

**Report Of Proceedings Of
Legislative Council
Douglas, Tuesday, 9th December 1997
at 10.30 a.m.**

Present:

The Acting President (Mr E G Lowey), the Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr J M Kerruish Q C), Mr B Barton, Hon C M Christian, Hon E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

The Lord Bishop took the prayers.

Apologies For Absence

The Clerk: Hon. members, we have apologies this morning from Mr President, Mr Delaney and Mr Luft.

Election Of Acting President

The Clerk: In the absence of Mr President, Council, under standing order 11, has now therefore to elect an Acting President to take the chair. I invite nominations.

Mr Radcliffe: Could I propose the hon. member Mr Lowey?

Mr Barton: I second that.

The Clerk: If there are no other nominations I declare Mr Lowey elected and invite him to take the chair.

The Acting President: The first thing to do is to thank hon. members for electing me to the chair. It is rather a different part of the geography . . . I am sure Mrs Christian will convey to Mr President our wishes for a speedy recovery and his indisposition to be a short one.

**Mental Health Bill — Consideration Of Clauses Concluded —
Third Reading Approved**

The Acting President: Going to our agenda, the first thing I need to do is call upon Mrs Christian for further consideration of clauses and the third reading.

Mrs Christian: Thank you, Mr Acting President. We are moving on to part 3 of the Mental Health Bill. Part 3 of the Bill makes provision for the care and treatment of patients who are committed to hospital or guardianship by criminal courts. A hospital order commits a patient to hospital. A hospital order may have a restriction order attached to it. A guardianship order places a patient under guardianship and clause 46 makes a new provision requiring the DHSS to give the courts information about the accommodation and arrangements available to deal with mental patients appearing before them. I beg to move clause 46 stand part of the Bill.

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

The Acting President: Does any member wish to speak to clause 46? Then I move clause 46 be put to the Council. Those in favour say aye; those against, no. The ayes have it. The ayes have it. Clauses 47 to 52.

Mrs Christian: Thank you. Clauses 47 to 52 deal with hospital and restriction orders.

Clause 47 explains the effect of a hospital order or guardianship order made by a criminal court. A hospital order authorises a person's detention in hospital, rather like an

application for admission for treatment, and a guardianship order places him under guardianship like a guardianship application.

Sub-clause (3) is new. It requires the patient to be conveyed to and detained in a hospital where an interim hospital order is made. The court can make such an interim order authorising detention for up to 12 weeks while it considers what permanent order to make.

Sub-clause (4) introduces schedule 1. The sub-clause provides that a patient subject to a hospital order is treated in the same way as a patient admitted for treatment under clause 3, and a patient subject to a guardianship order is treated in the same way as a patient who is subject to a guardianship application under clause 7, subject to the modifications listed in schedule 1, part 1. These are mostly drafting modifications to reflect the differences in procedure between applications and orders, but there is one modification of substance: the nearest relative has no power to discharge the patient under clause 25(2) where the courts are involved. Part 2 of the schedule applies in the case of a restricted patient, as defined in clause 48.

Clause 48 sets out the effect of a restriction order which a Court of General Gaol Delivery may make if it makes a hospital order and thinks that the restrictions in this clause are necessary for the protection of the public from serious harm. A new duty is imposed on the relevant medical officer to examine and report on a restricted patient at least once a year.

Clause 49 is an existing provision and is unchanged. It gives the Department of Home Affairs powers to cancel a restriction order, to discharge the patient absolutely or conditionally, and recall a patient discharged conditionally. It can also take the patient to court or a public inquiry if required.

Clause 50 is a new provision dealing with the treatment, as an in-patient, of an offender in respect of whom a supervision and treatment order is made. This new kind of order, introduced by clause 61 and schedule 2, is a half-way house for offenders who are mentally disordered but not so as to warrant detention under a hospital order.

Clause 51 is new. This clause provides for the revocation or variation of a supervision and treatment order. It enables a court of summary jurisdiction to revoke a supervision and treatment order in the interests of the patient's health or welfare and to vary a supervision and treatment order by cancelling a requirement or inserting a new requirement. However, it cannot extend the term of the order beyond the original maximum of two years. It requires the supervisor to apply for variation or cancellation of a requirement as to medical treatment if the doctor in charge thinks it is inappropriate or does not wish to continue with it himself. It specifies the cases in which a medical requirement may be held inappropriate. Where any variation is made, relevant parties must be notified.

Clause 52 is unchanged. It deals with the case of an offender who is indicted for murder but found not guilty by reason of insanity and ordered to be detained during Her Majesty's pleasure. Such offenders are transferred to England and Wales to be detained in a secure hospital. This clause deals with their treatment pending transfer to England and Wales.

I beg to move clauses 47 to 51 and schedule 1 stand part of the Bill.

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

The Acting President: Does any member wish to speak? If no member wishes to speak, then I will put that clauses 47 to 51 inclusive, and schedule 1, stand part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clauses 52 to 60, or is it 53 to 60?

Mrs Christian: Oh, sorry. I did move only to clause 51 but I did talk to clause 52, so I am sorry about that. Clauses 53 to 60, if I may? Clauses 53 to 60 deal with the transfer of prisoners to hospital.

Clause 53 enables prisoners under sentence who are mentally disordered to be transferred to hospital for treatment by virtue of a transfer direction made by the Department of Home Affairs, which has the same effect as a hospital order. A transfer direction may be made if two doctors report that the prisoner is mentally disordered and ought to be detained in hospital.

Clause 54, which was subject to amendment in another place, makes similar provision for the transfer to hospital of remand prisoners or prisoners for debt, and so on.

Clause 55 enables special restrictions which can be imposed by the court in the case of a dangerous mentally disordered offender to be imposed on the prisoner who is transferred to hospital for treatment for mental disorder. A new duty is imposed on the relevant medical officer to examine and report on a restricted patient at least once a year. The term 'direction restricting discharge' is replaced by 'restriction direction'. This clause was amended in another place to enable a transfer direction with a restriction direction to specify a particular unit - for example, a secure unit within a hospital, not just a particular hospital.

