsibility to this administrated area as far as the Isle of Man is concerned.

The question that has to be asked – also that blows the Chief Minister out of the water – is
1055 the issue of Greenland and the Faroe Islands. Yes, he is right that the sovereign nation, the Kingdom of Denmark, has to apply for the EEZ, but like the Kingdom of Denmark... they have seceded those rights to their Crown dependencies as far as their rights are concerned.

I think the problem is that... what my hon. colleague, the Hon. Member for South Douglas
1060 said, as far as the position as far as negotiation is concerned... has got her answer as far as this proposal is concerned. I understand we are in uncharted territories as far as the hard times we have got ahead, but I do think you need to make some sort of stand as far as this issue is concerned. What we want and what we should be doing is opening negotiations with the United Kingdom government.

I was not quite sure what the Hon. Member for Onchan was on about, but the point is...
1065 Going on to Mr Thomas, I think that the problem you have got there... The Member for West Douglas, sorry. I think that what we have got is weak executive Government, and I am sorry that somehow we should pay to get our own EEZ was almost as ridiculous as us having to pay the Crown Estate the £800,000 for the extension of the territorial sea. It should have been given as part of its responsibilities. I am sure that the Irish Republic did not get given 'go and ask the
1070 Crown' if they could have their sea back. And yes, there is a slight difference. That was under the 1921 Agreement. That became an independent Irish Free State, but under the United Nations Charter I believe the United Kingdom government is morally bankrupt for not opening up negotiations as far as the establishment of an EEZ.

The Hon. Member for West Douglas mentioned, 'Well, we should have done this in 1966 and
1075 we should have done this in 1979, and we should have done this with the issue of the wind farms.' The point is: are we going to say we should have done this in 2014 in another five or 10 years' time?

I understand the problems that the Chief Minister has got with the United Kingdom. They are
1080 a big power, and when we are going to negotiate with them it might seem to many that there is an inequality of arms, but I believe that if you do not vote for this today you are not just doing a disservice to the Isle of Man, but you are actually condoning the mistakes that were made – what the Hon. Member for West Douglas was on about in the past, as far as this is concerned.

I suppose we will end up voting on party lines on this issue, but I do feel, Eaghtyrane, that this
1085 issue needs to be reopened. I just hope that we can get away from the personalities, and I hope the Council of Ministers reviews its stance as far as this is concerned and starts opening channels of communication over this most important thing.

This is an opportunity that should be ours. I believe that if the United Kingdom government
1090 were to shut the door on this opportunity as far as the Isle of Man is concerned, it would have implications as far as their standing around the world when they are making stands over other issues, and the EEZ as far as the Falkland Islands is concerned.

I hope Hon. Members will support the motion as stated. I believe that this will be included on
that long list of missed opportunities and I do believe that there are none so blind as those that will not look. I think this Hon. Court should support this proposal in front of you today.

I beg to move.

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The President: The motion before the Court is set out at Item 35 on your Order Paper. 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 2, Noes 18

FOR

Mr Karran
Mrs Beecroft

AGAINST

Mr Quirk
Mr Hall
Mr Ronan
Mr Crookall
Mr Bell
Mr Quayle
Mr Teare
Mr Cregeen
Mr Houghton
Mr Henderson
Mr Robertshaw
Mr Shimmin
Mr Thomas
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne
The Deputy Speaker

The Deputy Speaker: Madam President, the voting in the Keys is 2 votes for and 18 against.

In the Council – Ayes 0, Noes 8

FOR

None

AGAINST

Mr Corkish
Mr Crowe
Mr Downie
The Lord Bishop
Mr Butt
Mr Turner
Mr Braidwood
Mr Coleman

The President: In the Council, no votes for and 8 votes against. The motion therefore fails to carry.

**36. Improvements in the tendering process –
Debate commenced**

The Hon. Member for Onchan (Mr Karran) to move:

That Tynwald views with concern the major fiscal problems the Manx Government has created through its bad management; as part of a larger strategy, Tynwald therefore calls upon the PAC to investigate World Bank Systems of Procurement (to include tendering and contracts) and ways of developing more effective practices and procedures; Tynwald believes that such an assessment is part of a perpetual duty to protect the taxpayer's interests.

1100 **The President:** We go now to Item 36, Hon. Members. I call on the Hon. Member for Onchan, Mr Karran.

1105 **Mr Karran:** Eaghtyrane, Hon. Members, at a time when we are considering the scope and structure of Government, it is right for us also to consider its practices and processes. Indeed, it is our duty to the Manx people to demand nothing less. Never has there been a greater need for us to fulfil the duty than now.

1110 We face, Hon. Members, the challenges of our lives as we grapple with the fiscal realities of expenditure, which has been out of control and cannot be afforded any more. I speak, of course, at least in part of the need to introduce smarter, leaner, more accountable controls for the capital projects. The need for change is common ground and we simply cannot afford not to do so – that is if we want to maintain the 30 years, or 25 years, of progression on so many social advancements, not just on benefits but in many other areas, even employment opportunities as far as our young are concerned. That process we should rightly be proud of, and that process needs to be protected through prudent discipline and priority in how we do our public spending.

1115 The starting point, Hon. Members, is fairness in Government contracts and tendering. Fairness promotes openness; and from that, competition occurs, drives up standards and reduces costs. The result is value for money, something that is not easily reconciled with the mismanagement of the old regime in capital projects. Indeed, it has been accepted that we have witnessed a number of major capital projects that ran totally out of control, which in reality has caused capital overruns, disputes to capital budgets and financial planning.

1120 The MEA is an example and illustrates this in crystal clear terms, as do IRIS, SITA and numerous others. However, there is one common factor that unites it all: the absence of the international standards in procurement and contracting, and in this case, the MEA, a failure to follow the Treasury capital procedure notes because they were told they did not apply. In short, the absence of control that would be inexcusable in any other institution. I continue, in setting out my proposal, by illustrating the difference between international standards and the Manx reality, with the example of the MEA, as far as the facts are well documented.

1125 My proposal is simple. When we turn to the prestige of international institutions like the World Bank – or the International Bank for Reconstruction and Development, to give its formal title... These are procedures on which many other international institutions model their own procedures, to ensure both transparency and value for money... a purpose that the Public Accounts Committee... to review the world banking contract and tendering procedures, where appropriate, incorporating into the Treasury capital procedures.

1130 The World Bank's procurement procedures are contained in two documents: 'Selection and Employment of Consultants by World Bank Borrowers' and 'Procurement under the International Bank for Reconstruction and Development Loans and IDA Credits'. Even the briefest of glances shows that the costs and the delays of the old would have been minimised, if not avoided altogether. I have no wish to go through item by item, but merely to highlight the salient standards for consideration.

1140 The first, 'Selection and Employment of Consultants by World Bank Borrowers', concisely states in the guiding principles of clause 1.9 that consultants must not benefit subsequently from the result of the initial advice – that is a consultant, after providing advice, must not be given the job of implementation or operation. All too often Government projects have been at odds with this and paid the entire three sets of fees.

1145 The second document, 'Procurement under the IBRD Loans and IDA Credits', also deals with the issue of conflict. In clause 1.8(b), consultants are disqualified or debarred from subsequently providing goods and services on projects on which they have provided initial recommendations. Again, an Isle of Man practice that is different.

In addition, it places an emphasis on prequalifications in clause 2.9. Its purpose is obvious: a proper assessment of tendering capacity and resources. The document sets out accordingly the

1150 need to consider past performance of similar contracts; the capabilities of personnel, equipment and manufacturing on similar contracts; and the financial position.

The MEA did no prequalification tendering. Had they done so, they would have discovered that NEPCO Europe, who was awarded the contract to build the power station, had never actually built a power station before and the whole parent company, NEPCO, had never built a power station in Europe. Prior to the awarding of this contract, NEPCO Europe only had nine employees. The parent company, NEPCO Enron, was in serious financial trouble.

1155 The need for prequalification tenders to be advertised in national and local press is set out in clause 2.10. Again, had the MEA advertised, the world's two largest suppliers of the type of power station required for Pulrose would have been given the opportunity to tender, and it is a matter of record that one of them would have definitely bid – but did not bid because it was not aware of the contract.

1160 Then the processes to consider the bidding documentation at clause 2.18 and the need for consistency; and at 2.45 a transparent bid opening process, which results in all bids being recorded. Again, the Select Committee on the MEA exposed radically different conduct as it elected to maintain secrecy over the process and the results.

1165 As we move on, I now turn to the evaluation process in clause 2.53, and the award at clause 2.54. This rests upon the usual practice of borrowers providing detailed estimated costs for the work either using in-house expertise or comprehensive benchmarking of similar projects. This, of course, is used to budget for work that is being undertaken. Again, the MEA did not do this. Had it done this, it would have been aware that a power station of a similar capacity was built in the United Kingdom for approximately £35 million, and not the £80 million that was being proposed. The £45 million difference was mostly to do with creative design in the architecture, at best.

1170 Had the MEA benchmarked, they would have been able to proceed appropriately... that either they needed to renegotiate or alter the proposed specifications. Clauses 2.61 and 2.63 confirm this. Benchmarking promotes certainty, security, justification and accountability. As the Select Committee made clear, in these measures there was an absence in the power station. Had the World Bank procedures been used, the contract would have been awarded to the lowest tender and the £98 million could have been saved from that one capital project. That could have been put to health, education and other front-line services.

1175 Finally, the post-award process is also very clear, logical and effective. Appendix 3, clause 2 cites the simple principle that funds are paid and released to coincide with actual expenditure. Again, had the Treasury only released moneys from the £185 million bond after the work had been completed and invoices received, they would have retained control over the project, and as a result, the MEA would have been unable to use bank interest generated from the bond to artificially skew the price of electricity and make the financial position of the MEA look a lot healthier than it was.

1180 There is a mandate for clear change. The MEA is just one example of a catalogue of errors in capital projects, and I have used this because there is the well-documented proof of this, as far as using this particular one.

1190 I am afraid, Hon. Members, it is simply unacceptable to duck and dive our way through. Indeed, over IRIS I note there is deep concern suggested as far as the proper course of action that faced. There was a massive underestimation of capacity, a wholesale increase in costs of 60%, that somehow was tolerable; and further, when it was proposed the regional connections to Meary Veg... the so-called regional provisions... that Tynwald approved a scheme on the basis it was yielding £15 million worth of savings... within two years those savings were gone.

1195 Change has to happen, Eaghtryane.

1200 In concluding, the review of the scope and structure does not go far enough in addressing the challenges. It must, Hon. Members, be part of the response, but not the whole part. The time to assess the Government processes and practices is upon us, and I ask the Public Accounts Committee to begin its work.

1205 I recommend the incorporation of the World Bank contracting and tendering procedures in the Treasury procedure notes. I further suggest the resulting procedures be given statutory effect to include all Departments and Boards. We cannot afford to continue the waste by using flawed procedures. By using tighter tendering and contract procedures, we will fulfil our duty to promote value for money.

I move the motion standing in my name.

The President: The Hon. Member, Mrs Beecroft.

1210 **Mrs Beecroft:** Thank you, Madam President.

I rise to second this motion, but I am actually going to be quite brief because it is relatively simple. The past which brings us to this point is a bit more complicated, but how we go forward is actually quite simple and, if it is supported by Members, will have very far reaching benefits for the Isle of Man.

1215 The Public Accounts Committee has already stated concerns about the current procurement process, no less than eight times since the 2006 General Election, and I am sure that Hon. Members will remember those. There have also been the Select Committees which have stated their concerns, but if we stick with just the Public Accounts Committee, four of the instances out of the eight have occurred since the last General Election, so it seems that concerns regarding the current process are increasing.

1220 During the previous parliament, the Public Accounts Committee commented on issues regarding procurement in respect of Ice Mann, ISD, IRIS and Venda; and since the last General Election, the Committee has reported on ISD, the Almex bus-ticketing system, and the Signature contract.

1225 There is no doubt that Government does not have a good track record when it comes to the tendering process and procurement – and it *has* to improve; we cannot afford for it *not* to improve.

1230 This motion is right in another aspect – that it should be our perpetual duty to assess our systems and to see if there is any way in which they can be improved. I am sure that the World Bank contracting and tendering procedures will prove very interesting and informative to the Public Accounts Committee, and that they will make some very sensible recommendations which will improve matters and assist every Department of Government going forward.

Thank you, Madam President.

1235 **The President:** The Hon. Member for Ayre, Mr Teare.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

1240 The hon. seconder said it is simple, and my response is simple: basically, they are three years out of date, and for that reason I strongly disagree with the accusation by the Hon. Member for Onchan of bad management by Government and with his thinly disguised implication that the interests of taxpayers are not being protected. I will clearly demonstrate that they are.

1245 However, Tynwald Court may be surprised to hear that I wholeheartedly agree with the adoption of the procurement principles of the World Bank. Unfortunately, the Hon. Member for Onchan is well behind the times – in fact three years too late in bringing his motion forward, as the work has already been done, appropriate systems are already in place, and those systems are used on a daily basis. In fact, all the illustrations which he used to support his argument are years out of date and it is quite obvious that the gentleman who prepared his speaking notes for him is out of date. He has not actually had a look at what happens now.

1250 I apologise for the use of this Hon. Court's time, because I do not regard this as being effective in discussing something which is so far out of date. What he is proposing is what we do already. To date, savings of £2.3 million have been achieved, with an expectation that a further

£1.6 million will be secured over the next two years. Surely that is to the betterment, not to the detriment, of the taxpayer.

1255 By way of background information, following the agreement of the Council of Ministers, Procurement Shared Service Centre, now known as Procurement Services, was created in January 2011 – *three years ago*. The purpose of Procurement Services was not only to make savings; it was also tasked with professionalising Government's procurement activity. This is exactly what it has done.

1260 The World Bank principles to which the Hon. Member refers are little more than standard procurement practice in the public sectors of all developed Western nations, the Isle of Man included. And in case Hon. Members did not have a chance to have a look at the procurement guidelines, that is it: it is a pretty weighty document.

1265 The World Bank system requires pre-disclosure of all criteria for contract award. All tender documents must set out clearly the contract award criteria, including specific pass/fail criteria and the percentage split cost between quality to be used in the evaluation of bids. That, we do.

Access to a complaints review mechanism for bidders: Procurement Services have put in a tender appeals procedure and to date Internal Audit have independently investigated five such appeals. So, that is what we do.

1270 Disclosure of the results of the procurement process: the results of all tenders undertaken by Procurement Services are published on the Government's website. It is what we do.

This approach to procurement with large projects is both fair and transparent for businesses which wish to tender for Government work and is delivering cost savings for the benefit of taxpayers.

1275 Even with these processes in place, and despite them often having a clear benefit to the Island's economy, the Hon. Member for Onchan appears to take his own unique approach when important capital projects are put forward to this place for approval. I note, for example, that he and his Liberal Vannin colleague, the Hon. Member for South Douglas, Mrs Beecroft, were the only Members of Tynwald to vote against the Isle of Man College Construction Crafts and Engineering Phase 1 Scheme, which was considered by this Court only last month. I regard that
1280 as a vote against opportunities for our young people and a vote against diversifying our economy.

1285 Adopting high standards of governance can lead to increased bureaucracy. To avoid this risk, Procurement Services are at present used only for tenders with an expected cost greater than £50,000. A substantial amount of Government expenditure is below this threshold. This Hon. Court may be interested to know that my officers have been approached recently by the Chamber of Commerce and local business, who expressed some concerns regarding the rigour and governance associated with procurement exercises which are not undertaken by Procurement Services. Surely this must tell the Hon. Member something.

1290 As I said a few minutes ago, Madam President, I oppose this motion. My door is always open to any Member who wishes to discuss the many aspects of the work of Treasury, including procurement. If, after discussing the issue with me, the Hon. Member had introduced a motion aimed at broadening and professionalising the procurement activities of Government, then I might have had more sympathy with the motion, and been inclined to vote in favour. However, as you have probably gathered, I will not be voting in favour of this.

1295 **The President:** The Hon. Deputy Speaker, Mr Singer.

The Deputy Speaker: Thank you, Madam President.

1300 If I could give some information to the Hon. Court, in that the Economic Policy Review Committee did commence investigation of the procurement processes a while ago. We took written evidence from several Departments outlining their initial experiences, which I must say were not all positive.

We then decided that we would wait for another 12 months to repeat the exercise, to see how the process was now seen to be working. Certainly the statement from the Treasury Minister, if he wanted to forward that, would be helpful to the Committee, as would any Members' statements or evidence or views, if they would like to send them to the Committee.

The PAC is also interested, of course – of which I am a member – and I can inform Members that we will therefore be seeking further evidence shortly on the procurement process.

1310 **The President:** The Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Eaghtyrane.

Before my words get twisted in any way, these are *my* views, wholly my views and they are being expressed because I genuinely believe them.

1315 I had some deep concern when I saw this motion on the Order Paper, primarily because I think, of all Members in here, I am the one who has the most direct and most recent experience of how World Bank procurement actually works – through the work I have been doing with the International Development Committee in Sierra Leone.

1320 What we know about the World Bank is that, because of the work it does, it has a very significant impact on some of the countries who have the least control over how it spends its money. Therefore, it is important that it has hugely elaborate processes and systems in place to ensure that the money is being spent in the right place. It has, I think, \$350 billion-worth of money that it administers. It is a *huge* enterprise, covering vast numbers of countries across the world, has loads and loads of stakeholders, so the processes that it has in place to deliver projects are massive and quite complex.

1325 If we really want to adopt those principles in the Isle of Man, then we can wave goodbye to our construction sector, certainly for the next three or four years. Certainly in my experience – again, having worked in Sierra Leone – some of the things that we are getting praised for internationally is because we are able to do things quickly, we are able to move things along, we are able to get things done.

1330 The World Bank funded protection vessel for Sierra Leone is probably going to be delivered towards the end of this calendar year. Our vessel has been busily catching illegal fishermen for about 18 months now. Had Sierra Leone waited for the World Bank procurement process to finally work its way through, they would have lost tens of millions of dollars-worth of revenue – so thank goodness that the Isle of Man does not adopt every single process the World Bank has in terms of procurement.

1335 So it is, as much as anything else, a kind of a warning to Members. Yes, we can wrap ourselves up in red tape. Yes, we can adopt so many different principles and so many different procedures that nothing can possibly go wrong. And I would imagine by the time we have done that, nothing can possibly happen; because we will have it so tight, so ridiculously overly bureaucratic that we just simply will not be able to do anything.

1340 So that is just the point of caution. It is also, to a certain extent, something that we are experiencing. There have been few teething problems with the new procurement process – officers are not used to having to comply with greater standards – but I think in principle what we have been doing over the last few years is the right direction. We are able to give greater assurance, to people who are tendering, that the process is fair, and I think that is a good thing; but the caution is that if we adopt too many processes and too many procedures, we will be going nowhere quite slowly.

1350 **The President:** The Hon. Member of Council, Mr Turner.

Mr Turner: Thank you, Madam President.

1355 Although we are fairly early on in this debate, there has been a mixture of views from both sides, and I think that there is some merit in having the independent parliamentary scrutiny of the procedures.

When the Hon. Member, the Deputy Speaker, stood up I thought maybe he was moving an amendment at first to say that this is being dealt with by the Committee; but obviously that was not an amendment, so we are left just with the motion at the moment.

1360 There is, of course, the tendering process, and there is also the procurement process. Certainly, going round the Department of Education – visiting many of the schools, for example – there have been some great concerns about the process now of procurement. So there clearly are issues, and talking to colleagues in Health, they have had issues there as well. So I think the fact the Committee is looking into this is vitally important.

1365 If we look at the actual motion itself, it is not saying today that we are going to sign up to these things; it is saying that the PAC is to investigate the systems, and then obviously there will be a report for us all then to consider the options.

1370 The speaker who has just resumed his seat said about the ability of the Isle of Man to move quickly in dealing with procurement, but in some cases we are seeing the complete opposite. I know in Departments... I have spoken at Department meetings before about the overly bureaucratic process that some firms face when trying to supply services to Isle of Man Government Departments.

1375 I would go so far as to say that the process is actually anti-small business. We have had queries in the Department before to do with smaller businesses who were providing to Government – and an example is in an area of providing food, where it was all changed due to the new central procurement. The process was so complicated, they could not tender – they did not have the resources to sit down and compile all the necessary documents to do it, because they are busy running their business. I think that is a real problem.

1380 So what we are actually doing is we are cutting out the very businesses we are supposed to be helping, and it is my view that across the whole of Government there should be sufficient work... from the biggest firms right down to the small one-man band, maybe the individual painter and decorator. There should be sufficient work across the Departments, across a period of time, for everybody to have the opportunity to get some work.

1385 That does not necessarily mean we have to abandon the procedures, because that is not what I am saying; (*Interjection*) but what I am saying is that the processes for some of these things are way over the top when Departments maybe only want smaller jobs doing.

1390 I know that there are investigations underway to do a certain matter, so I will not stray into those areas, but I think that... If I use schools for an example, one of the concerns that was relayed to the members of the Department as we were going round was that previously they were able to buy supplies and services from businesses connected with the school. So there were parents, whose children had gone through the school, who had businesses in the local area, who were providing those services at a cheaper rate because they wanted to support the school – and they have now been prevented from doing that. So, what has happened is the schools concerned are now having to pay more for the product than they were paying before.

1395 I understand the point... the Treasury Minister says what we are looking at is the global saving that has been made, but what they are not seeing is the savings then filtering back to those particular corners of our operation. So the schools' budgets are obviously being pressed. They are being charged with finding more efficiencies. They had the parent of one of the pupils supplying a service – they were paying less; they are now paying more. So the saving is not getting to the sharp end, and that is the concern that is being fed back to us from people out there on the ground.

1400 I do not see any harm in supporting this motion to ask the PAC to investigate these things and report. It would be independent of the executive. We have had the two arguments: somebody is for, somebody is against. The PAC is that independent body, and I think with so

1405 many different sides to this argument it may be an appropriate place to air it. It may be the right way, it may be the wrong way, but I do not think we have had sufficient information so far in the debate.

The Hon. Deputy Speaker has just glanced at me as if to say we are already doing that. He did not really say that, on that basis they are already doing it, he would call for us to vote against this motion and let them get on with it – so maybe there are two sides. I certainly would not
1410 want to see the work repeated. If it is being carried out by one committee, then it is senseless to have a separate committee look at it.

They are the points I would like to make, Madam President.

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

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Mr Braidwood: Thank you Madam President.

Madam President, in response to my colleague in Legislative Council, I do not think he was actually listening to the Treasury Minister –

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Mr Turner: I was listening.

Mr Braidwood: – because the Treasury Minister mentioned that, to avoid the risk of increased bureaucracy, Procurement Services at present are only used for tenders with an estimated cost of above £50,000.

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Mr Turner: Is that set in rules though?

Mr Braidwood: Madam President, I am speaking as Chairman of the Capital Projects Unit and also as a member of the International Development Committee, and I have to agree with the
1430 sentiments expressed by the Hon. Member for Rushen, Mr Gawne. But I also want to add to the comments which have been expressed by the Treasury Minister when he put his presentation.

I do not believe that any of the Isle of Man Government procurement practices conflict with the World Bank systems of procurement. On the contrary, the practices identified by the World Bank are very closely aligned. However, as was mentioned by the Hon. Member for Rushen, the
1435 World Bank operates primarily to assist developing nations where no real processes are in place, and has aims to reduce poverty and improve development.

For construction-related projects, the Isle of Man Government has developed a robust set of procedures, namely the ‘Capital Procedures for Management of Construction Projects’, issued in April 2012. The procedures are embodied within the Financial Regulations issued by the
1440 Treasury and are applicable across the breadth of Government. The original procedures date from 1993 and have been fully updated and also contain recommendations that have been made over the years by the Public Accounts Committee, following various reports and investigations.

Competitive tendering remains the principle of procurement, with a fair, transparent and
1445 efficient process established for contract award.

In relation to the appointment of consultants for capital schemes, the new procedures have introduced fee tendering in circumstances where designs are related to non-complex projects. For complex, highly specialised projects and/or projects with potentially high long-term impact, the objective is to appoint the best experts on a predominantly qualitative basis. However, all
1450 fees are agreed with a minimum 20% discount against recognised industry-standard fee scales. The Treasury also monitors fee levels in comparison to the United Kingdom market to ensure that Government continues to obtain value for money for the services supplied.

Several reviews in relation to the appointment of consultants have been undertaken previously, namely: in August 2002, ‘Achieving Better Value for Money from Capital Project Design Teams’; in June 2004, ‘Professional Fees Guidance Consultative Document’; and April
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2009, 'The Selection and Remuneration of Consultants Providing Professional Design Services for Government's Capital Projects' – and that was a Treasury paper.

All firms must have appropriate professional indemnity insurance cover. All firms must be up to date with statutory payments to Government – that is tax, National Insurance and VAT.

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Mr Quirk: Before they tender.

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Mr Braidwood: Treasury constantly receives complaints from representatives of the professional consultants at the Construction Forum relating to the imposed 20% fee discounts, stating that the fee levels are very low and that investment in training and IT is suffering. Many consultants are on reduced working hours and have made redundancies. They certainly do not appear to be benefiting from extortionate fee levels.

The new procedures permit fee tendering, but for the reasons suggested price alone is not always the most appropriate or best criterion in this procurement method.

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The performance of the design team is crucial to the success of any project. Only firms who are competent in their particular discipline and who have the necessary qualifications, experience, track record of delivery and adequate resources are considered for appointment. To ensure that only consultants of proven ability and experience and whose resources are not overcommitted are selected for commissions, it is a requirement of the procedure notes that the Treasury, which has an overview and monitors the performance of consultants and capital schemes, is consulted by Departments to ensure the best professional team is selected for the particular scheme.

