



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

SELECT COMMITTEE ON IMMIGRATION

**BING ER-LHEH TINVAAL MYCHIONE
ARRAGHEY STIAGH 'SYN ELLAN**

Douglas, Monday, 25th February 2008

Members Present:

Chairman: The Speaker of the House of Keys (Hon. S C Rodan)
 Mrs C M Christian, MLC
 Mr Q B Gill, MHK
 Mr J P Watterson. MHK

Clerk:
 Mr L Crellin

Apologies: Mr R W Henderson, MHK

Business transacted

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The Committee sat in private at 12.42 a.m.

Tynwald Select Committee on Immigration

*The Committee sat in public at 10.32 a.m.
in the Millennium Conference Room,
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

Procedural

The Chairman (The Speaker of the House of Keys, the Hon. S C Rodan): Good morning, everybody and welcome to the meeting this morning, which is a sitting of the Select Committee on Immigration. We are taking evidence in public session.

The Committee was established in January last year to review and examine the operation and adequacy of the existing legislation in the Isle of Man for monitoring and controlling immigration into the Island.

We are the Select Committee: my name is Steve Rodan, the Chairman; on my left, Mrs Clare Christian MLC; Mr Quintin Gill MHK; Mr Juan Watterson MHK; the Clerk to the Committee, Mr Les Crellin. Mr Clive Alford is our Hansard Editor, who is recording today's proceedings.

Could I just ask everyone to make sure that mobile phones are switched off, please, to avoid interference with the recording.

EVIDENCE OF MR P MURCOTT

The Chairman: If I could begin by inviting our first witness to come forward, Mr Peter Murcott, representing the Isle of Man Trades Union Council.

Good morning Mr Murcott.

Mr Murcott: Good morning, Mr Rodan.

The Chairman: Could I just ask you to introduce yourself and outline your role in the Trades Union Council. Also, could I thank you for your written evidence, which we got last year.

Mr Murcott: Thank you very much.

I am the social legislation officer of the Isle of Man Trade Union Council, and I have been requested by the President to come along this morning to give evidence on the Trades Council's behalf.

The Chairman: Thank you very much.

In your written submission to the Committee, you raised concerns mainly about work permits issued under the Control of Employment Act. Clearly, we are not specifically reviewing the work permit system, but given that work

permits are the main mechanism in place for the Island to have and exercise control over people arriving from the European Economic Area, we would certainly wish to take account of your comments.

Can I just ask you to outline what the Trade Union Council's concerns would be about the present operation of the work permit system and how it should be improved?

Mr Murcott: Thank you very much.

As you see in our submission, there was a perception by the Trade Union Council that the work permit system is not being operated and enforced as vigorously as it might. Perceptions, of course, are built up by anecdotal evidence. Therefore, the Trade Union Council considers that not only should the controls remain, but that they should be vigorously applied and obviously that they should be reviewed to see if they could be made more effective.

That is really the answer, I think, to the question that you raise, though there are other points that I would make on the wider issue of immigration and why we focused on the work permit legislation.

The Chairman: You say, as regards that legislation, the Council's position is consistent and clear: the controls should remain; they should be made more effective and rigorously applied. You presumably accept the ongoing need for the principle of control of employment legislation. How do you see that working alongside the need to keep the economy buoyant, and keep the economy developing? Do you see tensions between the two?

Mr Murcott: Not necessarily, if the criteria are properly applied.

I, in actual fact, sit on the Work Permit Appeal Tribunal, so I have some knowledge of the work permit system. There are criteria laid down and, if they are properly applied, I do not see any problem, really, because, if there is a vacancy and there is no-one in the Isle of Man who can fit that vacancy, then the legislation is quite clear that persons can come from the UK, or elsewhere, to fill that vacancy, and, of course, that is a matter that sometimes will give rise to an appeal. So we do not see any problem or tensions necessarily existing, because the legislation has been crafted carefully to ensure that the economy will be kept buoyant, as you say, and nevertheless, that Manx workers, or Manx residents – people entitled to Manx residency – will be protected.

The Chairman: Thank you very much. Colleagues? Mr Watterson?

Mr Watterson: You said that obviously these controls should be vigorously applied, and I think we would all have to agree that there is no point making rules if you are not going to vigorously apply them.

I appreciate that you said this had built up from anecdotal evidence, but do you have any examples that you can think of that have contributed towards the perception that you say the controls are not vigorously applied?

Mr Murcott: No, I do not have examples, but I do have a perception and I do see things that need to be done to improve the work permit legislation.

Mr Watterson: Such as?

Procedural

Tynwald Select Committee on Immigration – Evidence of Mr P Murcott

Mr Murcott: A very good one, and I think it has been given in evidence by many others. I have not, in fact, lifted my evidence from someone else's. This is a perception that I have and the Trades Council has, and that is that there should be a language requirement. There is a very good reason for this.

Employment law has developed enormously in the last few years. There are many rights that are available to employees. If an employee does not understand English, then they are immediately at a disadvantage to be able to access those rights. This is not a move to keep people out who could properly come here; it is a move to ensure that they have the full benefit that the law grants to them, and we consider that it would create a far more inclusive society if people were able to access the rights and to have that measure of independence.

We are concerned that if people do not understand English then, to an extent, they are a hostage to fortune. They have to rely on other people to explain what their rights are, they do not know where to go to get the proper advice, and other people, with the best will in the world, might not fully understand the situation. So I think the language requirement is one that is absolutely essential in the Island.

Mr Watterson: Could I pick you up on one other element of the Council's submission. You say that the Trades Union Council would note that it is anomalous that a sizeable proportion of the indigenous Manx population is denied reciprocal rights of freedom of movement within the EU. Could you expand on that, please?

Mr Murcott: I am not Manx, but I understand that people who are Manx do not have the same rights to go and work anywhere in the European Union. I am not familiar, exactly, how this operates, and no doubt Manx people could advise me on this point, but the Trades Council considers that there is an anomaly here – and I must confess that I have often thought this as well – that a proportion of the population on the Isle of Man should have fewer rights than a different proportion, say like myself.

Mr Watterson: I think it is my perception that if... My dad falls into this category. He has four Manx grandparents and is therefore subject to employment controls in the European Union. I think the case is that we request people coming into the Island to get a work permit. I think that is the case, that Manx people need to go and apply for a work permit in the European Union. So that therefore would not be anomalous, but that is my understanding of the case. Is that yours?

Mr Murcott: That is my understanding, but I find it is anomalous, though, because, you see, I am a Manx resident; I have been here for 18 years. I am entitled, obviously, to work in the Isle of Man, if I so wish, without a permit now, and I have been working here for 18 years. I do find it anomalous, as someone who now is permanently residing in the Isle of Man and regards the Isle of Man as his home, I should nevertheless have all this freedom of movement simply because, just by accident of birth, I came from England, and yet somebody who was born here, who is equally resident here and does not have any greater or lesser rights than I do in the Isle of Man, should not have those rights. I find that very strange, and I think it is something that does need addressing.

The Chairman: You use the word 'anomaly'. An anomaly is usually thought of as an unforeseen consequence, or a loophole that has just become evident, but of course the situation you are describing was a conscious decision at the time of the UK Treaty of Accession when Protocol 3 was being devised, which laid out the rights of Manxmen, as was defined, and the freedom of movement that they had to go to Europe.

You and I fall in the category of... because we are classed not as Manxmen but as British, we would have the rights of a UK citizen to go to the EU and work automatically, but Protocol 3 quite consciously does not extend those rights to Manx people, and that was known and has always been known. I am just interested in your use of the word 'anomaly'. It has been known for a long time and accepted, or tolerated, shall we say.

Mr Murcott: Could I just, therefore, follow your definition through of something that is unforeseen. When Protocol 3 was signed, the Control of Employment Acts did not exist. I think Protocol 3 dates back to 1973. The Control of Employment Acts came in 1975-76, and I think there was an amendment Act in 1978. It could not be foreseen, back in those far-off days, how the European Union was going to develop. None of us knew that, in fact, it was going to become a sort of state in its own right. We all thought that it was just simply about trade and goods.

The European Union has changed beyond all description, so sometimes an anomaly can arise as a result of something that was done a long time ago, where they did not foresee what the ultimate effects were going to be. So to that extent it was not foreseen and, as we exist now, with the European Union having changed its name three times from what was originally the European Economic Community back in those far-off days, it has now become anomalous because of the political development. So that is the reason why we use that word.

Mr Watterson: Could I just also say that I think that is actually enshrined in the British Immigration and Nationality Act 1981, so it was a conscious decision even up to that point, because I think that is what the endorsement in the passport is created under. So it has been reinforced since 1973, since 1976, but only since 1981 I think is the last time it was enshrined in law.

Mr Murcott: It was a long time ago, because we had the Single European Act 1986, which created the economic community; we had the Maastricht Treaty in 1993; and then we have had subsequent treaties, the Treaty of Nice. So things have actually changed vastly since 1981.

The Chairman: Mrs Christian.

Mrs Christian: We are rather focusing on emigration, rather than immigration, but I would just say that there is... I would qualify as a Manx person, but I have a right to work in Europe by virtue of having worked in the United Kingdom for five years. So there would be, I would suggest, perhaps an increasing proportion of people who move off the Island for a period of time and would qualify in that way, but that does not take away the point that you are making.

However, I would wonder about your statement about a sizeable proportion of the population being subject to that – I do not know whether anyone actually has any statistics

– and I would also wonder whether anyone in Europe knows of this rule, and whether it is actually ever applied, but that is another issue.

May I ask, on the question of immigration into the Isle of Man... It is my view that the Committee was set up because of perceptions in the community round about the General Election time, about immigration into the Island. We have always been subject to immigration, but the change in recent times has been largely one of language and hearing different languages on the street, and you have now made the comment about possibly requiring a test in English for people to come and work here. Does the Trade Union Council have any view about residence, as opposed to being permitted to work here? Any controls on residence that you feel should be considered by this Committee?

Mr Murcott: The Trade Union Council has not actually discussed that subject, and so therefore any comment that I make in answer to your question is not going to be an answer from the Trade Union Council. I have my own views, but I cannot actually give those as what the Trades Council would think.

Mrs Christian: Can I ask you... There are two elements, from our perspective, on the controls of immigration: one is the Control of Employment Act, people who come under the Control of Employment Act; and the other is the immigration from outside the EU, where they are subject to immigration rules. Does the Trades Council have any view on the suitability, or otherwise, of the immigration rules for those people?