Clause 56 sets out the effect of a new kind of order which a Court of General Gaol Delivery is given power to make by clause 61 and schedule 2, part 1. Where the court convicts an offender and sentences him to custody but is satisfied that he is suffering from a psychopathic disorder, it can make a hospital direction combined with a limitation direction, which has the same effect as a transfer direction and restriction direction for an existing prisoner - that is, he goes straight to hospital and, if he responds to treatment, he is returned to prison to serve the rest of his sentence. This power is to be given to the Crown Courts in England and Wales by the Crime (Sentences) Act 1997.

Clause 57 provides for the cancellation of a transfer direction and restriction direction, or a hospital direction and limitation direction in certain cases. It also provides for the recapture, as an escaped prisoner, of a prisoner who absconds from hospital. This clause is as existing except that it also takes into account the new hospital direction and limitation direction introduced in clause 56.

Clause 58 is as existing and makes provision for the termination of a transfer direction or restriction direction in the case of prisoners who are not under sentence or on remand.

Clause 59 makes further provision for the case where a remand prisoner is transferred to hospital under a transfer direction. There are new provisions in sub-clauses (4), (5), and (7).

In sub-clause (4) this requires the court to have the accused before it at least once every six months for the purpose of renewing the remand.

Sub-clause (5) enables the court to cancel the transfer direction on a report by the relevant medical officer that treatment is no longer required or useful.

Sub-clause (7) enables the court to finish the committal proceedings and commit for trial in the accused's absence provided the relevant medical officer certifies that he is unfit to attend and he is represented by an advocate.

Clause 60 makes further provision for the case where a civil prisoner or illegal immigrant is transferred to hospital under a transfer direction. The reference to illegal immigrants is new, as is sub-clause (2) which, under certain circumstances, provides that where it is decided the prisoner should no longer stay in hospital, the Department of Home Affairs can return him to prison.

I beg to move that clauses 53 to 60 stand part of the Bill.

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

The Acting President: Does any member wish to speak?

Mr Waft: Mr Acting President, may I ask the minister with regard to the situation of a secure unit on the Island? We do not have a secure unit on the Island. Is there any intention in the future ever to provide one, are there any secure units in the UK which will be able to comply with a situation, and how do we go on with regards to the visiting of medical officers when that prisoner is transferred to the secure unit for visiting and estimating the exact nature of his illness every six months?

Mrs Christian: No, we do not have a secure unit, and you have asked whether we will ever have one in the future. Ever is a long time! The intention at the moment is that I do not believe that we will be having any secure provision in the hospital, but that of course can be re-evaluated as we consider the circumstances and the requirement here.

In terms of a medical report being made every six months, I have to confess that I do not know whether it will be necessary for a doctor to visit from the Isle of Man or whether it will be possible for us to appoint a relevant medical officer where the patient is being held in hospital. I imagine that is more likely to be the course that we would take, but I would endeavour to confirm that for the hon. member.

Mr Waft: Mr Acting President, I take it that the time spent within the hospital does not count for time spent on the sentence. Is that not the case?

Mrs Christian: That is my understanding.

Mr Waft: Thank you.

The Acting President: Any other member wish to speak to the clauses? No, then could I invite the minister to actually move clauses 52 to 60, for clarity's sake, and to keep the record straight, because we missed out clause 52 last time?

Mrs Christian: Right, I beg to move that clauses 52 to 60 stand part of the Bill.

The Acting President: Thank you very much. I have before the Council that clauses 52 to 60 stand part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clauses 61 to 63 and schedule 2.

Mrs Christian: Clauses 61 to 63 are supplemental to part 3 of the Bill.

Clause 61 lays down the rules for medical evidence under this part. A new provision enables evidence to be given by written medical reports.

Clause 62 introduces schedule 2, which effectively gives powers to the courts to use the provisions of this Bill. It re-enacts, as part of the Summary Jurisdiction Act 1989, the existing powers of the courts of summary jurisdiction to make hospital orders for mentally disordered offenders. It gives Courts of General Gaol Delivery new power to make supervision and treatment orders and hospital directions. It gives both Courts of General Gaol Delivery and courts of summary jurisdiction new power to remand a defendant to hospital for a report on his mental condition. It gives Courts of General Gaol Delivery power to remand a defendant to hospital temporarily for treatment and gives courts of summary jurisdiction the same powers as the Courts of General Gaol Delivery to make interim hospital orders. The schedule was amended in another place to be consistent where reference is made in this Bill to hospital units as opposed to specific hospitals.

Clause 63 defines the terms used in this part and was amended in another place, again to clarify references to a hospital unit.

I beg to move clauses 61 to 63 inclusive and schedule 2 stand part of the Bill.

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

The Acting President: Does any member wish to speak to the clauses or to the schedule? Then I put clauses 61 to 63 and schedule 2 to stand part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clauses 64 to 72.

Mrs Christian: We now move on, Mr Acting President, to part 4 of the Bill, which is concerned with consent to treatment. All of this part is new. It introduces rules restricting the treatments which may be given to a mental patient without his consent. These were introduced in the United Kingdom to resolve doubts over the extent of the authority given to the responsible medical officer to administer treatment to a patient who is liable to be detained following admission for treatment.

Clause 64 provides that certain rules apply only to persons liable to be detained and others to all in-patients.

Sub-clause (1) provides that part 4 applies to all patients liable to be detained under the Bill, except a few classes of patients whose detention is only temporary.

Sub-clause (2) provides that clause 65, imposing special restrictions in the case of irreversible treatments, also applies to voluntary in-patients, so a consent by a voluntary patient to such treatment must be backed up by the new safeguards.

Clause 65 requires both the patient's consent and a second medical opinion, together with other consultations, before certain irreversible treatments can be carried out on any patient, voluntary or detained. This does not apply to emergency treatment. A code of practice under clause 116 can specify further treatments as giving rise to special concern and advise that they should not be given without consent and a second opinion.

Sub-clause (1) specifies the kinds of treatment covered by this clause. They are brain surgery to destroy or isolate brain tissue, and other treatments specified in regulations made by the DHSS. The regulations require Tynwald approval. The UK regulations, for example, specify the implant of hormones to reduce an abnormal sex drive.

Sub-clause (2) requires not only the patient's consent to such treatment but also that an independent doctor and two other independent persons who are not doctors have certified in writing that the patient understands what is intended and consents to it, and the independent doctor has given a second opinion in favour of the treatment.

