

**PART J****20. PART ONE FINAL CONCLUSION**

- 20.1 The Commission has investigated, so far as it is currently enabled by legal proceedings to do so, the government's handling of irregularities referred to in the report of Professor Crow relating to the planning and development history of Mount Murray as required by Tynwald in its resolution of 19<sup>th</sup> February 2002.
- 20.2 In the circumstances of Mount Murray, the Commission is fully satisfied that tax matters are themselves part of the planning and development history and are capable of illuminating it. A number of companies connected to the Mount Murray development have taken action through the courts to contend that tax matters are outside the Commission's terms of reference.
- 20.3 The Commission's approach to its remit has been accepted by the Isle of Man High Court and by the appeal court of the Isle of Man. These court decisions have been the subject of further appeal to the Privy Council, but the appeal has been dismissed for reasons which are still awaited at the time of publication of this report.
- 20.4 The Commission has also investigated "allegations of corruption made in Tynwald Court" in February 2002 as required by Tynwald in its resolution of 19<sup>th</sup> March 2002.
- 20.5 The allegations of corruption were not direct allegations of corruption. The sense and context of the allegations made related primarily to maladministration and weakness in government allied to lack of transparency. Thus, it was effectively contended in the Tynwald debate in the setting up of the Commission that it appeared that the government had allowed a developer to do whatever it asked to do, to the extent that people seeking reasons for such a situation included corruption within the possibilities open to consideration, given the lack of transparency which prevented the true reasons from being identified.
- 20.6 The result of our investigations show that there was not corruption in the ordinarily understood sense of the term, that is the passing or receiving of pecuniary gain or other consideration in return for actions taken or not taken. However, we do find that there was corruption of the system of government by reason of consistent maladministration and weakness, allied to wrong doing by officers, and the lack of transparency in government dealings. This did allow a developer in effect to dictate to government, and, without in any way breaking the law, achieve in development terms exactly what it wanted to achieve, notwithstanding the consequential cost to the taxpayer generally, and affected members of the public particularly, in terms of safety, amenity and finance.
- 20.7 Court proceedings taken against the Commission by the developer have led to delays so that the Commission has considered that the public interest is best met by reporting in two parts. This is because our report identifies many important matters which should be drawn to public attention at the earliest practicable opportunity, and which should be addressed by government at the earliest practicable opportunity. To delay the publication of these matters for some indeterminate time until conclusion of litigation is not in the public interest. The Part One Report, now published, covers matters not restricted by legal proceedings relating to tax matters.
- 20.8 The primary events which led to the production of this report occurred over twelve years ago, yet it was only some three years ago that they were truly brought into the public arena. The failure to detect and examine the misdeeds for nine years until the

Crow Report was commissioned is as important an aspect of our report as are the original events. This is because the weaknesses and failures by government in the handling of those matters continue in significant degree with a still present belief, in many areas of current influence, that there was really little wrong with the systems of government, and that there was simply negligence or misconduct by some limited number of individuals who were operating the systems. Such opinions are seriously misconceived.

- 20.9 In this regard we have, amongst other matters, drawn attention to the representations made on behalf of the Mount Murray Country Club on the draft Braddan Parish Plan seeking to expand significantly the residential element of the development. As indicated<sup>1</sup> the decision on that submission will ultimately be made by the Department of Local Government and the Environment for ultimate approval by Tynwald, but paragraphs 13.27 to 13.29 above show that those representations acknowledge serious present day safety and access problems related to the presently permitted Mount Murray development. It is also clear that all the presently permitted 175 dwellings are or will be in permanent residential use, and whilst it may be technically correct to say in the modified draft written statement of the Braddan Parish Plan that this was provided for in the terms of the approvals granted in the early 1990s, the manner in which this came about and the physical legacy it has left on the ground cannot, in our view, be ignored. Nor, as can be seen from this Part One Report, does the comment made by Mr McCauley<sup>2</sup> in response to a letter from Mr Karran concerning the zoning on the Local Plan, to the effect that the Commission "is focussing on past events" reflect the Commission's approach and conclusions which emphasise the need to recognise that past failure has considerable relevance today, and to recognise the serious consequential problems which have been created and which need to be addressed by government now.
- 20.10 Many of the consequential and causative problems which remain today affect both individuals on or close to the estate, and the quality of governance. Some steps of material benefit have been taken by government to seek to remedy the problems, but further significant steps, and in some ways more difficult steps, remain to be taken to rectify the continuing consequential effects, and to seek to ensure, so far as that is now possible, that like errors and failings do not recur. There is similarly the need to provide the transparency which would have made responsible politicians, executives, and members of the public aware of what was happening, possibly in time for the failings to have been prevented. It is also relevant to note that the weaknesses and critically defective handling by government of irregularities was not confined to the handling of matters by the Department of Local Government and the Environment.
- 20.11 As requested we have made recommendations. Some of these lend support to the government in the remedial steps which it is already taking. Others explain further steps which we consider should be taken.
- 20.12 We are of the view that the public owes a debt of gratitude to the Members of the House of Keys who sought a proper investigation on these matters, and to Tynwald for resolving that they should be appropriately investigated by a Commission of Inquiry. It will be significantly further in the public interest and of wide general benefit to the Island if government acts to implement our recommendations effectively.

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<sup>1</sup> Paragraph 13.28

<sup>2</sup> Mr Karran Document Q50 Part VIII Letter McCauley to Karran 7.5.2003