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Where schemes are not tendered due to complexity or specialism, the best value for money is obtained by appointing consultants who provide the best combination of quality, experience and price. In these circumstances, fees are therefore normally negotiated between the selected consultant and the Treasury, with a balance being struck between the pursuit of a quality service and a maximum economy in fee expenditure.

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A minimum discount of 20% off industry-recognised fee scales must be offered on all commissions. This is in contrast to the previously notified minimum discount of 10%.

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The procuring of design services must be very carefully managed to ensure that the required quality is delivered. Competitive fee tendering does not necessarily offer best value. In the United Kingdom this has led to many consultants acting in a very claims-conscious manner, where the quality of service as perceived by the clients has also declined as consultants become more cost conscious. The level of normal service was slowly reduced to the point that a full service began to have a different meaning to the consultant from the client.

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The right design team will save its fee many times over during the lifetime of the project because of the benefits it has incorporated into the management and design process. Any short-term gains that focus purely on competitive fee-tendering could prove disastrous in the longer term through ill-conceived design and management resulting in significant increase in project cost.

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Madam President, I do believe Treasury have the procedures in place and, in actual fact, that this motion by the Hon. Member for Onchan was unnecessary.

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The President: The Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Madam President.

A very important, very interesting debate and I hope my contribution will add to that.

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The first point to say is I wanted to thank Treasury and indeed all other Departments for having invited me in as a new Member. I appreciate both the departmental Members and the Minister having given me a chance to get to know the Audit Committee and the Value For Money Committee and the work of the Treasury departments in this area.

The second thing to say is that it is... and this motion should be seen as part of this process... There is definitely a process going on, as the Treasury Minister described it, of broadening and professionalising procurement and contract management. So, for instance, perhaps sadly – and I
1510 am declaring an interest here – I actually follow Procurement Services' Twitter feed now, which has just started and they have only tweeted 17 times. So that is how quickly things are changing. Prior information notices and calls for expressions of interest, in line with World Bank principles, are all over the page, where they were not a few years ago.

I have actually been looking at the notification of tender results and using them in various
1515 quarters for a couple of years, and until perhaps a few weeks ago, no more – I do not check it every day, but recently it went from having two entries to 13 pages of entry, and perhaps it was this debate that caused that, (**A Member:** Hear, hear.) and that is a wonderful thing because now we can see who was shortlisted, what the scoring spread was, and we can have the World Bank principles applied about how the process is getting better – and that must be for the good.

But when I look at this scoring spread... We talk about competitive tendering, but what the
1520 scoring spread says is that at the moment there is a huge range, which in the World Bank perhaps they would be suspicious of because they would expect that as it broadened and professionalised you would end up tending back towards the fair price. And so we have got a very good, I am sure – and I believe it myself – centralising process, professionalising process
1525 going on at the moment, and eventually that will be internalised in other places, in the Departments, outside the Departments, and we will end up with a... and I have got to say the Hon. Member of the Legislative Council, Mr Turner, summarised it brilliantly. His speech was persuasive: the right balance between the principles and the bureaucracy; the right balance between having rules and knowing when you have to vary the rules because of specific
1530 purposes, which are all covered in the World Bank principles.

We do still have mistakes. For two years this was my life, and recently the Treasury Minister had to issue this public statement that there was no transparency or competition in the
1535 procurement process, the construction costs were too high, the land cost was too high, the land was not conveyed properly, the contract arrangements needed amending and the contract had been structured incorrectly, due diligence was not evidenced for the potential developer, and so on and so on – and that was about a public organisation that has a gross expenditure of £30 million, more than some Departments in this Government.

Moreover, we have different approaches to asking us for money in this Court. There is the
1540 DCCL approach that gets money from us and then it is worked out later what they are going to do with it. In terms of the ticketing system for the buses, we passed it subject to Treasury looking at it later on. Then there is the Department of Education approach, where they have already signed the deal practically, subject to Tynwald approval, and even when good ideas come up, they cannot actually be included in the project, as we had with the Isle of Man College situation.

Even if we look at our own Departments, there are lots of excellent parts of the housing
1545 investigation, and one of those is that for large capital projects the recommendation is that there is market testing of a wider range of consultancies, because the cost seemed to be 40% too expensive. I know that is work in progress, but we need to note that is work in progress as the situation is better. Likewise with the recommendation of a framework agreement.

In summary, I will be voting for this motion because there is nothing wrong with this motion
1550 here. We have moved on from the past. Everybody has recognised in this Court that there have been problems with the Manx Government in terms of various aspects that have been alluded to, but we are going in the right direction, everybody seems to agree.

Why is it wrong to consider the World Bank systems of procurement, even if it is found they
1555 are inappropriate? It is not our job as Tynwald, as a parliament, to be actually defending everything we have done. It is our job to be protecting taxpayers' interests and protecting the public interest, so I can see nothing wrong with this motion as it appears on the paper and I am proud to be voting for it.

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

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Mr Cannan: Thank you, Madam President.

Some of the comments have been extremely interesting so far.

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If I can just deal, firstly, with the motion – and speaking, obviously, as Chairman of the Public Accounts Committee, the first thing I think I want to say is that procurement, naturally, in our job plays an integral role, in that normally when we investigate matters of public spending we find that somewhere involved in that there is a process or procurement process – whether or not that has been officially through Treasury, or whether it has been led by the Department – but it has failed in some way.

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The other thing that I want to say is that, despite the fact that you can put in as many rules and regulations as you want, even with all the best rules and regulations things can fail, and they can fail primarily because of a failure within the management or a systematic failure within the system that allows management to effectively dictate matters so that they end up with a failure in some way in terms of project management.

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Just in terms of the requirement for the PAC to investigate the World Bank systems, I think we have heard from the Treasury Minister, backed up by his colleague in the Legislative Council, about how procurement has moved and aligned itself more closely with the World Bank systems, and I think from a Public Accounts Committee view it would be fair to say that we do recognise that there has been a focus on procurement and that Treasury have tried to professionalise procurement and move it forward to suit the circumstances.

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So it might be helpful in that respect if the mover of the motion were to perhaps highlight to the Public Accounts Committee, were his motion to fail today, where exactly he sees there being fundamental differences that the Public Accounts Committee could look at, in terms of trying to bring a continuous improvement process to procurement.

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I think that the Court has to accept that procurement is one of those areas that does need to be looked at as continuous improvement. I think there will always be, within an organisation as big as the public sector, areas that can be improved when it comes to Government spending and how Government spends its money, and therefore I think that each time the Public Accounts Committee goes to look at an event... and normally we look with hindsight, but those recommendations obviously are then taken forward as part of that continuous improvement process.

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So, in terms of the motion, where it says to seek ‘ways of developing more effective practices and procedures’, I think largely we are already doing that. I am pleased that the Economic Policy Review Committee Chairman has already outlined the fact that it is being looked at. The matter is also being discussed at the Public Accounts Committee, where the Chairman sits and contributes; and once the Economic Policy Review has sat down and fully gone through and examined all matters, then the Public Accounts Committee will discuss that in the near future, in the coming months – certainly before the end of this legislative year – and if there are matters arising that need to be broadened out from a Public Accounts Committee viewpoint, I am sure that we will be taking an interest.

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Obviously, despite the reassuring words from the Treasury, there was an interesting contribution from Mr Turner, who highlighted some of the cons with the current system. I think there *are* issues, and certainly – speaking now on a personal level as a constituency MHK – I feel there are potentially issues with the current system that do need to be investigated, and I think it is certainly not a bed of roses.

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I think there are a couple of examples recently, particularly with the food tendering in relation to the schools and the impact that has had... I think is a very clear issue.

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I think that recently the award – and I stand to be corrected on this, but the award of the contract to the firm that have come across from the UK to deal with the larch disease in the trees, which appears not to have gone out to local suppliers (**A Member:** Couldn’t do it.) to at least have asked them whether they were in a position to supply the specialist equipment,

appears to be wrong. I stand to be corrected (**A Member:** Will be.) if indeed it has been put out for advertisement and local suppliers contacted, but there is one company in my constituency who deny having been contacted at all and potentially may have had the expertise to have put together at least a proposal for consideration.

1615 I heard in a Select Committee meeting of an issue where Manx schoolchildren were not receiving Manx milk; but again I understand that may have been corrected since that statement was made, but that is another issue that I think needs to be investigated when the Policy Review Committee discusses this matter in further detail.

1620 Indeed, I think it was pleasing to hear the Treasury Minister talk about professionalising Government activities. I think that is always a good message, but again I am aware of an issue where a supplier received a letter on one day, telling them they had been awarded a contract, and yet received a letter the following day to tell them that actually, due to other circumstances, that letter was no longer... void and that matters were back up in the air and they would write again once they had further information. That may well have been an unfortunate set of
1625 circumstances, but from the supplier's perspective it is not particularly professional.

So I think there are matters to take forward here.

I will not be supporting the motion as it stands at present because, as I have explained, I think the mover may well be better off writing to the Public Accounts Committee in the first instance and defining exactly where he thinks there are failings and how those failings could be better
1630 addressed by looking at some of the World Bank systems. Obviously that needs to be balanced on the opposite view by the view from Treasury that they are already aligning procurement and it is already well aligned with the World Bank.

Fundamentally, I will also be not supporting this on the basis that, as it stands at the moment, I think the Public Accounts Committee, together with the Policy Review Committees, generally speaking are looking at procurement on an ongoing basis. As I said, lots of issues to
1635 discuss, but I am hoping that, as we progress matters and the relationship between the Policy Review Committees and the Public Accounts Committees – which I think is working well at the moment – continues to flourish and develop, we will see a process of continuous improvement.

Thank you.

1640

A Member: Hear, hear.

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

1645 **Mr Quirk:** Thank you, Madam President.

Just some minor ones from me, really. I too will not be supporting the particular motion as it lays down, but I do have some concerns about procurement, although the Procurement department in Treasury has been in existence for a little while now. The concerns I would have had, if the motion was framed in... but the Scrutiny Committees and Public Accounts Committee
1650 should maybe look at for the future, and Treasury itself is saying about introducing early contractor involvement – is that giving us the savings we were anticipating? These framework agreements that exist within Government, are they actually giving us value for money?

Once again, I hope that... and it is not really supporting the motion, but it is really having a dig at the same time at Treasury and Procurement while I am on my feet... is saying expressions of
1655 interest.

My colleague behind me here, Mr Cannan, has just hit the nail on the head. As long as the advertisement comes in the paper for those who consider themselves worthy to tender for it... That is what I feel sometimes aggrieves the suppliers, contractors, people who supply goods and services to Government – whether it is food... right across the spectrum. If you put a document
1660 out there, or an advertisement in the paper, or you go to the Employers' Federation to say that work is engaged there...

1665 I would like to see some of these committees look at, say, whether anybody has experienced difficulty with not getting on a list. Quite rightly, there are conditions with expressions of interest – that you should be excluded at an early stage if you have not complied with your tax level or your NI contributions are not up to date. I would like to see the committees look at that at an early stage too, or even Public Accounts to look at that to see how those synergies could come together to bounce these organisations away from the tender before getting into it.

1670 **A Member:** It's already in.

1675 **Mr Quirk:** One of the other ones I would love for the Committee to have a look at, and which will prime me to write to the Public Accounts Committee – I do not write to them often, but I think I will start... is to say to them, when contracts are put together from Treasury and then we have subcontractor contracts from that, where we do have the difficult situation where the main contractor has the contract with Government, who has the money, and when the money is then paid to the main contractor to issue out to the subcontractors, I feel there is a disparity in there for not only the taxpayer but the people who expect to be paid from the main contractor. There is an expectation in there and it is in the contracts which are given out by the main contractor, which are negotiated by Treasury and it should be looked at by procurement. So I will be looking to that in the future, to say that if I do work for a main contractor, I expect to get my pound of flesh when the taxpayers' money comes down the chain.

1680 Thank you.

1685 **The President:** The Hon. Member of Council, Mr Butt.

Mr Butt: Thank you, Madam President.

I will be brief because Mr Cannan, the Member for Michael, has said a lot of what I was going to say.

1690 I speak as a Member of the Economic Scrutiny Committee – I was going to reinforce what Mr Singer said about the work that we are undertaking – but I will also speak as a former member of the Select Committee on the MEA.

1695 The mover's opening speech to move the motion largely was concerned about the MEA issue, and having been on that Committee for several years, he is right, there was a gross overspend on the power station and he is obviously still concerned that the power station cost too much money, as is probably the person who prepared his brief on this motion. (**A Member:** Yes.)

1700 But you must remember that there were faults with the management of the MEA. There were some faults with the Treasury, but the Treasury tried hard to grip the situation and they were stymied by a flawed legal decision – and that is where everything went wrong.

1705 They were also stymied in this particular case, the MEA, which is now history, by an element of deception, which is different to what is going on in the current situation. Deception was a big factor in that. So there is blame with Government and with Treasury, and with other Departments as well, but the main element of that was deception.

1710 The MEA situation is gone now. Because of what happened there, the Treasury changed their procedures almost immediately, the Treasury now have different rules in place. As the Treasury Minister said, the motion now is in effect out of date because things have moved on. The MEA structure itself has changed because of that. So the lesson... and I know it is a bit of a cliché to say lessons have been learned, but lessons certainly were learned over the MEA – but please bear in mind that a lot of that was down to a flawed legal decision and deception by the people who were running the project.

Going back to the Committee who are looking into the procurement situation, we have had examples of where procurement has not been of the top class, where money has not been saved in situations, and I would just like to reassure the Court that, as Mr Singer, the Deputy

1715 Speaker said, we are looking at these issues, we are inviting applications from people and we are going to review the situation in a few months. So as far as the motion is concerned, I feel there is no need for it to go to PAC. I am quite confident that, in Mr Singer's chairmanship, we will deal with the matter that the mover is trying to address.

1720 **The President:** The Hon. Member of Council, Mr Downie.

Mr Downie: Thank you, Madam President.

I too will be brief. I think the contribution that was made by the Hon. Member for Michael, Mr Cannan, was very good, very balanced.

1725 You have just heard from my colleague, Mr Butt, who, in fairness, has been involved in lots of these issues for a number of years and does now have a lot of experience in those areas.

1730 I do not want to get involved with the aspects of construction and so forth. I think what we are trying to do here is to provide a system that gives us better value for money; and as you heard from the Treasury Minister, there have been savings of over £2½ million pounds in recent years and a projected saving of £1.6 million, and that is largely coming from the fact that we are getting better value from competitive tendering, but at the same time we are trying to make things attractive here to local small businesses and allow them to come in and compete, and that is why there have been limits put into the system on purpose.

1735 I think the one thing that we should get over today is that if you do hear of issues, by all means come and speak to the Minister, Mr Braidwood or myself. I have an element of my job involved in procurement. But most of all, those of you who are in Departments, and where you are saying there are problems, most of the problems that come from the Departments are because the officers are not doing the job properly. They come to Procurement and they drop this mess on the floor and say, 'Will you provide me with one of these?' and leave Procurement to virtually do all the work. That is not what it is about. A lot of that work has to be done by the Departments themselves, and they have to accept some responsibility before the process starts.

1740 Mr Karran: it is an old hobby horse of his. Great, he still takes an interest in these things, he tries to keep us on our toes – but since we have had the Scrutiny Committees, I think things have improved considerably. There is a lot more interest. People are much sharper about the way they go about their business, and that is good; but did we really need the motion today before the Court?

1745 There is nothing to stop any Member writing to the PAC, and in fact if any Member has any issue regarding procurement or the areas of Treasury I am involved in, as I did with the Hon. Member for West Douglas, Mr Thomas... invite him in and show how the thing works, and then perhaps he will have a better understanding of some of the issues that we have to deal with.

1750 There are other areas that are sources of mystery to some Members: things like FD8 waivers and so on; and then because you allow somebody to step out of the box and they then let you down, it all becomes Treasury's fault for not delivering. They are the little quirky things you have to be aware of as well.

1755 When I finish, one of the things I will make reference to, which I am annoyed about... We have heard that some of the tender processes have alleviated certain people out of the system. For example, the Creamery now does not supply milk to some of the bigger users on the Island. The reason for that, Hon. Members, is that, as I understand it, there is a fixed price for milk, and you could alleviate that by bringing an Order to Tynwald to allow them to compete for certain Government contracts. It is not in my camp; it is in somebody else's camp. The message has gone out, so...

1760 They are the little things that we need to know about. Feed into the system. We want to be leaner, more efficient, better value for money, and have this better way of going about things.

Thank you, Madam President.

1765 **The President:** The mover to reply.

Mr Karran: Is it one o'clock?

The President: Would you prefer to do it after lunch? (**Several Members:** Hear, hear.)

1770 Hon. Members, the Court will now adjourn. The adjournment will be until 2.30 p.m. At that point, Mr Karran will reply to the motion.

The Court adjourned at 1.00 p.m. and resumed its sitting at 2.30 p.m.

**Improvements in the tendering process –
Debate concluded –
Motion lost**

The President: Please be seated, Hon. Members.

I call on the Hon. Member, Mr Karran, to reply to the motion at Item 36.

1775 **Mr Karran:** Eaghtyrane, if only the garden was so rosy as far as the Treasury Minister is concerned.

I do not need any lectures about what we have done in the past. I have more likely been in the front and had the same diatribe of abuse and trying to distort the realities of what we are trying to achieve here with this motion today.

1780 It is funny that he talks about these issues and we talk about gardens. You have only got to see today from this debate how people have had concerns about the tendering process as far as the tree-felling situation. We had the Member for West Douglas raise the issue of the procurement notes – and I have managed to get them – and how they suddenly resurrected themselves from the dead... that suddenly we got the notification of tender resolved so quickly.

1785 We do not need debates in this Court – just have a nice little chat. Nice little chats were what gave us most of the white elephants we have got today, because things were not done openly and transparently. I know it has improved out of all recognition.

1790 He talks about, 'Well, anyone can complain,' but I will really talk about that later. But the real worry is... and whilst the Government is 80% of the economic activity as far as the Government spend, as far as the construction industry is concerned, I would not get on the wrong side of the civil servants in the Treasury as far as that issue is concerned, if it is going to take away 80% of your occupation as far as the business base is concerned.

1795 Let me tell you something, Eaghtyrane: as far as the project as far as the old water treatment site is concerned, what concerns me is that, as the former Minister for Education, I was totally and utterly opposed to it. I believed that this would be seen as a missed opportunity. We have a landlocked site there. I understand the issues about the piping. I remember when we were dealing with the piping over the 10 or 11 years that I was Chairman of the Water Authority and how we changed things, but the point was that that was a wasted opportunity, driven by professional interests and not the right interests of education as far as that development is concerned. And yes – do not misunderstand me – the issue of what DED wanted as far as the engineering side needed to be addressed, but that project will come back to haunt and almost certainly you will find that it will have a long-reaching effect as far as the future is concerned, as far as the development of that site is concerned. And may I say a number of the staff were openly hesitant about this project, but they could trust me about saying what needs to be said, because people are afraid to say things. What I would say also is the fact that here we have,
1800 'Well, there is a duty by the staff,' but who has most to lose by these things being looked at by the very people who are supposed to be policing these things? The cost to the taxpayer over the years has been great.
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1810 As far as the issues of the past, I remember – and you can see in *Hansard* – where we had the situation where one set of professional fees for architects, quantity surveyors and the structural engineers... We had 40%, 50% and 60% of all that business going to one in each speciality... other firms.

1815 So I know about what has been done in the past. I know about the absurdities in the past. The absurdities in the past just simply could not be allowed for now. We have not got the luxury of the biggest economic boom. Like paying £1 million to refurbish a police station – from an office development to a police station; there was not even a brick on the site.

It just is incredible to get a lecture from the Minister for the Treasury about how we do not need to worry. Well, I have spent 20-odd years listening to ‘We don’t need to worry.’

1820 I am glad to hear from the Hon. Member for Ramsey, Mr Singer, that his Scrutiny Committee is looking at this, and I think, if nothing else, this will be a great aid to encourage people to come forward, if they will, to actually do something.

Mr Gawne: what a difference being a Minister makes. We have a situation of back in Africa. Well, let’s be honest about it – (*Interjection by Mr Gawne*) Back in Africa. What worries me is we have come a long way in 30 years, and I am not denying that things in Africa are totally different, but the point is that many of the fundamental issues we are still not doing.

1825 Mr Turner: it is nice to see a bit of independence in this parliamentary review and not trying to rewrite the procurement problems that there are. There are problems, and it is not just in Education. It is nice to see the voice of reason up in the Court as far as somebody being prepared to break from the party ranks.

The fact is you have got in the David Tolson report on procurement review of July 2013:

‘DSC has set up a Kitchen Replacement Framework and we have undertaken a review of the Framework documents. The contract price was £1,199,473 for 150 kitchens at a rate of £7,997 excluding fees. The average material price for a Magnet kitchen is £814. When fees and contingency are added the cost per property is £8,958.’

1830 The situation is that similar contracts would have been between 27% and 41% less.

1835 So, if things are so rosy, are so right... We had my colleague talk about the four issues that have been discussed by the Public Accounts Committee since the General Election. The problem is... and I think the problem we have got to face and the point that the Hon. Member of Council, who was a businessman, understands is that we have got to address that the pound in your personal pocket should be as valuable as the pound that is outside it.

1840 The problem we have got is not just a disproportionate problem of trying to get ordinary people to complain at the fact that we have got a 50%, roughly, spending power of the Manx economy when we allow for one in four, if not one in three people need some sort of Government money for their job; the fact is that it is 80%, as far as the construction industry is concerned, that is public money. Who in their right mind is going to say things are wrong?

1845 It was interesting to see about the points that Mr Braidwood raised about how many years... as far as capital projects are concerned. I am afraid that this Court needs to be outside the cocoon of this mutual admiration society in this Court and the reality outside this Court, and I just think that some of you have got to get away from the ends justify the means. I do not want to win on the basis that I am wrong. I want to win when I am right, and I just think, when I listen to the different parts from the executive, they will justify anything as far as these issues are concerned.

I thank the support from the Member for West Douglas. Obviously, he understands the issues are far from perfect.

1850 The fact is that what we have got to do is we have got to be prepared to look at how we are going to go into the future. I do not think that by just brushing this under the carpet and letting it slide away is the answer. If there was so much that was right with your proposal, then you should be confident enough to support this amendment and support the Public Accounts Committee looking at it. If it is so perfect, what are you frightened of? What are you and the

1855 Hon. Member for Ayre frightened of, as far as that is concerned, Mr Braidwood? The reality is that the fact is you are worried that there might be something that will come back to bite you. Well, it will be far better to bite us on a vanity level than on a fiscal level at a later date. Far too often we have seen that.

I was disappointed, because I was was led to believe that there were going to be some amendments about the Procurement Reform Bill in Scotland to be added to this proposal, but unfortunately it has not been done. **(Mr Quirk: Mised.)**

1860 The point is that the Hon. Member for Onchan, as usual, says he has got concerns about the procurement and the way things are worked out in the agreements and he is going to love to write a letter, but there is not any problem and he will not be supporting the motion. This is the schizophrenic sort of way that –

1865 **Mr Quirk:** Madam President, point of order. I think the Member is dreaming of something about Members and their comments.

1870 **The President:** There is no point of order.

Mr Henderson: Could he stop using defamatory terms to –

Several Members: Hear, hear.

1875 **Mr Karran:** Alright, I will withdraw the ‘schizophrenic’. **(Mr Henderson: Yes.)** Talks one way and votes another: that is the point. I have seen that as an art form in this Hon. Court. An art form. That is not –

1880 **Mr Quirk:** Madam President, a point of order –

The President: You have to quote the number.

Mr Quirk: I have already written the letter.

1885 **The President:** Hon. Members –

Mr Karran: The point is, Eaghtyrane, the fact that the Member says there is a problem with procurement but he is going to vote with the Government. ‘Oh, there is a problem, yes – we will write a letter, but we are not going to actually ask for any independent scrutiny.’ That is the level *(Interjection by Mr Quirk)* in this Hon. Chamber that some of us have been fighting for decades to improve.

1895 **Mr Quirk:** And you’re not out of the trench yet!

Mr Karran: I am pushed further into the trench with people like you, sir! *(Interjections)*

The point is, the issue of Mr Butt... Yes, I understand the issues of the MEA. The reason I used the MEA was because it was all crystal clear how, in that position, the report was done. We will have to have another report on other issues, such as IRIS again, because the Public Accounts Committee’s Report needs to be re-examined as far as that is concerned.

1900 You talk about ‘it has all been sorted out,’ but it has not been sorted out, as the Member for Ayre talks about. ‘Oh, we have got all our procedures done alright.’ You are sitting next to a man who sits on the Education Department, expressing concern about the procurement system. Either the situation is the Hon. Member for Ayre is deluding himself in the position of Treasury Minister, or he is not listening to ordinary Members. Even the Member for Onchan here,

1905

Mr Quirk, is concerned about the procurement issue: 'There is no problem, we don't need to look at it, it's alright.'

1910 **Mr Quirk:** Sorry, Madam President, it is a real point of order that the Member is putting things in my mouth that I did not say.

The President: Take your seat, Hon. Member.

1915 **Mr Quirk:** He has to be corrected, Madam President.

The President: Mr Karran has the floor.