Mr Murcott: One of the problems that seems to me to exist is that, as far as the Isle of Man is concerned – this has come out in previous evidence – it is not a state, therefore it cannot, in fact, introduce any rules to address this matter. It is noticeable that it is said about the United Kingdom, that the United Kingdom has lost control of its borders. Therefore, if the Isle of Man became a sovereign state, it would not have any better control of its borders whilst it has a connection with the European Union.

It seems to me that that is really where the problem begins; that Britain is no longer really a sovereign state either, and therefore, whatever conclusions arise, there is not in actual fact very much that the Isle of Man can do beyond the issues that we have raised.

Mrs Christian: Would the Trades Union Council have followed up on the proposed changes in the United Kingdom to a points-based system, for example, rather than a specific-job-based system for applicants from outside the EU?

Mr Murcott: I cannot answer that question, because I have not actually studied the points-based system; I have really focused entirely on what Manx law is saying. So if I give an answer, it is not going to have any value whatsoever to the Committee.

Mrs Christian: Thank you.

The Chairman: Thank you.
Mr Gill.

Mr Gill: Thank you, Chairman.

Perhaps, given your caveat about speaking without having prior discussions with the Council, but with your role with the work permit... Sorry, what was your role on that? Could you remind me?

Mr Murcott: I sit on the Work Permit Appeal Tribunal.

Mr Gill: Within that role, maybe you would have a personal view. If a vacancy arises on the Isle of Man, the first pool to be considered is Manx workers. If there is nobody within that group, then it quite rightly goes to people under the EEA (European Economic Area) and then, if there is nobody within that multimillion population, it goes outside to any other jurisdictions. Are the Work Permit Appeals concerned that there are instances where that process has been circumvented, and people from outside the EEA have taken up positions on the Isle of Man?

Mr Murcott: When I am sitting on the Work Permit Appeal Tribunal, I sit in a sort of quasi-judicial capacity. I do not have any preformed views. I go in and I listen to the evidence that comes before me, as I would on the Employment Tribunal, and I will listen to what is presented to me, and I would decide a case on the evidence that is put before me. I would not have any view one way or the other; I would simply look at what the evidence was, what the law says should and should not be done and then, in conjunction with other people, would try to come to what I considered was a fair and appropriate decision. So I could not really answer it from that capacity, because it might even prejudice a case that might come before me.

Mr Gill: Could I ask: in your opinion, or the Trades Council's opinion, should the period for qualification as a Manx worker be extended?

Mr Murcott: I am awfully sorry, Quintin, I did not catch the last part of that.

Mr Gill: Should the period of qualification to become a Manx worker be extended?

Mr Murcott: We have not got any view on that. It is five years, so I understand. There was a matter that we raised, but that was probably slightly different, and that was that there was a loophole in the law that, where people in fact went to prison, they seemed to have to go right back to square one, and we thought that was not very equitable, but I do not think we have any view on the fact of the five-year rule changing. There is no evidence that the five-year rule is not working satisfactorily.

Mr Gill: Thank you, and finally, could I ask you... I think you described the language requirement as absolutely essential.

Mr Murcott: Yes.

Mr Gill: So would that be the top of your list of suggestions for this Committee?

Mr Murcott: I think it would, yes. I myself used to be head of a primary school, a long time ago. I try to imagine

what it would have been like to have people, or children, coming in, who could not speak the language. I would realise then that they would immediately be disadvantaged. I cannot imagine how schools cope when that sort of thing happens. Everybody is disadvantaged in that sort of situation. It is obvious common sense – because schools are about communication, and workplaces are about communication – that we should be able to speak the language with one another.

Mr Gill: Sorry, just one more question.

The Chairman: Yes.

Mr Gill: Could you, in your personal, or your representative opinion, say, do you think that the Government has a responsibility to adopt and promote integration programmes and policies?

Mr Murcott: I can say that this was one matter that we brought up at the Manx National Economic Development Council (MNEDEC) with the Chief Minister from the Trades Council, and we expressed the view that we were concerned that, as we do have, in the Island, people who are speaking various languages, and who obviously have not got a sufficient command of English, there was a place for Government putting up suitable notices in various public places, so that those people would have an idea of where they could access the necessary employment information, so that they fully benefited from the rights that the Isle of Man grants to them.

That was a part that we thought that Government could play. We were not expecting Government to translate everything into umpteen languages; we were thinking just, in broad general terms, at certain key places in the Island.

The Chairman: Just to follow on that point, then, official leaflets and publications that Government produces... Do you see a value in those being translated into ethnic languages?

Mr Murcott: I do, yes, because obviously you can only walk around the streets and become very aware that there are a growing number of people who quite clearly do not understand our language, and they do need some assistance.

The Chairman: How would, then, that encourage the use of English, primarily for reasons of integration, if we were to take the approach of translating literature into various languages?

Mr Murcott: I think the answer to that is it does not. Quite clearly it does not encourage the use of English. It is an emergency step that has to precede a long-term policy of ensuring that the maximum number of people can, in actual fact, have a reasonable command of the main language of this Island, being English.

The Chairman: Mrs Christian.

Mrs Christian: I am just concerned that you said you hear people in the street and there is an assumption that they do not speak English. Is it not the fact that if we are in another

country with people who speak the same language as us, we might very well be tempted to speak our native language, even if we do have an understanding of the other country's language? How can you make an assessment of how many people do not actually have an understanding of English, if you are judging on what you hear on the street?

Mr Murcott: The short answer is you cannot make an assessment, but you can certainly notice that people seem to be far more comfortable speaking in a foreign language, something which was not noticeable, say 10 years ago, and it does suggest, at the very least, that they are not getting – and certainly their children are not becoming – proficient in English, as long as everybody is talking in various languages, and you can only get the assumption that if you do talk in another language, obviously that must be the one that you are the most comfortable with.

We have had people in the Isle of Man from Europe for generations and unless you listen carefully to their accent, you would not realise that they had come from elsewhere because, in ordinary conversation they will speak English. I can think personally of someone I know who came originally from Germany, but I have never heard her once speak German; she always talks in English. So where I think the change has come is that now, where people have come from other lands, they seem to be more ready to speak in their own language, and quite clearly some cannot speak the language. I have come across that personally myself when I have had dealings with people who, quite clearly, have virtually no command of English whatsoever.

Mr Watterson: Could I just ask what the Trades Union Council's view is on implementation of the Residency Act?

Mr Murcott: Again, we have not discussed the implementation of it. I have often thought that – I speak personally now, for the record, and not for the Trades Union Council – the Residency Act could be used in a different way from which most people perceive it. Most people see it as keeping folk out, but I see it as being used far more constructively as, in fact, helping people to feel part of the Isle of Man and to feel more included.

I came from England, and one of the things I noticed when I came here was that there were a limited number of people – a very few people – who made me feel decidedly unwelcome, so I have great sympathy with people who are coming in from abroad, and I would like to make that absolutely clear. I would like people who come here, who have got the interests of the Isle of Man at heart, who want to contribute to this society, to feel part of this society, especially if they want to reside here. I think the Residency Act, in fact, could help them to feel like that.

Mr Watterson: Simply: how?

Mr Murcott: You could not have Manx citizenship, because you would have to become a sovereign state, but you could have something a step away from that, even if it was something rather informal.

Mr Gill: Just two questions, if I may. Do the Trades Union Council believe we need immigration for economic purposes?

Mr Murcott: The Trades Union Council recognises, as everybody else would recognise, that in the people who live in the Isle of Man – in a small Island, and an Island which is constantly expanding – there is always going to be a need for people to come into the Island to assist with its economic development, and I do not think there is any question of that. The question is always on the matter of, in actual fact, how we manage this, because we do talk, in our submission, about immigration on a sustainable and equitable basis. We are not talking about keeping people out. There is another view that the Trades Union Council does have, and that is it would be very concerned indeed that we never got to a situation, such as has happened in certain parts of Britain, where far rightwing parties were starting to capitalise on this issue.

Mr Gill: In terms of equitability, when you talk about Government providing translated documents for members of new communities who do not have English as a language, I guess you could justify that more easily where there is a large community that you are aiming that service at, but you would have to extend that to even where there are only one or two members of a different community, surely. Would that be your assertion?

Mr Murcott: No, I do not think you could. I think it is the same as with everything else, with all these various other rules about discrimination and everything else. If you push principles to their extreme, you get some extremely silly outcomes and you sometimes get some extremely expensive outcomes, and so no principle should be pushed to that sort of extreme, else the cost would be prohibitive, and that would actually impinge on other things.

The Chairman: Mrs Christian.

Mrs Christian: One final question. The Control of Employment Act provides that people are asked about the size of their families, and that is a consideration, whether or not a work permit might be issued. The Immigration Rules for people coming from outside the EU do not ask that question. Does the Trades Union Council have a view on which approach is the better one?

Mr Murcott: No, it does not.

The Chairman: Could I ask you: do you think Isle of Man workers are disadvantaged in any way by migrant workers?

Mr Murcott: Provided that the existing Rules are enforced, as they are intended to be enforced, and provided that existing rights – and I am thinking of things like the minimum wage and various other matters which are to assist workers – are, in fact, able to be enforced and implemented as was intended, then I do not think anybody should be disadvantaged, but those are the provisos and that is where we come back to the beginning, that the people who are here do need to have the wherewithal to access exactly what they are entitled to, so that there is not any exploitation whatsoever of people who are disadvantaged through not really understanding the laws of the Isle of Man.

The Chairman: But when you say the existing rules should be tightened, do you think the legislation should be

changed in some way to make it more effective, or is it really a case of enforcing the rules we currently have?

Mr Murcott: I think it is a bit of both and I think if you are going to have a review of the legislation, the review should be an entirely independent one.

The Chairman: Thank you.
A final question, Mr Watterson.

Mr Watterson: It is just on... this has been recurring and with your role on the Work Permit Appeals Tribunal I would have thought you would have been as well placed as anybody to see where the system was falling down, because presumably that is where the appeals will come from and yet I am really hoping that if I ask you to get back to your members, you will be able to come to us with evidence where the system is not being operated as documented, which I think is the point that you make in your submission and in your evidence today. So, if you could actually come back to us and your members maybe come back to you and you come back to us in written form, maybe, with where the system is falling down.

Mr Murcott: I think if we came back to you, as I said a few moments ago, we would have to come back as the Isle of Man Trade Union Council. I could not possibly come back in any other capacity, because I feel certain that if I did, that that would prejudice my role and I would not have any mandate to come back in that capacity. I must be strictly neutral and judicial with regard to my place on tribunals.