Sub-clause (3) requires that the doctor also consults at least two other persons professionally involved, including a nurse and a lay person, such as a social worker.

Sub-clause (4) requires the DHSS to consult the Mental Health Commission and interested bodies such as the Isle of Man Medical Society before making regulations in relation to this provision.

Clause 66 introduces safeguards in respect of other forms of treatment. This clause requires either the patient's consent or a second opinion, not both as was the case with the previous treatment, to certain forms of treatment including drug therapy for more than three months. This does not apply, again, to emergency treatment.

Sub-clause (1) specifies the kinds of treatment covered by this clause. They are treatments specified in regulations made by the DHSS and any drug therapy for more than three months. Again, any regulations will require Tynwald approval. An example of the sort of treatment which is covered by UK regulations is electro-convulsive therapy.

Sub-clause (2) enables the DHSS by order to vary the period of three months, but this also would require Tynwald approval.

Sub-clause (3) requires either the patient's consent to the treatment, certified by the relevant medical officer or an independent doctor, or a second opinion by an independent doctor in favour of the treatment.

Sub-clause (4) requires the doctor also to consult at least two other people professionally involved.

Sub-clause (5) requires the DHSS, again, to consult the Mental Health Commission and other interested bodies before making regulations.

Clause 67 enables a consent or opinion relating to treatment under the previous two clauses to relate to an individual treatment plan. Any variation to the plan will therefore not require a further consent or opinion.

Clause 68 enables a patient at any time to withdraw his consent under the previous clauses to any treatment, subject to clause 70, sub-clause (2).

Clause 69 provides for a report on certain treatments to be sent to the DHSS, who must take independent advice and may cancel a certificate given under clauses 65 or 66.

Clause 70 makes an exception to the rules in clauses 65 and 66 in the case of emergency treatment.

Clause 71 provides that a detained patient's consent is not required to any treatment not covered by clauses 65 or 66 provided it is given by or under a doctor.

Clause 72 is supplementary. It defines certain terms used in part 4 and provides that forms of certificates will be prescribed by regulations made by the DHSS and have Tynwald approval.

I beg to move clauses 64 to 72 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to the clauses? Mr Waft.

Mr Waft: Mr Acting President, perhaps the minister could clarify a problem that has arisen in the UK with regard to a court of appeal judgment, I think it was on 2nd December, where the judges said that even people who are unable to decide whether they want to be treated in an institution cannot be held there unless they are first legally certificated. This brings into question many of the patients who are suffering from dementia who are in the same position. When they are regarded as an informal patient, because they have chosen not to leave, it does not automatically bring to mind the fact that they have consented to treatment. The fact they had not attempted to leave does not give the hospital the right to treat that patient. The chief executive at the time said, 'We will now have to consider the position of the vast majority of people with learning disabilities and many others with mental illness who are unable to express consent and for whom they have been providing care as informal patients'. I just want to check that the minister is happy that the safeguards that we have in the Mental Health Bill cover this situation.

Mrs Christian: We will certainly take note of the decision that was made in the United Kingdom, and it is my understanding that the Mental Health Commission will oversee the treatment of voluntary patients as well as those who are detained compulsorily and ensure that the proper procedures and safeguards are fulfilled with regard to those patients as well as to those who are detained and have a right of appeal to the Mental Health Tribunal.

Mr Waft: Thank you.

The Acting President: Any other member wish to speak to any of the clauses? Then I will put that clauses 64 to 72 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Part 5, clause 73 and schedule 3, please.

Mrs Christian: Thank you. Part 5 deals with the Mental Health Review Tribunal, which is constituted as an independent tribunal to hear appeals and references concerning the detention of patients under parts 2 and 3. There is no substantial change in its constitutional functions except to give new rights of appeal in relation to new schemes of control - for example, after-care under supervision under clauses 28 to 36. Clause 73 continues the tribunal in existence and introduces schedule 3, which provides for its constitution. I beg to move clause 73 and schedule 3 stand part of the Bill.

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

The Acting President: Does any member wish to speak? I will then put clause 73 and schedule 3 to stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clauses 74 to 76.

Mrs Christian: These clauses, 74 to 76, deal with applications to the tribunal by part 2 patients.

Clause 74, which was amended in another place, lists the cases in which an appeal lies to the tribunal and the time limits in which they may be made. As a result of the reduction of the periods of detention, the frequency at which appeals can be made is doubled.

Clause 75 gives the DHSS power to refer the case of any patient under detention or guardianship to the Mental Health Review Tribunal and gives a doctor authorised by the patient a new power to visit and examine him for the purposes of any such reference.

Clause 76 imposes a new obligation on the hospital management to refer the case of a detained patient to the Mental Health Review Tribunal at certain intervals if no application or reference has already been made.

I beg to move clauses 74 to 76 stand part of the Bill.

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

The Acting President: Does any member wish to speak to the clauses? Then I will put that clauses 74 to 76 do stand part of the Bill. Those in favour please say aye; to the contrary, no. The ayes have it. The ayes have it. Clauses 77 to 79.

Mrs Christian: Clauses 77 to 79 make similar provision in relation to part 3 patients.

Clause 77 enables a patient subject to a hospital order, guardianship order or transfer direction or his nearest relative to apply to the tribunal. The frequency at which such applications may be made is doubled.

Clause 78 enables a restricted patient to apply to the mental health review tribunal in the second six months of detention and any subsequent period of 12 months. This is twice as frequent as at the present time.

Clause 79 provides for references of cases of restricted patients by the Department of Home Affairs to the Mental Health Review Tribunal. This is a new duty on the department to refer a case if no appeal or reference has been made for three years.

I beg to move clauses 77 to 79 stand part of the Bill.

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

The Acting President: Does any member wish to speak? Mr Waft.

Mr Waft: Mr Acting President, clause 79 is a very important clause with regard to this Bill. A lot of patients who are restricted for one reason or another do not always know the situation with regard to tribunals and their ability to apply to the tribunal. Therefore it is incumbent on the department to make sure they have that availability put to them on their behalf, and that it is a very important clause. Thank you.