1920 **Mr Karran:** The point that I was saying was – if he does not understand what I am saying – he says there is a problem with the procurement system and there are letters that need to be written, but he supports the Government and we will not have an investigation. (*Interjection by Mr Quirk*) If you cannot understand it at that level, I will give up. (**Several Members:** Hear, hear.) Yes, I know that would delight this Court, (**A Member:** Vote!) as one of the few people who holds you to any account! (*Interjection by Mr Corkish*)

1925 The situation is, Eaghtyrane – Mr Butt is right – things have changed as far as the MEA is concerned, and I totally agree with that. I just do not believe it would be –

Mr Butt: Madam President, I did say there were problems with procurement and we are looking at it on our Committee. I did not say there were no problems.

Thank you.

1930

Mr Karran: Thank you for that support, as far as that situation.

I only used that because it was well documented and there was no way even the most blind in this Court could try and reorganise the facts as far as that is concerned after the excellent report that came out about it.

1935 I have to say that the Member for Michael on the Public Accounts Committee... I am a little bit disappointed, but I accept that the situation is that we are not going to get this today, but it is nice to know that it has had an airing, and like we say, we found out that the notifications of tender results have suddenly resurrected themselves into activity since this was proposed. It is interesting to see that the procurement notes of July 2013, as far as the DSC is concerned and
1940 the kitchen units – something that I was talking in this place the other day about, the absurdity of costs that are being then lumped onto the poor rent payers in local authority houses for bad management and bad capital value...

These things are not things that happened over three years ago. They have happened since the last General Election, and the thing is the Treasury Minister will win the vote once again in
1945 this Court, but he will lose the argument outside this Court with the general public, because the days of plenty are over and there will be a day when people will be saying that they want to see a parliamentary assembly active, proactive and holding the executive to account, instead of everybody walking hand in hand down the road of trying to say that things are perfect in the garden.

1950 I will now just say, Eaghtyrane, this proposal was supposed to be an aid, to help executive Government, to give some fresh eyes in order to look at a major thing. Yes, the capital projects could not get any worse than they used to be – we understand that – but the fact is you are losing a missed opportunity to do what needs to be done by this Hon. Court; and if it was so perfect, if there is nothing to be seen, why is the Treasury Minister and his capital projects
1955 chairman so much against it?

It might mean nothing in here, but it certainly means a lot outside. We will not win the vote, but we will win the argument, and hopefully this will be a catalyst to try and get a better, effective view as far as the tendering process is concerned.

1960 **The President:** The motion before the Court, Hon. Members, is printed at Item 36 on your Order Papers. 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 4, Noes 17

FOR

Mr Karran
Mrs Beecroft
Mrs Cannell
Mr Thomas

AGAINST

Mr Quirk
Mr Hall
Mr Ronan
Mr Crookall
Mr Anderson
Mr Quayle
Mr Teare
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mr Shimmin
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne
The Deputy Speaker

1965

The Deputy Speaker: Madam President, the vote in the Keys is 4 for, and 17 against.

In the Council – Ayes 1, Noes 6

FOR

Mr Turner

AGAINST

Mr Corkish
Mr Crowe
The Lord Bishop
Mr Butt
Mr Braidwood
Mr Coleman

The President: In the Council, 1 vote for and 6 against. The motion therefore fails to carry.

**37. Food production –
Amended motion carried**

The Hon. Member for Castletown (Mr Ronan) to move:

That Tynwald notes that local food production is vital to the future sustainability of the Isle of Man; and therefore requests the Minister of the Department of Environment, Food and Agriculture to bring forward within six months a strategy and action plan to achieve at least a 7% share of GDP by 2025, from locally grown, sourced, and processed foods.

1970 **The President:** We turn now to Item 37. I call on the Hon. Member for Castletown, Mr Ronan.

Mr Ronan: Thank you, Madam President.

1975 One of the key drivers for me, as an MHK with a young family, is to create a future for the Island's young people that allows them to enjoy our Island and the same excellent quality of life that we have enjoyed for the last 20 years.

I see localism and sustainability as a critical policy area, but underpinning this is the fact that, as elected representatives, at the very least we must be able to provide food and shelter for our people.

1980 Localism must be at the heart of the future. The Isle of Man needs to be local and international in equal measure – open for international business, but looking after its own too.

1985 If anyone was under the misapprehension that this was just relevant to the Isle of Man, the UK's Environment Minister, Owen Paterson, recently launched a high-profile appeal to UK residents to buy British and cut down on foreign imports. The UK is estimated to import 40% of its food, and Owen Paterson called for this to be reduced by a quarter, including £8 billion of fruit and vegetables.

Ernst & Young's Economic Research Report on the Island's economy in May 2012 identifies that agriculture, forestry and fishing currently contribute 1% to GDP, whilst the Island's latest national income figures show an overall contribution level from locally produced food of just under 2%.

1990 As an Island with 90% of current food consumption imported, we are over-reliant on our supply-chain freight links with the UK, and as we saw with the recent pre-Christmas weather, with 16 sailings cancelled in close succession due to storms, we cannot always expect these to be maintained.

1995 As an extreme example of where we stand today on food production, if we could only source Manx food and all the food currently produced by the Island were put in store on 1st January to feed our people, we would run out completely in mid-February.

2000 In my motion, I have set down a challenging, but what I believe to be attainable, target: that food production equates to 7% of the Isle of Man's GDP by 2025. That may appear to be a long way off, but I believe that the steps that need to be taken to get there are intrinsically ones that must be identified and begun immediately – and to achieve it, we must establish a definitive strategy, a long-term plan that will enable us to achieve our collective objective.

2005 If we succeed with our local food production motion today, we will not only achieve much greater food security for our Island, but also unlock a new revenue stream with a flourishing worldwide export market that contributes significantly to the Island's economy and incremental GDP.

With widely predicted long-term worldwide food shortages driven by population growth and global warming, we will have established a more robust, balanced industry, less susceptible to the vagaries and variances of worldwide economies, drought, famine and war.

2010 What I want to achieve by tabling this motion today is a clear commitment to a new and growing food production industry on the Island. I admit that I do not have all the answers as to how it can be achieved, but I look at the massive strides made by near neighbours in Wales and Northern Ireland in the last five years in niche and quality food markets, and know that with strong political will, modern production techniques, a high level of food security, DED-style initiatives and market assistance, and entrepreneurial ambition, we can create a food industry that will attract new investment and young entrepreneurs to work in it and an interesting working environment for youngsters in the future.

2020 Figures released by Meat Promotion Wales in July 2012 revealed that export trade for Welsh sheep and beef products smashed all previous records, reaching nearly £¼ billion pounds, with exports doubling in that 12-month period to countries as far afield as Scandinavia, Canada, China, Russia, and even the United States of America.

2025 Northern Ireland's Agri-Food Strategy Board last year drew up a Going for Growth strategy, focused on creating a sustainable, profitable and integrated agri-food supply chain. Northern Ireland's very ambitious targets between now and 2020 include increasing current industry turnover by 60% to £7 billion, growing employment by a further 15%, and targeting 75% growth in export sales to £4.5 billion. Their success will be achieved by opening up export markets for two-thirds of their food production – a clear indicator of how strategy needs to be focused.

2030 Looking further afield, New Zealand – another small nation and relatively small economy in world terms – has also chosen the export route. In doing so, it has re-established itself as a world leader in dairy and lamb exports. Proximity to the rapidly urbanising middle-class prosperous economies of south-east Asia and China has fuelled their agriculture export industry, so much so that agriculture accounts for 70% of all exports. The New Zealand government has set the objective to raise export share of GDP from 30% to 40% GDP by 2025. As a result, agriculture – the largest export sector at 12% of GDP – has just embarked on an ambitious programme, called Export Double, to double exports from 2012 levels by 2025. The objective's achievement will require a doubling of the growth rate achieved in the 1990-2012 period.

2040 What I hope to illustrate with these real live examples of the agriculture policies in place in similar smaller jurisdictions is that they are all ambitious and challenging. However, they are all succeeding. Growing agri-food business in the developed world is an idea whose time has come. To quote a much-used political phrase, we are pushing at an open door. We just need to get our own strategy and action in place, ensure strong political support, build on established business development relationships – and I have to say that from everything I have read to date, the growing Chinese middle class is a good early target for quality food exports.

2045 We have Tax Information Exchange Agreements in place with so many food-importing countries already that we now have an 'in' to discuss the food business development.

2050 As with any developing markets, potential and threat co-exist. Looking at four key areas of the Island's existing food production – bread, meat, fish and dairy – we need to balance opportunity against known and yet-to-be-identified risk.

2055 As a share of Island GDP, food production is now below 2% in a cut-throat price-led world: the food supply industry. In food retailing on the Island, UK multiples swallow up over 50% of food spend, with very little of it on local produce. Allied to the continued decline in Island trade outlets, Manx farmers, like UK farmers, have been squeezed relentlessly, especially on price, due to the lack of economies of scale. Manx food producers are at a disadvantage on cost grounds, with potential selling prices fixed by powerful and world food retailers for mass-market: food production is basically squeezed at both ends.

2060 Government efforts to protect Island producers have been hampered over time by international and especially EU regulations. Beef production recently lost its market protection, opening up the doors to international producers, and the knock-on effect has been the switching away from local meat to worldwide-sourced meat in the UK-operated supermarkets on the Island. We have seen lots of New Zealand lamb in Douglas stores recently, for example.

2065 From my observations, the distribution channel for Manx food is far too narrow at present and far too reliant on Island-based businesses. This in itself presents a risk.

2070 In the context of this motion, it is appropriate to say that too many of our eggs are currently in one basket. The performance of Manx food currently is almost totally reliant on the continued performance of the Island's economy. We need to reduce that reliance. The whole food retail landscape is changing so fast that many current bricks-and-mortar models could be obsolete within a few years.

2075 This is why we need to be more forward-looking, consider the *world* as our market and utilise technology to achieve it. So, as the first action, targeting on-Island UK multiples to sell more Manx food must be a priority for both increased on-Island distribution as well as potential further niche exports. I am aware that the Minister for DEFA is already tackling this issue, and of course we wish him every success with that.

2075 The horse meat scandal last year brought into sharp focus the relationship between price and quality in meat sales. The NFU in the UK believes that the challenge for food marketing in Britain is to make retail prices realistic and sustainable, as opposed to the previous agriculture funding model where the subsidy to the industry has been used to provide cheap food for consumers, rather than re-investment in the industry and its future.

2080 I am pleased that food production has rightly been identified in the Island's economic Vision 2020 draft report in the established sector section, alongside financial services and emerging sectors, but I am concerned that no figures for additional jobs, additional GDP or additional Government income have been estimated. I believe that this motion will address that anomaly, and will ensure a firm commitment to developing the sector backed by metrics, market information and measurables.

2085 Later in the report, the importance of a distinctive local food and drink culture has been identified, but it also recognises that we are currently operating under the Agricultural Marketing Act, which is:

'to provide for the regulation and marketing of agricultural products, for the regulation of the importation and exportation of agricultural products, and for purposes connected therewith.'

– which was introduced in 1934. If this is not an indication that we need some fresh thinking, then I am not sure what is.

Agri-food is a consumer-facing industry, and we must be led by what consumers want – there is nothing new in that. Every farm and food producer on the Isle of Man is a business today that supplies a market, and those operating these businesses have a responsibility to substantially increase the productive capacity of our countryside, whilst maintaining its beauty and landscape.

2090 My intention in bringing this motion to Tynwald today is to give the agri-food industry on the Island a positive future by seeking strong and unequivocal leadership and support to create a new sustainable food production industry for the long term, with customers on and off Island.

2095 The outcome I seek from today is to create certainty for the industry, investors and new entrants, backed by a strong political mandate to the Minister and his team at DEFA to support the industry in driving through the changes necessary.

The time for talking, caution and arguing has passed. We need to be bold, challenging and focused. The world is changing more rapidly than at any time in my life, and we on the Island must be prepared to change at that rapid and challenging pace if we are to continue to maximise the opportunity that future trends and world markets indicate to us.

2100 I therefore seek your strong support for this motion today and commend it to this Hon. Court.

Thank you, Madam President.

2105 **The President:** The Hon. Member for Rushen, Mr Gawne.

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

I rise to second this motion, and in doing so I would wish to applaud the Hon. Member for Castletown in bringing it forward as he is doing today.

2110 I do not agree with everything that he has had to say. There are a few areas where I think a little bit more research might have assisted in terms of his presentation – not least the little mention of the 1934 Marketing Act. There is an awful lot of quite radical revision that has taken place to that Act and it does not really bear much semblance to the original Act. But there are still areas in regard to that that need to be reformed, and I would agree with that.

2115 The other thing that I would have to mention is that we do have a strategy in place and we are working to that strategy.

I do applaud the Hon. Member for Castletown in bringing forward this motion, because I think that possibly our focus has been, particularly in relation to agriculture, far too introverted,

2120 looking at the structure of the industry and trying to get that right; and possibly what we have
been missing – and this is what this motion brings – is that ambitious target and actually giving
direction to the food sector in the Isle of Man and saying that this is the way to go. We *should*
2125 have ambition: we should not be just trying to restructure ourselves to make sure that we have
some kind of future; we should actually be far more ambitious than that, and saying that actually
it is not just about surviving – this is about having something really positive and a massive
contribution to make to not only the social and rural life of the Isle of Man, but also the
economic output of the Island.

I certainly do applaud the Hon. Member for Castletown for bringing this forward.

2130 According to the Irish Agriculture Minister, Simon Coveney, agri-food is ‘on the brink of a
golden age’. We know that there is surging global demand for food products. This is being driven
by population growth and economic development. We are expecting a population of something
in the region of nine billion by 2050. The existing population is having increasing aspiration, as
we see economic growth, particularly in developing countries. So the United Nations is
recommending that the countries of the world increase their food production by 60% by 2050.
That is a *big* target, and we *can* introduce our food production by 60%.

2135 The only area I think where I would have some concern in relation to this motion is 7% of
GDP: that would be 300% growth, and that is quite big, really. The research I have done – and I
am sure that the hon. mover will agree with this – does indicate that there are not very many
countries in the world achieving that level of growth.

2140 New Zealand was mentioned. New Zealand is looking to have 7.4% growth over the next four
years. They are already well set up for growing their food sector, but they are only managing a
relatively small percentage growth compared with what this target would set for us. But I am
sure we can come onto that.

2145 Of course, the other side of this, which I may come on to as I go through this speech, is that
we are setting a percentage of GDP, and of course if most of the other significant sectors in the
Isle of Man collapsed, we could reach 10% or 20% of agriculture or food contribution to GDP
overnight without actually doing anything – and possibly even, reducing the size of our food
sector, we could double the target that has been set for us.

2150 So I think we just have to be a little bit careful in terms of what it is we are trying to achieve,
and I think the countries that have been mentioned by the hon. mover have all picked actual
growth in real figures in terms of agriculture and fisheries, or food output, as opposed to a
percentage of GDP as their target. So they are looking at growing their sector and they are
saying, ‘If it is this many millions or billions at the moment, then we will add an extra 60% onto
that.’ That is a very meaningful target, whereas you can achieve growth in GDP contribution
without actually achieving anything in terms of your sector. So I think we would have to maybe
have a look at that.

2155 Other areas that we know of... In terms of the Republic of Ireland, their Food Harvest 2020
executive summary document is targeting a 33% increase in primary production, 40% in value-
added and 42% in exports. It is interesting just to see a little bit of what they have to say in their
vision – everyone has to have a vision these days:

‘Food Harvest 2020 foresees a sector that acts “smartly” to achieve a competitive critical mass in the international marketplace and targets those consumers in key markets who recognise and reward Ireland’s food producers for their ‘green’ output. The Committee believes this will require:

The adoption of new technologies at primary producer level;
Developing new working relationships within the food production chain;
Piloting new product streams;
Targeting resources at new markets;
Enhancing levels of productivity and competitiveness; and,
Developing production and management skills across the sector.’

2160 There are several examples of this 2020 Food Harvest strategy that Ireland has got. There is another one for Northern Ireland – I have got them all here. I will not read them all out, you will be pleased to know, but I will mention some of them as we go through.

Northern Ireland has a document called ‘Going for Growth’. It is targeting 60% growth in its sector. Again, interestingly, the executive summary says:

‘Agri-Food is our most successful industry. It is now a major industry driving the local economy and contributing substantially to every area of Northern Ireland. Many of our biggest and most successful businesses are driving growth through sales outside Northern Ireland and helping to create employment throughout the region. In addition to larger businesses, Northern Ireland has a rapidly growing base of entrepreneurial, smaller and artisan enterprises, many of which have already won international awards for products combining outstanding taste, quality and innovation.’

2165 I think that one of the crucial things here is that Northern Ireland mentions the food sector as already one of its most successful industries, and it is looking to grow its market share as a result.

2170 What we have to be aware of is that we have lots of very successful industries in the Isle of Man, and if they grew substantially we could double the size of our food sector and actually find that we get a reduced GDP share. So again I think possibly we maybe need to have a look at that target, but I think, again, in principle, having a bold target is a good thing to do.

2175 Scotland: again, it does not actually have a big strategy document, but says on its website... and I am reading these things out because it gives you a feel for the sort of strategy that the Department has been working on, but due to various reasons we have not managed to achieve the December deadline that was set for us in the Agenda for Change document – but we are working on a similar food strategy in the Department:

‘Scotland is blessed with a fantastic larder of some of the best naturally healthy produce in the world.’

– not quite as good as the Isle of Man, I should say –

‘With a longstanding reputation for producing quality products and an envied flair for innovation, our food and drink companies should be exploiting the very values that our country stands for – beautiful unspoilt landscapes, fertile land and clean air. Our vision is to make Scotland internationally known as “A Land of Food and Drink” and grow our industry to £16.5 billion by 2017.’

And then they say:

‘It’s an ambitious goal...’

Sixty per cent growth is ambitious. So again, just thinking about targets, I think we need to be a little bit aware about what is and what is not ambitious.

2180 I should also say that I had the opportunity last week to discuss this motion with the Manx National Farmers’ Union in one of our regular update meetings that we have from time to time, and the Manx National Farmers’ Union... I know they have written, or I *think* they have written to all members, but certainly in the discussions we have had they are very supportive of the principle of this motion, and there should be no misunderstandings in terms of the Manx
2185 National Farmers’ Union’s position. They are very supportive that we should have ambitious targets for profitable sales growth in agriculture.

I think they are particularly concerned though that we do not set ourselves targets for production, because I think we have done in the past: we have said we are going to produce food, whether people want to buy it profitably or not. It is about profitable sales of food,
2190 growing a proper food sector – and the food sector is a *whole* sector. It is not just farmers or fishermen or retailers or wholesalers. The food sector is the *whole* sector, and I think we need very clearly to think about it in those ways.

2195 The area, of course, that I think the Hon. Member has not referred to too directly, but does give perhaps a little bit of optimism, is our fisheries sector. We have already seen massive growth in the fisheries sector – possibly even to the sort of scales that the ambitious 7% target would be looking for, so there is a little bit of optimism there. We have had significant growth in fisheries over the last 10 years, and over the next 10 years we do believe that, with the right investment – and we are not talking vast sums – and the right strategy, we could again double the size of our fisheries sector.

2200 So there is quite a lot we can do, and having been perhaps a little bit dismissive of the 7% target, I do believe that ambitious targets are something we should set ourselves. Across Government, sadly, we are prone to be cautious. We are prone to set ourselves *achievable* ambitious targets as opposed to *ambitious* ambitious targets. We are all, I suppose, guilty of that from time to time, so it is good to set yourself something that is really quite challenging. There are no prizes, in my view, for Departments or officers who manage to achieve 110% of their targets every year: that clearly shows, to me, that they have not been particularly ambitious in the targets they have set for themselves. So it is a good idea to have ambitious targets.

2210 I think it would be remiss of me not to mention some of the progress that we have been making – because I know there are siren voices who still believe that we are all doomed, that agriculture is on its knees and the whole food sector is finished. I, you would not be too surprised to learn, do not believe that – and I do not believe that because I actually talk to people in the food sector who are doing quite the opposite of that. They are not on their knees – they are doing well, they are innovating, they are coming up with excellent products.

2215 I know my apologies were passed on yesterday morning because I had to be elsewhere, and I am not going to go into too much detail about where I was, but –

A Member: Nice pictures!

Mr Gawne: Yes, I know.

2220 What I was actually doing was showing our royal visitor some of the fantastic food produce (**A Member:** Hear, hear.) that we are managing to produce at the moment on the Island – and there are some really wonderful products out there.

2225 We have the Apple Orphanage, which has a fantastic range of apple juices and rhubarb juice – I love that rhubarb juice they are producing; we have the rosé veal producers, who have found a niche in the market and are moving into it; and we have the rapeseed oil. We have got quite a range of innovative products out there – loads of innovation going on in the fisheries sector as well.

2230 These are good-news stories for the Isle of Man. They are products we should be proud of, and I am sure we all are proud of, but often we seem to be too worried about the various concerns we have in terms of structural change, which has been necessary for a generation and is finally taking place.

2235 The pace of change, in terms of structural change, particularly in agriculture at the moment, I believe *is* revolutionary, and that is probably one of the reasons why we have so many concerned voices – because people do not like change in the Isle of Man, as we know, and certainly the pace at which we are trying to push through some of this change is alarming some people.

So I do support the motion.

2240 Yes, go on, I will mention a few others: we have got goat meat, milk and wool; we have got the PDO on queenies, smoked salmon and Manx bacon; I have mentioned the Apple Orphanage; I have mentioned Manx rosé veal; the Manx Cider Company; two new breweries; the work that Noa Bakehouse is doing; and mushrooms. And that is without all the conventional stuff like king scallops, crab, lobster, beef. I am making everybody hungry, I know, and apologies for that.

To pacify Mr Karran, I do appreciate that not everything in the garden is rosy. There are problems and there are things that we need to do, but I believe that if we support today setting

2245 ourselves an ambitious target for the food sector, we are assisting greatly not only my Department, but I think the whole food sector in raising its game and actually starting to look up, rather than looking down all the time – looking to see whether they are tripping themselves over with this bit of regulation, or that problem, or this financial pressure. Let's look up, let's look for a bit of vision. I think this motion gives us the vision that we need for the Manx food sector.

2250 Again, I praise the Hon. Member for coming to the Department and talking to us about this – and sticking to his guns on his targets, even though we would have suggested that perhaps a slightly less ambitious target would have been more appropriate.

I do support this. I do hope that Members will back the delivery of an ambitious target for the Manx food sector, and I am very happy to second.

2255

The President: The Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Madam President.

2260 I must say I was actually very surprised that Mr Ronan tabled this motion, even though in his letter to us he said it was because he was taking the opportunity to influence policy on topics that were key aspects in his manifesto. That is something I find very commendable, but I actually could not see that agriculture *was* a key aspect in his manifesto. In fact, it was part of a sentence that referred to manufacturing and tourism as well. I could not find anything specifically about agriculture or local food production in his manifesto. It does not mean I do not think that he is right to focus on it – I am delighted when people do.

2265 However, going back to his manifesto, I did find a whole paragraph extolling the virtues of zero-based budgeting, in which he concluded, 'I am confident that this will be one of the crucial factors in reducing expenditure' – which I think is a curious thing to say, considering he voted against my motion on that very issue. (**Several Members:** Oh, dear!) So I am not quite sure how much weight he places on things that are in his manifesto.

2270 However, I will leave the vagaries of Mr Ronan to one side and concentrate on an amendment to his motion, which I would ask the Clerk to circulate now. Thank you.

The amendment is really nothing more than a broadening out of the original motion to include a range of ambitious and appropriate targets for growth in the food sector.

2275 I agree, there is nothing wrong with giving the Department targets that are difficult to achieve, but I think that a *range* of targets will be needed if the Department is to have meaningful targets to aim for – and it is an exceptionally high target. It is the most ambitious of our UK counterparts. Scotland's target is set at an increase of 60% over what is currently being achieved, and they have to achieve that by 2020; whereas the target in this motion is to achieve 2280 7% of GDP by 2025, which is an increase of 350% on today's position.

I am sure that the Department will rise to that challenge, but we do have to be reasonable and give them a target that is achievable, and I believe that the amendment does that by broadening it out and giving more opportunity, and I hope that Members will support it.

I beg to move:

Leave out 'to achieve' and substitute 'which sets out a range of ambitious and appropriate targets for growth in the food sector, including a target of achieving'.

2285 **The President:** The Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Madam President.

2290 I am just a little bit confused by the amendment, because if the DEFA Minister is seconding Mr Ronan's motion and there is a Department Member coming up with an alternative, I wonder what is departmental policy. I have not had chance to read it, I am afraid, since it has only just come in as I have got to my feet.

Anyway, thank you, Madam President.

2295 Should this motion be successful, I would like to point out a few facts which I think Members should be aware of. It is not a criticism of Mr Ronan; it is just that in Mr Ronan's letter to Members I was surprised that he had used the 2010-11 National Income Report, not the most up-to-date 2011-12 figures, and I note that the GDP figures he quotes include forestry, which is obviously a second topic.

2300 They are very ambitious targets, and I think any target needs to be achievable. To be achievable, it needs to be meaningful. I would also point out that our neighbouring jurisdictions and competitors are all pursuing growth of the food and drink sector, but in terms of pounds, shillings and pence, *not* GDP growth, and there is a commitment to significant Government investment.

I am concerned that I agree with an awful lot of Mr Gawne's comments, especially as he has normally been speaking on bovine viral diarrhoea – but never mind. (*Interjection by Mr Quirk*)

2305 As a proponent of entrepreneurial behaviour who also has a strong belief in the value of local food production, I would very much like to support this Tynwald motion proposed by the Member for Castletown to develop an action, a strategy to increase GDP from locally grown food and local food processing.