The Chairman: Okay, well that brings us to the end of the session. Mr Murcott. Thank you very much indeed.

Mr Murcott: Thank you very much, Mr Rodan.

The Chairman: Thank you for coming.

*Mrs Loudon Brown and Mrs Pabellan
were called at 11.06 a.m.*

EVIDENCE OF MRS LOUDON BROWN AND MRS PABELLAN

The Chairman: If I could now call forward the representatives of the Isle of Man Filipino Association, Mrs Loudon Brown and Mrs Pabellan. Please come forward, thank you.

Good morning.

Mrs Loudon Brown and Mrs Pabellan: Good morning.

The Chairman: Good morning and thank you very much for coming to meet with the Committee this morning. You are very welcome.

Could you first introduce yourselves and explain a little about the Association and its purpose, please.

Mrs Loudon Brown: I am the Chairman of the Filipino

Association in the Isle of Man and the purpose of the Association is to integrate to the Isle of Man and Isle of Man society and also to... not only for the Isle of Man, but also for the other Islands around the British Isles. We are – it is a non-profitable charitable institution. So we also want to help with the other charitable institution.

The Chairman: And Mrs Pabellan, you are an officer in the Association?

Mrs Pabellan: Yes, I am the Vice-Chairman of the Association and I am a nurse in profession.

The Chairman: Thank you. How many members do you have? How many do you represent?

Mrs Loudon Brown: It is actually – we have 300 members at the moment.

Mrs Pabellan: Three hundred to four hundred members.

Mrs Loudon Brown: Three hundred to four hundred members.

The Chairman: Three to four hundred members. And how many ... is that the majority of the Filipinos in the Isle of Man? Can you tell us, do you know how many Filipinos would be living here?

Mrs Loudon Brown: It is a variable. It is around 1,000 or a couple of hundreds more. We cannot say definitely because actually they are going in and out of the Island, you see, because most of them coming here and having work and then afterwards accepted work in the UK or some of them just went to Australia or New Zealand. So, we cannot definitely say what the total number of the Filipinos are.

The Chairman: Those of your members who are employed in the Isle of Man, would you say that the majority are employed in the healthcare industry and residential homes and care of the elderly and things like that?

Mrs Loudon Brown: Most of them are, sir, but we also have members who are working with the marine and also with the financial sector, but most of them are in the health services. We also have some members who are in the retail service and insurance and banking. So actually they are in different sectors in the Island.

The Chairman: And how long has the Association been formed and what was the idea of starting the Association?

Mrs Loudon Brown: We started in 2005 and then it started up Association because I was asked by the DTI to make a presentation to the marine authority. Then they would like to know about the cultural awareness of the Filipinos and I gave a couple of presentations and contacted the Ambassador in London and asked for help about maps of the Philippines, because I think we really need the maps for the marine people to know where are the marine or the crew coming from, when they would like to employ them.

I told them, because Philippines we have the 7,100 islands and then actually the languages we speak is actually about

170 or 179, and this is not only the dialects but also the languages, because we have the Arabs, Japanese, Malays and then we have the Portuguese and Chinese. The Chinese only we have different dialects, you see. So actually the Filipinos speak three to four languages in one time, but actually English is our mode of communication in all our legal documents and then the mode of teaching is also in English. So, English is not a problem for the Filipino people.

The Chairman: Was the aim of the Association to help the Filipino community integrate better into Isle of Man way of life and Manx society? Is that the reason for forming the Association?

Mrs Loudon Brown: Yes, it is one of the reasons to integrate to the Isle of Man society and also to contribute to the community, to the Island itself, because we feel like it is our adopted country. This is our second country now and like me, for example, we feel like this is our home and then to stay here, we are supposed to integrate into the community and contribute to whatever we have now at the moment.

The Chairman: Thank you.
Mrs Christian.

Mrs Christian: Yes, thank you. Your membership represents a proportion of the Filipino community in the Island and you have said that some people come and go. Would that be because they stay here for a limited period of time and find other jobs? Would your members largely be those who have settled in the Isle of Man?

Mrs Pabellan: Mostly our members are those who are a permanent resident, but some of them are just waiting. Nurses working here, you have to apply in the US so you wait for another two years so that the visa comes in. Some of them it is an on-going process: they have to do an exam, an English exam, before they –

The Chairman: Sorry to interrupt, could I ask you to speak a bit louder so that the microphone picks you up.

Mrs Pabellan: Right. It is mostly our members. Those 400 mostly are among those who are permanent residents in the Isle of Man. Those who are in the process of applying to the US, Australia, New Zealand, they are not really that interested to be a member, but they will help out if we will ask them.

Mrs Christian: Has there been any change in recent years in the immigration controls, which has made it more difficult for people to come from the Philippines now to work in the Island?

Mrs Pabellan: As we have heard lately, they said that they are... they have changed some of the systems, because they have some rules that they are now applying to the immigration coming here and also to, for example, relatives like some of our nurses here they are young couples, you see, and they are having babies and they cannot go to work without anybody to help them. So sometimes they will like to ask their parent to come over just to look after twins – some of them have twins, you see – and then they said sometimes they are having problem to extend their visa.

They are giving them a year visa, but they are asking them to go out of the country before they consume this one-year visa and that is what I said I do not understand why they cannot consume the one-year visa before they are supposed to go back home. So, I think that is one of the changes now that I have just heard.

Mrs Christian: Does the community feel in any sense excluded by the Manx community?

Mrs Pabellan: No, we are well accepted. In my work I cannot feel it and really other Filipinos as well, because we are a very flexible people and hard working, you see. So, I do not think we are having any problem of integration or working environment.

The Chairman: Mr Gill.

Mr Gill: Thank you, Chair.

Could I ask you the same question I asked Mr Murcott? Do you believe that the Isle of Man Government should have policies and practices to promote integration?

Mrs Loudon Brown: I think we should, because we really like integration. That is the reason why when we are integrated everybody, not only the Filipinos, I am talking about Scots, Wales or Irish, you see. When we are integrated we are working as one, which is our aim, you know. We are multi-national, multi-religion Association and everybody is welcome, so for us to work with everybody is better than working alone. So I think integration is very good.

The Chairman: Mr Watterson.

Mr Watterson: Similar sort of question to the previous speaker. Does the society as a whole have a view on the view put forward by the last speaker on language requirement? I appreciate what you said about the Philippines education system, so what would your views be if that was introduced. Also, are you aware – you are a relatively new society – of the Residency Act and its provisions and do you have a view on that, as well?

Mrs Loudon Brown: I think we do not have any negative point on that because it will be great if everybody could speak the language, because we do not have any problem about language, you see. Then I have heard the former gentleman, he also mentioned about hearing somebody talking in a foreign language and I feel like, when I see a person who speaks Danish and I know I speak Danish right, I automatically speak Danish to this person, so I think everybody could hear, oh, they are talking a foreign language. Or I see you or Mrs Christian, I automatically speak in English, because I know that you are English. So when I seem to be with a black hair together, like me, I automatically speak in Tagalog. It is just we speak different languages but we understand and then we communicate better if we know the language that we are using. That is my comment on that.

Mr Watterson: In terms of a requirement to come into work and have a knowledge of English, you would not have an objection to that?

Mrs Loudon Brown: No.

Mr Watterson: And coming on to the second part of my question, are you familiar with the provisions of the Residency Act and do you have a view on them?

Mrs Loudon Brown: No, we do not have any – we are not very aware of that. So, actually we are thinking of maybe it is good to have an information pack for everybody who is coming over to the Island, because we have experienced it ourselves, you see, when we are just moving to the Isle of Man. Then it is just good we have a very kind neighbour who is Manx and tell us :‘You are not supposed to park there.’ I said: ‘Why, we just came to the Island – we do not know all this.’

This is small rules and regulations, you see, and they said: ‘You are supposed to get a permit to park, a temporary permit to park.’ ‘Alright,’ I said, ‘that is good.’ and this is one of the questions that I have in my mind. If we are going to have an information pack, not only for the Filipinos, but for all the people just arriving to the country, we can give this small brochure where everything is in there from doctors, dentists, school, permit to park and, you know, just all this essential thing.

The Chairman: Information for new residents, really, that is what you are talking about.

Mrs Loudon Brown: Yes.

The Chairman: Can I ask you, how do Filipinos make their way from the Philippines, which obviously is a long way away? Why do they come to the Isle of Man? Are they coming mainly to the UK for employment and they hear about the Isle of Man? Why would anybody want to come to the Isle of Man from the Philippines to work?

Mrs Pabellan: It varies when, for example, for myself when that was the year 2000 when Tony Blair all over Manilla all this call for the UK is needing nurses. So I had submitted my papers for UK and to the Isle of Man and then I both pass interview. So what I did was when Noble’s Hospital interviewed me through phone, so I do not know where is Isle of Man, so that was very interesting for me. What I have to do was to research where is Isle of Man so I might as well go to this small place rather than to a city life, because I grew up in a city, so I might as well try this small place. So that is it and loads and loads of agencies there, the papers, recruitment you know, Scotland, Irish, it all depends on the employer.

The Chairman: So, it is agencies in the Philippines that are... yes.

Mrs Pabellan: Yes, that are putting up... assigning nurses what hospital to go.

The Chairman: Yes, and then word of mouth later on, does that have a role to play?

Mrs Pabellan: Exactly, yes. That is a hundred per cent also, because those in the Island will tell you: ‘Oh, go to this agency,’ you know, go through this agency and that start the process.

The Chairman: So, people come here primarily to work.

Is it with the idea of settling permanently or to work for a while and then go back home?

Mrs Pabellan: Mostly they will have to earn a... work here and then most of them is building retirement houses back home. So, I think it is variable. I think those who had strong both Filipino husband or wife is thinking of going back home as a retirement, but those Filipinos who had married Manx, British or Irish, Scots, I think they are the ones who are going to stay here for good.

The Chairman: Settle, yes, obviously by marriage to...

Mrs Pabellan: Yes.

The Chairman: Do many of your members having... they have got a job here, later bring in dependants, wives or children? Does that happen very much?

Mrs Pabellan: Yes, it does happen, after one or two years, they have to bring their dependants to the Isle of Man.

The Chairman: Okay, and is that a difficult thing to do in terms of the process and the applications and the paperwork that is involved or is it a straightforward thing?

Mrs Pabellan: It takes six months, because you have lots of requirements from your residency: how many months did you live in that place from landlords. Lots of requirements.

