

6. THE ALLEGATIONS OF CORRUPTION

i) As Put in Tynwald

- 6.1 When looking at the resolutions of Tynwald we have considered it appropriate to look primarily at the resolutions themselves, and then to look at the debates preceding the resolutions in order to help achieve a sensible and relevant interpretation of the words within the resolutions, if those words allow such interpretations. We find that they do so allow, as is set out in this section.
- 6.2 The resolution of 19 March 2002 demands within its own words that the debate of 19 February 2002 be examined to see what are the allegations of corruption made within the debate. When that is done, and it is found, as is the case, that allegations of corruption were not made in direct terms in the 19th February 2002 debate by the mover of the resolution, Mr Karran, (see paragraph 6.4 below), then it is sensible and rational to look also at the debate which preceded the 19th March resolution which resolution does refer to “allegations of corruption” as such in direct terms.
- 6.3 It goes without saying that, in order to have a proper and accurate understanding of any document or speech, it should be looked at in its entirety. We have this much in mind as we refer to particular parts of the debate and particular parts of speeches which were given in Tynwald on the 19th February and also the 19th March 2002. The full Hansard reports of these debates are available¹ and we have sought to bear this principle fully in mind as we have referred to the various extracts.
- 6.4 It is important to stress that it appears to us that when Mr Karran moved the resolution on the 19th February, he was not primarily directing his attention to allegations of corruption but putting in a plea for open, honest, competent government. He made no direct allegations of corruption. What he said was that the way in which government had conducted itself in Mount Murray matters created suspicions, the profoundest suspicions, that corruption had taken place.² What he said was incorrectly translated by the Speaker, Mr Brown SHK, into actual direct allegations of corruption, thus the Speaker said:³ “All he said and continued to say was ‘Corrupt practices by government and ministers and yet he never once explained or put to the House any evidence at all of what those corrupt practices were.’” This is really quite a serious misunderstanding of what Mr Karran was saying. The Speaker continued to pursue these misunderstandings culminating, as it were, when he said: “So, we cannot ignore that a member of this hon. Court has stood up and said there have been corrupt practices.”⁴ Mr Karran had not said that. This misunderstanding of what Mr Karran had said continued through the debate. Mr Cannan MHK⁵ made a number of references to corrupt practices, although it is possible that he initially started his speech by reference to the mention of allegations of corrupt practices referred to and dismissed in the Crow Report.⁶ Read as a whole, however, it comes across as corrupt practices having been alleged in the House that day.
- 6.5 But it is also important to look at what Mr Karran was saying as a whole. What he concentrated upon was maladministration and weakness in government allied to lack of transparency of what was actually happening, apparently allowing a developer to

¹ Documents C2 Hansard 19.2.2002 and C5 Hansard 19.3.2002

² Document C2 Hansard 19.2.2002 T523, left hand column, and T524 right hand column.

³ Document C2 Hansard 19.2.2002 T528, left hand column

⁴ Document C2 Hansard 19.2.2002 T528, right hand column

⁵ Document C2 Hansard 19.2.2002 T530, left hand column

⁶ Document C6 Crow Report 1.41

be taking up the reins of government, or causing public discontent so that people were wondering how this all could have happened, and, not having the transparency to know the answer, people were suspecting one of the answers might be corruption. This is a long way from saying that there was corruption. That this was the thrust of Mr Karran's complaint does become clear, we find, when one looks at some of the chronological statements he made as he went through his speech and as we set out in the next following paragraphs.⁷

- 6.6 We have already in paragraph 3.108 above referred to Mr Karran's initial summation of what happened when he said that it was: "a story about a planning application by someone who ... managed to take the reins of government out of the hands of two ministers, then bullied and scorned officials in two departments to do his will and, by a series of con tricks ... was able to utterly confound the planning rules and the laws of this Island..."⁸ It is worth repeating here in the chronology which we are setting out. After briefly summarising events as he saw it he said: "This is an outline of what has become the best example of the worst kind of executive maladministration imaginable."⁹
- 6.7 After surmising further what government departments knew and referring to the ultimate form of the development, he went on to say: "... by creating time after time circumstances that demonstrate utter incompetence on the part of ministers and government officials." So there he is putting forward one possible reason for how the circumstances have come about. But he went on immediately to say: "Or, worse, the suspicion in the public man of corrupt practices that could have taken place."¹⁰ So the reference to corrupt practices is seen as a suspicion, and it is not said that the corrupt practices did take place, but could have taken place. Furthermore, this is put as an alternative possible explanation to incompetence. It is important to understand this distinction from an outright allegation of corruption when an important part of the theme of Mr Karran's speech is the lack of transparency in government. People did not know what was happening, therefore all sorts of reasons as to why they did happen formed in people's minds, including those that were less attractive than others.
- 6.8 He added emphasis to this by saying that: "the Mount Murray development has, over a period of 10 years, been a source of chronic discontentment to the electorate."¹¹ A little later¹² he asked how credible it was that nobody had read the submitted documents including the Buyer's Guide. We find that a fair question to ask. We find it a legitimate question for the reasonable man in the street to ask; if all was well with what was going on, how can it be credible that decision makers failed to read documents which were part of the application which they were determining? Of course the ordinary reasonable man in the street would not know what the real answer to that was, because there was a lack of transparency as to what went on within government. So all sorts of possible answers may be given to what, on the face of it, is a somewhat odd occurrence.
- 6.9 Later,¹³ after referring to the nature and scope of the difficulties created by the Mount Murray development, he referred to the raising of fundamental questions regarding