2310 Our Island and its hardworking farmers and fishermen have proved their ability to produce and supply top-quality food, for both on-Island consumption and its export, for many years. In recent years, more artisan producers have seized the opportunity to utilise these staple foods to develop some mouth-watering niche products, which are receiving acclaim at the highest levels.

2315 The production and processing of food on the Isle of Man and elsewhere has shifted and is becoming more and more focused on profitable markets, rather than producing food for the sake of it, particularly in primary agriculture, where European policy is moving away from production-based payments and fishing, where there is little government support.

An increase in local food production will only be achieved if the industry is profitable. Getting our farmers to go on a treadmill of production, just so they get support, and then it is given away in supermarkets, or the supermarkets make all the profit, is not the way to grow this sector; (**A Member:** Hear, hear.) and I think the Hon. House was right in its previous stance.

2320 Whilst I am a supporter of ambitious targets, I am not convinced that the optimistic targets laid out in this motion are going to be realistic, based on a 300% growth.

2325 The introduction of decoupled payments to agriculture is enabling more diversification of the food and drink sector and not restricting production to traditional forms of agriculture. It should be acknowledged that the Island's primary agricultural production is still in a transitory stage in terms of becoming more market-focused and ultimately profitable.

2330 To achieve growth in GDP of this sector, it is essential that all parties in the food supply chains are involved or consulted, and can therefore be party to the commitment that will be required. An essential part of this is a commitment from retailers to deal with local suppliers with a fair hand. (**Several Members:** Hear, hear.)

2335 I still have concerns that food is being imported into the Island – food which we are capable of producing to both a high standard and at a competitive price – and it is being sold at a price which does not reflect either the true costs of production or of transportation onto this Island. This is not only unsustainable for local producers; it could well be anti-competitive. It is time that some retailers exercise their corporate social responsibility on the Isle of Man and ensure that they do not undermine local food and drink production, (**Two Members:** Hear, hear.) but allow it to be available in their stores. (**A Member:** Hear, hear.)

2340 There is a role for Government in acknowledging the quality, range and reliability of supply of local produce, and hopefully this will continue to be recognised in central Government's procurement policy, as we are all aware of the multiplier effect on the local economy of locally produced food and drink. (**Mr Quirk:** Milk.)

We debated yesterday the need to have a leaner, meaner Government that can serve the needs of our nation, support the vulnerable in our community and simultaneously help facilitate economic growth. Growth in the food and drink sector is possible, is practical, is to be

2345 supported, but needs to be sustainable, profitable and market-focused. (**A Member:** Hear, hear.) Working in a partnership, all players in the food supply chain, together with Government, can deliver a food sector which itself can contribute greatly to feeding the nation and increasing its contribution to GDP.

2350 In conclusion, I would like to support this motion. I have not had chance to read the other motion that my constituent and colleague from Douglas South has put forward. I think it is a very good motion, but I would like to see the growth figures be more achievable figures.

Should Mr Ronan's motion go ahead, then I will support it. However, I just want my proviso that I think the figures are a little bit too optimistic. Personally, I think 5% would have been (**A Member:** Amazing.) good. Seven per cent is... I would be delighted and over the moon if we achieved 7% – a *profitable* 7%.

2355 Thank you, Madam President.

The President: The Hon. Member for Malew and Santon, Mr Cregeen.

2360 **Mr Cregeen:** Thank you, Madam President.

I rise to second the amendment from the Member for South Douglas.

I think it is more realistic than the one put by the Member for Castletown, because what it actually says, when you are reading through it, is that you will have more realistic targets *including* what you would have to do to get a target of 7%. So it is not saying that you are going to have this 7% – it will be realistic to what there is going to be there, which I think most of the industry out there is fully aware of... that unfortunately, 7% is not a realistic target – it is very hopeful – and the industry would prefer something that they could find achievable, rather than fail at trying to get the 7%.

2370 I think it is well-meaning, the industry is actually looking for something to do, and I am happy to second.

A Member: Vote!

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

2375 **Mr Downie:** Thank you, Madam President.

This is a very interesting motion that is before us today. Those of you who represent rural industries cannot fail to realise that we are losing land out of agriculture. The land is not being worked as it was a few years ago, there are far fewer animals and there is not the maintenance being done in the countryside. In my opinion, there is something radically wrong.

2385 If you put the clock back a few years and you look at how lovely the Island was, how neat and tidy everything was, the farmers then were doing an excellent job. We still have very good farmers on the Isle of Man, but I think, like a lot of other people involved in agriculture, the business has changed, the support measures have changed – because there are no headage payments as such any more – and we have moved to the system of Countryside Care. But what we have actually lost in Government... A few years ago, we used to have a proper agricultural adviser. We had people there who interfaced with the marketing organisations. I am not saying that the marketing organisations we had were the best...

2390 Where Mr Gawne quotes what has happened in Ireland... I will tell you what has happened in Ireland. You have had a group of very entrepreneurial people over the last few years who have gone out and developed products. Kerrygold is one of them; there is a whole host. You cannot walk through any food shop or any supermarket in the Isle of Man and not fail to notice Irish bacon, Irish sausages, Irish meats, Irish cheeses, Kerrygold butter – it is all there.

2395 I actually think what is required in the Isle of Man is to go back and see if we can do something to work closer with agriculture, because I do think we have excellent producers, and

in fact I know that one milk producer in the Isle of Man can produce enough milk for everybody – so there are people here who have the wherewithal to do this.

2400 What are we trying to do? We have two arms of Government here: we have a Department of Economic Development, which really does not get involved in grants for agriculture, although they might give grants for food businesses, so if you are looking to put polytunnels up and develop a salad industry or try to grow more salad to make the Isle of Man more viable... because they are the markets that are selling. You only have to go to Tesco and Marks & Spencer to see what is going off the shelves, because all our eating habits have changed – but we have not in any way risen to the challenge. So, apart from Allanson's, Bryan Radcliffe and people like
2405 that... They are really the only people who are producing vegetables in the Isle of Man.

I am fed up with people saying 'these big bad supermarkets'. I went to meet the manager of a major supermarket in the Isle of Man, and I said to him, 'Why aren't you putting more Manx produce on your shelves?' He said, 'If you can find me someone to supply me with what I need, when I need it, to the standard that we want, we will give you a whole section.'

2410 I phoned a supplier, and in fairness, when I went in there during the Christmas holidays I bought Manx cabbage, Manx carrots, Manx turnips and Manx parsnips – so it can be done. But it does not help when certain politicians are having a go at the supermarkets all the time, because at the end of the day, Hon. Members, that is where people shop. People's whole shopping outlook has changed, and that is where people go.

2415 Unless we are going to go back to the corner shops and the carrots outside in the bags and all the rest, which is not going to happen –

Mr Turner: The EU won't allow it.

2420 **Mr Downie:** I think we have got to get our act together. We have got to find farmers who want to enter into production, we have got to shield them along the way to help them to provide markets – and then I think we will have some success. But we were promised by certain people that they would get the same price for their meat after it was processed in the Meat Plant here as they would if they were sending it away. I am told that that is still not the case –
2425 there is still a difference in price, and I was talking to a farmer only this weekend who is still sending animals to the UK.

So there is something wrong. When we actually see the local meat on the shelves... When you look at it, you have got a little chop with no fat on it, a big chop with a great lump of fat on it... We have got no idea about presentation, conformity and what actually is attractive to the customer. That is a skill that has to be taught and brought back through the industry again,
2430 because when we go to buy in a supermarket we buy on appearance, confirmation and what looks really good, and if we have not got a product that is attractive, nobody is going to buy it, sadly.

2435 People go and look at the spuds, and maybe I am old fashioned but I buy the one that has got all the clarts of muck on it and all the rest of it, because I know that it has not been scrubbed about three or four times and somebody has not put sulphur on it or something else to keep it looking good. That is my choice, but we have got to get real if we are going to get into these markets, Hon. Members.

2440 The other thing is we cannot really afford to let much more land go, because you have only got to drive around and see the land that has been lost, and when you look at bringing that back into some sort of production again it is going to cost an awful lot of money.

2445 The figures were mentioned earlier on. I checked with the Department last week and there have been no proper agricultural figures put together since 2011-12. Every year in the Isle of Man we used to have a thing called an agricultural census, where all the farmers sent in a record of all the animals –

A Member: They still send it in.

2450 **Mr Downie:** Well, they are not shown now, for some reason, and there is a reason why they are not shown: because we have lost so many animals out of production, we have lost so much out of the system. That used to tell the Department everything. It was a snapshot of that year: what was going on in the agricultural industry.

My understanding of all this is that we are a shadow of our former self. Even what we had five or six years ago has paled into insignificance. When I was Agriculture Minister several years ago, we produced 10,000 pigs a year – enough to satisfy the local market and then have some surplus for export. I am told we have got nearly 7,000 horses on the Isle of Man. (Mr Corkish: 2455 Ten and a half.) How many? Ten and a half? Right. So why aren't we supplying all the oats for those? Why aren't we supplying the bedding here? There is a business.

2460 What is needed is a middleman to get in there and sort the farming community out and try and encourage people to get on and get some of these markets opened up. That is what all these artisan businesses and all the rest of it have all been about: people going in there and identifying a niche market, getting in and going for it. But if you are going to do it, you cannot just be like the Bryan Radcliffes and the Allansons of this world. You have to produce a cabbage for the supermarket every week and you have to be consistent with its size and its quality and its price. That is the challenge, and it is going to be a good guy in the Isle of Man who can pull that 2465 together.

When I was a kid, we lived all summer long on Manx tomatoes: you will be lucky if you find anybody growing Manx tomatoes now. We brought Golden Wonder into the Isle of Man – we were growing potatoes here for the potato industry. Where has all that disappeared off to?

2470 It really needs people who are innovative and can look at what we can grow here. We can produce the finest lamb anywhere in the British Isles, probably anywhere in Europe – but are we? No. We have got to ask ourselves the question: why not? We have lots of grass here, we have got some absolutely first-class animals. Some of the animals that have been reared recently are prize-winners and are very valuable.

2475 Hon. Members, we cannot have a food industry that just makes fudge, jam, apple juice and so on, unless you are going to make it to the extent that they do in Ireland, where you develop a business like Magners, which is now an international name. Magners has gone from a local Martin Brunnschweiler type of brewery, a Bushy's type of brewery, to a multi-million pound business selling all over the world. We want something not quite as grand as that, but we want something that we can develop, utilising the local market, and then export it. But there again, 2480 where are we going? I can buy a pint of Manx beer in Liverpool for half the price I can buy it in the Isle of Man. So what is going on? They are the things we have got to control and got to sort out.

I agree with Mr Gawne about the fishing industry. We are doing well in the fishing industry. It is properly managed, it is carefully monitored by the Department, but it is a wild product. There are things that can happen out there. There is a disease called amnesic shellfish poisoning, which 2485 would shut the grounds down like that, and sadly it comes from time to time. We might be lucky and not have it for years, but when it does come it wipes your whole industry out and your customers go somewhere else. You have got to be on the ball with these things and hope that you can survive that and win your customers back.

2490 Somebody mentioned smoked salmon. We do not have any salmon in the Isle of Man – we import the salmon and smoke it, the same as you do with the kippers. That is hardly a local industry. It might be a by-product of the fishing industry, but it is hardly something we can say is our own.

2495 I think we have got some very entrepreneurial, go-ahead farmers in the Isle of Man, and I think with the right sort of encouragement, the right sort of marketing and the right sort of product and market development, we can actually reach some of these figures that my hon. colleague from Castletown is wishing to do.

If we do nothing, I think we are going to let an industry just go, and once young people think in the Isle of Man there is no future in farming or agriculture, they will be somewhere else, and

2500 then what are we going to have here: £2 million and £3 million bungalows sitting on 40 or 50 acres of land, with little or no production. So I think, Hon. Members, we have got to give this a go, and we have got to bring some people in to advise us where we are going.

I think the Department has gone too much towards conservation, too much towards the environmental side of things. It is important, but I think it has gone too much the other way.
2505 Agriculture needs to go back to agriculture and supporting the people we have got here and what could be a very good industry, if we are a bit more careful with it and give it the right sort of direction and leadership.

Thank you.

2510 **The President:** The Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Madam President.

My goodness me! 'When I... When I... When I... a very long time ago.' Such pessimistic observations in a debate like this do not do the industry or what we are trying to achieve
2515 absolutely any good at all.

A Member: Dumbing it down.

Mrs Cannell: What a disservice! Absolute disservice! (**A Member:** Rubbish!)

2520 Things change, Hon. Members. Things *do* change – sometimes for the better, sometimes we do not think it is for the better, but in terms of the production of food in the Isle of Man and the food industry, it is doing really well. There are some amazing, imaginative initiatives out there (**A Member:** Hear, hear.) which have not even been referred to yet –

2525 **A Member:** Well, tell us about it.

Mrs Cannell: – where certain food legislation regulations are being changed to enable all sorts of things to happen, to be exported and to go globally.

Okay, I am a Member of the Department, together with Mrs Beecroft, Mr Turner and the
2530 Minister, but I am glad I am because it has opened my eyes over the last decade to exactly what does go on in food production in the Isle of Man and who is really trying to be different and innovative. (**Mr Henderson:** Hear, hear.) The old days have gone.

The Hon. Member says we are losing agricultural land. This big doom and gloom is not good. If we are going to come out of all this in a sustainable way – which seems to be the key word this
2535 year – and shine and survive and *grow*, then that kind of attitude is one that ought to be disregarded and totally ignored.

It is very difficult to sell agricultural land, it is very difficult to change the zoning of it, it is very difficult to build on it, and the planners do all they can to protect the importance of agricultural land because of its qualities, its soil qualities and what it has to offer for the production of food.

2540 I know the Minister's ideal would be that we would have sufficient food and drink to feed the nation for ever and a day and that we would not have to rely on exports, but our farmers would be happily (*Interjection by Mr Downie*) providing sufficient food and grain to feed us all – but that is a Utopian idea. Farmers need to be able to export, and we need to be able to move with the times to enable that to happen.

2545 What has happened over the last 20 years though is that legislation has changed to enable inferior products, in my view – cheap food – to be imported into the Isle of Man. It was referred to by the Member for Middle, and he talked about the supermarkets selling something for next to nothing in order to bring people in through the door. I believe the term is 'loss leaders': they might make a load of cheap white bread to bring in hungry families in the hope that they will
2550 buy something else too.

Personally, I do very little supermarket shopping. If I want quality Manx meat, I go to a butcher and I buy local. **(Mr Downie: Which butcher?)** I buy my vegetables that are locally grown. I buy my bread that is made here, and I am delighted that there is a new bakehouse that has opened in Douglas that is now starting to provide restaurants with baked bread. So we have not got a monopoly in that situation any more. That area is growing and amazing work is happening. **(Mr Downie: Sourdough bread.)**

The Hon. Member should know about this, bearing in mind his association with animals and animal welfare, presently and in the past: there is a company that makes dog biscuits that are so popular that we have changed the regulations to enable that producer to export to some really high-flying chain shops in the United Kingdom and elsewhere. That is a success story. That is a small one-person business that is growing and growing and growing.

And what can we do to help? What we do is we modify and we change regulation to recognise the initiative, make sure it is tested and meets all the health and safety standards for food consumption, and then we enable that product to be exported – to get the message out there that the Isle of Man has got good food, has got a lot to sell; and most of all, it is not cheap but what you are paying for is quality.

I think one of the things that the Isle of Man, in my view – being not Manx born, but having lived here now for almost 40 years – is that we seem to be shy about promoting what is good about us. **(Mr Henderson: Hear, hear.)** We seem to be shy about advertising and advertising – and you keep saying how good we are out there. We will say it once, and if we do not get sufficient applause we tend to shirk back, because we are shy and we feel vulnerable because of our smallness. I think we have got to start shouting louder about where we are good, how we are good – and *keep* shouting about how good we are.

Yes, there will always be areas where we can do better, and that is why we are here: to help things get better.

We had Manx ice-cream at one time. We changed the regulations, and of course then we lost the Manx ice-cream company. It relocated to Ireland, where it thrived for a while. So that is the word of caution: it is not all about encouraging the sector to produce more and more and more.

We have to be very careful about what kinds of laws we bring in to regulate the food and drink industry, and what the benefits and the disadvantages are going to be of bringing that in – not merely bringing it in because Europe expects us to, **(A Member: Hear, hear.)** but to evaluate it properly and do a proper study on the impact. That is perhaps where we fail a little bit, in doing proper impact assessments looking forward.

I would have seconded Mrs Beecroft's amendment –

Madam President: It has been seconded.

Mrs Cannell: I know it has, Madam President, but to further confuse the Hon. Member for Middle, yes, the Members of the Department acknowledge the good intent in the motion – and it is good intent – but it does say:

'within 6 months a strategy and action plan to achieve at least a 7% share of GDP by 2025...'

The amendment says that it will look at a range of ambitious and appropriate targets for growth in the food sector, including a target of achieving at least a 7% share of gross domestic product by 2025.

We have to do that because there is a lot involved here. There is a lot of interest. There are the farmers. There are those who provide the animals that we eat; the grain that is sewn, that is used, that we eat; the fish – and I am not talking about the wild fish that the Hon. Member of the Legislative Council was talking about, I am talking about the fish and the fish stocks which are supplied. *(Interjection by Mr Downie)* There is a lot to consider. You need a proper strategy

2600 in order to achieve any kind of ambitious target, and you also have to talk to the stakeholders, of which there are many.

We heard from the Minister, and we have all had input from the farmers' union in terms of their view of this. They admit it is an ambitious target. They are a little bit cautious and wary – and quite rightfully so, because you cannot just pluck a figure out of the air and say, 'Right, in 16 years' time that is where we are going to be, *aren't we?*' without considering *how* we are going to get there. We need to know where we are, we would like to be here, and then we have to develop how we are going to get there – and to get there with any kind of realism.

So I will be backing the amendment and I would call on Hon. Members to back the amendment also.

2610 There is no loss of face for the mover, because he should welcome it with open arms. With all credit due here, we have probably got the best Member in this House to head up Agriculture. (**Mr Quirk:** Graham!) (*Laughter*). We have probably got... The Member for Rushen, Mr Gawne is... I am a great admirer of his and he has my ultimate respect. I often challenge him on some of his views, because he is very pro-farming – he is *very* pro-farming – and he does get challenged by the rest of us on the Department, and that is a good thing. But I have to take my hat off to him. He has been working towards this – perhaps not this percentage target, but he has been working very hard towards this for a considerable length of time and we are happy to support him on his journey.

Thank you.

2620 **The President:** The Hon. Member for Rushen, Mr Skelly.

Mr Skelly: Gura mie eu, Eaghtyrane.

2625 I have to say first and foremost I support the spirit of the motion. (**Two Members:** Hear, hear.) I have said it before and I will say it again: I am very much behind the principles of food security. I think that is vitally important for the Isle of Man and something we should never discount.

2630 I am also *very* much in support of growing the local food economy. I think we all should recognise now what the multiplier effect is in that industry – it has been highlighted very well by one particular food retailer – where £1 in that industry is spent as £1.80 around the local economy, and I think any industry that does that we should support without a shadow of a doubt.

2635 I would also like to point out how important food and drink is to the tourism offering: a major attraction for the average visitor to our Island. We are very much in the mould of people coming to the Isle of Man who do have disposable incomes – because we know it is not cheap to get here and we know that it is not the weather. It is the culture, the way of life and the attractions: the history, the heritage, our nature. That is the cultural tourist for most part, because food and drink is part of culture. That is a major attraction and people *always* compliment us on the high-quality food and drink that we have.

2640 However, what I will say with regard to this motion – and the mover knows this – is that I have very serious concerns with regard to its achievability. It has already been highlighted by other contributors, but I am concerned about that.

2645 I am also concerned about the timing of this motion. The reason I am concerned about the timing of this motion is that we are awaiting a Standing Committee report on a Policy Review... on agricultural policies, including the Countryside Care. So my concern there – and it is already widening, this debate – is that a decision today would pre-empt that report and any recommendations, and that does concern me.

2650 **Achievability:** as has already been stated, it is an ambitious target – no doubt about it – and it is linked to GDP, gross domestic product. If we do not know what gross domestic product is – and I am sure we do, but just to highlight what that is – it is the total spent on Island less the imports. This industry currently represents 1.5% GDP. In real monetary terms, that is £59 million.

We are asked here to support a motion will take it to 7%, which is £280 million. So I am concerned about signing up for a motion and not being able to achieve that.

2655 The mover actually highlighted a lot of research, and I applaud him for that. I heard him talk about Northern Ireland and what they have achieved there. I have heard about Wales, I have heard about New Zealand, the UK – but I just want to ask him what research he has actually done on the Island. Has he gone to speak to the Manx National Farmers’ Union? Has he gone to speak to the Manx Fish Producers Organisation? What sort of consultation...? What sort of input did they have into this motion?

2660 I actually welcome the Manx National Farmers’ Union giving us this on Monday, just a couple of days ago. They too highlight that it is somewhat ambitious. They also recognise there is spare capacity – that is important – but they said it should only be encouraged if there is a viable, sustainable and profitable market with a solid strategy, supported by all players in the food supply chain. I think that is vital. For me, it is about listening to the industry and what they can actually achieve.

2665 I think we heard just recently, on that point, what is achievable. The DEFA Minister is talking about implementing legislation to force food retailers to sell Manx produce. We know there are problems there. The Hon. Member from Middle highlighted the loss leaders, as did Mrs Cannell – a major issue. But can you blame the public? In many ways... We have a free-market situation, they have a difficult financial situation: what are they going to do? They are going to try and get the best value they can for their families. A very difficult situation. I ask the question... Here we are, trying to encourage the food retailers to sell more Manx; however, the biggest retailer is not selling Manx meat still to this day.

2675 **Mr Downie:** Because it is not good value.

Mr Skelly: So it probably throws open the whole debate about the viability of the Meat Plant. I heard that turnover is currently £10 million. I do not know what that was a few short years ago, but we have to consider these issues, and it does start to widen the debate. That is why it has already been touched on, the Countryside Care Scheme. I know the Manx Farmers’ Union are still supportive, but there are still those out there who believe a food production element needs to be part of the future. I do not really want get into that and talk about that. That is why I said the timing of this is wrong, because we need to wait for the findings and recommendations of that Standing Committee to debate it properly.

2685 The successes have been touched on, and I think we should highlight the successes in the food industry that we do have. I just want to applaud the Minister here in particular with regard to the seafood, the sustainable policies that have been brought forward for the queenies and the resurgence we have had in that, which is now a world-class product and growing. Growth we want, but we also want sustainability. So this is really key.

2690 The Creamery: I note that their export sales are up 12% for last year – fantastic! Great success with our cheeses being sold as far away as America, highlighted on YouTube – fantastic! However, they may have increased their sales by 12%, but they still only represent less than £6 million in turnover. So, go back to that £280 million that we are going to achieve if we hit 7%. Do we want growth? Yes, of course we want growth. Going back to the Creamery, I did note, incidentally, that their on-Island sales were down nearly 2%. I had also heard that Government was not supportive of Manx milk. It is now, I hear; but it was very disconcerting to hear that and I really am glad to hear that they... If we are not, as a Government, supporting and buying local, that really is concerning.

2700 Innovation: we talked about that and niche markets – fantastic examples. I think the Minister highlighted many great examples of that, and I would also say that we have just been talking about a new bakehouse and we also have a very well-established bakery in Ramsey. We have also got a chocolatier in Purt le Moirrey, who is not just a chocolatier – he is baking as well, and he is in such great demand that the world’s premier food retailers want his products in mass. We

want to encourage that innovation, we want to encourage that niche market, we want to encourage that export, without a shadow of doubt. (*Interjection*)

2705 Food security... I come back to that issue, finally, as I wrap up here. What is food security? The World Health Organisation defines it as:

‘when all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life.’

2710 Do we want food security? Yes, I am sure we all want it. It is about food *sufficiency*, really. I think the mover talked about the UK: 62%, I believe, the UK is self-sufficient. Ireland has been mentioned a couple of times: they are self-sufficient when it comes to food, and growing – massive exports there. But the real question is how self-sufficient is the Isle of Man in food, and how do we achieve future food security for the Isle of Man?

What I will say in closing is I *very* much support growth in this market, but it must be sustainable and it really must be achievable, and we *must* bring the industry with us.

2715 I do think the amendment as put forward is reasonable, because it talks of a range of ambitious and appropriate targets for growth in the food sector, and that I can support.

Gura mie eu.

The President: The Hon. Member for Rushen, Mr Gawne, to speak to the amendment.

2720

Mr Gawne: Gura mie eu, Eaghtyrane.

Apologies to Hon. Members – I would not normally do this, but the Hon. Member for Middle raised a query about my intentions.

2725 The Hon. Member for Castletown came to speak to me back in December, and asked me whether I would second this motion. At that time, he had a slightly more modest target in his motion and I said, ‘Yes, of course I will, because I think this is the right thing to do; it is in the best interests of the food sector, and yes I will second it.’

2730 When it arrived on the Order Paper, it had sneaked up a little bit, so I thought, ‘I am still, in principle, in favour of having a really good sound target, an ambitious target,’ so I agreed that I would carry on with what I said I was going to do, which was second the motion.

2735 That said, I think that the amendment makes a great deal of sense, because it gives us the ability to come back in six months and say, ‘Actually, if you want to achieve 7% of GDP, what you need to do is introduce a 40% corporation tax, which then wrecks all the other sectors, which allows us to grow our agricultural sector to 7% of GDP.’ I do not think Members are going to really want to support that, but it is achievable. I think there are other achievable targets, and I think the amendment makes a great deal of sense, and certainly I would be supportive of that.