The Chairman: Thank you.
Mr Gill.

Mr Gill: Thank you. What would your Association's response be to a proposal to increase the qualifying period to become a Manx worker from the current five years to say ten years?

Mrs Loudon Brown: No, we have not thought about it.

Mr Gill: Is qualifying as a Manx worker a tangible target that your members have in mind when they move to the Island?

Mrs Loudon Brown: Yes, it does because we will like to work here so we will like to really give the best that we can to our employer or where we would like to work.

Mr Gill: And would you say the current five-year period reflects a level of commitment to living in the Isle of Man?

Mrs Loudon Brown: I think so, yes.

The Chairman: Okay, Thank you.
Mrs Christian.

Mrs Christian: Could I just go back on something that Mrs Pabellan said and that was 'after two years you have to bring in your family.' When you say 'have to' is the

motivation that people want to bring their families to be with them and are there many who are not in a strong enough financial position to do that, given that the support through Isle of Man Social Security benefits would be restricted to them. Can you explain to me why they want to bring their families here?

Mrs Pabellan: I think it is more of Filipinos are a very close-knit family. So it is in one way or the other it helps, because if your kids are back home it is one part if they are here your – the motivation you have to go to work with not thinking about what is happening to your kids back home.

Mrs Christian: And have the Filipino community had any difficulty with regard to the financial structures in the Isle of Man, which clearly limit family support for a period of time. Or do they not need to claim to off the benefit structures?

Mrs Pabellan: No, I think they do not, madam; they do not go to the Markwell House to ask for it.

Mrs Loudon Brown: No, because we have also a incident when one of our – actually it is our secretary, she gets a baby here. The couple is already working in the Island and because nobody is going to take care of the baby, they brought the baby back in the Philippines. So their grandmother or the grandparents will take care of the baby for them to work in here and then of course it also affects emotional for both sides, yes, so that they never get any child benefits while the baby is in the Philippines, because they reported to the authority that my baby is not here at the moment and I am not going to get the child benefit and then when they have the baby back again that is the time they reported my baby is back now and then maybe they could collect their child benefit. That is what is happening with our members, actually.

The Chairman: Thank you.

Mr Watterson: Could I just ask, in terms of your members who arrive in the Isle of Man. Do they tend to be married people, single people or is it a good mix of the two?

Mrs Loudon Brown: A mix.

Mr Watterson: A mix.

Mrs Loudon Brown: A mixture, because there are lots of nurses also who are single coming over here.

Mr Watterson: Do you think that – obviously the Isle of Man... I think we have heard sufficient evidence that the Isle of Man's certainly nursing and care sectors are rather dependent on immigrant workers, a large proportion of whom are probably members of your Association. Do you think that we would experience significant difficulties in recruiting if there were restrictions put on bringing dependants, elderly dependants or young dependants over?

Mrs Loudon Brown: Yes, I think there would be a problem about that. How I wish that the roles will be a little bit – what do they call that – not linear but –

Mr Watterson: Flexible.

Mrs Loudon Brown: Flexible for the families to come over because there are lots of positive things in that you see, because we are sitting down and analysing all the things that we are contributing to the Island. Having their children taken care by the parents. For example if my parent is already 60 years old, actually in Denmark they would allow the parents to stay in the Island or in Denmark, because she cannot work anymore: she is over 60 and then they can help the family. The couple could go to work, no problem, without any problem of who is going to take care of the baby. Who is going to clean the house if both of us are working on shift? So, I mean all the members of the family are helping each other in that way and then we are also helping the Isle of Man Government by not having more people who are going to take care of the childminder. Looking for a childminder is difficult, as well, and you are not sure if the childminder is really compatible with your child, you see.

Mr Watterson: Yes. Just one more question.

In your experience as an Association have your members found difficulty in experiencing the services of Isle of Man Government spread across its broad range?

Mrs Loudon Brown: No, I do not think so. I think they are all okay and, yes, we appreciate it.

Mr Watterson: Okay.

The Chairman: You mentioned about families coming to assist, grandparents for example, to help with childcare. There would be restrictions on benefits and claiming from public funds. Does that make it harder for families to come here, who perhaps would wish to come here?

Mrs Loudon Brown: That is right, yes. So we wish we could have special rules on that for them not to have a problem of coming over here and help their children, you see. Instead of them bringing their child to the Philippines for somebody to take care of their babies, if their elderly grandparents could come over and help them instead. So everybody could just go to work and have a peace of mind and then somebody minding their baby 24 hours.

The Chairman: Okay. After five years when Manx worker status... after working here five years your members would be able to work automatically. Dependants who had come, would you see any difficulty if there were restrictions on grandparents or members of the family or other dependants staying on in the same way?

Mrs Loudon Brown: Maybe not. It is also variable. I think it is also case-to-case basis.

The Chairman: Yes. Okay. Thank you very much.

You mention, Mrs Pabellan, I think the year 2000, when there were agencies specifically looking for Filipino nurses to work in the British health service. That is no longer the case, is it?

Mrs Pabellan: No, they have stopped it now, because the UK is working with the EU group now. So the recruitment has stopped now.

The Chairman: So that recruitment – which lasted for a few years, did it? –

Mrs Pabellan: A few years, yes.

The Chairman: – has now stopped. As a result, are Filipinos perhaps less interested in coming to the UK or do they still wish to come to the UK, but are more perhaps going to Canada or Australia or other countries?

Mrs Pabellan: I think there is a certain requirement now is English as a foreign language. I think that is additional to the NMC (Nursing and Midwifery Council). I think that, I am not sure.

The Chairman: Okay, thank you.
Any final questions?

The Clerk: If I may, Chairman. Just to clarify one point. You are aware that migrant workers from the European Union or the European Economic area have the right to come into the Isle of Man. Workers who come from outside the European Union are subject to immigration – the UK immigration control – and they are subject to the criteria of the Overseas Labour Scheme. I am right in my thinking that we are talking about Filipino workers coming in who are highly qualified?

Mrs Loudon Brown: Most of them are.

The Clerk: Has that... am I right in thinking that the requirement has become more stringent in the past few years? Was it that the requirements for the qualification level several years ago were not as stringent as they are now? What would a Filipino nurse, for instance, what level of qualification would that Filipino nurse need to enter the UK and to the Isle of Man?

Mrs Loudon Brown: I do not think we are having problems about the nurses coming over here because most of them are registered RSNs. Not everybody is coming directly from the Philippines over here. They are having all the exams. They are passing all the exams, because we also have a special exam in the Philippines, you see, when they are applying for a visa coming over here. They are supposed to pass all this English exams or different exams in the Philippines in connection with their profession before they can come over here, because we would like to be sure that we keep the standard. The standard of education in the Philippines is high. That is what we know, because we validate the education of the Filipinos over there when they are coming to a EU country. So, we could we see how we stand. I do not think we are going to have any problems about the education or coming out of the country.

The Clerk: I think there is a point that needs clarifying. We are talking about a highly-skilled level of migrant from the Philippines? Thank you.

The Chairman: That brings us to the end of our questioning, so I would like to thank you very much for coming in. I think we are aware of the valuable work you do as an association in promoting integration into the Manx community, so we certainly wish you well in the future.

Thank you very much for speaking to us.

Mrs Loudon Brown and Mrs Pabellan: Thank you very much.

Dr Stowell was called at 11.35 a.m.

EVIDENCE OF DR B STOWELL

The Chairman: If I could now ask Dr Brian Stowell to step forward, please. Good morning Dr Stowell.

Dr Stowell: Good morning.

The Chairman: You are very welcome. Thank you for agreeing to come and speak to the Committee.

Several weeks ago, on the radio, you made comment following a Tynwald Answer that was given to a Question about the number of nationalities of those applying for work permits.

Dr Stowell: Yes. That is right.

The Chairman: It was over 60, I think. Certainly, I listened with interest to your comments. You have seen, as we have, a remarkable growth in the last ten years in particular, which has brought to the Isle of Man more people from overseas and from Eastern Europe, in particular. What is your view on the integration, or the presence, of these different nationalities in the Isle of Man and whether that is a positive thing or, perhaps, a negative thing to Manx culture, in particular?

Dr Stowell: Well, I think it is both, really. On balance, I would say it is a positive thing, which may surprise some people. I am, as you are very much aware, I suppose, very much involved with trying to promote Manx language and culture and very much concerned with the Manx identity in the Isle of Man. So, this has really been a theme throughout nearly all my life and certainly I had a great chance coming back to the Island unexpectedly in 1992 to work virtually full time for the Manx language.

I think it is a positive thing in that hearing other languages is actually a good thing, because there is a danger in all places that you can get very insular. This is true very much of England, as well. People are often irritated by incomers, naturally enough, certainly if they are speaking other languages.

I took the various points, particularly Mrs Christian making the point, that the fact that they are speaking different languages does not mean they cannot speak English. You could actually have me had up in Strand Street for speaking Manx, you see, on those grounds! It is a positive thing. I think it is very valuable, particularly to children based here, to realise that there are actually living cultures round the world. They may see this on the television. Certainly, on British television, these days, things seem to have gone backwards and it has become more and more insular; certainly, as regards focusing virtually entirely on English culture.

Having said that, there are obviously problems. There could be a severe problem with immigration, with the society as a whole, forget the immigrants, if the economy

here took a nose dive. So, we have got to be equally careful about who comes into the Isle of Man and how we cater for these people.

Having said that, the culture is very much what I am concerned with. Just a couple of anecdotes, if you can bear these. For instance, in the Manx class at the Isle of Man College, a couple of years ago, there was a Romanian woman in here who had married a Manxman and she was actually quite puzzled – she was learning Manx, actually – as to what she saw as the lack of interest on the part of a lot of Manx people themselves in their own culture, not just the language, and in the history of the Isle of Man. She could not understand this, really.

Also, when I was in Noble's Hospital, fairly recently, I was speaking Manx to one of the nurses there, actually, and a Filipino nurse heard this, stopped and came up and asked me what language it was and said she was interested to hear there was a language here, a different language. So, you have this spreading out.

A couple of teachers I am teaching Manx to are very much equated with the Filipinos in particular and say these are excellent students. You have got this broadening out as a whole.

But, if I can sort of stray from this point to the actual Manxness of the Isle of Man itself. Over the history, you are probably aware that we Manx have had a lot to put up with ourselves and it is slightly ironic that we are in this position ourselves of having to make sure that everybody speaks English because, as you are probably aware, it was not until about 1830 that the English became a majority language here. My own great-grandparents: it was their first language. The language was very much discriminated against. Fortunately, the tide has turned with this and just in the last week we have got international recognition that the revival of Manx is actually happening properly and this will be publicised.