⁷ Paragraphs 6.6 to 6.12

⁸ Document C2 Hansard 19.2.2002 T522, right hand column

⁹ Document C2 Hansard 19.2.2002 T523, left hand column

¹⁰ Document C2 Hansard 19.2.2002 T523, left hand column

¹¹ Document C2 Hansard 19.2.2002 T523, left hand column

¹² Document C2 Hansard 19.2.2002 T523, right hand column

¹³ Document C2 Hansard 19.2.2002 T524, left hand column

the fitness of individuals to hold positions or to be able to hold such office at all. Then, he went on: "There are questions that must be answered, and answered in face of the electorate if open, honest government is to be sustained in this country."¹⁴ This is where his emphasis lies.

- 6.10 He then set out a number of questions which he felt should be answered. Amongst these he asked the question: "How was the Planning Department reduced to chaos over this affair?"¹⁵
- 6.11 He then went on to summarise as it were: "We are dealing here with fundamental issues involving good government; the integrity of the law, the competence of ministers and the fitness of such individuals to hold ministerial office, and the placing of profit over the rights of the electorate outside this hon. Court. When the public inquiry concludes and makes its report public, government will have taken a significant step in the in the direction of open, honest dealings with the electorate of the Isle of Man."¹⁶ It was following this summary that he went on to say that: "The development at Mount Murray had been the cause of the deepest discontent and created the profound suspicions that corrupt practices had taken place."¹⁷ Then, in his few remaining sentences, he asked for a public inquiry and twice referred to open, honest and competent government.
- 6.12 In a nutshell, what he said was that the events had been most bizarre, we don't know what did happen, but they were so bizarre that people even suspected corruption. Let us investigate all this in the interests of open, honest and competent Government.
- 6.13 Mr Quine, who seconded the resolution, did not make allegations of corruption either. He concentrated on the need to get the whole truth of the matter. He felt that this had not been done in the Crow Report, he pointed to a number of things which were unusual. He referred to the question: "Why were these officers placed in a position where they were under such political pressure to cause them to adopt what Professor Crow has described as – and there he is being charitable – highly irregular procedures?"¹⁸ He found it difficult to believe that there was concealment of the residential issue from the Planning Committee. The reasons for this, he said, were left in the air in the Crow Report.¹⁹ He did specifically refer to corruption but solely in the context of a reference to this by Professor Crow.²⁰
- 6.14 We draw particular attention to Mr Quine's argument²¹ that the sort of issues which had been discussed that day in Tynwald would not go away and would only be resolved when "we get to the whole truth of the matter." We draw attention to that because it is quite clear, from the remaining tenor of the debate, that Tynwald did want a wide and full investigation as to what had occurred so that ultimately the matters which were still in question and were causing concern would finally, and forever, be put to rest.