As I have made a New Year’s resolution to be positive, I will not rise to Mr Downie’s diatribe of doom and gloom and negativity. The only thing I would say though is – (*Interjection and laughter*)

2740

The President: You are speaking to the amendment, sir; you have already spoken to the motion.

2745 **Mr Gawne:** Absolutely. Speaking to the amendment, obviously. All Members... Well, not all Members – Tynwald unanimously supported the direction of travel which the Department of Agriculture has chosen to go on with the industry. The Hon. Member of Council is a Member of Tynwald, and I am fairly sure he voted in favour of the direction of travel, so I would love to speak to him about why he has changed his mind in the meantime.

2750 The other thing I think he should do is apologise to the Department’s agricultural adviser, because he did quite significantly slur the character of our agricultural adviser.

Mr Quirk: I think he said it didn’t exist.

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

2755 **Mr Cannan:** Thank you, Madam President.

I will try and be brief. I appreciate that a lot of what I have said has already been covered, but I would like to start by congratulating Mrs Cannell on her positive contribution today. (**Several Members:** Hurray!) This is very much the 'where you *can*' debate and not the 'where you can't' debate.

2760 I also want to pay tribute to the Minister, who has actually welcomed the motion from the backbencher with positivity – and I think rightly so in this case, because I think that the Hon. Member for Castletown is trying to set out a positive policy for the Government.

I did also want to say to my hon. friend in the Legislative Council that we did not really want to know about the bit of fat on his bit of Manx meat; we actually wanted to know about how *good* it tasted, (**Mrs Cannell:** Yes.) which I am sure was the emphasis that he was trying to put on that.

Mr Downie: Perception is everything.

2770 **Mr Cannan:** In May 2013, Madam President, I did initiate a fairly tense debate, I might describe it as, with the Minister at the time, and we did bring forward a motion which we eventually agreed on, that the Countryside Care Scheme, the Meat Plant and associated matters were to be referred to the Environment and Infrastructure Committee.

I raise that matter now because that Committee has undergone a fairly extensive period of work that has tested it, I know, to its extreme, and I suspect at some point in the next couple of months, or few months, we will be receiving a fairly detailed report which will require a fairly lengthy debate – I suspect it will generate a fairly lengthy debate – in the Chamber about the structure and framework of the subsidy system. The reason why that was brought forward was, of course, to try and encourage a stronger and more sustainable farming sector.

2780 So I am not going to get drawn into too much of the potential detail of the debate today, but I will be seconding the amendment.

The President: It has already been seconded.

2785 **Mr Cannan:** I will be *supporting*, I should say, the amendment.

I think it is sensible that an ambitious target like 7% is allowed to be tempered with perhaps the words 'appropriate target', in order to give the Department time to work out its strategy going forward. But it is positive that the Minister recognises that perhaps actually there has been too much focus on the internal matters and not enough on the broader policy issues that might allow the industry a better framework in terms of targets which will allow everything else to potentially slot into place.

That is my contribution. Thank you, Madam President.

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

2795

Mr Corkish: Thank you, Madam President.

For what it is worth, I like a little bit of fat on my Manx meat. I thought you would be interested to know that.

2800 As the instigator of the successful Food and Drink Festival here on the Isle of Man, from my time in Tourism, and a mover and supporter of the farmers' markets, I am happy to support the principle of Mr Ronan's motion here today. 'In principle' because there will probably be a raft of reasons and criteria laid down by some of the food outlets relating to quantities required and sustainability of some of the agricultural produce; but that is the challenge that meets us here in the Isle of Man from the industry.

2805 However, it must be right that, as a small nation and proud to be paddling our own canoe – and more often perhaps we will find that we *are* paddling our own canoe, and thank goodness that we are doing it – we should strive to increase demand for our own home-grown quality produce, at home and indeed abroad, whatever that produce may be. There is a whole raft of produce here in the Isle of Man, which has been mentioned by various Members here today,
2810 and we need to impress upon *our* people that to buy locally produced items is good for the Isle of Man, and display support for our products and indeed the Island, especially in hard economic times. But we need to perfect the mechanics needed. As so many people have said, we know what we want to do, but are we doing it right? We need to perfect those mechanics.

2815 Additionally, it supports my view, and I am sure yours too, that money spent on this Island, buying local goods, and circulated around its people and the business is desirable and certainly beneficial.

2820 As we celebrate our Island of Culture initiative, it is an ideal opportunity – if an ideal opportunity was needed – to celebrate and support all things Manx. We should be encouraging the support of our people, when buying produce, whatever that produce is, to think Manx every time. Our Island continually tries, and successfully, to be a bigger player in the world, but we still need to impress upon us all the benefits of supporting, buying, profiling all things locally produced and available, where possible. Always, of course, accepting that availability and cost will always be a factor.

2825 Despite my belief that a 7% goal in this specific area is ambitious, it is a worthy aim. We all need aims, and many of us have probably made New Year resolutions – and indeed last year, but never kept them – but here is a good aim to go for. We need the support of the purchaser and the need for our sellers – the shops and supermarkets – to actively support and profile locally produced goods.

2830 Madam President, in short, I support the motion in the name of the Member for Castletown, Mr Ronan, with my own personal hope that its aims be embraced to a wider area of produce here on the Isle of Man, and services; and in addition the recognised importance of agriculture in our Island.

 I will be supporting the amendment. I think it embraces, helps and supports the original motion.

2835 Thank you, Madam President.

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

Mr Henderson: Gura mie eu, Eaghtyrane.

2840 I was not intending to speak on this at all, but given the tone of the debate, I cannot help but put some observations in here.

 First off, I must congratulate Mr Ronan in bringing it here and what he is trying to achieve.

2845 Secondly, I have to take my hat off to Minister Gawne for seconding it, which is excellent and shows that the Minister and the Department are 100% behind the motion, they are 100% behind... or the Minister is 100% behind the farming industry and 100% behind our fantastic products that we produce.

2850 I am absolutely disheartened and mortified at some of the doom and gloom that is being trolled out here this afternoon, Eaghtyrane, *ad nauseam* in some cases: the Isle of Man, where you can't. That is all I have heard: the percentage is too high to reach, it is unachievable, it is not realistic – it is not this, it is not that, it is not the other. 'We can't do it. We can't... We can't... We can't...'

 I have never, in all my life, heard such a dismal set of contributions, and little wonder that the industry flounders from time to time, when at the top level in our Court we have a debate pitched such as this: negativity, negativity, negativity.

2855 Apart from Mr Skelly, who has mentioned the queenies, not one Member, as far as I can recall, has actually said what a fantastic product we produce, with our meat items –

A Member: No, we all have!

Several Members: We all have! (*Interjections*)

2860

A Member: Rubbish!

A Member: Wake up!

2865

Mr Henderson: Nobody has actually applauded some of the stuff that goes on here to any great degree at all.

The President: I think, Hon. Member, you would find, if you read *Hansard*, that many have.

2870

Several Members: Hear, hear.

Mr Henderson: To a small degree, Eaghtyrane.

Mrs Cannell: Selective hearing.

2875

Mr Henderson: Mrs Cannell led the charge, with the changing degree – (*Interjections*) If people would let me finish what I am trying to illustrate here. But the negativity has been deafening.

2880

What I would also say, Eaghtyrane, is that I am aware that Government needs to look at its own policies and what it is purchasing and selling in its Departments – such as Manx milk should be everywhere, (**A Member:** Hear, hear.) and I am also conscious of frozen bread items that have been used within other Department areas, that are not Manx. I am just wondering, are we doing that in the name of cheapness or are we doing it in the name of how we have to go out to tender now? It certainly needs to be looked at, reconfigured, and we need to be seen to be supporting our own industry.

2885

I would also say that some of the contributors here this afternoon certainly did not go to the food fair last year in the Villa Marina, which showcased just what *is* achievable here, what people *are* achieving here, and the quality products that are available – such as the bread that Mrs Cannell spoke about: it was sold out, gone, completely gone. Hats off to Noa Bakehouse and all the other producers that were there – the Staarvey Farm and everyone else who is showing an entrepreneurial hit in just what you *can* do.

2890

And that is the thing: we have heard about everyone else all around the Irish Sea this afternoon, who are achieving this, doing that, Magners, blah blah blah. We could do the same if we believed in it; and that is the point I am trying to make, Eaghtyrane. (*Interjection by Mr Corkish*) We need a belief in what we are doing here. The products we have are first class, there is no doubt about that.

2895

I will agree with Mr Downie to an extent: presentationally, sometimes we do let ourselves down. I have been on at people, such as Findlay Macleod, about that – and if he is listening to this debate, he has not taken on board an idea I dropped to him the other year about advertising and making the products more visible to consumers, such as other people like Kerrygold do.

2900

We need to be smarter at marketing, that is for sure; but having said that, what I want to put into this debate is that we have world-class products here, as far as I am concerned. They should be celebrated and we should not be shy of standing up and saying, ‘Yes, they are good, as good as anyone else’s,’ – and as far as I am concerned, they are better.

2905

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

Mr Karran: Eaghtyrane, I would just like to put a few points forward.

2910 I think it shows that you *can* do, when you get my number two actually proposing an amendment for the Government of the Isle of Man (**Mr Gawne:** Hear, hear.) as far as this proposal is concerned. (**Mr Corkish:** Easy!) So I think that when I listen to the diatribe of how we are always against them and how we always vote against them, it just shows you that we can actually support and even second and propose things for the Government –

2915 **Mr Corkish:** On the back of someone else.

Mr Karran: – and that is the way parliamentary audit should be.

2920 What I would just like to say is that we need to realise that we are in difficult times as far as the issue of global warming and the issue of world food shortages and the possibility of increasing costs. So I think we should not be too hard on the hon. mover of the motion as far as that issue is concerned, simply on the fact that I think you are going to see large amounts of increases in food costs over the next several years, which is going to be a major problem for any new administration, especially if we are in difficult economic times.

2925 The second thing that I would just like to say is that I do hope that when the Department is looking at this... One of the things – where I would agree with Mr Henderson, both as a Member of the ex-Department of Agriculture and him as a Minister – we could not get done was to get a distillery up and running. It is a great shame that a traditional industry, where we had blenders on the Island for nearly 30 years, just could not get the can-do to get on with creating a distillery, which would have helped to diversify that industry as far as the agricultural farming industry, but also would have helped the likes of Laxey Glen Mills, simply on the fact that it would have taken away so much dependency on the likes of the Ramsey Bakery.

2930 So I think the move, as far as the proposal here today is concerned, is good. I think the thing is there are implications. Obviously we do not have to defend our people. We have done a pretty bad job of housing our people. I think this motion does do a good job as far as trying to make sure that we can feed our people, and so I do support the Government's motion, moved by the Hon. Member for South Douglas.

Mr Teare: She will never live it down.

2940 **The President:** The mover to reply.

Mr Ronan: Thank you, Madam President. (*Interjection*) I will. I thank everybody who contributed to the debate.

2945 Also, I would like to thank the Minister for the Department of Agriculture, DEFA, Mr Gawne. What I will say, and I will put on record, is that he is an absolute man of his word. We have had a very interesting week where we have been kicking things around. I do concede that when I first went to see him and the Department the figure was lower, but I just felt there was a little bit of movement which maybe would not have reflected what I wanted, which was true growth in the industry. I am not saying that would happen; I just wanted...

2950 At the end of the day, what this is about is creating a direction of travel. It is about being positive and it is about sending an absolute true hope and horizon for the industry, right across the industry. That is what this is about. I am not beat up on figures and detail and GDP. I just want to see real growth in this area.

2955 Just touching on what Mrs Beecroft said, the Member for South Douglas, my manifesto was general regarding agriculture, but what I will say is, if you read through it, it is about sustainability and it is about localism, and this fits well within that. So thanks for pointing it out anyway; I appreciate it. (**A Member:** Hear, hear.) (*Interjection by Mr Anderson*) Yes.

2960 Minister Gawne mentioned the 1934 Act... which I pointed out that we needed some new thinking, but he pointed out that DEFA are moving with new radical areas. He says that there are ambitious targets. He also mentioned about the Irish Minister, Simon... I cannot remember his

name. But just to touch on that, it is pretty clear that... he did mention that our neighbours are... and I pointed out in my main speech that this is... As I said, its time has come. I think its time has come again, and it is pretty clear that our neighbours are... I would not say stealing the march, but they are aggressively pursuing this area again.

2965 I think it is important as well, and I have said on this floor a few times, that it is not just about the Isle of Man on its own. We want to be tapping into our neighbours and they want to be tapping into us. This is not just about us on our own. The days of the Isle of Man hiding behind a bush, as I always called it, have gone forever. The barn doors have been kicked wide open and we need to be talking to our neighbours and working with them to see how we can help each other.

2970 I think that a lot of people have been concerned to hear about the target of 7%, which is 300% increase. What we have got to do here is aim high. If the Minister comes back and says, 'Do you know something? These figures, we don't think they are going to be achievable,' but we get true direction, I will be more than satisfied with that; and that is why I will probably be supporting the amendment as well. If it fits into your model, as long as the vision is there, as long as the direction of travel is there, I am happy to go with it.

You mentioned about ambitious targets. I think this is what it is all about.

2980 You have had the National Union of Farmers... you touched on them. Again, I will get to Mr Skelly's stuff in a minute. I have met the farmers. I concede it was about a year ago, but what I have done, which was deliberately done... I think I touched on this yesterday. This is about politicians hopefully making policy, handing it over to the Department and then engaging with the industry. What you are saying, sir, is basically that we go the other way round.

2985 I am just slightly in disagreement with that. I can understand your thinking about it, but we can consult ourselves to death. We do get elected for a reason and that reason is hopefully to make policy decision and then engage with the industry – and this has to be industry-led. I have spoken with a representative of the National Union of Farmers today. They have just raised a couple of concerns with me, but in fairness I was *very* pleased with the positivity which came from that conversation, and I thank them for it as well.

2990 Just touching on the mover of the amendment, Mrs Beecroft – thank you for moving the amendment. I was a little bit surprised at the negativity, the go at me. I have not brought this to the floor to have a personal attack on anybody. I wish you had not done that, but anyway it is done.

2995 You mention about the zero-based budgeting. I do remember saying on the day that I was very supportive of the concept of zero-based budgeting and I would strongly suggest that you and I should get together and bang our heads about it (**Mr Corkish:** Ooh!) because I do genuinely think (*Interjection by Mr Cregeen*) we should be looking at it.

3000 You mentioned again the ambitious target. I know it is ambitious, but we have got to aim high. So again, what I will say, Madam President, is that I will be supporting the amendment as well on this. There has been discussion about this. The wording – okay, not exactly what I wanted, but at least it gives direction of travel for the industry, and I thank the mover for that.

3005 The Minister... Sorry, the maybe Minister, the Member for Middle, Mr Quayle mentioned – (*Interjections*) Maybe I am a soothsayer, who knows? (**Mr Anderson:** Best interview.) (*Laughter*) You mentioned the letter to Members, with a few concerns about the figures in GDP. As I said, they were pulled out of the data which I received. Again, I think what we have got to try and do... and this is something that was fed in to me during the week – that we were trying to be too precise here. What I am trying to achieve with the motion is a direction of travel for the industry which you are very close to. It is about giving them... This is friend, not foe. This is about saying, 'Do you know something: you have got a fantastic future in our Island and in our economy.'

3010 Again you touched on it... and this is great, where you have these debates, because it is about... I mentioned GDP. A few people in here have said this is about... Mr Quayle, you mentioned about pounds, shillings and pence; and in fairness, the National Union of Farmers said exactly the same thing to me today – and fine, I am more than happy with that.

3015 You say about the hardworking industry. I do not think anybody is disputing that. I would just say perhaps as an industry it has maybe lost itself because of the way our economy has been over 30 years. Maybe our predecessors before us in here... Were they guilty of letting the industry go a little bit? I do not know, but it is where it is. What I am saying is it should not be where it is. (A Member: Hear, hear.)

3020 I think it is time we all said, 'Do you know what? We can sustain this. This is our economy. We can look after this.' We have sectors of our economy which are sitting at 8%, 30%, which at this moment in time are *very* vulnerable. At the end of the day, we want them to grow and grow bigger.

3025 I am not saying about GDP. When I see GDP, I see a pie chart and I see segments of the pie chart. To me, it is not about the Isle of Man, it is not about that pie chart, the agriculture growing like that. To me, it is about all areas, it is about making the cow pie bigger, and as long as agriculture and fisheries etc are high on that agenda and we can focus on that, then I will be more than happy.

3030 Mr Quayle said about working in partnerships. I have just touched on that. I would *totally* agree with that, but I do believe we should spread our wings a little bit further than... then we break that very insular... Maybe in the past, the Isle of Man, through the Chief Minister and his thinking... and it was going... As I said, the barn door has been kicked *wide* open with you and that is exactly... [*Inaudible*] and now it is time this segment of our economy moved with it.

3035 Mr Cregeen, you have seconded the amendment – again, thanks for that. You touched on the target. You wanted it to be more realistic and you felt that the amendment suited that. I am in agreement.

3040 Mr Downie, of course, with a lot of experience in this area – he is an ex-Minister and I know very passionate about this field and still spends a lot of time with it. He touched on a lot of things. One in particular about... and I think this is *very* relevant and I would hope that DEFA, if this or the amendment gets passed today, will remember I would say wise words about losing land. We are attracting a new time, we are attracting high-net-worths, which again has its value. In my work in DED, we see the high-net-worths coming in and the spread that they are giving to our economy. The employment they are giving us is wonderful, as long as... they have taken over farmland, or whatever, but at the end of the day, in the UK and around the world you still have tenancies... as long as that land... as long as the high-net-worths or whoever buys these properties, *if* they buy any more properties – as long as that land can be used for the growth of this industry.

3045 Something again that I was very interested in – you mentioned that in Ireland you obviously... In Eire, I think is the best way of saying it, the Republic of Ireland, the island of Ireland – its entrepreneurial spirit, the way it does it. Well, marketing – very interesting – costs a fortune, which I have found out in DED: it costs an absolute fortune. But there are other ways of doing this, and the Isle of Man has got to be keen and sharp on new ways of targeting. This is why I said in my speech about technologies. I do not want to see an industry where we have all these farms and they are all working separately. Mr Quayle was absolutely spot on with the partnership idea, working together. Co-operative is an old saying, but how we do this... may I say? That is up to the Department and up to the industry to sort it out, not up to here; but at the end of the day we are debating this and I do not want to get into too much detail.

3055 Just touching again on another part of the industry, which we must not forget about and which the Minister and the ex-Minister touched on, the fishing industry is doing extremely well; but again, as I said in my speech, we have got to weigh up the risks. As Mr Downie quite clearly pointed out, there is a *big* risk, and do we look at other areas? I am sure you are all aware – I bang on about it enough – where my in-laws are, up in Orkney, the fishing industry up there, which is farm fishing, is booming; but at the end of the day, the demographics of the likes of Orkney or the Western Isles of Scotland... they have coves and sheltered bays. I do not know whether we could do that, but at least if we did that we could maybe sustain that industry and help the big investment that has gone up in Peel.

3065 As you say, we cannot do nothing. I would like to think the industry is not doing nothing, and hopefully it is moving on to the next level.

Mrs Cannell, again, thank you very much for your comments (**A Member:** Hear, hear.) You said that we cannot go back to the good old days. I do not think this is about the good old days. This is about moving to a new area in an old industry. Manufacturing is an old industry. It is about moving it on and hopefully modernising the industry.

3070 A few people here have touched on this now, and I just want to touch on it myself, about little artisan industries, which are probably going to be part of any new structure or collective industry we do. Noa Bakehouse, down in (**A Member:** Fort Street.) Douglas, has been absolutely fantastic. This is the type of business we want. Hopefully, we are going to see expansion of that type of industry – and people like that need congratulating.

3075 Mr Skelly mentioned another artisan niche business, which is Cocoa Red, which we know has had a heck of a battle, really, to stay – and, may I say, even stay on the Isle of Man. These are the people we have got to be supporting. This is where I see Government's role: as a facilitator to help these businesses grow and sustain themselves, and export. At the end of the day, Cocoa Red are selling products to the Queen's Fortnum & Mason – that is where she shops. This is a *massive* advertisement for the Isle of Man and the product is fantastic. But I must say it is not the only chocolate producer on the Isle of Man. You have got the great business which is Davison's, which does a brilliant – (*Interjection by Mr Corkish*) and supports the – (*Interjection by Mr Quirk*) Yes, there are plenty. There are lots of good ones there, and I think the Minister mentioned plenty as well.

3080 Mr Skelly, I think I would like to touch on... You support the spirit, but obviously you have got doubts, and in fairness to you, sir, you came and had a very robust discussion with me and I thank you for it. *I really* appreciate your honesty, thank you very much.

3090 He was the only one really to touch on the multiplier. This is a new phenomenon around the world, and to say that the Isle of Man is inventing the multiplier effect is not the case. The multiplier effect is growing all over the world. Shoprite have highlighted it, but around the world... You go to Europe, France, the northern states of America – they have switched on.

I think we have got to get our heads around the multiplier. Never mind in retail, or in agriculture and building, if you spend £1 in the Manx economy – and hopefully you spend it with my building company – that pound generates forward to when it has finished its cycle – and don't ask me about the mathematics and how this works out, but apparently it is right – it is worth £1.80. If you spend that money off Island or via the internet or on Amazon, which in fairness a lot of us do, (**A Member:** Who?) that £1 is worth 60p.

3100 This is something we have got to get our head around. The Isle of Man needs money; it needs to keep its money as much as it can. It cannot be insular in its thinking, but we need to appreciate as a Government that if we can get that message out, that buying local or *using* local will only benefit our economy and help the bigger picture, then what we are trying to achieve can only be a good thing. (*Interjection*)

3105 **The President:** Hon. Member, you may like to consider whether repeating everything in the debate is going to change the vote.

Some Members: Hear, hear.

3110 **Mr Ronan:** It's not like me to go on! I will just quickly speed up. I will just thank the other speakers.

Mr Cannan, again positive, looking at the amendment.

Mr Corkish, thank you very much. Always very proud of everything Manx. That shines through with you. Again, you said, 'Think Manx', and I think we can all agree with that.

3115 I thought Mr Henderson was absolutely spot on with what he said. Okay, they were definitely promoting the Manx stuff – maybe you missed that – but again, it is about being positive. This is exactly what the point is, and I totally agree with him there.

Mr Karran, thank you very much.

3120 So thank you, Madam President. I will be supporting the amendment, but just finally, this is about a direction of travel to hand over to the Minister and his Members and the industry, to hopefully come up with something which will propel this industry into the future, to be able to sustain itself and fit comfortably in the Isle of Man's economy.

Thank you, Madam President.

3125 **A Member:** Hear, hear.

The President: Hon. Members, the motion before the Court stands at Item 47 on your Order Papers, and to that we have an amendment in the name of the Hon. Member for Douglas South, Mrs Beecroft.

3130 I will put the amendment to you first. Those in favour of the amendment, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 21, Noes 1

| FOR | AGAINST |
|--------------------|----------------|
| Mr Hall | Mr Quirk |
| Mr Karran | |
| Mr Ronan | |
| Mr Crookall | |
| Mr Anderson | |
| Mr Bell | |
| Mr Quayle | |
| Mr Teare | |
| Mr Cannan | |
| Mr Cregeen | |
| Mr Houghton | |
| Mr Henderson | |
| Mrs Beecroft | |
| Mrs Cannell | |
| Mr Shimmin | |
| Mr Thomas | |
| Mr Cretney | |
| Mr Watterson | |
| Mr Skelly | |
| Mr Gawne | |
| The Deputy Speaker | |

The Deputy Speaker: Madam President, in the Keys the voting is 21 for and 1 against.

In the Council – Ayes 8, Noes 0

| FOR | AGAINST |
|-----------------|----------------|
| Mr Corkish | None |
| Mr Crowe | |
| Mr Downie | |
| The Lord Bishop | |
| Mr Butt | |
| Mr Turner | |
| Mr Braidwood | |
| Mr Coleman | |

The President: In the Council, 8 votes for and no votes against. The amendment therefore carries, Hon. Members.

3135 I now put to you the motion as amended as the substantive motion. 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 22, Noes 0

| FOR | AGAINST |
|--------------------|----------------|
| Mr Quirk | None |
| Mr Hall | |
| Mr Karran | |
| Mr Ronan | |
| Mr Crookall | |
| Mr Anderson | |
| Mr Bell | |
| Mr Quayle | |
| Mr Teare | |
| Mr Cannan | |
| Mr Cregeen | |
| Mr Houghton | |
| Mr Henderson | |
| Mrs Beecroft | |
| Mrs Cannell | |
| Mr Shimmin | |
| Mr Thomas | |
| Mr Cretney | |
| Mr Watterson | |
| Mr Skelly | |
| Mr Gawne | |
| The Deputy Speaker | |

The Deputy Speaker: Madam President, the vote in the Keys is 22 for and none against.

In the Council – Ayes 8, Noes 0

| FOR | AGAINST |
|-----------------|----------------|
| Mr Corkish | None |
| Mr Crowe | |
| Mr Downie | |
| The Lord Bishop | |
| Mr Butt | |
| Mr Turner | |
| Mr Braidwood | |
| Mr Coleman | |

Madam President: With 8 votes for and none against in the Council, the motion as amended carries.