The Lord Bishop: I should like to ask: in the papers last week across there was a statement that many people were being detained in mental institutions or hospitals without needing to be; in this part of the Bill, are we covering that type of eventuality?

Mrs Christian: In these particular parts we are dealing with people who are compulsorily detained as opposed to being voluntary patients. In this particular group of clauses now we are dealing with people who have been sent to hospital by the courts. I think the reference in the newspaper article was to people who were voluntarily in hospital but perhaps felt they were being detained or the hospital was encouraging them to be detained in hospital. They will not be dealt with by this particular Bill, but will have their situation reviewed by the Mental Health Commission, who will ensure that voluntary patients are properly safeguarded.

The Acting President: Do no other members wish to speak? Then I will put the resolution that clauses 77 to 79 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 80 to 83.

Mrs Christian: These clauses cover the discharge of patients.

Clause 80, as amended in another place, sets out the powers of the Mental Health Review Tribunal in the case of patients under detention, guardianship or supervision. New powers are given in the case of supervised patients, and amendments are made following the changes in the categories of mental disorder and the criteria for detention.

Clause 81 gives the Mental Health Review Tribunal power to discharge a patient who is subject to a restriction order either absolutely or conditionally.

Clause 82 gives the Mental Health Review Tribunal limited powers in relation to a prisoner transferred to hospital subject to a restriction direction.

Clause 83 provides for the review by the Mental Health Review Tribunal of cases of restricted patients who are conditionally discharged and then recalled to hospital. I beg to move clauses 80 to 83 stand part of the Bill.

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

The Acting President: Does any member wish to speak to the clauses? I will then put the resolution that clauses 80 to 83 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 84 to 87.

Mrs Christian: This group of clauses covers general matters relating to tribunals.

Clause 84 enables a doctor to examine a patient on behalf of an applicant to the Mental Health Review Tribunal. The right to see the records and the references to after-care under supervision are new.

Clause 85 makes general provisions as to applications to the Mental Health Review Tribunal, in particular, only one application may be made in a given period. There is no change to this provision.

Clause 86 provides for the procedure of the Mental Health Review Tribunal for payment of expenses of applicants and witnesses and for appeals from the tribunal on a point of law.

Sub-clause (2), which specifies the matters with which rules may deal is new, as is sub-clause (4), which enables powers conferred by the rules on the chairman of the tribunal to be exercised by another member if the chairman is unavailable.

Clause 87 defines the terms used in this part, some of which are new.

I beg to move clauses 84 to 87 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to the clauses? Then I will put the resolution that clauses 84 to 87 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 6, clauses 88 to 93, minister.

Mrs Christian: Part 6 is concerned with the removal and return of patients.

Clause 88 enables a mental patient to be sent to a hospital or into guardianship in England and Wales. This power is used where the patient needs special treatment not available in the Isle of Man or to be kept in secure accommodation. The patients covered are those liable to be detained or under guardianship, other than patients remanded to hospital or subject to an interim hospital order. The DHSS must be satisfied that a place is available for him in a hospital in England or Wales.

Clause 89 makes provision for the reception in the Isle of Man of a patient transferred from a hospital or guardianship in England or Wales under the English equivalent of clause 88. A restriction order, restriction direction or limitation direction, if appropriate, made on the date of the patient's admission is referred to in this particular clause and is new.

Clauses 90 and 91 are new. Clause 90 provides for the transfer by the Department of Home Affairs to the Home Secretary or Scottish Secretary of responsibility for a conditionally discharged restricted patient - that is, an offender or prisoner who was detained as a mental patient subject to the special restrictions in clause 48, but has been discharged conditionally by the department under clause 49 or by the Mental Health Review Tribunal under clause 81. The patient's consent and the consent of the secretary of state are both required to such a transfer.

Clause 91 provides for the acceptance by the Department of Home Affairs of responsibility for conditionally discharged restricted patients transferred from Britain under provisions corresponding to clause 90.

Clause 92 enables clauses 88 and 89 to be applied with modifications to Scotland, Northern Ireland, Jersey or Guernsey, and clauses 90 and 91 to be applied, with modifications, to Northern Ireland, Jersey or Guernsey if corresponding provisions for transfers to and from the Isle of Man are made by the law of the relevant country. Provisions relating to clauses 90 and 91 are new in this clause.

Clause 93 enables provision to be made for the acceptance into after-care under supervision of a patient who is subject to after-care under supervision in the United Kingdom or Channel Islands provided that the legislation in the relevant jurisdiction makes reciprocal provision for the acceptance there of a patient subject to after-care under supervision here. The United Kingdom Acts do not yet make such reciprocal provision for transfers to or from the Isle of Man, but only for transfers between England and Wales and Scotland. But this clause is here to ensure that if the United Kingdom legislation is amended, Manx law can make the necessary reciprocal provision. I beg to move clauses 88 to 93 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to the Bill? Mr Waft.

Mr Waft: Mr Acting President, this again is an important part of the Bill. In the past the restriction of patients when they have to be transferred - there was a problem with taking them off that restriction prior to the removal to the UK and this does get over that problem; it attends to that. Thank you.

The Acting President: Could I pose a question to the minister? A patient and a prisoner could be one and the same person. Is there any differential? Are there any international laws when the Isle of Man has reciprocity with other countries to discharge

prisoners, i.e. patients, from one jurisdiction to another? Does this Bill collide with that international agreement?

Mrs Christian: I think there is a provision in here that will deal with other countries such as Eire and, obviously if that is given as an example, there may be other countries provided there is a reciprocity. I would look to the learned Attorney to confirm.

The Attorney-General: There is no clash at all. Before a patient is transferred you have to ensure that the laws are reciprocal and that the patient will have the appropriate medical supervision. There are international agreements with places; Sri Lanka was the last, where we can transfer prisoners from here and prisoners from Sri Lanka can be transferred here if there are good family reasons. But those prisoners are not normally suffering from a mental disorder. There has to be reciprocity to ensure that a prisoner transferred here who is suffering from a mental illness or disorder will have appropriate treatment in an appropriate place in the receiving country before we can do it.