Also, just picking up a couple of details, I could not help noticing these, sitting at the back there. I have actually got personal details of somebody who was working in France. I do not want to give his name. If you like, I can give it to you and he will tell you all about it. He had a job in France, but he was picked up for this and he was obliged to leave France. He could not keep up the employment, because they had picked up the fact that he was a Manxman. I am not one myself, I should add, having had an Irish grandmother and an English grandfather.

Also, I have loads of anecdotal evidence about discrimination against Manx people. I was in the Civil Service here from 1992 until 1996 and I, obviously, cannot give names here. This is a great difficulty, but I can give the instance of one very highly placed civil servant who was furious that he had to be absent when there was an appointments board being held and they appointed a Manx person. When he came back and found this out he was furious and said, in the hearing of people in the office, 'You Manx people need your hands chopped off!' The result, the fallout from this was that – we Manx are very forgiving – a couple of people in the office went round like this the following day. (*Dr Stowell pulled his sleeves over his hands.*) This has got a comic element, of course, but...

Just if you can bear another anecdote, much more recently, this is authenticated as well, to show there is still active discrimination in the Isle of Man against our own people, in fact, quite strongly so. Somebody teaching the

recently arrived subject in the school: citizenship, jokingly asked the class, in one of the secondary schools here, 'What is the definition of a Manxman?' He gave his own answer, 'A Scouse farmer.' This is actually okay if you are Manx yourself and you laugh at this sort of thing,

This is leading up to my point that I agree very strongly with a previous respondent there that the work permit system must be maintained and must be run thoroughly and properly. Again, I can bore you with loads of anecdotes about this, particularly from my wife's experience working in the Health Service here of people ripping off the Government here in the most outrageous way by getting jobs here, getting higher degrees and then leaving. The only reason they came here was to get an MA in some sort of field.

Okay, you can go on about this forever, but coming onto the main point. To a very large extent, I welcome the immigration here and I welcome the immigration from the far-off countries. It gives a good mix, but there are limits, obviously, to this which we are very much aware of. Also, there is the point that vulnerable immigrants need to be protected against exploitation. This is a key issue, really, because some of these are victims of the worst aspects of globalisation. It must be heart rending, particularly for these Filipinos with their very high qualifications, to have to leave their own country and to seek employment in far-off countries because their own country cannot support them.

That is all I have got to say, so any questions here?

The Chairman: Thank you, Dr Stowell. That is very interesting, very helpful. Mr Gill would you lead off?

Mr Gill: Recognising that you will always need a translation service for various situations, do you have a view on whether we should have an official or even a recognised working language? Should we be limited to English and Manx Gaelic on the Island?

Dr Stowell: Should be limited to those, yes. There is one government body which actually holds everything in Manx. That is the only one. That is the Gaelic Broadcasting Committee. In terms of Manx, I would not go mad and say there should be documents produced in it because this would be silly. I would agree with what you said, yes.

The Chairman: Mr Watterson.

Mr Watterson: You have spoken about the importance of integration and it is important that people are aware of our Manx culture as much as we learn from theirs. How does that then square with providing Manx-only schools? Is that not another case of ghettoising a particular group. It might be seen as particularly unpopular if, for example, there was a Polish primary school set up on the Island, but it is perfectly acceptable to have a Manx one. I am just wondering if you can give us some views on that?

Dr Stowell: I have got very strong views on it, obviously. This is the Isle of Man and the only reason that a lot of people are here, making a lot of money, is through the resourcefulness of Manx people in the past in keeping our own form of government here. This is a point I made very strongly to Manx Telecom when they took just a couple of token words off the phone book. I said you are here and you are able to make a reasonable amount of money purely

because this is a separate legislation. This is effectively a separate country.

The reason that it is ideal to have a school where they are teaching through Manx is that this is the Isle of Man; Manx is our own language and this is not ghettoisation, because these kids who are there are perfectly fluent in both English and Manx. To have a Polish-only school would actually be a drain on resources here because this is not Poland. You have got to do your best to cater for the Polish people who have come here, who also, as far as I can see, most of them, with certain exceptions, are very well behaved; a lot of them highly qualified and very polite, in most circumstances. Nevertheless, this would be the wrong move to have an entire school where they are teaching through Polish. That is all I can say, really.

Mr Watterson: Thank you.

The Chairman: Okay. Mrs Christian.

Mrs Christian: I think I can, perhaps, deduce the answer to this question from what you said before. Can I ask you, do you think that ... We have had immigration in the Island since Vikings, Celts, whoever. Do you think that the type of immigration now, where people are coming with a different language, essentially, and different cultures is possibly more beneficial to us than the immigration we had in, say, the last century when it was primarily British Isles based?

Dr Stowell: In many ways I think it is actually, because the Manx themselves, without going on and on about this, were actually in a situation where I think, if you read the history, it had lost a lot of confidence and this confidence is being regained now, after a very long period. They were often presenting themselves in what would be seen as an inferior situation, really, and automatically assumed - and a lot of people still do - that anything across, in other words, England, was superior to anything they could possibly produce. There was this long theme running through the whole history and with certain reservations, yes it is.

I mean, this is not going to happen. If you had massive immigration from various parts of the world, there would be severe trouble, obviously, because it is a given fact that, because we are all speaking English now and essentially highly anglicised, that the immigration from the islands around us will cause less upset than if we got huge immigration, say from Croatia or some place.

With certain reservations, yes, it is more beneficial because the Isle of Man is in a much stronger position with a buoyant economy now and with people with a lot more confidence here. I can see this in my own kids, really.

Mrs Christian: I think we would all accept that there was a period in the last century where Manx history and heritage was not really presented well to young people and they did not learn very much about it. Hopefully, the balance is turning, but even there we have a degree of indebtedness to people who are not indigenous Manx people, who have very much entered into the spirit and contributed to the development.

Dr Stowell: Yes. Well, if you go way, way back, my own name is an English name and the first Stowell probably came here about 1400 or something. The family was later

known as McStowell so they were Manx speakers by then which reverted to Stowell later on when they became English speakers again.

Yes we are very much indebted to a lot of people who moved here and I am not ranting against England here. It is just the fact that we were in the position, like everyone else in the Empire and, as T. E. Brown said, mistakenly as it turned out, 'We are lost in the Empire's mass.' Well the Empire has gone and we are not lost, so it is that situation.

Mrs Christian: I would accept your anecdotal evidence that there is some discrimination against Manx people from those who have come in and that is quite clear.

I was interested in the point that you made about the education system perhaps being exploited by people coming in for a period and you say qualifying for an MA, or whatever it may be. Was that through support through our education system?

Dr Stowell: Yes.

Mrs Christian: And do you have a view whether that should be more restricted?

Dr Stowell: There is nothing that can be done about this. It is just that if there is an Isle of Man... All you can say is what has been said here already that, if there is an Isle of Man worker who is suitable for the job, he or she should be appointed.

Mrs Christian: Do you have any view about whether the period to qualify for Isle of Man worker status should be extended or would you say that the five years –

Dr Stowell: I do not think it should be extended. It should be kept to five years.

Mrs Christian: Thank you, Chairman.

The Chairman: Final question. Mr Gill.

Mr Gill: Just one please, Mr Chairman. Thank you.

Do you believe that the Isle of Man Government should have policies or practices to promote integration?

Dr Stowell: No, because I think the integration happens naturally. Fortunately for us, we have not got an Islamist situation here. What happens is, it happens quite mildly over a generation or so and the fact of people speaking languages should not be taken too seriously. I have seen this at first hand in Merseyside and other places in England that the parents will keep speaking the language, the children will speak a mixture and then they will speak more and more English and it just comes in gradually that they are integrated.

But if you have... You are opening a can of worms, you see, with this integration thing, because the people who set up the integration programme, it would be very difficult for them to agree how to do it. What possibly would help would be if the media gave more... There may be reasons why they are pussyfooting around over this, because we have got possibly about 1,000 Filipinos here, but you hardly ever hear anything about them in the media and similarly with, I do not know how many Polish people here and from other countries. If they interviewed them and said, 'How are you

getting on? What are things like?'

There is a parallel also with this with, say, the Irish community here. A few years ago, I was quite surprised to hear on Irish radio – the fact that I was surprised makes the point – they were interviewing an Irish family here who were in the finance sector; the man had a job in the finance sector and they were asking, 'How do you find the Isle of Man?' He said, 'It was a great place to work; obviously, you miss friends back in Ireland.' I thought, well why is not the media in the Isle of Man doing this sort of thing, because we have got this... moving onto a global stage now, and we have got a lot of people here who are going to stay and the policy of the Government is nation building, not nation building as such, but to foster a sense of identity here and these elements can be brought together with a strong Manx element, actually.

This thing about the media would help integration, really. Some of the people in the media – I may be completely wrong – may be a bit offended. Say, the *Examiner*, a while ago had some stuff written in Polish and they got a couple of semi-abusive letters back over this. They obviously thought it was a good thing to do. I do not want stuff printed in the different languages, just features on people and families here from different countries, why do they come here, what do they think of the place and what are they going to do in the future.

Mr Gill: But is not that, would you not say, fostering shared values and common values? Is that not effectively an integration programme?

Dr Stowell: That is what it is, yes.

The Chairman: The clock has beaten us, but Mr Watterson with a final question.

Mr Watterson: Just in terms that you mentioned about what you might call education tourism; people coming here to pursue an education course. To get Manx funding, it is my understanding that they need to be here for three years. Would you advocate that goes to five years in line with the residency criteria?

Dr Stowell: I think I would, yes.

The Chairman: Thank you. Well, Dr Stowell, thank you very much. We have found your contribution very helpful and the comments interesting. So, thank you.

Dr Stowell: Thank you.

*Mr Cretney, Mr Kelly and Mrs McKenzie
were called at 11.55 a.m.*

**EVIDENCE OF HON. D C CRETNEY MHK,
MR M KELLY AND MRS M MCKENZIE**

The Chairman: Now, if I could ask Minister David Cretney to come forward please and Mr Mark Kelly and Mrs Mary McKenzie.

Good morning, Minister, and thank you to you and your colleagues for coming this morning. We would just

like to thank you for the evidence that you have given so far. I know we have had officers here from the DTI giving oral evidence. We thought it would be particularly useful to have a political overview of some of the issues. You will be well aware, of course, that the remit of this Committee is to review the operation and adequacy of legislation in respect of immigration and it is not our job to undertake a review of the work permit system.