3140

**38. Select committee on planning administration –
Debate commenced**

The Hon Member for Douglas West (Mr Thomas) to move:

That a Committee of three Members, and with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876 as amended, be appointed to report to Tynwald by June 2014 about aspects of the authority and operations of the Planning Committee and planning administration including:

(a) (i) the appointment of the Planning Committee; (ii) the validity of planning decisions made by it; (iii) its way of working, including the public's right to speak at meetings; (iv) its role under the Control of Advertisement Regulations 2005; and (v) the validity of decisions taken by it under those regulations; and

(b) (i) the validity of delegation of functions and decisions to officers and other persons; and (ii) the validity of decisions made under such delegated authority.

The President: Item 38. I call on the Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Madam President.

3145 In Tynwald last November, I asked the Infrastructure Minister about the statutory basis for the establishment of, and appointment to, the Planning Committee. Mr Speaker, who unfortunately is not here today to work together with all involved to move closer to closure on this important issue, asked the Acting Attorney General a parallel Question that same sitting. Moreover, our Questions were referenced in the Policy Review Committee that month.

At the time, the Acting Attorney General concluded that:

'... the Minister is acting within his powers to delegate the Department's functions under the 1999 Act to any person when he chose to exercise them in favour of persons selected (administratively) by the Council of Ministers.

It follows from my analysis that I am satisfied that the Planning Committee is acting lawfully in exercising the functions of the Department delegated to it by the Minister and consequently its decisions have validity.'

3150 The full Answers, of course, are in *Hansard*. From these, I merely extract some observations and reassurances provided by the Acting Attorney General at that time. He said:

'I do not think anything turns on the fact that these Standing Orders purport to operate earlier than the delegation itself.'

Later on, he said:

'Questions have been posed as to whether this Delegation No 54/13 is ambiguous or so unclear as to render it ineffective. I do not consider it to be so; I consider the intention and effect of this delegation to be manifestly clear – it is a delegation to a body of people who are clearly identifiable when read together with the action of the Council of Minister in appointing them.'

He did, however, say:

'I should, however, comment on DoI Delegation No 11/13 made by the Department. Again this delegation is made under section 3(2) of the 1987 Act and purports to delegate to the Council of Ministers the function of determining the composition and length of service of the members of the Planning Committee and when they go out of office.

I do not understand why this delegation was considered necessary as these are administrative matters that flow out of the delegation to the Planning Committee referred to above.'

– and so on, explaining that point.

3155 Madam President, I paraphrase some of our correspondent's thoughts – because I think everybody in this Hon. Court knows that there is a correspondent involved in this. That correspondent has written:

3160 'It follows that, on the assumption that the members of the Planning Committee who were to be appointed under the Delegation of Functions that the Acting Attorney General was referring to, DoI Delegation 54/13, had indeed been appointed under that Delegation then, if we accept that his Answer, and as a politician you must do so, the Planning Committee would be acting lawfully. The fact remains, however, that the Chief Secretary confirmed on 5th December 2013 that the Council of Ministers hadn't appointed any members of the Planning Committee under DoI Delegation 54/13. It follows also that, as the Planning Committee
3165 appointed under article 3 of the Town and Country Planning (Development Procedure) Order 2005 ceased to exist, save for reserve powers, on the revocation of that Order on 1st August 2013, a Planning Committee doesn't currently exist to deal with planning applications submitted on or after 1st August 2013.'

3170 He has also mentioned:

'Importantly also, however, is the fact that although the Planning Committee which was authorised under DoI Delegation 54/13 hasn't been appointed under that Delegation, it nevertheless made a sub-delegation of the functions delegated to it acting under the
3175 authority of DoI Delegation 54/13 on 4th December 2013. I can but assume, therefore, that for some reason the Planning Chair, who signed the delegation, must have assumed that he and his Committee had been appointed under Delegation 54/13. The fact that they haven't been renders DoI Delegation 56/13 unlawful.'

3180 Another quote:

'If CoMin, and I assume the DOI, has received legal advice which, for reasons which escape me, presumably confirms that the appointment of the Planning Committee under article 3 of the 2005 Order still holds good, despite such appointment being discredited by the Minister
3185 during the July 2013 debate on the No. 2 Order, then why haven't they taken steps to counter the arguments which I have put forward about this?'

Issues of public speaking and other standing orders issues have been raised, and information is being exchanged in respect of these, and I think it is awaited by our correspondent. There
3190 have also been issues with the Control of Advertisement Regulations, which I hope have been dealt with today.

We neither have time on this occasion, nor is the floor of this Hon. Court the right place for further discussion of the merits of the issues I have already mentioned, nor to identify other issues that have come up during this correspondence. Rather, I would like now to remind Hon.
3195 Members – or perhaps even inform some Hon. Members – of some of the background or context of this correspondence, and consequently this debate we are having today.

One context is that the process of making these changes could have been carried out better. I think this is generally agreed. 'Untidy' and 'untidiness' are apt words, I suggest, to describe where we are and how we have got here.

3200 For instance, and as far as I remember, the Department changed the Town and Country Planning development procedure with its (No. 2) Order in July 2013 without mentioning the need for at least three pieces of additional secondary legislation – the ones we have just dealt with this morning.

3205 Back in 2005, as I pointed out this morning, the first time the development procedures Order was brought to Tynwald, all of these matters were dealt with in one go, with one explanatory memorandum – surely good practice.

I actually spoke about this back in July in Tynwald, and I quote *Hansard*:

‘One thing to say is that if the Speaker was a bit concerned after receiving the explanatory memorandum about whether the Planning Committee was still there or not, I think we should perhaps learn lessons... about the content of explanatory memoranda, because I have the same concern, and if that was not clear, perhaps we should at least have got a fuller briefing about that point.’

3210 Then I continued with two specific concerns: one about public speaking and one about interested parties. Perhaps that is the reason why I am here today, bringing the motion, because I made those points in that debate.

I acknowledge that a raft of delegations have been issued during the autumn, including some that have revised or annulled earlier ones, but I make the point – why could they have not been issued completely in the days subsequent to the Order?

3215 I also acknowledge that a Government Circular in relation to procedural matters, several standing orders and a code of conduct for Planning Committee members have also come out since.

I can raise other issues of untidiness which our correspondent has brought to our attention. I paraphrase:

3220 ‘DoI Delegation 56/13 was made the day before the Chief Secretary confirmed that the Planning Committee hadn’t been appointed. Delegation DoI 56/13 revoked DoI Delegation 55/13 made on 20th November 2013, because that Delegation had been made under DoI Delegation 05/13 which had already been revoked on 20th August 2013 by DoI Delegation 54/13. Was this delegation made as a result of enquires which were being made at the time
3225 by Mr Speaker?’

And so on, and so on.

3230 **The President:** Hon. Member, if you are quoting from documents, they really should be circulated to all Members. Do all Members have the documents you are quoting from?
(*Interjections*)

3235 **Mr Thomas:** To date, Madam President, I have just cited the correspondence which has been circulated to all of us by Mr Cowin, I believe – sorry, by our correspondent.

The President: It might have been helpful if Members... Members maybe have it before them, but...

3240 **Mr Thomas:** Thank you, Madam.

The President: They have had sight of it.

Mrs Cannell: It is all in the public arena.

3245 **The President:** It is quite difficult to follow unless you have this document.

Mr Thomas: In one sense, that is the point of bringing this motion today.
The second context –

3250 **The President:** The point is, Hon. Member, that Members should have it before them if you are quoting from it.

Mr Thomas: I apologise to Members and I apologise, Madam President, and will make sure –

3255 **The President:** Are Members content to continue? (**A Member:** Agreed.) (*Interjections*) Right, carry on, Hon. Member.

Mr Houghton: As long as he doesn't bore us to death. (*Laughter*)

3260 **Mr Thomas:** The second context –

A Member: Too late!

3265 **Mr Thomas:** The first context, then, was untidiness. The second context is our correspondent's form or track record. It is certainly remarkable (*Interjection*) and you could and I have concluded it is distinguished. As I mentioned earlier, our correspondent raised issues in the taxpayer and public interest eight or so years ago, which led to the appointment of the Civil Service Pensions Select Committee in 2006 and ultimately to the new schemes and acknowledgement of the pensions liability and that sort of thing. I asked the Chief Minister this morning whether he remembered this particular Civil Service working group which led to that
3270 Civil Service Pension Scheme Select Committee.

I quote from that Select Committee report – and I have not circulated this, Madam President, I apologise:

'26 January 2005

Briefing by Mr Trevor Cowin of DHSS to Chairman of CSC at latter's request about compliance with Disclosure of Information Regulations and the legal standing of the UK 2002 pension provisions.

Concern expressed that UK 2002 amendments might be legally in force in Isle of Man but not implemented by CSC.

4 March 2005

AG's Chambers advised that CSC has no discretion to defer the implementation of the UK 2002 amendments, but there were possible defences open to them which would not be "wholly unreasonable and unarguable"; new scheme for Isle of Man again urged.'

The Select Committee report continued:

'However, we are sorry to report that the CSC has not been open and taken the appropriate action when the true situation became apparent. This has not helped the CSC in their relationship with staff and the unions...

Mr Cowin advised the committee that he notified the CSC in January 2005 of his opinion that the PCSPS2000 may legally be in force in the Isle of Man.'

3275 They conclude:

'We are impressed with Mr Cowin's expertise in regard to pensions legislation and management, whose actions have ensured that this important matter has come to light.'

A third context is the extent to which there is already a concern about the issues raised in my motion.

Last July, the Minister said that the new order followed a root-and-branch assessment of the secondary legislation. This Hon. Court was informed in July:

'Presently, there exist a number of fundamental and significant problems in respect of the provisions, wording and interpretation of the current Town and Country Planning (Development Procedure) Order 2005. This has the potential to seriously undermine any immediate future reliance upon the existing legislation to support the operation of the planning function in the Isle of Man.'

3280 The contribution of our correspondent to the identification of these flaws was acknowledged by the Minister and the Chairman of the Environment and Infrastructure Policy Review Committee in November. The Minister said:

'... and I have a great deal of respect for the person you are referring to... I thought he was very good, in terms of when he worked for Government and he is very detailed. So, what I would say is that we take seriously his concerns. We have sought advice from the Attorney General's Chambers.'

3285 So where are we? There has been no procedural legal challenge, as far as I am aware. No specific decision has been challenged in these terms, fortunately, but as we have heard, the possibility is acknowledged and has been spoken about.

3290 Madam President, I hope it is acceptable for me to remind this Hon. Court of a news story in the Isle of Man newspapers on 9th December 2013, under the title, 'Ban on redeveloping links hotel is 'absurd': Dandara in bid to squash condition in Southern Area Plan'. The news story continued:

'In court, Heritage Homes' advocate Tom Maher said the government accepted LP21 should be removed. He told the court: "LP21 is a perverse, unlawful policy. Everybody now agrees this should not be there - it's absurd. Government concedes an error was made. The politicians over-ruled the expert civil servants.'"

3295 Leaving aside the issue of the Civil Service, public representative, people issue and what is intended in things like the Representation of the People's Act and the Government Departments Act and associated codes, the point is that if there is any chance that anything remotely resembling this train of events is possible, this Hon. Court should be seen to be dealing with it now.

3300 Thus my motion, given the contexts of firstly, the untidy situation; secondly, the fact that our correspondent has been proven right a few times before and his actions have contributed to enhanced governance and better public policy – he is not always right, but he has been right enough times to demonstrate it would be foolish not to listen and investigate; and thirdly, because of the potential embarrassment that I have just described.

So what needs to happen? What do I want when bringing my motion? We need legal certainty. We need to empower the planning department, its managers and its officers with legal certainty so that they can actually carry out their duties without worrying about this sort of thing.

3305 I hope that the Minister will stand up in a minute and say that he acknowledges we need changes to the primary legislation, which the Department will bring to Tynwald and the branches in the next few months – not at the earliest opportunity, but in June 2014, the date of this motion, or thereabouts. I know the Department has a lot on, but 'simpler, stronger' is best.

3310 Why has the Town and Country Planning Act 1999 not been amended already with a new section creating and empowering the Planning Committee etc; another specifying things, including in respect of delegations and orders; things like the right to speak and interested-party status dealt with appropriately in the primary legislation?

3315 The Education Act 2001, as amended – an Act of that era – establishes the Education Council and it sets out how it works. Likewise with the Health Services Act 2001, which establishes the Health Services Consultative Committee. If this is done, things would be better for us, for the officers and for the Department.

I am not the legal draftsman, but surely all the time taken to date on executive orders could have been used to draft an amending Bill.

3320 If there is no Government time, surely a way can be worked out so that the Hon. Member for Rushen, the former Minister for Infrastructure, Phil Gawne's Private Member's Bill can be extended, or a new Private Member's Bill introduced.

Then we need to address the immediate issues, which I acknowledge and want on public record that I acknowledge might only be ones of detail and ones of perception. *(Interjection by*

3325 *Mr Karran*) If this Hon. Court or one of its Policy Review Committees says that this was the intention of *x*, and this is the meaning of *y*, surely it would be helpful, and this is what we need at this moment. I believe a few people came to this conclusion at the same time.

I am not sure what the Chairman of the Policy Review Committee was thinking when he said this, but *Hansard* suggests that what he said was ‘the hoary issue of planning’ needed to be addressed.

‘... there are issues over the timing perhaps of the revocation and the installation of Orders; the legality of people’s appointment on to the Planning Committee; and with the Planning Committee itself.’

3330 The Chairman continued:

‘I just wonder if you have any comments on that, because I think it is going to come our way as a formal work piece at some stage.’

He remarked that:

‘the gentleman of concern has had two or three issues over the years with Government over their legislation. He has always been proved right up to date...’

– and –

‘I mean about legislative issues, over pensions etc, some time ago.

I wonder is there any merit in actually meeting up with this man and using his expertise to try to sort through what appears to be a riddle...?’

So I hope, if it has not already done so, that after today’s debate the Standing Committee, or the select committee proposed in this motion, will pick this up and the Department will co-operate with whatever is picked up.

3335 Madam President, I bring to this Court’s attention a situation which is not directly related to the subject but is parallel in terms of where we are, I suggest. The Social Affairs Policy Review Committee Second Report for the Session 2013-14: The Centralised Pupil Database Further Supplementary Report is on our Order Paper today. This short Report seems to show that this Policy Review Committee was not obliged to accept the Attorney General’s opinion, and – to my mind, most importantly – it shows a way forward for us in this case. The Committee’s investigation produced a joint advice note to the Committee – in that case, from the Acting Attorney General and the data protection officer. I quote... Apologies, but it is in our papers at the moment:

3340

‘They did not meet us but they did meet one another and as a result they produced the Joint Advice Note... The Joint Advice Note addresses our... concerns and reconciles the previously opposing views.’

3345 In this case, the Tynwald committee should take evidence not only from the most obviously involved people, but perhaps also receive written advice from the Council of Ministers and the Department’s ministerial planning adviser, independent planning advisers and so on.

This Court should be grateful to our correspondent for having brought his concerns to its attention; not accuse him of being vexatious or demean him by suggesting that he has not actually challenged decisions. Public policy around planning and development is the issue here.

3350

The Department has given some people the impression that it believes anything which delays what it sees as valuable development is a bad thing. That is not right. The Department cannot be disdainful of public representatives. Even more importantly, it has to be respectful of the general public in every shape and form in which the general public manifests itself. Government serves and listens, as well as deciding and leading.

3355

Can the Minister of the Department state clearly today that he is happy to correct perceptions of things that might be wrong, if that is what it is? Can he say that this episode is not just a distraction of his officers during challenging times? Can he say that his Department will co-

3360 operate with this Hon. Court's committee to take the next step along the path of the long-delayed comprehensive review of the whole planning process, so that the planning regime is better accepted in our community? Can he tell us when the amending Bill will be in the branches?

As I move towards closing, I just wanted to offer three reasons why it might be better to have a select committee on this occasion, rather than a reference to the Policy Review Committee.

3365 The first is that this particular Committee – the Policy Review Committee for Environment and Infrastructure – seems to already have a lot on, as was stated by one of its Members in a similar debate at the end of last year.

Secondly, this committee, to my mind, needs to report quickly, by June 2014. I suggest this might be easier with a different group of people involved.

3370 Thirdly, the Chairman has stated a few times that he has a personal connection with our correspondent, so it might be easier for the Chairman to manage this potential conflict through a select committee, although I am sure that the Chairman could work out a way, whatever is decided.

3375 But, of whatever form, we need a committee to address this. So, in conclusion – do the right thing: show that this matter is being addressed properly by this Hon. Court, by the Department, by the Government. Do not just regard this as delay.

If I go back to when Mr Gawne, this time last year, got leave to introduce a Private Member's Bill after the Southern Area Plan process was completed, he said:

'I feel that staff in the Planning Department were effectively being tasked with trying to pin jelly to a wall. It was so complex and so elaborate that it was all but impossible for them to do their jobs properly.'

Even my hon. colleague for Douglas West, John Shimmin, agreed with him:

'We as legislators put in the rules and the officers, particularly in the Planning Section, because of legalistic nature that it can become, have to abide by those rules.'

3380

That is, I think, the main reason why he supported the leave to introduce.

3385 Finally, I just want to raise one other issue. I want to bring to everybody's attention – we all know it, but to put it on the public record – that this parliament, our parliament, Tynwald, got a wonderful endorsement from the UK Justice Committee report, published last week. In the section on insular legislation, it was written – and apologies, but we have all seen it:

'In our view, the Ministry of Justice and the Crown Dependencies have carried out our recommendations by implementing a more appropriate and proportionate system for scrutinising insular legislation, with significant success. It is for Guernsey and Jersey to decide for themselves whether to adopt the system used in the Isle of Man, whereby Royal Assent is largely delegated to the Island's Lieutenant-Governor...'

Madam President, Members, we have to be especially rigorous now we have had such high praise.

I move, and thank in anticipation any seconder who is prepared to second this, and all Members for their careful consideration of the issues and their votes.

3390

Thank you, Madam President.

3395 **Mr Quirk:** Point of order, Madam President. The Member, in his speech, mentioned the Southern Plan. I am led to believe there is a challenge in the High Court which has not been concluded yet. I just wonder if the learned Attorney would know that, just in case we fall foul of anything.

The President: Do you want to comment?

3400 **The Acting Attorney General:** Yes. I can just briefly comment and confirm that that matter is still *sub judice* and still before the courts.

The President: Hon. Member, Mr Karran.

3405 **Mr Karran:** I will second and reserve my remarks.

The President: Hon. Members, I think we will take a break. The break will be until twenty-five past five, and the first to speak will be the Hon. Member, Mr Butt.

The Court adjourned at 5.02 p.m. and resumed its sitting at 5.25 p.m.

**Select committee on planning administration –
Debate postponed until April 2014**

3410 **The President:** Please be seated, Hon. Members.
The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

This motion is actually, although it is a very complicated matter, a fairly simple motion asking for a select committee to look into issues of planning.

3415 I think, for me, the most important part is part (b) of the motion: the validity of the delegations and the validity of decisions made under those delegations.

I will try to paraphrase the original mover's motion, and maybe condense it slightly.

3420 I will start off by saying the correspondent he refers to is a retired senior civil servant, who has been a lifelong friend of mine. So, whatever I say, I will try not to be biased, but there may be a perception of bias upon my part. I will try to be neutral on this matter though.

I would point out, as I think the mover did point out, that the retired civil servant spent many years in the Attorney General's Chambers and then in Social Security, dealing with complex legal matters. He is an expert in legislation, regulations and orders.

3425 He did challenge the personnel office some years ago about the validity of some pensions Orders, and they declined to accept his advice and did not listen to him. He was eventually disciplined for his behaviour towards the personnel office.

3430 The result of all that was that a Select Committee within this Court was set up and found that he was right in what he said. He was exonerated by the Select Committee, and that led directly to the Hymans Robertson Report and eventually the setting up of the Public Sector Pensions Authority. That is what his intervention did in that case.

In *this* case, he may well be wrong – I am not saying he is right. What I will say is, knowing his expertise and having read some of the numerous correspondence we have had from him, I believe he may well be right. I will just say this: I would not bet against him being wrong – put it that way.

3435 To be fair to the other side, the Department itself also believes it is right. The Department has not got as entrenched a view as the retired civil servant, and I think they have been making motions in recent months to try to remedy errors, if there are any there at all.

3440 This matter could go before the Scrutiny Committee on the Environment, which I chair. I would hope that it would not go towards that, because I have a personal connection with the man myself and I think I would be seen to be biased in my dealings with the matter – so I do hope it does not go to that Committee.

The alternative is a select committee, but the *real* alternative is for the two parties to come together to discuss the matter – which I have suggested to the Minister, and I believe he has

3445 made approaches to the man to try to get together to discuss the matter. It is a shame that it has come this far and requires a motion in this Court, when it should not have needed to come this far.

What I would suggest is that, although I will be supporting the motion, if there can be some independent review of the legality of the delegations and the functions, which would satisfy this correspondent, that may be a shortcut to saving further time and effort, from this Court or from 3450 any committee that may be set up. I would urge the Minister that, if it is possible to do that, it may be a way out of this situation.

It is important that our planning laws do stand up to legal scrutiny. It is quite possible, knowing the correspondent who has been in touch with us, that they may not do. I am not saying which is right and which is wrong, but I do think the Department – and I am sure they are 3455 – are aware of the problems that may be there, and I hope they do address them.

Thank you, Madam President.

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

3460 **The Minister for Infrastructure (Mr Cretney):** Thank you.

Planning legislation was drafted and then approved by Tynwald between 1999 and 2005, and it has operated without any procedural legal challenge to date. There have been challenges to planning decisions, but not to the procedure.

In 2011, procedural issues started to be raised, in particular by one correspondent, with 3465 respect to the handling and determination of a number of planning applications and planning enforcement cases. As a consequence, there have been significant volumes of complex and overlapping correspondence to different parts of Government – including the Department of Infrastructure, the Chief Secretary's Office and the Attorney General's Chambers – as well as to Members of Tynwald and the press.

3470 Despite repeated complaints and issues raised, the individual correspondent has never taken any formal steps to challenge the numerous procedural matters that he has raised over the last two to three years. In many instances, the responses made by Government have not been accepted by the individual concerned and issues have been reopened again, sometimes with other parts of Government. In handling the matter, the Department has been open and has 3475 explained its position in relation to the legislation and the decision to use delegations.

It is accepted that dealing with the issues raised by the correspondent has not gone as smoothly as the Department would have liked – the issues are complex, but changes have been made where appropriate. The Department is grateful to the individual for having brought his concerns to its attention.

3480 However, it is important to remember, when considering this matter, that the Department has an important role in planning to ensure that it makes decisions in a timely manner, so as not to inadvertently hold up or delay development that would benefit economic growth where that development fits with planning policy. Whilst the Department has been trying to do its best not to delay progress, distractions such as dealing with procedural complaints mean resources are 3485 being diverted from the 'trying to deliver the service' objective, under the same pressure facing all other parts of Government.

I would now like to briefly explain to Hon. Members what was wrong, why it was wrong, how the Department has addressed the issues to make the planning system fit for purpose, what has been the impact of the steps taken so far, and what remains to be done.

3490 Firstly, what was wrong: a range of issues have been raised about the wording and interpretation of legislation, delegations, standing orders and public notices; the vires and validity of appointments to the Planning Committee, planning inspectors and officers to undertake their roles; determination of interested party status; and lack of progress in implementation of public speaking at Planning Committee meetings; and also advertising and 3495 the control of advertisement legislation.

Why it was wrong.

3500 Although approved by Tynwald, the specific wording and interpretation of legislation has been the subject of extensive complaint by the correspondent in recent years in its application. No-one else has made any separate complaint. Alongside these complaints issues, issues have been raised by the individual about the wording and interpretation of the delegations made by the Department and myself, as Minister, and the Planning Committee.

So how has the Department addressed the issues to make the planning system fit for purpose?

3505 Following a variety of procedural issues being raised about the operation of the planning system, the Department decided to comprehensively review legislation, working with the Attorney General's Chambers and the Chief Secretary's Office.

3510 In doing so, Tynwald approved the Town and Country Planning (Development Procedure) (No. 2) Order 2013 in July 2013, and on the agenda of the sitting today Tynwald has been asked, and indeed has approved, three pieces of secondary legislation dealing with registered buildings, permitted development in telecommunications, and control of advertisements.

The Department has revised and issued new delegations, a Government Circular in relation to procedural matters and three standing orders, as appropriate.

The Department has also issued the Planning Committee Code of Conduct for members.

3515 In addition, where appropriate, we have sought to modernise the planning system based on best practice. In doing so, we have made revisions to the wording of weekly planning application public notices in the local media; we have introduced public speaking at Planning Committee meetings, which started in December 2013; and introduced new ways of undertaking planning enforcement investigations, including making better use of existing legal powers.

3520 With regard to the appointment of the Planning Committee on 5th December 2013, the Council of Ministers formally confirmed its previous appointment of the members of the Planning Committee for the purposes of determining planning applications.

Whilst these measures have been taken to address any immediate issues, it is the Department's view that a better solution requires changes to primary legislation, which the Department will bring to Tynwald and the branches at the earliest opportunity.

3525 So what has been the impact of the steps taken so far?

Members of Tynwald have been updated on the situation on a number of occasions, including a Written Answer to a Question from Mr Speaker at the November 2013 sitting of Tynwald, provided by the Acting Attorney General in Written Answer 42.

3530 To date, despite the correspondent's concerns and the publicity he has sought, no legal challenges have been made, despite him having raised his issues over the last three years. Therefore, no decisions made by the Planning Committee or by planning officers under delegations or under the existing planning procedures have been found to be unlawful.

3535 However, it is important to remember that planning application applicants or interested persons have the right of appeal to the Minister via the independent planning inspector. In addition, applicants can submit a new planning application, subject to the five-year rule, in article 4(4) of the Town and Country Planning (Development Procedure) (No. 2) Order 2013.