The Acting President: I will try and get back into my neutral mode again. It is difficult! Thank you, Mr Attorney. I therefore, if no other member wishes to speak -

Mrs Christian: If I could just perhaps comment on the remarks made by the hon. member Mr Waft, to endorse what he has said, this provision has changed. It has been brought about in the light of experience, as have many of the changes in this Bill; we are acknowledging difficulties that we have had in the past and are seeking to make provision to cover any difficulties which we have hitherto experienced.

The Acting President: Thank you very much. Can we then put the resolution that clauses 88 to 93 stand part of the Bill? Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 94 to 97.

Mrs Christian: Thank you.

Clause 94 enables foreign mental patients - here we are, we are coming to it now - to be transferred to a country outside the United Kingdom, Isle of Man or Channel Islands. The current powers will be restricted to patients liable to be detained for treatment and will be subject to the approval of the Mental Health Review Tribunal. That is a new provision.

Clause 95 enables regulations to be made for the purposes of Part 6 - that is, any matter relating to removal and return of patients.

Clause 96 deals with the cancellation or continued operation of certain orders and such other matters when a patient is transferred out of the Island under this part.

Clause 97 provides that 'hospital' in the Isle of Man includes a mental nursing home which is allowed to take restricted patients.

I beg to move clauses 94 to 97 stand part of the Bill.

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

The Acting President: Does any member wish to speak to the clauses? Then I will put the resolution that clauses 94 to 97 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 7, clauses 98 to 111.

Mrs Christian: Thank you, Mr Acting President. Part 7 covers the management of the property and affairs of patients through the powers of the High Court and is largely re-enactment of existing legislation.

Clause 98 is new only to the extent that it explains references to the judge in the terms of the High Court. Which deemster is to exercise the powers of the judge is to be decided by the president of the court - that is, the First Deemster. That provision is the only new part of the clause.

Clause 99 specifies the powers which the judge can exercise, the purposes for which he can do so and the considerations to which he is to have regard.

Clause 100 sets out the specific powers which the judge can exercise for the purposes specified in clause 99. A new provision enables the power to authorise the management, sale, et cetera of personal property or the completion of a contract to be exercised by the Attorney-General subject to any restrictions imposed by rules of court.

Clause 101 provides for the effects of a will made on behalf of a mental patient under clause 100(e).

Clause 102 enables the judge to take action under clause 99 in any emergency without having made a final decision whether the person concerned is in fact mentally disordered.

Clause 103 enables the judge to appoint a receiver to act on behalf of the patient under the direction of the court. It sets out the receiver's duties and provides for his discharge.

Clause 104 enables stocks or shares registered in the Isle of Man to be vested by court order in a receiver or similar official appointed in another country to act for a mental patient.

Clause 105 provides that a transaction authorised by the court under this part is not in certain cases to affect the rights of others under the patient's will or intestacy or a settlement made by him.

Clause 106 gives the judge, when acting under this part, the ordinary powers of the High Court to summon witnesses and to commit for contempt of court.

Clause 107 provides for an appeal to lie to the Staff of Government Division from decisions of the judge under this part.

Clause 108 provides for the rules of court governing proceedings under this part.

Clause 109 provides for security to be given and accounts to be rendered by a receiver.

Clause 110 provides that orders of the judge are admissible in evidence without having to be formally proved.

Clause 111 defines terms used in part 7 and saves any inherent powers of the High Court with respect to mental patients. I have gone through those very quickly because there are no changes in those provisions.

I beg to move clauses 98 to 111 stand part of the Bill.

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

The Acting President: Does any member wish to speak to the clauses? Then I will put the resolution that clauses 98 to 111 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 8, clauses 112 to 121, minister.

Mrs Christian: Part 8 sets out miscellaneous functions of the Department of Health and Social Security with respect to mental health.

Clauses 112 and 113 are new and impose a specific requirement on the DHSS to appoint approved social workers and give such approved social workers a new power to enter any premises, other than a hospital, in which a mental patient is living if he thinks the patient is not being properly looked after.

Clause 114 requires the DHSS to arrange for certain mental patients to be visited and generally looked after.

Clause 115 makes new provision requiring the DHSS to provide after-care for a mental patient who leaves hospital.

Clause 116 imposes another new duty on the DHSS to issue or approve a code of practice for doctors, social workers and others relating to the admission, treatment and so on of mental patients.

Clause 117 is also new. It gives certain persons the right to visit and interview any patient detained in a mental nursing home and to inspect any records relating to his treatment. If such a person is a doctor he may also examine the patient.

Clause 118 gives the DHSS a new duty to keep the detention of patients under review and to make arrangements for detained patients to be visited and interviewed and complaints to be investigated by independent persons.

Clause 119 is a significant step forward in ensuring the proper treatment and care of mental patients. The clause sets up a new Mental Health Commission to exercise certain advisory and supervisory functions under the Bill.

Clause 120 provides for the DHSS to appoint independent doctors and other experts to exercise certain functions under the Bill.

Clause 121 enables the Department of Health and Social Security to pay pocket money to mental patients in hospital. This is an existing provision.

I beg to move clauses 112 to 121 stand part of the Bill.

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

The Lord Bishop: Sadly, Mr Acting President, certainly across there are many examples where patients or mentally disturbed people have been discharged and have reoffended or committed pretty serious crimes, and I just want to ask the minister if she is as convinced as can be that this Bill is covering those sorts of eventualities here - i.e. that the department is going to be given enough resources to make sure that social workers are thick enough on the ground to cover that sort of eventuality?

The Acting President: If we take them one at a time and then I will come back to you.

Mrs Christian: Patients under this Bill can be discharged with supervision orders, which is a new provision and which means that when they go out into the community they will still be supported by a team of people who have been given very specific responsibilities under this Bill to monitor those patients and ensure that they are continuing to take the necessary medication and treatment and, if they are not doing so, to require their return to hospital care. One can never say that nothing awful will ever happen again. I mean, it would be impossible to guarantee such a thing, but I think that the mental health team in the Isle of Man have been very conscious and aware of the situation pertaining in the United Kingdom and, in drafting this legislation, have had cognisance of what has happened and I think will in any case be very circumspect about discharging people under supervision. I am sure that they will not be discharged unless it is felt that they have reached a stage in their treatment that that is appropriate. Obviously there are safeguards for the patient there as well: if the hospital feel they should stay in longer but other people feel that that is restrictive, then we have set up this Mental Health Review Tribunal which will be overseen also by the Mental Health Commission. So there are, I believe, sufficient safeguards and a sufficient understanding of what has happened in other places for this to work well in the Island, provided, as you say, we have sufficient resources invested in this to make sure that proper supervision takes place.