However, of course, work permits are one of the key elements in managing immigration to the Isle of Man. Your Department recently undertook a review of the work permit legislation which was presented to Tynwald last July, I think it was. Could you just inform us what progression has been made in implementing the recommendations of that review?

Mr Cretney: Yes. Thank you very much, Chairman. It is nice to be here this morning and to perhaps try and assist the Committee with its work.

It was quite clear to a number of us who were standing for election at the 2006 Election that there were concerns in relation to immigration. I think there is sometimes a mix up between immigration and the work permit. They are two clearly distinct items, but I did initiate an independent review of the work permit system. I asked Mr Black to conduct that on my behalf. He reported, as you say, I reported back to the July Tynwald. What has happened since then is that we have further consulted on a number of key points. That consultation has now been put together. I am due to go back to the Council of Ministers with that consultation and the results of it.

What we are planning to do, principally, is to review and modernise the present Control of Employment Regulations and, once that review has been completed, review and modernise the Control of Employment Act itself. What we have looked at, at the moment, and have had advice upon is that there are a number of things we can do to make sure the system is adequate and meets today's needs by adjusting regulations and then go on to the legislation which, obviously, by the nature of things, will take longer.

My concern was that I felt not sufficient resources had been put into administering the work permit system during the previous administration and I think that has become all too apparent since. We have reversed that. We now have three, for example, enforcement officers to make sure that the law is properly enforced and of course, their role also includes the enforcement of employment legislation, minimum wage, all those kind of things, as well. They work closely with their colleagues in the Department of Health and Social Security.

Amongst the particular recommendations that were put forward... I will briefly go through them, if it is okay with you. One of them was the Department should consider progressing amendment of the Act in respect of the validity of permits issued under section 3(a), with a view to allowing the permits to be aligned to the validity of the primary permit. We have consulted on this proposal and most consultees supported the idea. The Department was broadly sympathetic to this proposal and intends to examine the matter further as part of the broader review of the Control of Employment Act.

The second one was the Department should consider progressing amendment of the Act in respect of the exemption categories, with the aim of ensuring that all categories listed

remain relevant and clearly defined. I am sure Members will be all too well aware that it is a mixed bunch of exemptions which are included on the law, from airline pilots to ministers of religion, etc. There are a number of different categories; a bit of a hotchpotch, as far as I am concerned.

Rather than increasing the list of exempted employments, it was suggested that the Department should consider including, in any amendment provision, the ability for it to make short-term orders to exempt key employments, subject to notification. Since then we have had some powers to make exemptions in the Schedules of the Control of Employment Act. These are Control of Employment Act: paragraph 9, exempts

'Employment of a temporary nature for a period not exceeding 3 days or such other period as may be prescribed'

by regulations that must be approved by Tynwald.

Paragraph 9 exempts employment of a temporary nature for a period exceeding that referred to in paragraph 9 if the Department has authorised such employment in writing, on being satisfied that there are good grounds for doing so. Any decision of the Department under this paragraph shall be final. In this case, no reference need be made to Tynwald.

Should the Department want general powers to be able to routinely exempt employment without reference to Tynwald then an amendment to the Control of Employment Act would be required.' We have had representation in relation to certain sectors of the economy where it is felt by some that a general exemption should apply for a period in order to promote that particular sector of the economy. Those are the things we are looking at in that regard.

The Department proposes to work within its existing powers to authorise exemptions and to review the extent of those powers as part of a broader review of the Act. The review will also deal with the existing exemption categories which can only be changed by primary legislation.

The next one which we have consulted on is that the Department should consider progressing amendment of the 1993 Regulations to permit the option allowed in the Act of granting permits that are transferable between employers, as long as the field of work remains as at the date of issue. We consulted on this idea, but we were unable to support the proposal, as a system of transferable permits would be likely to be fundamentally incompatible with the way that work permits are presently administered. Further, a system which allowed transferable permits would also be likely to present particular enforcement difficulties to the Department.

The next item which we consulted on, Chairman, is that the Department should consider the merits of a system that allowed workers to apply for a permit to work for such a sectoral permit before applying for a given post. We consulted on this idea, but again, we were unable to support a proposal which would, in effect, neutralise the requirements of the existing legislation. In particular it would mean that, in some cases, Isle of Man workers were overlooked in recruitment.

Can I say, just interrupting my reading out this. My starting point, in terms of engaging Mr Black, was that I felt that the Control of Employment Act should remain, but what we needed to do was that it met two needs: first and foremost that Manx workers were protected, because that is the purpose of the Act and, secondly, that it was relevant and met the needs of the economy, going forward.

The next item which we consulted on was that the

Department should consider progressing amendment of the 1993 Regulations to make it easier to revoke a permit, if need be. Whilst the Act allows the Department to revoke a permit after a change in any of the circumstances that led to the issue of the permit, the regulation lists only three items as being relevant circumstances, the primary aim of this being to facilitate the granting of longer permits. We are to review this matter as part of the planned review of the regulations.

The next one was that the Department should consider progressing amendment of the Act to extend the qualifying period for the Isle of Man worker status from five to 10 years – and it was interesting to listen to Dr Stowell just now – the primary aim of this being to facilitate the granting of longer permits without granting Isle of Man worker status by default. I indicated my support for this proposal and therefore we did not consult on this matter specifically. Some consultees did, however, take the opportunity to raise their concerns about the proposal in the 2007 consultation and the Department intends to examine the matter further as part of a broader review of the Act. The Department should consider reviewing the definitions of Isle of Man worker contained in the Act. Well, again, this is a point which we intend to examine further as part of the broader review.

The final one I think was that the Department should consider amending the Act to allow the provisions made for summer workers to apply to other seasonal workers. Again, this is something which we are going to examine further as part of the broader review. I think, Mr Chairman, the point I am trying to make is work is ongoing: we have had a consultative process, we did have a good response to the consultative process. Officers have then collated all those responses and we are now at a position where I will be going back to discuss further with the Council of Ministers and, in due course, obviously with Tynwald Members.

The Chairman: Thank you, Minister, for that update.

Could I, just following on from that, the review had a particular recommendation to the effect that – and I am just quoting from it:

‘if the matter of economic migration is not fully addressed by the Select Committee of Tynwald, it would be sensible for the Department to promote the exploration of the ways in which the Island can attract migrants that will contribute to the economy and the improvement of the dependency ratio without damaging the existing quality of life.’

That was the quote. Does that mean the Department is waiting for the outcome of this particular Committee’s inquiries and making its Report?

Mr Cretney: That is what Mr Black said in his document. I think what we have done is – again this is an issue which we have considered and obviously we are awaiting the outcome of your work and I would hope that the two pieces of work, that which has been done by the Department and that which is being undertaken by your Committee, will in some way dovetail, whilst again recognising that you are looking at immigration first and foremost and our remit is in relation to those people who come to the Isle of Man to work.

The Chairman: Thank you.

The UK is currently proposing a points-based system in respect of overseas workers and that will be followed to a degree, I would imagine, in the Isle of Man. Do you think that our system of job-specific criteria is a better one

than the broader points-based system in terms of giving an element of control?

Mr Cretney: Yes, I think our view at the moment is that that is the way we should continue to have things in the Isle of Man but what I would say is that with the points-based system in the UK it would close the Overseas Labour Scheme which we currently administer and my Department currently do that through His Excellency the Lieutenant-Governor on behalf of the UK. We will then need to decide whether to adopt the new UK approach or produce our own system. These issues are under consideration with the Chief Secretary’s and Economic Affairs Division. For example, a points-based system would be used to control the economic gateway to the Residence Act.

The Chairman: So you are in active discussion with the Immigration Section of the Crown Division at the moment?

Mr Cretney: Yes.

The Chairman: Thank you very much. Mrs Christian?

Mrs Christian: Can you see a system working where the Island could have a second tier applied to the UK points-based system? If a person wanted to come in from outside the European Economic Area, from the Philippines, say, and the UK’s immigration system was a points-based one, someone wanted to come straight here, would you not see some virtue in having them qualify on a points-based system and then having to apply under the Control of Employment Act?

Mr Cretney: As you will be aware, I took the Residence Act through the House of Keys, so I think part of the philosophy there was that there would be a number of gateways: cultural gateways, humanitarian gateways, economic gateways and there would be points. I think the way that that was going to progress would be points awarded for the various contributions that could be made to the Isle of Man and so, yes, I do think that is something which would be helpful.

Mrs Christian: Can I ask how much discussion there is between the DTI and the Crown Division which deals with immigration. We are not always quite sure that there is much political input to what eventually comes forward in the form of rules on immigration because the Governor approves the rules and then they are laid before Tynwald. Has your Department had much discussion or input into changing the rules before they get to that stage?

Mr Cretney: No, I do not think we have and that is because they are United Kingdom Rules which we are administering.

Mrs Christian: Oh, they do have to be approved by Tynwald and the issue is whether Tynwald should in some way be exercising an ability not to accept them or to change them or not to apply them?

Mr Cretney: Yes, I think I am talking from a historical perspective and if it were possible for there to be some input into that, then I would welcome that. I think, from a historic

perspective – and I have not had a great deal to do with this – it has always been that those Rules were United Kingdom Rules, they came through His Excellency the Governor and it was always kind of a *fait accompli* that that would be what then became the case here.

Mrs Christian: Do you think there should be a change in that?

Mr Cretney: I think the issue is we are not an independent jurisdiction, we are a Crown dependency and so that relationship... I do not personally see any need to alter that relationship, I am quite comfortable with that relationship, but as a Member of Tynwald I always think it is best if we can have input into matters which are going to govern in some way our people, I think it is unfortunate when that is not the case.

The Chairman: Thank you.

Just before bringing my colleagues in, the UK is clearly framing in its own economic interests the Rules. Those interests may or may not coincide with the Isle of Man's economic interest. Would you therefore be looking for the greatest flexibility possible to adapt those Rules to suit ourselves if that was possible?

Mr Cretney: Absolutely. The United Kingdom can do what they feel is best for their country, I want to do what is best for the Isle of Man and so I agree entirely that those two might not, and I am sure often do not, coincide. So whatever we can do in terms of 'the best thing' for the Isle of Man, that is what I want to do.

The Chairman: And would you therefore see a greater need for political input into exercising that flexibility, rather than hitherto its officers looking for areas of flexibility?