So what remains to be done?

3540 I would like to reiterate that the Department is planning to undertake a more comprehensive review of primary and secondary legislation in order to ensure that the planning system continues to be fit for purpose, to ensure the foundations for economic growth can be taken forward without delay. In this regard, it is the Department's intention to bring forward to this Hon. Court primary legislation at the earliest opportunity.

3545 In conclusion, despite the issues raised by the correspondent, I am not aware of any aggrieved person who may have been adversely affected, who does not have a right of appeal under the planning procedures or a right of challenge before the courts anyway, as unlike many other jurisdictions our system allows for both applicants *and* objectors to appeal.

The Department has sought to make the planning system fit for purpose, as there is an important role in planning to ensure that it makes decisions in a timely manner, so as not to inadvertently hold up economic growth where that fits with planning policy.

3550 If Tynwald has concerns, then the Environment and Infrastructure Scrutiny Committee, established for the purpose of reviewing implemented policy, can look into this matter if it is considered necessary, and has already partly considered the issue previously.

3555 The Department has always been happy to correct things that may have gone wrong, and I have made it absolutely clear that, if this is the case on any matter, we will do so. However, where there has been no real damage, cost or adverse impact, then I suggest the Department should be allowed to get on with the job of developing and acting in accordance with its established procedures.

3560 That is why a select committee – and obviously distracting officers by having to respond and prepare evidence – cannot, in the Council of Ministers' view, be justified, especially in these challenging times and in view of the Department's clear commitment to undertake a comprehensive review of the whole planning process.

3565 Hopefully, what I have said will reassure Members and show that the matter has been addressed and that a select committee will achieve very little and will delay progressing with the current top priorities of the review of the Strategic Plan, which is already underway, together with preliminary work regarding area plans – in particular the Eastern Plan, which has been referred to on a number of occasions.

3570 Can I say, I think there has been reference already as to whether the aggrieved correspondent could meet with the Department. An invitation has been issued – by both my Chief Executive Officer, as was discussed at the Scrutiny Committee when we attended there, and also, I understand, by the Acting Attorney General – to meet with the aggrieved correspondent. My understanding of the position is that, until further information is prepared for the aggrieved correspondent, he at this time has declined the invitation to meet. He has his legitimate reason for, at this stage, not wishing to meet. I am trying to be fair – I have always tried to be fair throughout this situation – but I do hope that all sides will see that we are trying
3575 to resolve any issues that are outstanding and go forward in the proper way.

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

The Chairman of the Planning Committee (Mr Skelly): Gura mie eu, Eaghtyrane.

3580 As Chairman of Planning, I think it is appropriate, obviously, that I pass comment on this before us today.

First and foremost, I just want to make a statement that I am very much in favour of political scrutiny and the reasoning for select committees, but the real issue for me is: is it justified?

3585 I am not going to repeat everything the Minister has just pointed out in his speech, because I think he has covered it extremely well, but as Chairman of Planning and chairing that particular Committee, I look at the legislation, and the legislation that has been drafted and approved by this very Court in 1999 and 2005 has operated without any procedural legal challenge.

3590 As you heard, this is actually driven by an individual, and this individual has been corresponding and raised issues with us back in 2011. With those issues, we have tried to be open and transparent, and deal with every particular query that has been raised.

3595 As pointed out by the Minister, they are *hugely* complex. Every time we have attempted to answer, it has raised more issues: it has become more technical and it has become more complex. It has just created an absolutely monumental amount of correspondence, which is the choice of communication of this individual. The correspondence, I will tell you, is through Planning, the Department of Infrastructure, the Chief Secretary's Office, the Acting Attorney General's. It has been in the press and it has been to all the Members.

So, as you get to the stage where you are trying to deal with these issues – openly and in a fair, equal manner – and trying to address them as we have tried to do for every single one... We

3600 decided to invite this individual in to discuss it: can we get to the bottom of these issues; can we try to find a way forward? Sadly, that has been declined.

So, what do we have? We have a motion before us today in the name of Mr Thomas from West Douglas, and I ask the question: is that justified, really? Whilst this individual has declined our offer, I am very surprised and I have to say I am quite disappointed with Mr Thomas, because he has put this in his name but he has not come to the Department, he has not come to me, he has not come to the Minister – he has not asked us about this issue, ‘Can we get to the bottom of it?’ So I am a little disappointed in that.

It has not been referred to the Standards Committee to review the policy. So, once more... I keep asking this question: is this select committee justified?

3610 As Chairman, and I know there are quite a lot of other former chairmen of Planning in this Court here, (*Interjection by Mr Quirk*) what I would say is they will all recognise how difficult a job it is, chairing the Planning Committee. But I would say this: I may have been in the role but a year, but the professionalism, the dedication and the ethical standards are exemplary. I am very impressed with the standard to which they apply themselves. And I will say this too, and I do not mean this lightly, I say the same for the officers. They would go to the end’s length to actually get to the bottom of issues.

3620 It is a difficult role, because when it comes before the Planning Committee it is always subjective and it is always controversial, but it is because of all the plans, the regulations and the procedural issues – and we rely obviously on the officers to provide the appropriate advice. We have the difficult task of managing the balance between protecting the environment and considering the community, and obviously the economic impact as well.

3625 We have been dealing with this for quite some time, as I have just been pointing out. Meanwhile, we have been getting on with business: there are 1,500 applications that we have dealt with, 180 appeals and 300 enforcement cases. This is a phenomenal amount of work, and this is very difficult with the resource we have. I am not bemoaning it, because we are all the same in all the Departments, and perhaps... [*Inaudible*] say that, except perhaps Mr Thomas does not appreciate the issue of resource.

It is about priorities, because we are getting on with our day-to-day business whilst trying to deal with the bigger issues: the strategic plan – that needs updating; the Eastern Area Plan – how important is that for our economy and for our Island; and the Douglas Master Plan as well.

3630 We are trying to get on with business and deal with these issues, and I have to say that if we support this select committee, that will draw our resource away from what I think are bigger priorities.

Gura mie eu.

3635 **The President:** The Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Madam President. I will be brief.

It looks as though it was not on my particular watch, so I am quite safe, but I may be conflicted if there is a committee to be set up.

3640 If I could say that, as the Member who is the current Chairman of the Planning Committee has just indicated, a simple referral to the Standards Committee on the particular policy, which I would favour examination on that particular point – (**Mr Turner:** *Standing Committee.*) I think we could possibly do that.

3645 I have not researched the case fully myself, and I am sure we are all aware of the individual, although he is nameless here today in the Court, but I just wondered whether, for the record, when a response comes back... did the particular individual have party status to the application, or was he granted party status to the application; or is he just challenging the vires of the current Minister establishing new members on the Committee?

3650 **The President:** The Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Madam President.

I too will be brief on this. It is a *very* complicated issue and I have listened very carefully to what people have been saying on it on both sides. What I am picking up is that they are saying we should not have this committee because there has been no legal challenge, (**Mr Turner:** Yes.) that nobody else has complained.

I am actually not sure that is relevant. It does not mean that things are being done correctly, or that they are acting legally in accordance with the vires that they have. The fact that no-one else has complained, or there has been no other legal challenge, I do not think bears any relation to that matter. And the fact that it could distract officers from dealing with bigger issues – again, I do not think that has a relevant... I can understand the sentiment behind that, but I do not think it is actually relevant to what we are being asked to decide.

We are being asked to decide: are we going to ask a committee to look at whether the Department is acting within its vires, as far as I can see; and whether it is valid, what they are doing.

I think a committee is actually the right way to do this. We should not be distracted by saying officers are going to be very busy. Everyone is very busy, (**A Member:** Hear, hear.) but I do think that we have to step back from that, and step back from the sentiment that no-one else has complained and officers are busy. They are irrelevancies, I think, and I think they are just put into the debate to distract Members from... Really, what they should be thinking about is: is the Department acting within its legal powers, or not? I think if there is any area of discrepancy in that, we need to have it ironed out completely.

So I will be supporting this motion and I do hope that others will as well, because I think we do need some finality on it, some sort of proper looking at it and getting to the bottom of it.

Thank you, Madam President.

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

Mr Turner: Thank you, Madam President.

I was not going to speak on this issue, but I was drawn to the debate this evening, and it was actually the Chair of Planning who has possibly led me into supporting the motion on the Order Paper. He said that it was complicated – ‘Trust us, the more we delved into it, the more issues that came up.’ Well, surely that in itself is saying that there are problems that need tackling here. We have two sides of an argument that appear quite entrenched. The only way really I can see is if there was some sort of independent review, maybe not even by a select committee of this Court, into the legal workings.

I could not follow, as you said, Madam President, the mover’s speech with all the references to the documents at all, and it would have been useful to have had forewarning that we were going to refer directly to them, so we could at least try and follow the chain. However, that is not the point I am making.

I agree with the Chairman of Planning that there are officers working hard, they have a daily job, as it is in all Departments, and the officers are doing their very best. But that is irrelevant when it comes to the ‘Is the legislation correct?’ – and I think that is what we have to focus on here.

It should also be noted, as the Hon. Member of Council, Mr Butt, mentioned, that the person who has brought this into the public forum has had previous experience of highlighting deficiencies. I too have had personal experience of this individual when I was the Member for Fisheries, because that same individual challenged a Fisheries Order which I was bringing through and which was also incorrect. He was proved to be right and we had to bring in an amendment Order for that particular piece of secondary legislation. So again we have somebody here who is quite forensic with their viewing of legislation – and it may be that he is wrong on this account, but it may be he is right.

I think to say that this is going to take resources away from doing the job is a poor excuse when we are talking about the operation of the legislation. If it is wrong it needs dealing with, it needs looking at and it needs assessing; and unfortunately this is the legislation that those officers are going to have to operate. I am afraid that is a consequence of the situation we are in.

I do not accept any argument that it has worked since 1999 and nobody has challenged it, because that also is no excuse not to deal with something.

I myself, in 2005, wrote to the Department of Home Affairs, as it was, over the traffic warden legislation. They looked into the points I had made and ended up having to refund a load of tickets, because that legislation... and I think the Minister was my good friend here, Mr Braidwood, who just told me he could not remember that incident. But again it is an example that legislation in all jurisdictions can be incorrect, and I think if we have a situation like we have now, where there are two very entrenched views, then it should be properly investigated, possibly independently, to get a resolution to this, so Planning can at least move on. Those are the points I am making to the debate this evening.

The President: The Hon. Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, Madam President.

As a Member who brought a number of motions previously to this Court regarding the Poacher's Pocket and Crossag Farm, I think the main point the Hon. Member moving this motion has failed to do so far is actually have the dialogue with the Department before bringing the motion here. I think it is premature.

If he can convey to the individual involved the importance of actually coming along, with himself, to see the Department; and then, if he does not get satisfaction that way, maybe he should look at recourse. But I think he is very premature at the moment.

The other option is to talk to Members and explain to them what you are wanting to do. Just coming out on the day and saying, 'This is it,' does not give any two-way conversation on what you are trying to achieve.

So my suggestion to the mover is contact the individual involved and say to him, 'If you want to progress this, meet with the Minister, the Chairman of the Planning Committee, the planners – if you then do not get anywhere, you can return to the Court.'

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

Mr Karran: Eaghtyrane, I was not intending to speak, but to make sure that this was debated. That is why I was keen on seconding it.

I have to say that I was very sympathetic towards the issue of what the Minister and the Chairman of the Planning Committee have said – until I just heard the previous speaker.

The issue is that this is a parliament. Tynwald is the national parliament of the Isle of Man. You should not have to go and have nice chats about issues (**Mrs Cannell:** No.) behind closed doors. The point is, that is not what a parliament does. An executive government does that. A parliament looks through the fact of trying to hold the executive function to account.

I have to say I do actually have some sympathy with the Chairman and the Minister, in that to be honest with you, in these times we have got horrendous problems; but I have to also balance that up between that being a responsibility as a good parliamentarian to try and help the executive Government.

I feel that I should support the mover, not just because I seconded him to try and make sure this got debated, but because I do feel that maybe there are people entrenched now, and maybe, as the Member of Council said... (*Interjection*) The Minister says 'rubbish'. (*Interjection*) Yes. No. I do not know, but I think the point is the Hon. Member for West Douglas, through his parliamentary duty, has decided to move this motion. I cannot see him winning this motion, but

I am sure that if he does not win this motion there will be some way of making sure that that door is open.

3755 I have to support the Hon. Member for West Douglas because of the fact it is a parliamentary request for this to be put into a parliamentary sphere, and that is what the Hon. Member for Malew and Santon needs to realise.

Mr Cregeen: That is why he put the motion for maladministration, because they did not talk with us.
3760

Mr Karran: That is not the way things are done in a parliamentary democracy, so I have to say, as much as I empathise with the Minister and the Chairman of the Planning Committee, we really do need to get on. We have got an 80% dependency of the construction industry on the public purse.
3765

We need planning moving. I have to say the Hon. Member for West Douglas has that right, and I think we have got to support the Hon. Member for West Douglas.

The President: The Hon. Member, Mr Henderson.
3770

Mr Henderson: Gura mie eu, Eaghtyrane.
I move that the debate be adjourned.

Mr Watterson: Until when?
3775

The President: Until?

Mr Henderson: Well, that remains to... *(Laughter and Interjections)*

Mrs Cannell: Pick a date.
3780

Mr Henderson: Certainly for six months, Eaghtyrane, to allow... If Members will let me progress my argument... **(A Member:** Hear, hear.) I have to be seconded yet, so if you do not fancy it, do not second it.

3785 The thinking behind me putting the motion to Members, Eaghtyrane, is quite simple. It is quite clear that there is room here for some dialogue, **(Several Members:** Hear, hear.) for the Member who has put this to the Court – quite correctly, and that is fair enough – to meet with the Department and open some dialogue. I would sincerely hope that the person who has been referred to as ‘the correspondent’ throughout this would be able to be part of that as well, to put their views in.
3790

I too know the correspondent, and in the past I know that he has been correct – and he has had some assistance from myself, as it happens.

However, we have a situation here. I do not need to drag this out any longer – I have made my point – and I move that we adjourn until the April Tynwald to allow for some dialogue to take place between the mover, possibly the correspondent and the Department.
3795

Several Members: Hear, hear.

Mrs Cannell: Madam President, I am happy to second that motion.
3800

The President: We are now into an adjournment debate, Hon. Members, and the Five-Minute Rule will apply.

The Hon. Member, Mr Thomas.

3805 **Mr Thomas:** I take note of the five-minute limit to contributions, Madam President.
(*Interjection*)

Mr Braidwood: It's a miracle.

3810 **Mr Thomas:** I think the amendment is a good idea. I support the move to amend it until April 2014. (**Mrs Cannell:** Adjourn.)

If I can say why I support it, very briefly, when you have the invitation to come to somebody to speak, it has got to be on an independent basis. 'Independent' means you are not just going there to be told why you are wrong; you are going there to discuss the issues with them, to come to the right thing. You have to have equal information and it has to be basically an equal dialogue.

3815 In actual fact, I have been more engaged with the Department and the Acting Attorney General than people have been suggesting.

It was suggested that I could even be independent, because I have got no idea about the individual case that this person has against the Department, if there is one. (*Interjection*) I just basically brought this motion as a national interest issue. This person is not in my constituency. I could tell that Mr Butt was giving the impression he was conflicted, and I took it on in the national interest because we need good planning.

I think it is an excellent suggestion to move the debate and as a very minimum I could be an independent role, but I hope we can do better than that for Mr...

Two Members: Hear, hear.

Mr Henderson, Mrs Cannell and another Member: Vote!

3830

The President: If no further Member wants to speak, Mr Henderson has the right of reply to the adjournment.

Mr Henderson: I am satisfied with how it has progressed, Eaghtyrane.
3835 Thank you.

The President: Right, we will go to the vote then, Hon. Members. The motion requires a quorum of each branch to succeed: 13 and 5 respectively.

Electronic voting resulted as follows:

In the Keys – Ayes 21, Noes 0

| FOR | AGAINST |
|--------------|----------------|
| Mr Quirk | None |
| Mr Hall | |
| Mr Karran | |
| Mr Ronan | |
| Mr Crookall | |
| Mr Anderson | |
| Mr Quayle | |
| Mr Teare | |
| Mr Cannan | |
| Mr Cregeen | |
| Mr Houghton | |
| Mr Henderson | |
| Mrs Beecroft | |
| Mrs Cannell | |
| Mr Shimmin | |

Mr Thomas
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne
The Deputy Speaker

3840 **The Deputy Speaker:** Madam President, the voting in the Keys is 21 for and none against.

In the Council – Ayes 6, Noes 2

FOR

Mr Corkish
Mr Crowe
Mr Butt
Mr Turner
Mr Braidwood
Mr Coleman

AGAINST

Mr Downie
Lord Bishop

3845 **The President:** In the Council, 6 votes for and 2 against. The motion to adjourn until the April sitting of Tynwald is therefore carried, Hon. Members.

**39. Members' pensions –
Amended motion carried**

The Hon Member for Onchan (Mr Karran) to move:

That Tynwald views with concern the unsustainability of the Tynwald Members' final salary pension scheme; recognises its commitment to honour those pension rights already granted; is of the opinion that Members' pensions should be based on a money purchase scheme immediately after the 2016 General Election; and believes that this would be in accordance with Tynwald's commitment to the protection of taxpayers' interests.

3850 **The President:** We now move on to Item 39. I call on the Hon. Member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane, Hon. Members, I have raised the issue of pensions for a considerable number of years now – probably more than some Members have been in this Hon. Court.

3855 I asked the Hon. Member for South Douglas, Kate Beecroft, to move the motion in March 2013 because of the seriousness of the situation and because she was a new Member in this Court and they have the most to lose.

3860 The fact that it would have substantially affected me if the Court had listened to representations in the past and we had taken a more responsible view in respect of pensions several years ago is not my fault but a missed opportunity. That matter should have been taken seriously because there are serious implications concerning the whole of public sector pensions in the future.

3865 I would imagine today there will be a number of people who will be rather concerned about this Item and might want to point score, but I believe the seriousness of this Item is too important: Tynwald views the unsustainable liability of the Tynwald Members' final pension scheme and recommends its commitment to honour those pension rights already granted, and is of the opinion that Members' pensions should be based on a money purchase scheme

immediately after the 2016 General Election. I believe this is in accordance with Government's commitment to protect the taxpayers' interests.

3870 Whilst I have been a Member of this Court, I have not always been on the inside – or not very often – of Government. There are many other unsustainable issues that unfortunately have not been addressed and have left long liabilities.

The issue, Hon. Members, is that we need to lead by example.

I supported the Hon. Member for Michael and his independent review even then into the review of Members' salaries and do not think that we are overpaid as Members, but we are in
3875 difficult hard times and we have to face the reality that the present pension is a 40% liability onto the taxpayers under the present scheme.

If we are going to address the issue concerning the public sector pension, we are going to have to deal with ours first. The problem is that if we are not addressing it now... and we have got to get our own house, or Court, in order in respect of a money purchase scheme. Whilst I
3880 understand what some Hon. Members are saying – that they are actually the first contributing towards our pension – the fact still remains that we still have a funding crisis, even with such an instigation for such a process being taken.

What I would like to see is a forerunner of other sectors of the public sector pension... would be the fact that we should do a mirror money purchase scheme, where calculations would be
3885 done but the money would be going in now to be used. Whilst this will not solve the problem, it will stop the ballooning of the situation becoming totally unacceptable and unsustainable for future generations.

I am not trying to demean Members and their recompense. I have supported and fought with other Members in Order to bring in decent rates for Members and issues like the six months' redundancy package that I wanted for married Members – with one of my ex-colleagues for
3890 Middle nearly falling off the chair at the requisition meeting for saying that this needed to be done, it was a disgrace and it needed to be done and done now. I do not agree with the nonsense that we hear about how they used to do it for the country. They just simply got payment in different ways.

3895 Hon. Members, we have a choice: we can run away and add this to the long list of things that should have been done sooner; or we can show by leading by example, by knowing that, for anyone who stands at the next election, the terms and conditions will include a money purchase scheme for their pension.

The motion is actually here to help executive Government, and whilst I have often sat alone, having a totally isolated stance, enduring ridicule because I did not agree with the majority view and follow the emperor-with-no-clothes syndrome – which has been academic over the years with the cost to the taxpayer – the present arrangement over the public sector pension scheme is not just another example of an emperor-with-no-clothes syndrome, but it completely
3900 outstrips the previous schemes all put together.

3905 My apologies to you, new Members of this Court, but this matter should have been addressed before the last election took place.

We are where we are. We have made promises and we have to keep those promises, which sometimes over the years, with certain issues, I think are completely ridiculous. Let us show we stand together, we lead by example and we are the first ones to change. We have to make this
3910 stand to get the respect of the general public and workers who are being told that they have got to do it. This Court has got to say, 'Do as I do, not as I say.'

I know it is not going to be popular and I know that I am an old-timer in here, but the fact is I hope Hon. Members will support this because this will actually help executive Government with the hard decisions that it has to make.

3915 I beg to move.

The President: The Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Madam President.

3920 It will not come as any surprise to anybody on here that I am writing to second the motion. As Mr Karran said, I brought the motion at the request of the party last year and I think I made my feelings on the issue extremely plain then. I am not going to go into chapter and verse, but I would like to just reiterate the main points of it.

3925 The public sector pension scheme has been acknowledged... it is unsustainable in its current form. I think the black hole is increasing by something like £3 million a month – I think was the figure quoted – and it has to change. But how can we ask thousands of people to change if we are not prepared to do so ourselves?

A Member: We *have* changed.

3930

Mrs Beecroft: We should be leading by example. We cannot ask everybody else to share the pain, to do the responsible thing, if we are not showing that we are doing it as well, (**A Member:** We are.) and I think in the real world you will find there are very few pension schemes that are not money purchase any more.

3935 It is not going back on what Members have an expectation of today. They are not losing anything. It will not change until after the next General Election, at which point those Members who do not stand again will not be disadvantaged – they will not have lost anything. Members who do stand for re-election will know, going into that, that they are going to be in a money purchase scheme, as will any new people who decide to put their names forward. It is open and transparent: we would be telling them now, ‘This is what you are going to get if you stand to be an MHK.’ I do not think there is any reason why we should not be doing it from then. We are not breaking promises to anybody who is in here now.

3940 I think that is really the crux of it, Madam President. We cannot afford to go on as we are. We cannot afford not to be setting an example, saying, ‘We are in this with you and we are going to do it first to show that,’ and then expect other people to follow, rather than expecting them to do things that we are not prepared to do ourselves.

3945 That is basically it, Madam President, and I thank Members for listening.

The President: The Hon. Member for Middle, Mr Quayle.

3950

Mr Quayle: Thank you, Madam President.

Under Standing Order 3.15, I wish to move an amendment to Mr Karran’s motion, which I believe has been passed out to all Members.

3955 I think Mr Karran’s motion is really very similar to the motion moved by his colleague, Mrs Beecroft – who has already accepted that – in March 2013. It calls for major changes to Tynwald Members’ pensions, but goes no further. Given the shortfall in income for pension schemes, just to look at Members’ pensions is not enough. Any savings made would be a small drop in the ocean (**A Member:** Hear, hear.) and some cynics may see this really as tokenism and political point scoring. (**Mr Henderson and another Member:** Hear, hear.) This motion is the equivalent of going to your local doctor with the flu and cancer problems and just getting some Lemsip capsules for the cold, with no treatment for the serious problem.

3960 The first part of my amendment calls for a comprehensive valuation of any of the Island’s public service schemes managed by the Public Sector Pensions Authority and Tynwald Members’ schemes, to give us a complete picture of the long-term position – and this was a conclusion in the PSPA Report to Tynwald Members in October 2013 as a result of the motion put to Tynwald in March by Mrs Beecroft and amended by my hon. colleague for Kirk Michael, Mr Cannan.

3965 The second part calls for the relevant authorities to investigate ways of reducing the liability to provide a sustainable and fair pension scheme.

3970 I would now like to briefly outline and analyse the main problem, as I see it: the deficit between income and expenditure.

3975 Any shortfall in the public sector pension scheme comes out of the Government revenue and pension reserves. To put the current £35 million shortfall that the public sector pension is costing the taxpayer into context, this equates to approximately two-and-a-half times what we spend on the annual running costs for the Department of Economic Development; or more than the entire cost of the Department of Home Affairs, which runs the Police service, the Prison Service, the Fire Service and Civil Defence; or more than one third of what we spend on the education of our children per annum.

3980 It has been worked out by actuaries that a man aged 60 in 2010 can expect to live for a further 27 years, and a woman a further 29 years. A man aged 40 years in 2010 can expect to live a further 29 years from the age of 60, and a woman 31.

3985 Madam President, on that basis it would seem that life expectancy is still on the increase. For example, in 1980, a 60-year-old male was expected to live until age 76. If his pension was £8,500, he would take out £136,000 from the pension scheme in retirement. Now, a 60-year-old male retiring in 2010 is expected to live until 87. Based on a pension of £8,500, he will take out of the pension scheme some £229,500 – an extra £93,500. This is a 69% increase in payments out of the pension scheme. Have contributions risen by 69%? I think not.

3990 Whilst the movement to GUS on 1st April 2012 was a good step in the right direction in dealing with pensions – and also this Hon. Court agreeing that all Members should pay their 5% contribution; which I am sure we all have and have paid our way, so it is not as if politicians are not contributing (*Interjection by Mr Quirk*) – unfortunately, I do not believe it was enough to provide a sustainable and fair pension scheme. I would hope that the Public Sector Pensions Authority and the Pensions Working Group consider some of the following options, along with any others I am unaware of or have missed – and I apologise if I have missed anything obvious.