Mr Waft: Mr Acting President, I wonder if the minister can clarify clause 112: 'The Department shall appoint a sufficient number of approved social workers. . .' Does that mean that there could be an increase on the numbers we have at the moment which are delegated to mental health?

With regard to clause 115, sub-clause (2), 'it shall be the duty of the department in co-operation with the relevant voluntary agencies...' That is purely a take-off from the UK; in the UK they have groups such as MIND and they have the National Schizophrenic Association,

whereas we do not on the Isle of Man have enough voluntary agencies of this ilk, in other words independent voluntary agencies who will be able to support people within the community once they have been discharged. So I would not like us to run away with the fact that we have a number of voluntary agencies able to do that work in conjunction with the department. There is a certain lack of independent voluntary agencies with the status of the National Schizophrenic Association and MIND and that could be a problem.

With regard to clause 117, 'the examination of patient in mental nursing homes', that is a broad concept of mental nursing homes; does it mean the homes that have been set up throughout the community which house psychiatric patients or a specific designated mental nursing home, which I do not think we have on the Island?

Mrs Christian: If I may reply, we are very conscious of the fact that we do not have the same sort of voluntary organisations in the Island as are available in the United Kingdom and our social services department is talking with some of the organisations which you have alluded to with a view to trying to encourage development in the Island of a stronger voluntary group along with those people who already do good voluntary work here to try and strengthen that element of support for people who are mentally ill. Clearly this Bill, in clause 112, imposes a responsibility on the department to appoint a sufficient number of approved social workers for the purpose of discharging the functions conferred on them by the Act. Now, that is a very clear statutory responsibility which we will have to fulfil. Because it is a statutory provision we will have, I hope, extra power, when we come to looking for resources, to argue that we have to fulfil this statutory duty, and we will need the resources to do it. Clearly at the moment we do have social workers fulfilling this sort of function, but it depends, as this develops, how our numbers will have to be strengthened depending on how many people are actually discharged under supervision orders. The Bill will be brought in in parts and clearly there will not be an appointed day order made until we feel we have sufficient staff to fulfil the statutory obligation.

Sorry, I have not replied to the second question about the reference to mental nursing homes. This is not a reference to those homes in the Island which currently are dealing with elderly mentally ill people. There are no registered mental nursing homes in the Isle of Man. It allows us to register such a facility if it is referred to in the legislation. Such a facility would be one where detained patients could be held. But, as you say, at the moment there is no such provision, nor in the immediate future do we see any need for such a provision.

The Acting President: Are there any further questions to the minister on those clauses? Then I will put the resolution that clauses 112 to 121 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 9, clauses 122 to 126, minister.

Mrs Christian: Thank you. Part 9 provides for offences involving falsification of documents, ill treatment of patients, assisting patients to abscond and obstructing authorised persons, and is largely re-enactment of existing legislation.

Clause 122 makes falsification of documents under this Bill a criminal offence. The only change is in sub-clause (3), which makes it clear that the clause also covers reports other than medical reports.

Clause 123 makes it an offence for any person to ill-treat a mental patient under his care or for whom he is responsible.

Clause 124 makes it an offence to help a mental patient who is liable to be detained or under guardianship or otherwise in legal custody to abscond.

Clause 125 makes it an offence to obstruct a person carrying out any duties under this Bill.

Clause 126 enables to the DHSS to bring prosecutions for offences under clauses 122 to 125, but subject to clause 123(5), which covers the Attorney-General's consent to prosecution for offences under clause 123. I beg to move clauses 122 to 126 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to the clauses? Mr Waft.

Mr Waft: Yes, Mr Acting President. It is noticeable that the sexual offences part of the 1974 Act has been left out, but I am satisfied that the new Sexual Offences Bill does encompass that, so I am quite happy with that situation.

Mrs Christian: I confirm that that is the case.

The Acting President: Does any other member wish to speak to those clauses? Then I will put the resolution that clauses 122 to 126 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Could I then ask the minister to take part 10, which is clauses 127 to 136?

Mrs Christian: Part 10 contains miscellaneous and supplementary provisions.

Clause 127 provides that patients can still be admitted and treated as voluntary in-patients and makes special provision for under-18-year-olds.

Clause 128 imposes a new requirement on hospital managements to inform detained patients and their nearest relatives of their legal status and rights.

Clause 129, which is new, requires the nearest relative to be informed when a patient is to be discharged unless the patient or nearest relative does not wish to be so informed.

Clause 130 enables the management of a hospital to censor a detained patient's correspondence. The powers are more limited than those under the current law in that, for example, they only apply to detained patients but they are more specifically defined in new sub-clauses.

Clause 131 enables a warrant to be issued to search for and detain a mentally disordered person in certain circumstances.

Clause 132 enables the police to take in a mentally disordered person who is in a public place and seems to be in need of care or control.

Clause 133 gives anyone taking a mental patient from place to place or keeping him in a place or safety under any provision of the Bill all necessary powers to restrain him.

Clause 134 gives limited powers to recapture a patient who escapes while in legal custody under clause 133.

Clause 135 protects the person acting in reliance on powers conferred by the Bill provided they act in good faith, and in a new sub-clause (4) excludes proceedings against the DHSS.

Clause 136 enables any pay or pension payable out of public funds to be paid to an institution or to other persons for the benefit of the patient.

I beg to move that clauses 127 to 136 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to those clauses? Mr Waft.

Mr Waft: Mr Acting President, with regard to clause 129 with the duty to inform the nearest relatives, I am just concerned that sometimes in the case of a psychiatric patient who

is undergoing long-term medical treatment, if there is a radical change in that treatment the relatives should be made aware as well of the situation providing the group that are looking after that patient take on board the nearest relative who is living within the same situation; that they would need to know if there has been a change in that medication because it could have a consequence on the household and the situation there. If it could be borne in mind when the workers who are looking after that patient do consult with the relatives when there is any radical change in medication? Thank you, sir.