¹⁴ Document C2 Hansard 19.2.2002 T524, left hand column

¹⁵ Document C2 Hansard 19.2.2002 T524, left hand column

¹⁶ Document C2 Hansard 19.2.2002 T524, right hand column

¹⁷ Document C2 Hansard 19.2.2002 T524, right hand column

¹⁸ Document C2 Hansard 19.2.2002 T527, left hand column

¹⁹ Document C2 Hansard 19.2.2002 T527, both columns

²⁰ Document C2 Hansard 19.2.2002 T527, right hand column

²¹ Document C2 Hansard 19.2.2002 T527, right hand column

- 6.15 The Speaker²² said that: “the public will expect nothing less than a full investigation into the issues that have been raised in this hon. Court today.” Mr Gelling said:²³ “The sooner the line can be put under this the better, and, unfortunately, that line has not been drawn. The situation at Mount Murray is still very, very difficult”. Without further specific reference to speakers it is fair to say that the general tenor of the debate was that it was important to know really what did happen and that there should not be left any outstanding questions. The clear mandate was for a full and wide investigation.
- 6.16 Before moving from this 19th February debate it is relevant to draw attention to further statements by the mover of the resolution, Mr Karran. It is particularly important to draw attention to what he said in terms of corruption and the Planning Committees concerned. He said: “I am quite sure that there is no doubt that his Planning Committee did nothing that would be described as being corrupt. I have no problem with that.”²⁴ He then went on to say, notwithstanding the Crow Report: “It is important to get rid of the smear” and continued: “We need to make sure that we can show there is transparency,”²⁵ re-emphasising this shortly afterwards.
- 6.17 The 19th March 2002 debate²⁶ had as its initial purpose to seek approval for financing of the Commission. However, the Speaker moved that there should be the amendment that the Commission of Inquiry be requested to investigate the allegations of corruption.²⁷ The width of the investigation which was expected is seen by the Speaker’s statement: “The point is that the allegations have been made, and I believe it is prudent to tidy this mess up, to ensure that we get what we really want, and not find ourselves with a report that actually still provides no answers.”²⁸ Mr Lowey MLC said: “I hope it reports early and it clears up all the misapprehensions, not just for the people of Mount Murray, but for the taxpayers of the Isle of Man and the reputation of this Court.”²⁹ Mr Cannan MHK said: “It is very right and proper that the Commission which we supported last week (sic) has the widest possible powers to look into all the allegations.”³⁰ The Chief Minister referred to a member stating “that Professor Crow’s report did not satisfy this Court [of Tynwald]”.³¹ He went on to say that he was sure “that the vote was carried in this hon. Court a month ago on the issue of the accusations and the need for these to be clarified and answered. That was the driving force behind why the majority vote occurred and that is why, on the final vote, the Council of Ministers fell in line, as it were ...”³² A little later he said: It is certainly my hope that this Commission has a wide remit³³
- 6.18 We are satisfied from our careful examination of the debates that we are required to undertake a wide and full investigation of what has been made our remit in both the resolution of 19th February 2002 and that of 19th March 2002, so that there do not remain any outstanding issues which can continue the discontent which has been in place for a very long time. The Speaker has made representations to the

²² Document C2 Hansard 19.2.2002 T529, left hand column

²³ Document C2 Hansard 19.2.2002 T529, left hand column

²⁴ Document C2 Hansard 19.2.2002 T531, left hand column

²⁵ Document C2 Hansard 19.2.2002 T531, right hand column

²⁶ Document C5 Hansard 19.3.2002

²⁷ Document C5 Hansard 19.3.2002 T581, left hand column

²⁸ Document C5 Hansard 19.3.2002 T581, right hand column

²⁹ Document C5 Hansard 19.3.2002 T582, left hand column

³⁰ Document C5 Hansard 19.3.2002 T582, left hand column

³¹ Document C5 Hansard 19.3.2002 T582, left hand column

³² Document C5 Hansard 19.3.2002 T583, left hand column

³³ Document C5 Hansard 19.3.2002 T583, left hand column

Commission in respect of paragraph 6.4³⁴ above. He has made observations on the debates in Tynwald, which we have noted, and he further states that he does not believe that the issue of statements made in debate in Tynwald Court is within the remit of the Commission and, referring to propriety, appended a letter from the Clerk of Tynwald concerning breach of privilege. We find it self evident that our duty requires us to examine what was said in Tynwald and we consider this to be clearly demonstrated by the contents of this section. The purpose of examining the debates has no purpose at all in relation to procedural and legal aspects of Tynwald, but is to inform the Commission as to the views which were expressed in the debates for the purposes explained in this section, and summarised in this paragraph, and insofar as there is inaccuracy in anything which was said, we have noted that and taken it into account.

ii) The Evidence to the Commission of Messrs Karran & Quine

6.19 When Mr Karran appeared before this Commission in order to give evidence we asked him to clarify the “allegations of corruption” which are of course now part of the resolution of the 19th March 2002. His answer was consistent with the way in which he had put matters in Tynwald. He said: “I think the situation here of what we have found of corruption is that money doesn’t always have to pass hands for corruption to be a corrupt act”³⁵ and “I was making allegations of maladministration when I would say that would be classed as a corrupt act and I think the point is that the issue that I raised brought this Inquiry.”³⁶

6.20 Mr Quine’s evidence before the Commission³⁷ was not inconsistent with the approach which Mr Karran explained to us.

iii) Commission Conclusion on Approach to Corruption

6.21 In the light of the above matters, particularly the nature of the resolutions, and the nature of the debates which preceded the passing of those resolutions, we have, without difficulty, reached the conclusion that it is the wish of Tynwald that we should investigate the allegations of corruption widely and thoroughly and that we should not limit our investigations to the passing or receiving of pecuniary gain or other consideration in return for actions taken or not taken. So we have taken into account the wider understanding of the term as put by Mr Karran in support of his moving of the resolution of the 19th February 2002 and as explained in more detail in paragraphs 6.4 seq above. It is clear to us that Tynwald want this matter finally cleared up for better or for worse so that no remaining discontent or lack of understanding remains. We have followed this approach and the clear wishes of Tynwald.

End of Section 6

³⁴ Annex 4

³⁵ Evidence of Mr Karran P1 Notes Day 1, page 9

³⁶ Evidence of Mr Karran P1 Notes Day 1, page 11

³⁷ Evidence of Mr Quine P2 Notes Day 1, page 68 seq