Mr Cretney: Yes, I think the discussion which is taking place at the moment is the Council of Ministers would have more input than has been the case historically and I certainly support that.

The Chairman: Thank you. Mr Watterson?

Mr Watterson: You have mentioned the Residence Act that you brought through. As a Member of the Council of Ministers since that time, what progress has been made of the secondary legislation to go under it?

Mr Cretney: Very little. I do not think it was deemed a priority by some. It remains a priority as far as I am concerned on a personal basis. I have continued to support that. I understand concerns about the bureaucracy which surrounds the Residence Act. I have always felt, though, that in order to develop the economy of the Isle of Man, this is something which would actually be helpful, rather than the reverse, which is sometimes portrayed by others.

Mr Watterson: Do you believe, then, in Council of Ministers that it is still a relatively low priority?

Mr Cretney: I am pleased to say that its priority has come up of late. Perhaps that coincides with the new administration but I am pleased that a number of Departments now, our

Department and the Treasury Economic Affairs Department, are now looking at this much more seriously, at papers being prepared and we will be going to the Economic Development Committee shortly.

Mr Watterson: You mentioned – in your opening remarks – about the classifications of exemption and you said that you have had consultations on that. Which groups have been lobbying within that framework for exemptions?

Mr Cretney: I would say it was not a group specifically but it was the Treasury Minister on behalf of, for example, fund management, where he felt that exemptions should be granted in that category in order to facilitate the development of that sector.

Mr Watterson: In terms of, you said about the importance about changes in both secondary and primary legislation. That is obviously going to go through Council of Ministers. Do you have a time frame in mind as to how that is going to develop?

Mr Cretney: Yes. I am very conscious that since my appointment I have put an awful lot of work onto officers in terms of reviewing and making sure that the Control of Employment Act is properly being enforced and we do recognise the needs of the economy. There has been an awful lot of work gone into that so I am very grateful to the officers for everything that they have done in that regard.

I have, as part of that set timescale, I think in terms of going back to Council of Ministers, that is imminent within the few weeks, I am due to go back to the Council of Ministers on the results of the consultation. Obviously, I believe the correct procedure after that would then be to come back to Tynwald: I think it is always best to engage all Members on such an important matter.

The only things that have slipped so far in the timescale are the data organisation, lots of the Control of Employment material is currently done on a written basis: it is done by hand. I think that is something which was looked at previously but they did not make any progress unfortunately and that is something which we are now getting programs set up so that things will be much more efficient in the future. That has slipped a little but the rest of things I think are more or less on time.

Mr Watterson: When you say 'on time', what is the timetable?

Mr Cretney: July for the database and other things... There are different timescales – that is all I am worrying about, there are different timescales. As I say, the immediate priority will be going back to Council of Ministers and then on to Tynwald as soon as possible.

Mr Watterson: Do you have an end date in mind that you would want to have everything done and dusted by?

Mr Cretney: I cannot really because part of the recommendations would require change to the primary legislation. We are doing the regulations and changes to that at the moment because that is the easiest thing to do. We have had advice from the former legislative draftsman, who supported our legislative officer in the Department

but, in terms of the primary legislation, that could be up to a couple of years. We all know how much time it takes to feed in new primary legislation.

The Chairman: Thank you. Mr Gill?

Mr Gill: Thank you.

First of all, could I, just for the record, state that I am a Member of the DTI. Is there any further amplification about your views of the extension period from five years to ten years that you want to offer?

Mr Cretney: I spoke to a number of people about that and I felt quite comfortable with moving it from five years to ten years. There are a number of different exemptions which apply in the Isle of Man. For example, if you want to go into local authority accommodation you have to be resident on the Isle of Man for ten years. There are certain benefits which you can get after five years so there are a number of different lead-in times and I had just felt that the ten years, in my opinion, was a better time than five years. As I say, we are going to further consult on that, given that the people volunteered their views on that matter and people having done so, I think it would be the right thing to do to take account of that and consider those views.

Mr Gill: Would you envisage that the issue to consult on them would be ten year across the board for housing benefits and Manx Worker status?

Mr Cretney: I think again, when Dr Stowell was speaking, I do believe consistency is something which would be helpful. A number of those are obviously outside of my control, though, but I do believe consistency would be helpful for those who are coming to live on the Island, apart from anything else in terms of them understanding the situation which they are coming into.

Mr Gill: Could I ask the same couple of questions that I have asked before and you have possibly heard the answers. Do you, as a Minister, believe that the Government should have policies and practices to actively promote integration?

Mr Cretney: Yes, I differ from Dr Stowell on that. I do believe that it would be helpful to have policies and practices in order to do so. Yes, obviously there is a time period where – and the idea about newspapers promoting what goes on in other communities within the Island I think is a nice idea – I think we have to do whatever we can to make sure that people who come here and are contributing to the Isle of Man economy, as they have always, people – again I think it was Mrs Christian spoke about Celts and Vikings – had at one time to come to the Isle of Man. Fortunately they integrated and played their part in terms of taking the Isle of Man forward and I do believe that people who are coming presently, who have a contribution to make, should be welcomed in the same way.

Mr Gill: Minister, do you believe that there should be an English language competency test?

Mr Cretney: Yes, in terms of English language, we are giving consideration to that as part of the review of the

Control of Employment Act. The questions are asked and I think it would differ from employment to employment. One of the things that is quite clear is that in more senior employment I am sure that English would be something which people were competent with, anyway. In other employment areas, perhaps it is less important but I do think it is something which should be consulted upon.

Again I think when we welcome people to the Isle of Man I think it is important that we demonstrate to them the special things about the Isle of Man because I am sure, as has been the case in the past, people who come here who may be from further afield, do often demonstrate that they have something to contribute in terms of taking the Island forward culturally, economically etc.

Mr Gill: Finally, do you think the Government should have a practice and an understanding that their language that they will operate in would be Manx Gaelic exceptionally, but basically in English?

Mr Cretney: Yes.

Mr Gill: And it would not be that we would give every other language of every new community an equal standing?

Mr Cretney: No, again there was a comment about... There was a Polish advert – I do not know whether members of the Committee noticed it – for a job in the newspaper not too long ago. They are able to do that but what they had to do was put an advert in English at the same time so that all people who may be suitable for that position were able to be considered for it.

The Chairman: If I could just move on to the question of what happens after five years. Clearly it is part of the Trade and Industry's pivotal role in the settlement of persons in the Isle of Man, five years of DTI permits under the Control of Employment Act lead to Isle of Man Worker status after five years and the Overseas Labour Scheme, similarly, if that is continually renewed, the permits, after five years, indefinite leave to remain is acquired. The Channel Islands limit overseas permits and they actually need political input to questions of permanent settlement. What would your views be on fixed-term employment which does not lead to permanent settlement in the Isle of Man necessarily?

Mr Cretney: It is something I do not think we have considered as part of this review but would be happy to consider. What I can say is that I get more comments about people only getting a 12-month permit when they come here. People making a decision to come from another jurisdiction to come and work and contribute to the Isle of Man, that is a significant decision and I have had concerns expressed to me that 12-month permits, albeit that they are renewable after that period, is something which does cause concern for some people.

The Chairman: Non-EEA workers who come under an Overseas Labour Scheme are not required, when they make application, to give details of family or numbers of dependants. If entry clearance is given later to the wife or maybe the husband with dependants and children, that does not become evident until the wife or the husband seeks

work under the Control of Employment Act for a work permit. What, then, is your policy in granting work permits to someone with say, five children who would normally be refused automatically if they were coming in under the Control of Employment Act? Would there be automatic approval or do you agree there is a difference in treatment of that individual with five children?

Mr Cretney: I think you would have to look at each case on its merits, obviously, but the general rule which I understand is undertaken by the Work Permit Committee is up to four children. Over that then the work permit would not be approved. I do believe, if we were talking, for example, about lower-value employment, you have to balance that off against the costs to the State here on the Isle of Man in terms of the number of benefits which may be paid and I think if we were then able to have a choice of a family with just a husband and wife, for example, or a husband and wife and four, six children, then clearly it would be preferable in terms of the costs to the Isle of Man for us to adopt the former rather than the latter. It is a delicate area, I think.

The Chairman: Yes. Would you agree that there is an inconsistency: somebody from the UK or anywhere in the EU who needs a work permit could potentially be refused because there were five children but under the Overseas Labour Scheme, because the question is never asked, it would be quite possible for those dependants to come in later?

Mr Cretney: Yes, it is an inconsistency and it is something that we should seek to eliminate because I believe, in terms of the Isle of Man, we need – again back to what I said earlier – to make sure that what we are doing is best for the Isle of Man first and foremost.

The Chairman: It has been suggested to us in evidence that really consideration should be given to providing work permits to, as a priority, single people rather than married or with families. Do you have a view on that?

Mr Cretney: As I say, I worry a little in terms of us being too dictatorial and where do we start and finish in terms of social integration etc. I think we have to be a little careful, but we do have to balance that out against the costs which this jurisdiction may have to pay to larger families etc.

The Chairman: So if the work permit rules became one element of a broader residency scene where there were economic gateways, one of which would be a work permit, that would be the way to apply uniform treatment, would it?

Mr Cretney: Yes, my view has always been that some people say that if and when, if ever, the Residence Bill becomes law then the work permit system would cease to be. My own view is that the two would work in tandem because I do believe that they are two separate things and the two things could work in tandem in the future. I do not believe that you would have to dismantle the work permit system if the Residence Bill ever came to be actually put into place.

The Chairman: I see. That is an interesting comment because, if I am correct, the thinking had been that the work permit situation would remain but it would apply in

much more limited for six-month periods of employment, for example, and it would not govern the more permanent settlement issues: that would come under residency gateways.

Mr Cretney: Yes, well I think there would be changes obviously to the way the work permit system, as currently operated, would be applied, but I do not believe that we should consider dismantling the work permit system just because we have the residency legislation in force.

The Chairman: Thank you. Mrs Christian?

Mrs Christian: Yes Chairman, thank you.

We have got two situations here, one residency, where you are dealing with everybody, and the other work permits, where you are only dealing with the workers. Residency issues are being developed and may or may not subsequently be approved but given – if we just focus on the workers for the moment – does your Department have a view on what the law will provide when the UK move to a points-based system which allow people to come in from outside, not to a specific job but with specific skills. Will anyone who comes in on that basis be automatically required, if they are coming to the Isle of Man, to apply for a work permit under the Control of Employment legislation?