Mrs Christian: I note the hon. member's comments. The Bill provides for a lot of consultation with a lot of people. I am not sure whether it specifically covers the point you are raising, but the whole objective of the exercise will be to have a unified team working with relatives, social workers and health carers so that we are trying to make the mesh of the net much smaller than it perhaps has been.

The Lord Bishop: May I just ask on clause 132, it must be quite difficult for a constable to judge whether a person is mentally disturbed or just blind drunk, I would have thought. Could you just expand on that a bit? And also where does 'a place of safety' mean? Does that mean cells or does it mean a hospital?

Mrs Christian: I think a place of safety could be a cell. It is covered in clause 131: 'A place of safety can be a police station or a prison.'

Mr Barton: So, Mr President, that is no change from the existing . . .

Mrs Christian: No, that is not changed.

The Acting President: Does any other member wish to speak to the clauses? Then I will put clauses 127 to 136 to stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 137 and 138.

Mrs Christian: The remainder of this part covers supplemental matters. Clause 137 requires subordinate legislation to be approved by Tynwald and enables it to apply any corresponding English legislation where appropriate.

Clause 138 defines various terms used in the Bill.

I beg to move clauses 137 and 138 stand part of the Bill.

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

The Acting President: Does any other member wish to speak? Then I shall put it that clauses 137 and 138 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 139, 140, with schedules 4, 5 and 6, minister.

Mrs Christian: Thank you. Clause 139 as amended in another place introduces schedules 4, 5 and 6.

Sub-clause (1) introduces schedule 4 which makes transitional provisions. Actions taken before commencement are treated as taken under this Bill with necessary changes, but certain improvements in the status of patients, for example the frequency of renewal of authority for detention, are introduced on a phased basis.

Sub-clause (2) introduces schedule 5, which makes consequential amendments.

Sub-clause (3) introduces schedule 6, which repeals the Mental Health Act 1974 and other provisions superseded by this Bill.

Clause 140 provides for the short title and commencement of the Bill.

I beg to move clauses 139, 140 and schedules 4, 5 and 6 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to the clauses or to the schedules? Then I will put clauses 139 to 140 and schedules 4, 5 and 6 to stand part of the

Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses read and second reading. I note by our agenda that the minister is to take the third reading. Minister?

Mrs Christian: Thank you. Mr Acting President, members have worked through the Mental Health Bill very patiently and I have tried to indicate, because it is such a large Bill, where existing provisions have been re-enacted and to highlight what is new. It is important particularly in areas such as mental health that we do take stock from time to time and consider whether what we do and the legal framework within which we do it is still appropriate. This Bill gives recognition to the fact that changes have occurred since our existing legislation was put in place. It ensures that when this Bill is enacted we shall have a statutory provision which will underpin best practice in the mental health field.

Considerable work has gone into the drafting of the Bill and I would like to record my thanks to the legal draftsman and the mental health and social services team who have contributed to the very comprehensive exercise which they carried out.

It sets out with considerable definition the powers and responsibilities which apply where people are to be detained because of mental illness. The consideration of such illnesses in relation to court proceedings is covered and improvements are made in relation to prisoners. The important aftercare supervision measures which the Bill introduces will assist in the transition from hospital to community with safeguards appropriate for both the patient and the population in general. New safeguards for patients are introduced in relation to certain treatments and the important independent functions of the newly introduced Mental Health Commission are defined. There is much in the Bill which will go a long way to ensure continuation and improvement of the proper care and protection for those with serious mental health problems.

I would thank members for their support of the measure during the clauses stage of the Bill and I beg to move that the Mental Health Bill 1997 be now read a third time and do pass.

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

Mr Waft: I would just like, Mr Acting President, to compliment the minister on the way the Bill has been handled. Quite a minefield at times, it has been deftly considered and it is worthy of some praise.

The Lord Bishop: Hear, hear.

The Acting President: Does any other member wish to speak to the third reading? Right, then I will put it that the Mental Health Bill 1997 be read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

I too would like to commend Mrs Christian particularly for the way which she has presented the Bill and to commend her department. The Bill does actually impose a lot of new responsibilities on the department and the Isle of Man has an excellent record in mental health. It affects many families on this Island and I am sure the department will meet those new requirements in the future. Well done.

Companies (Transfer Of Domicile) Bill — First Reading Approved

The Acting President: Can we then move to the next item on our agenda, which is the Companies (Transfer of Domicile) Bill in the charge of Mr Radcliffe.

Mr Radcliffe: Thank you, Mr Acting President. This is a Bill promoted by Treasury to introduce into Manx law a facility by which companies meeting certain criteria will be able to affect a transfer of their domicile to the Island from another jurisdiction and provides for the

reciprocation of this action as well. Such legislation allows for the continuity of life of a migrating company and obviates the usual winding-up and dissolution process attaching to companies which would otherwise have to deregister and discontinue their corporate being and reregister with a fresh incorporation in the new jurisdiction in order to obtain a new domicile of choice.

I would like to stress right at the start that the eligibility to take advantage of this facility has been made fairly narrow, as it is intended to be aimed only at public companies whose securities are listed on a recognised stock exchange and those companies' subsidiaries. We are therefore talking about a relatively small number of companies being attracted and probably far fewer being eligible to leave. In other words, the intention of this Bill is to attract quality companies, not quantity. This accords with the policy of Treasury and is supported by the Financial Supervision Commission, though there are undoubtedly others who would clearly wish to see the wider application of this legislation and the ability to move companies en masse irrespective of size, pedigree, track record or maybe, indeed, dirty linen.

In the first instance the criterion we have imposed that companies will be listed or subsidiaries of listed companies, is based on the fact that such companies distinguish themselves through being subject to stricter disclosure requirements about their ongoing operations and the various codes of conduct concerning insider dealing, takeovers and mergers, corporate covenants and so forth. Information on them is more accessible and generally in the public domain and there is more evidence of their track records than for some others. That is not to say that simply accepting a company on the basis of its listing is enough, as we would accept that this is no absolute guarantee of a company's standing. The mechanism for approving a transfer of domicile under this Bill reflects a full application procedure in which all rights of creditors, shareholders, litigants and others are preserved or taken into account and all available information about a company will be considered by Treasury before any migration is approved. We are especially concerned that the migration of companies is properly controlled and the quality of these can be upheld.