3995 The first one, I think, is the possibility of moving from a final salary scheme to a career average revalued earnings scheme, known as CARE. Under a CARE scheme, your pension would accrued based on your salary for each year during your working life. This is different from a final salary scheme, where your pension is based on your salary near to retirement age. A CARE scheme is therefore fairer and does not favour employees who are promoted rapidly and highly paid, or promoted close to retirement. (**Mr Anderson and another Member:** Hear, hear.) This was confirmed by Lord Hutton, who reported that high flyers – i.e. people who have been promoted several times over the course of their careers – can receive almost twice as much for every £100 of contributions than people on more modest salaries. He concluded that final salary does not provide the right design for future public service schemes.

4000 Two: we should investigate linking employees' current retirement age under the public sector pension scheme to that of the Island state pension scheme, as in fact Jersey have done and are implementing in 2015.

Three: higher contribution rates. I know we have just increased them, but the deficit has not gone away and we must explore this option.

Four: capping lump-sum payments.

4010 Five: reducing future pension accrual rates.

4015 I sincerely hope that anyone listening to this speech does not think that I am in any way attacking those who have a pension with the public sector pension scheme. Far from it. What I am trying to do is protect the public sector pension scheme for the future. It is blatantly obvious that there are serious problems with the sustainability and fairness of the scheme going forward. However, if we sort out the problem now, instead of leaving it for the next generation to sort out, those people who have a public sector pension will be confident of receiving what they have been promised, rather than experiencing emergency legislation in the future when the money runs out and our children can no longer afford to fund our pensions.

4020 I hope that Tynwald Members will support my amendment to Mr Karran's motion, as I personally feel this is one of the key problems facing the people of the Isle of Man and it needs sorting now.

I beg to move:

To leave out everything after 'That Tynwald views with concern' and substitute: 'the continued rising cost and liabilities associated with public sector pensions including Tynwald Members' pensions, and calls upon the Public Sector Pensions Authority:

*(a) to undertake a full and comprehensive valuation of the Government Unified Scheme, Tynwald Members' pension schemes and relevant pension schemes as applicable; and
(b) with the Pensions Working Group to report to Tynwald by December 2014 on the feasibility of implementing further cost sharing and other measures to reduce the long term liability in order to provide for a sustainable and fair pension scheme.'*

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

4025 **Mr Skelly:** Gura mie eu, Eaghtyrane.

I rise to second the amendment, as I simply cannot support the original motion. I am afraid I regard it as pure tokenism, as coined there by the Hon. Member for Middle. (**A Member:** Hear, hear.)

4030 As a Member who made the maximum contribution at the first instance, I will recognise that Members' pensions do need addressing; however, I think the real issue – the real elephant in the room – is the public sector pensions.

A Member: That's right. Hear, hear.

4035 **Mr Skelly:** We need pension reform for the entire public sector, including Members. There are 30-odd of us here, over 9,000 in the public sector: a huge bill, getting bigger, costs are rising – needs re-evaluation. It simply is unsustainable.

4040 The current scheme is based on a report from Hymans Robertson. The report is too old and makes far too many assumptions. The report was compiled in a different era, back in the noughties, pre the VAT raid: an entirely different era.

4045 When I say far too many assumptions, the main one that jumps out at me is the 7½% increase in revenue. That is made up of 3% annual inflation and 4% economic growth. Other assumptions were: the uptake of the protected scheme was too high; phased increase of contributions too low; and stable staff numbers. We all know – we just voted it through yesterday – we want a smaller Government. We are striving for that, but that is going to mean fewer contributors. Therefore, we need a scheme fit for purpose and fit for a smaller Government of the future.

4050 My hon. friend from Middle said this issue is too big, and I could not agree more. It is too big to dismiss and it is certainly too big to leave for another administration to deal with. We need to be responsible decision makers and responsible for future generations. Acting now will ultimately save those in the scheme. A very important point. We must protect those in the scheme, but we should also think about those others who are going to join in the future. So we need to find a sustainable scheme that will protect those and provide security for new entrants too.

4055 The Hon. Member from Onchan talks about a money purchase scheme. I have to say I am not convinced that is the right solution. I think it is a very fair argument to phase out final salaries. Career averages are literally the norm everywhere else. The private sector moved that way longer ago and just about every other jurisdiction has gone that way too from a government perspective, so it is time we did too.

4060 The main aim of this amendment is simply to achieve a pension scheme that is fair, equitable and sustainable. It is not just Members, but it is the entire public sector. So today it is decision time. Let us not leave it until the next administration. It is time to act now. I encourage you to vote for the amendment.

4065 **The President:** Hon. Member for Michael, Mr Cannan.

The Vice-Chairman of the Public Sector Pensions Authority (Mr Cannan): Thank you, Madam President.

4070 There is no question that the debate around the affordability of public sector pensions and their associated liabilities, not just here on the Island but across the UK and Europe, is one that is going to cause concern for all interested parties, and I include in that the taxpayer, who is of course ultimately funding these schemes.

4075 I know that within this Chamber there are a number of Members who are seriously concerned about the structure of the pension schemes and their long-term sustainability, and that is why I welcome the broadening of the debate today away from one isolated scheme and towards the bigger picture.

4080 Whilst I recognise the intent of the motion, I believe that, as a financial model, simply closing the schemes – which is what is being suggested – will be financially unsustainable in the short term, as the revenue liabilities will double overnight and literally the implication from that is that Government's requirement to pay out would go up from £35 million to £70 million, literally overnight.

I therefore congratulate my hon. friend from Middle on his amendment, and indeed his seconder, for their willingness to broaden the debate and to take matters forward.

4085 In broad terms, the amendment is a sensible one and I do not foresee the PSPA having any issues in dealing with the requirements resulting from the amendment. It seems to me eminently sensible that a full and comprehensive valuation is undertaken of the Government unified and associated relevant schemes, including the Tynwald Members' pension scheme, and that the results of the valuation are analysed and assessed accordingly by the Pensions Working Group.

4090 I believe it is essential that when the working group to report back to Tynwald they report back in a comprehensive manner and that they not only fully explore each option open to addressing and reducing the Government liabilities, but they also recommend what the preferred solutions are and how these might be implemented.

4095 These solutions for consideration of course will include the introduction of career average calculations; capping of payments; perhaps capping of average salaries; contribution increases; plus, I am sure, the options that may have been introduced elsewhere and will have been highlighted in the report that the PSPA brought to Tynwald in November regarding actions that have already been taken elsewhere, in the United Kingdom and in Europe, in respect of the problem.

4100 It is important to recognise why we are today facing these problems, and I would suggest to you that, when these schemes were first brought to bear, Government was fundamentally different and life as a public servant was fundamentally different. In particular, I refer to an age when public servants were effectively low paid, and as a result were given in exchange added protection in their lives such as housing benefits and of course an affordable pension based on a low salary. Of course, added to that was the life expectancy decades ago, when retirees were expected to be funded for perhaps two to five years after retiring.

4105 Now, of course, the situation is different. Generally speaking, many public servants are well paid by comparison to their forebears, the size of governments have increased, and of course life expectancy has grown significantly. Put all this together and you produce a potent mixture of significant liabilities, growing monthly deficits, and excessive payments perhaps in some instances to the higher earners. **(Mr Henderson: Poor returns.)**

4115 The issues of pay and pensions are inextricably linked. These are not separate issues and public sector workers must recognise that pay rises cause an increase to pension liabilities and that Government has no choice but to look seriously at the ongoing sustainability of the pension scheme on behalf of the current and future workforce.

Although Government may argue that it has already done this through the cost sharing mechanism, whereby the worker meets 75% of the cost and the Government meets 25% of the cost, I believe this mechanism may have flaws which will make the required contribution increases from the workforce unsustainable.

4120 What I am saying is that it is in the best interests of the current workforce that the whole matter is looked at – and looked at thoroughly, urgently and sensibly – in the manner prescribed in the amendment.

The amendment should not be viewed as an attack on pensions, but as the necessary set of actions required to ensure the future sustainability and fairness of the pension schemes, particularly when considering society as a whole.

4125 Having said all that, it is important that the Court does recognise the increasing contributions of the public sector workers towards the pension schemes, and that many, including MHKs, are having to pay increased contributions.

4130 It was most unfortunate in that respect to have an attack from the Unite union on their fellow workers in the Prison Service, Social Services, medical secretaries and other groups of Civil Service workers, following the announcement of the recent pay award of 0.5% and 2% for next year – an award that was reached at conciliation and an award which, when taking into consideration the pension contribution increases of 1% per annum, meant that the net effect on civil servants' take-home pay, and MHKs' base salaries, was a 0.5% decrease for this year, and effectively a net 0.5% increase for next year.

4135 Madam President, I accept that changes perhaps are needed to the manner in which these awards are announced, as some of the rhetoric and reporting has been unfortunate. (Mr Corkish: Hear, hear.) However, if there was an argument made for the need for governments to stand firm in the face of unfounded hostility and personal attacks from union leaders intent on causing divide and trouble, then this was it.

4140 My message, therefore, on pensions is this: Government must take the right course of action to ensure sustainability and fairness, and workers must understand that Government is taking this action to protect and sustain their futures, not destroy them. In doing so, we must not be bullied or put off course by unfounded militant attack from union leaders intent on causing trouble. (Several Members: Hear, hear.)

4145 I will be pleased, Madam President, to support the amendment. I believe that these actions are sensible ones that the PSPA will have no problem in supporting and taking forward, and I hope that this will be the start of a process that will ensure sustainable and fair schemes for all.

4150 **A Member:** Well said.

The President: The Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Madam President.

4155 The bigger picture has been referred to, and obviously the bigger picture of whatever we say here is important. Part of the bigger picture is that pay and pensions and relationships are important, but the other part of the big picture is that we are different from salaried permanent staff, in the sense that we have a five-year mandate for public representation. So that is something that we need to take into account as we make up our mind.

4160 Also, I am sure the mover of this motion will refer to this but I think it was wrong to say that he has not taken into account the cashflow of the changing pensions behind his motion, because he talked of mirror schemes – and I am sure he will explain that a bit more in his closing remarks.

4165 I just wanted to pick up on a few things in the amendment which I thought were worth making remarks about.

The first one is 'undertake a full and comprehensive valuation'. My point is I think we have lots of those already, so I am not quite understanding what that is about, and I will refer to some of those valuations in a moment.

4170 The second point is I was not quite clear what the Pensions Working Group was, but the mover of the amendment has very kindly explained it to me – which is that it is the Public Sector Pensions Working Group, which the mover suggested yesterday should include an independent, and I suggested yesterday should include a politician. So we have the issue that the Public Sector Pensions Working Group, to which we refer in this, does not have anybody from this place. It has officers from Government on it, and that in itself is an issue.

4175 Also, I am a bit concerned about the December 2014 date, because this excellent report that was laid before us in October from the Public Sector Pensions Authority, which we have not debated yet – and that in itself is a good thing, that we are debating it – talks about the Tynwald Members' Pension Scheme Management Committee having responsibility for this. It is nothing to do with anybody else: that is *our* responsibility. It says:

'At present, there are no cost sharing provisions within the scheme. However, it is considered that cost sharing on a similar basis to that outlined in... this report could be applied to the Tynwald Scheme.'

4180 We need an actuarial valuation, we need relevant advice, and all that is going to take time, so by delaying until December 2014, it is an ambitious task to put that in place before the election, which is what the mover and many other speakers intended by this in their comments.

I said I would just comment on some of the valuations. Obviously, before we started contributing we had information about how much the taxpayer was paying for our pensions, and that is in the Government Actuary's report in 2012 – and that figure is 43%. That is the employer share of the standard rate, according to the actuarial report. So that is quite a sizeable amount and the liability for us, ourselves, £17 million to £12 million. The cost is increasing, and that is in our annual report that has been put into the public domain, but we have not discussed it in here as such. That was £770,000, but it is estimated to be rising to £857,000 – *hundred* thousand, 4185 sorry... eight hundred and fifty seven *hundred* thousand – so it is quite a sizeable amount of money.

I was looking back through the records, and the Hon. Member for Onchan, the youngest one, (A Member: Who's that?) actually asked a Question – when was it, back in 2012 (*Interjection by Mr Quirk*) – though I never saw it commented on at the time until I discovered it in the Library 4195 through our excellent staff. It actually gives details about the size of the pensions that are already in payment and also about how much the pensions will be in payment for current Tynwald Members in the future. So that is all information that is in the public domain, and from that you can see why the payment each year is getting up towards £1 million.

So, in closing, it is an urgent action.

4200 I have one problem with the motion as it stands as well, which is that for some reason the oldest, I think, Member for Onchan – perhaps the most senior Member for Onchan... [*Inaudible*] in his motion talks about recognising its commitment to honour those pension rights already granted. Obviously, when this working group does consider, there are alternatives because the Public Sector Pensions Authority brought to our attention very clearly the Irish situation: if you 4205 cannot honour your commitments you have got to renegotiate contracts. That is all explained very clearly in the Public Sector Pensions Authority Report – excellent report – which should be more widely discussed.

Mr Cannan: Madam President, can I raise a point of order just in respect of the comments 4210 from the Hon. Member, Mr Thomas?

He said that we already have a number of valuations of these schemes. That is correct, but a lot of that is based on information that was put together some years ago, and the reason why

the amendment requires a fresh valuation is because it would give the full facts and accurate facts and figures in relation to the schemes.

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The President: The Hon. Member for Castletown, Mr Ronan.

Mr Ronan: Thank you, Madam President.

Pensions are a very complex and very emotive subject that a lot of us in here are very concerned about.

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I would like to thank the Hon. Member for Onchan for moving this Item, which is something that I also feel very strongly about, and I have sympathy for why he brought this here.

4225

We, as elected representatives of the people of the Isle of Man, need to be seen to be leading from the front on public sector pension reform. Only two weeks ago, the Chair of the Civil Service Commission made public the fact that the latest figures for the public sector pension schemes were way beyond the wildest estimates that we had had. This is a tap that is draining money from our economy currently, and we need to stop it.

4230

My position on public sector pensions is very well known in this Hon. Court. I too agree at least that we are contributing to our own pensions, but what I am even clearer about, having spoken to many of my constituents and businesses around the Island, is that there is a fear that there is developing a pensions apartheid in the future. If we do not address this and the wider pension matter now, there is going to be growing resentment in so many areas about the huge disparity between public and private sector pensions and the relatively small contribution for the public sector, which seems to deliver... [*Inaudible*] style pay-outs in certain cases.

4235

When the mover of the motion put this down, I must admit I was going to support it; but listening to the debate today, I am going to support the amendment, simply because of some of the language we are hearing today. As they said, it is about the bigger picture. The language which is coming out today... This is the start, hopefully, of addressing this problem across the whole pension schemes, and this is why I am going to support it, simply because the language I have heard is very positive.

4240

I would like to put on record my thanks to Mr Karran for bringing it to the floor again, because it is vital that we debate this; but also to Mr Quayle for what I consider is a very sensible amendment.

Let us hope that we can get to the bottom of this. I will be supporting the amendment today.

4245

Thank you, Madam President.

Mrs Cannell: Vote!

The President: The Hon. Member, Mr Downie.

4250

Mr Downie: Thank you, Madam President. (**Mr Henderson:** Vote!)

This has always been a difficult area for Members to consider. That is one of the reasons why our pay and conditions are linked to part of the Civil Service.

4255

I do not want to give you a history lesson, (**Several Members:** No!) and I am not going to, but I think you should know that when I became a Member of this Hon. Court, along with a few other long-standing Members, you did not get a pension. You had to be here for two terms.

4260

What happened was we had a situation where there were Members here who took ill – gravely ill, in some circumstances. They went out and passed away and there was nothing left for their wives and families, so the Tynwald Management Committee, in their wisdom, decided to put together a scheme.

There are, in fact, two schemes. There is the old scheme, which pays you out on wherever you got to in Government – so, if you got to be the Speaker or the Chief Minister or whatever, all your time in Government was paid on the scale you got to within the system. (*Interjection*) We will come to that in a minute.

4265 The Hon. Member for Onchan, Mr Karran, wants to bring in a money purchase system. We are actually on a contributory scheme now.

Mr Henderson: It has been amended.

4270 **Mr Downie:** We have done that. But one of the things that I am concerned about is that in Mr Karran's motion we want to ring-fence all the existing pension rights. I would ask why, because when I came in here and we decided we were going to have a pension, it was part of your entitlement.

I know we have moved on and we make a contribution, but I think there is possibly only one, 4275 or possibly two Members left... probably one left on the old scheme. **(The President: Two.)** Two, right, *(Interjection)* but if we are going to look at this afresh, should we not be looking at everything? **(Two Members: Vote!)**

I do not want to embarrass anybody, it is not my intention to embarrass anybody, 4280 *(Interjection by Mr Henderson)* but it seems to me to be unfair where a person who gets to a certain position... that is what his pension is based on. I think that is an anachronism. If we are going to move on, let's move on for the right reasons. In some cases, that anachronism... A person may be in a job for only a few months, but that situation can mean that that person can benefit by about £5,674 per annum for life, on top of their pension. So that needs to be considered.

4285 I support what Mr Quayle is trying to do. This issue is never going to go away, but what we might be able to come up with is a much fairer and easy-to-understand position. We flagellate ourselves in this Court, but as was said earlier on, the problem is not in here: the problem is within the Civil Service. We see it. Those of us who have been here see people getting promoted in the last couple of years, and you know it is to boost their pension and all the rest of it. We 4290 have got to find a way to stop that, and I think that if we go with Mr Quayle's amendment today we will be on the right track.

A Member: Hear, hear.

4295 **Mrs Cannell and another Member:** Vote!

The President: The mover to reply.

A Member: Hear, hear.

4300

Mr Karran: Eaghtyrane, as the Member who has been in here a lot longer than the previous speaker, the reality is that in the new scheme you have got automatic widow's rights as soon as you die. If you are in the old scheme, you will get nothing until the Member is 60. If you have critical illness, you will get nothing until you are 60. If you are in the new scheme, I think you 4305 have got the opportunity of being able to claim your pension once you are 60, which would mean that once you have done your 30 years... which would be the case for myself six years before I am 60 because I came in here at 24... to be honest with you, the idea of consolidating the schemes would be quite a nice idea as far as that fact is concerned. It might be nice for Members in this Hon. Court because the fact is they might find one way of getting rid of me 4310 from in here! *(Interjection and laughter)* *(Interjection by Mr Henderson)* *[Inaudible]* ... the Member of Council is it is always someone else's problem.

All I put this motion down for is that I think we need to address the issue. I have been very interested in this idea of the CARE pension scheme, how it is brought about... asked about, but the reality has to be that what we brought in as a new scheme... and some were rather surprised 4315 when they found themselves in the wrong scheme, especially when they had critical illness at the time many years ago ... What is important is that we have a problem where we look at the

liability as far as our staff and we look at the liability as far as pensions... our pensions are going to be soon more than what our staff costs are. This is something that is a serious issue and that is why I think we have got to make a unilateral decision.

4320 I thank my hon. colleague.

I just think that with the Member for Middle's amendment, which I am sure will end up winning anyway, we will be looking like we are just passing the book, and I just feel... (Mr Quayle: No.) I feel that it will, because the problem is –

4325 **Mr Quirk:** Just going to examine it.

Mr Karran: – when I am talking about this issue and he tries... about the funding, that is why I said we have a mirrored money purchase scheme, because we have to stop that liability from growing and stop that ballooning that is there, which we need to do now.

4330 The changes have to be done, but I do feel that the amendment is another way of dealing with it. I am not denying that, but I feel that the first way we could start is by doing the money purchase scheme, because I feel that that issue needs to be seen now.

I am sorry that the Hon. Member for Rushen thinks it is tokenism, what I am doing: it is far from tokenism. I think the truth is most people – 98% of the people outside – will think that your amendment is the tokenism. We say it is the whole public sector that is the problem – (Mr Henderson: True.) Well, it is, (Mr Henderson: Yes.) but we have got to start somewhere, and my worry is that we are chopping the legs away from executive Government if we are not acting responsibly like this is far as this issue is concerned.

4335 As I have said to the Hon. Member for Michael, I am proposing a money purchase scheme. I believe that is the sensible way forward. We know we cannot stop the money going in to try and ease the funding crisis, and I am no more trying to stop that than I was trying to get all Government expenditure the other day by the Chief Minister being put into sea defences. I just asked... I just think it is wrong to give that idea that we want to somehow do that.

4340 I have to say that the one good thing about the amendment, about the CARE scheme on retirement scheme, is I think it is very worthy, a very worthy idea. I think it is something that does need to be looked at, and if that amendment ends up being agreed, then that is something that needs to be addressed.

4345 We both want to have the money to finance the services, the pensions and everything else that Government wants to do. My worry is we are making it much more difficult for the next executive Government to actually operate.

4350 If we do this today, it will chop the legs away from anyone who criticises the Government of the Isle of Man and Members of this Hon. Court. I really do think that we should support the original motion.

4355 I thank the Hon. Member for Middle for bringing forward his proposal, but I feel you should support the issue.

I think you will find that with the likes of... Mr Thomas explained... and of course thank you for not purposely wanting to misrepresent what I was saying – it seems to be an art form in this Court.

4360 I am not trying to stop the funding and create a funding crisis with a mirrored money purchase scheme. I am trying to stop the growth of the debt. I am worried that we do need to have action now and I do think we should be supporting the original proposal.

I am thankful for the support as well from Mr Ronan when he quotes the issues about the wildest estimates and the bigger picture. Yes, the bigger picture and the estimates are growing alarmingly.

4365 I believe that this Court needs to support – and unilaterally support – the original motion. If, by not getting supported... then obviously I will support the amendment, but I think this is the way forward and I think it is important that we put things down on record, that the scheme that two of us in this Court... Some of us would have to be well into our 80s to actually get the benefit

4370 of being in the old scheme over the new scheme because of the years that we would have before pensionable age.

Mr Downie: Why change it?

4375 **Mr Karran:** Also, if you were married... That was the reason why the old scheme was supposed to be worse, because your wife would not get any pension (**A Member:** Vote!) until the day the Member got to his 60th birthday.

There are pluses and minuses with both schemes. I do not mind. This is not personal; this is about a responsible parliamentary assembly. This is something that we need to do.

4380 I hope Hon. Members will support my motion. If not, we have got the amendment; but my concern is... I just think that we need to be taking action before December 2014. I just think we need to be doing it now and we would be helping the Chairman of the Civil Service Commission and we would be helping the Chief Minister because it would make their negotiations an awful lot easier and an awful lot simpler as far as this situation is concerned.

4385 I hope Hon. Members will support the motion as it stands, but if the amendment comes through, then at least it is a step in the right direction, even though I believe it should have been done before now – five or 10 years before now.

4390 **The President:** Hon. Members, the motion before the Court is set out at Item 39 on your Order Papers. To that, we have an amendment in the name of the Hon. Member for Middle, Mr Quayle. I put to you the amendment: 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 19, Noes 3

FOR

Mr Quirk
Mr Hall
Mr Ronan
Mr Crookall
Mr Anderson
Mr Bell
Mr Quayle
Mr Teare
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mrs Cannell
Mr Shimmin
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne
The Deputy Speaker

AGAINST

Mr Karran
Mrs Beecroft
Mr Thomas

The Deputy Speaker: Madam President, the voting in the Keys is 19 for and 3 against.

In the Council – Ayes 8 , Noes 0

4395

| FOR | AGAINST |
|-----------------|----------------|
| Mr Corkish | None |
| Mr Crowe | |
| Mr Downie | |
| The Lord Bishop | |
| Mr Butt | |
| Mr Turner | |
| Mr Braidwood | |
| Mr Coleman | |

The President: In the Council, 8 votes for and no votes against. The amendment therefore carries, Hon. Members.

4400 I now put it to you as the substantive motion. 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 22, Noes 0

| FOR | AGAINST |
|--------------------|----------------|
| Mr Quirk | None |
| Mr Hall | |
| Mr Karran | |
| Mr Ronan | |
| Mr Crookall | |
| Mr Anderson | |
| Mr Bell | |
| Mr Quayle | |
| Mr Teare | |
| Mr Cannan | |
| Mr Cregeen | |
| Mr Houghton | |
| Mr Henderson | |
| Mrs Beecroft | |
| Mrs Cannell | |
| Mr Shimmin | |
| Mr Thomas | |
| Mr Cretney | |
| Mr Watterson | |
| Mr Skelly | |
| Mr Gawne | |
| The Deputy Speaker | |

4405

The Deputy Speaker: Madam President, the vote in the Keys is 22 for and none against.

In the Council – Ayes 8, Noes 0

| FOR | AGAINST |
|-----------------|----------------|
| Mr Corkish | None |
| Mr Crowe | |
| Mr Downie | |
| The Lord Bishop | |
| Mr Butt | |
| Mr Turner | |
| Mr Braidwood | |
| Mr Coleman | |

The President: In the Council, 8 votes for and none against. The motion therefore carries. That concludes our business, Hon. Members.

4410 I understand that Members have received an invitation from the Chief Minister to attend the Holocaust Service on Sunday. I am asked to remind Members that it will be held at St. George's Church and you are required to take your seats at 2.45 p.m.

Thank you, Hon. Members. The Council will now withdraw and leave the House of Keys to transact such business as Mr Deputy Speaker may place before it.

4415

The Council withdrew

House of Keys

The Deputy Speaker: Hon. Members, the House of Keys now stands adjourned until Tuesday, 28th January, at 10.00 a.m. in our own Chamber. Thank you.

The House adjourned at 6.55 p.m.