Mr Cretney: Could I perhaps –

Mrs Christian: That is quite beneficial, it seems to me, in terms of people coming from outside, but is that how you feel that the law as it stands at the moment will apply?

Mr Cretney: Well, there have been developments only in the last week in relation to this matter and Mark and I were discussing that. Perhaps if I could divert to him for a moment and perhaps if you addressed where we are up to with that.

Mr Kelly: Thank you, Minister. The UK is now gradually implementing its points-based system. In fact, the first development is tomorrow, the 29th, and I understand that we are at an interesting juncture in that we can make a decision as to whether we follow the UK position directly or whether we embark on our own approach which would be similar to that which has been worked up through the Residence Bill and the Residence Act.

I think what we need to stress is that we have been operating the highly-skilled migrants system now for – is it nearly three years – since 2005 I think – and that, as you say, enables somebody to come to the Island who has a certain range of skills. It is not job specific, as I understand it, so I think we seem to have found that that has worked quite well, because those individuals then are required to apply for a post when it comes under the Control of Employment Act so we then have the stronger controls over them that we do not have with the OLS.

Mrs Christian: Are you saying that that is how you apply it at the moment? They have to apply for a Control of Employment permit under the scheme that you have just described?

Mr Kelly: Yes, there have not been many of these cases,

I think it would be fair to say: I think it was 31 letters have been issued up to now.

Mrs Christian: Can I ask you, then, if this system is coming into effect in the UK tomorrow, how are you going to handle applications from tomorrow?

Mr Kelly: The system is not coming in. What I originally said is beginning to be implemented, the very first stage. It will not go into full implementation for quite some time. They are bringing forward their first proposals. It will be exactly the same as the current situation because our arrangements will not change, as I understand it.

Mrs Christian: Chairman, could I just clarify then. If someone is coming in from outside and wants a job in the Isle of Man, they will be applying to Isle of Man Immigration for permission to come and will either comply on a points-based system, where you then say that they will have to apply for a Control of Employment permit as well, or they will be applying for a specific job under the Overseas Labour Scheme still. Is that how it is going to – ?

Mr Kelly: Yes, the Overseas Labour Scheme does not end –

Mrs Christian: Will it be ending under the points-based system?

Mr Kelly: Yes.

Mrs Christian: In what sort of timescale?

Mrs McKenzie: We would not get into any worthwhile discussions on immigration. I think immigration is still up to the UK.

Mrs Christian: So when it does disappear, every applicant coming into the Island through the points-based system will be subject to Control of Employment legislation and family size would then become a matter for consideration. Thank you.

The Chairman: Thank you. Les, have you –

The Clerk: Yes, if I could just pick up on that because I think it is extremely important. On a points-based system introduced by the UK, someone can go to the British Embassy to apply for entry into the United Kingdom. If they came to the Isle of Man on the back of that, they come under the Control of Employment Act.

If the Isle of Man introduced – if Tynwald approved – a points-based system, then that individual would apply for entry into the UK/Isle of Man and still come under the Control of Employment Act so the Overseas Labour system as exists at the moment, the job specific application, would disappear, the person would come in with an allocated number of points because he had a degree or he was a fork lift operator, whatever the level of skill, he would get in. Is there a danger that the DTI could find itself in a situation where someone has been given entry into the Isle of Man because they have complied with the points-based system and then be refused because they do not comply with the Control of Employment Regulations?

Mrs McKenzie: In what areas would they not comply? Size of family, or...

The Clerk: Well, all I am saying is if someone would be applying to an Embassy where family considerations, criminal convictions for instance, are not a consideration, they have been given legal entry into the Common Travel Area because they complied with the points-based system, but the Isle of Man might be in a position then where the application for the job does not comply with the Control of Employment Regulations, either size of family or criminal convictions –

Mr Kelly: Yes because if they come to the Isle of Man under the points-based system, they come under an eligibility to work. The Control of Employment Act becomes operational when they are applying for a specific post and that consideration of whether they are entitled to a permit would take place in the way that every Control of Employment Act consideration would take place.

The Clerk: I am just suggesting it might be difficult for the Minister of the day to be confronted with a situation where an individual has said, 'The UK authorities have let me in to work, as I comply with the points-based system, but you are now saying to me I cannot work.' I am just highlighting a potential –

Mr Kelly: I think there are a number of potential loopholes, or pressure points, which could arise. This is early days. We are in discussion with the Immigration Office and the Economic Adviser on the points-based system.

The Chairman: Does this highlight the point we were discussing earlier, the need for consistency between the Overseas Labour Scheme and perhaps the Control of Employment legislation, in terms of the criteria that are applied?

Mr Kelly: It does – if I may, Minister – but you could also argue that with the phasing out of the Overseas Labour Scheme and the introduction of the points-based system, and the requirement then to go through the Control of Employment Act, we would have more control than we do at the moment, so it might actually be seen as a tightening of control, rather than a relaxation.

Mr Cretney: Although I accept the point you make about the situation in which a Minister may be placed, and hopefully I am not the Minister of the day...

The Chairman: Do you have a view on the change in practice in recent years to do with criminal checks on applicants, that only the specific categories now are the routine checks by the Police? What is the practical impact of that?

Mr Cretney: This is something I feel very strongly about. What people who come to the Isle of Man and are wishing to have a work permit are required to do, is they are supposed to declare on their application form as to whether there are criminal convictions. Clearly, that does not always happen. It is a matter of fact, it is public record that that does not always happen, and we are currently looking at ways and

this is something which, for some time during the review of the work permit system, I have been keen that our officers and Nick Black and others should be looking to try and find ways in which we can eliminate this situation. I have had a significant paper prepared for me, which I am again going to discuss with the Chief Minister in terms of possible ways to address that. But it is a contentious item and it is one which I believe, in terms of reputational position for the Isle of Man, we should seek to address with some urgency.

The Chairman: Would the options possibly include memorandums of understanding with adjacent jurisdictions and their police forces, in terms of information sharing?

Mr Cretney: Yes. What would be required would be, as you say, information sharing not only on the Island, but also further afield with other jurisdictions, and we are looking at mechanisms whereby those persons who are applying for a work permit may be required to provide evidence in terms of their criminal past, or otherwise.

The Chairman: Thank you.
Any final questions?
Mr Gill.

Mr Gill: Just on that, Minister. When you say that does not always happen, that is not the question is not always asked? The question is always asked, but it is not always answered honestly.

Mr Cretney: The question is always asked, absolutely. We are talking about crooks here, so sometimes they are not going to fill in the form properly, are they?

Mr Gill: It is not a criticism that the question –

Mr Cretney: No, the question is always asked. Yes, absolutely.

Mr Gill: Just finally, Minister, could I ask... Mrs Loudon Brown described how the Department – under a previous Minister, I think – had invited the Filipino Association to help the Department better understand Philippine culture in relation to the marine industry. Is that a process that the Department would continue and would extend, as appropriate?

Mr Cretney: I was not aware of that, but I would certainly welcome any connection with any community who have come to make their contribution to the Isle of Man going forward. As I said previously, I am in favour of us actively seeking to work with people from wherever they come.

Mr Watterson: A few points, Minister. You mentioned about the criticism of the 12-month work permit. Is there a theoretical or actual requirement, then, at the moment, once the permit runs out, to re-evaluate the availability of Manx people for that job, and is that actually done? Do they need to re-advertise after 12 months in order to get a feel for the market?

Mr Cretney: I think there is a requirement to see whether there are Manx people – Isle of Man workers, by definition – who are available. Do you want to...?

Mrs McKenzie: Yes. We look at the overall economy at the time. If there was a downturn in the economy, then that is perhaps an occasion where it would not automatically be renewed.

Mr Watterson: But there is no specific requirement to test the market again via advertising after 12 months?

Mr Cretney: No.

Mr Watterson: Would it be treated as a new application?

Mrs McKenzie: We have been known to do it for the Overseas Labour Scheme.

Mr Cretney: What we actually do now is... As you know, the Work Permit Committee work under a delegation from myself, and what we are doing is providing them with proper information, in terms of economic data. Another area will be in terms of criminal convictions, as to where it is and where it is not right to revoke permits, and obviously we will be consulting with the judiciary and others in relation to that, to make sure that we get the balance right. But they work to the policies of the Department and, for the time being, those are the policies of myself.

Mr Watterson: Do you feel that Government literature should be available in languages other than English and, potentially, Manx?

Mr Cretney: Yes, and I think there have been developments in terms of... Yes, the recent employment legislation was certainly put into other languages. I am not sure, off the top of my head, which other languages, but it certainly was, and I do believe, going forward, that that is something which we need to do more across Government, in terms of education and a number of other areas, making sure that things are available.

Mr Watterson: Finally, if I might, Mr Chairman: Minister, we heard from the Isle of Man Trades Council that the rules, as written for the Control of Employment legislation, were not rigorously and consistently applied, and you may have highlighted one in regard to police checks. I am not sure whether that is specifically in the rules. Have you discovered any other evidence of failures within the system that means that they are not perhaps being operated as rigorously and effectively as one would hope?

Mr Cretney: Yes, I think when the officers from the Department came to the last meeting of this Committee they did indicate – I think Mr Arrowsmith, in particular indicated – that, for five years, the law had not been enforced. That has changed with my appointment. I am not happy – I was not happy – that we have a piece of legislation here which had not been... Not only, in my opinion, had the officers not been properly supported in terms of having sufficient staff in place, but also it had not been actively enforced. I think it is important that it should be in order to give confidence in the system, if nothing else.

Mr Watterson: So, Minister, the message you would like to go out loud and clear from this today is that all of the

work permit legislation is being rigorously and consistently applied?

Mr Cretney: Yes, it is, but there is work to be done.

Mr Watterson: Thank you.

The Chairman: Thank you, Minister, and your colleagues, very much. We do value your input and thank you for giving your time.

Just as a final invitation to you, are there any points from your own political perspective you would like to make to the Committee?

Mr Cretney: No. I am looking forward to, obviously, the outcome of your deliberations. I do think it is an important area. I think it was very timely that this was put forward to

Tynwald so soon after the General Election, and I am sure it will be very interesting when you do report.

The Chairman: Thank you very much to the three of you for coming in this morning.

Mr Cretney: Thank you.

The Chairman: Ladies and gentlemen, that brings us to the end of the public session of the Select Committee.

I would like to thank the public, the witnesses and the members of the media very much for their continued interest and their attendance this morning.

The Committee will now sit in private.

Thank you very much.

The Committee sat in private at 12.42 p.m.