There is a close precedent to this Bill in the form of the Insurance (Amendment) Act of 1995 which hon. members will be well aware facilitates the inward and outward migration of captive insurance companies. In fact, these two pieces of legislation are intentionally very similar in the interest of consistency of law as far as possible. However, the scope on application of the insurance Act is strictly confined to captive insurance and to date has worked extremely well with a small number of valuable captive insurance companies already having been added to the Island's economic base as a result of that piece of legislation, and there are more in the pipeline, I might say.

Similarly, Treasury is encouraged that, having identified a small core number of companies fulfilling the eligible criteria under the current Bill which already wish to take advantage of this legislation when enacted, this legislation is a particular attraction to those major corporate groups which already have some presence in the Island and, by virtue of the positive experience of that, would wish to consolidate additional parts of their operation here without disturbing existing corporate structures and relationships or the need to enter into the novation of contracts.

The mechanics of the operation of the Bill and the checks and balances within it are matters of considerable detail and I will not go into those in a great deal of detail at the moment, but at further stages I will be able to do so. I will just explain that there are 19 clauses in the Bill divided into three parts. Part 1 is concerned with companies migrating to the Island

or their continuance here. Part 2 is concerned with provisions for the outward migration of companies or their discontinuance here, being an essential feature of the Bill, though clearly not one Treasury would wish to encourage too much. It should be explained that the potential outward migration of companies is on much the same criterion for eligibility as applies to those who seek to move in. In other words, there is reciprocity in the application of the provisions for inward and outward migration, and this is I think, the learned Attorney may agree, an equitable approach in law.

It is the accepted form of this legislation in virtually all other countries with similar legislation permitting this, which incidentally is another prerequisite of redomiciliation being able to take place at all. Of the numerous countries which are understood to have legislation permitting redomiciliation probably Luxembourg, Switzerland, Bermuda, Cayman and Liechtenstein are of most interest to the Island as areas of potential business.

Part 3 of the Bill deals purely with matters miscellaneous and general but nevertheless is essential to the proper operation of the Bill.

With that brief précis, Mr Acting President, I would beg to move that the Companies (Transfer of Domicile) Bill of 1997 be read a first time.

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

The Acting President: Does any hon. member wish to speak to the Companies (Transfer of Domicile) Bill? Then I put it to Council that the first reading of the Companies (Transfer of Domicile) Bill be read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. The Bill read a first time.

Insider Dealing Bill — Second Reading Approved — Clauses Considered — Third Reading Approved

The Acting President: I call on Mr Radcliffe again to take the second reading on our next item, which is the Insider Dealing Bill. Mr Radcliffe.

Mr Radcliffe: Thank you, Mr Acting President. As explained last time, the Insider Dealing Bill will replace the Isle of Man's existing legislation, the Company Securities (Insider Dealing) Act 1987.

Insider dealing remains a criminal offence and the aim of the legislation is to protect the integrity of public markets. This legislation is aimed at those people who may feel tempted to take advantage of information that they have as insiders. They may probably attempt to manipulate events so as to avoid the prompt disclosure of information, which they can then exploit for their own ends.

The Bill before us today comprises four main parts. Clause 1 sets out the offence of insider dealing, clause 2 details the specific defences that can be used, clause 3 specifies the security as to which the Act will apply, and the following clauses define various miscellaneous definitions and interpretative provisions together with how the Bill will deal with prosecutions and penalties; the territorial scope of the offences are also defined in the Bill. The third schedule of the Bill re-enacts the existing powers for the appointment of inspectors to investigate suspected cases of insider dealing.

The Bill is not expected to cause any increase in government expenditure nor any decrease in government income, but it is a piece of legislation which is seen as another step towards enhancing the Isle of Man's reputation as a responsible, mature and reputable international finance sector. I beg to move, sir that it be read a second time.

Mrs Christian: I beg to second.

The Acting President: Do any hon. members wish to speak to the second reading? Then can I put it that we take the second reading of the Insider Dealing Bill? Will those in favour please say aye; against, no. The ayes have it. The ayes have it. I believe the clauses are going to be taken individually?

Mr Radcliffe: Yes, sir, I think for ease of handling. The Bill is not set out in parts as such so I would propose, with your permission, to take them individually and answer any queries if I can that hon. members may have - the book supposedly tells me all here but. . . !

Clause 1 sets out the first form of the offence of insider dealing, that of taking advantage of inside information by dealing in securities which are price-affected securities.

Sub-clause (1) provides that a person is guilty of insider dealing if he knows all the relevant facts - that is, he takes advantage of inside information by dealing in securities which are price-affected securities in relation to the information, and that he deals in the circumstances mentioned in sub-clause (3) of this clause. There are three essential requirements for this form of the offence of insider dealing to be committed. The first is that the person knows all the relevant facts. The second is that the person takes advantage of inside information as defined in clause 5 by dealing in securities, the price of which would be affected if that information were to be made public. And the third is that the person deals in the circumstances mentioned in sub-clause (3).

Sub-clause (2) of clause 1. An offence is also committed if an individual having information as an insider encourages another person to deal in the price-affected securities in relation to that information, knowing or having reasonable cause to believe that dealing would take place in a regulated market defined in clause 9, sub-clause (1), or relying on a professional intermediary et cetera. It is irrelevant to the committing of this offence whether the person who is being encouraged realises that the securities are price-affected securities, nor is it necessary for the inside information to be given to that person - for example, a simple recommendation to the effect that I said to Mr Acting President, 'I cannot tell you why, but now would be a good time to buy shares in Mr Waft's company', or something like that - those sort of circumstances. The offence is committed at the time of encouraging. It is not necessary for any dealing to take place.

Sub-clause (3) sets out the circumstances in which dealing takes place for the purpose of sub-clause (2). The circumstances are: dealing on a regulated market; dealing in reliance on a professional intermediary; or where the person acquiring or disposing is himself acting as a professional intermediary. The effect of the reference to 'relies on or is himself a professional intermediary' is that any deal involving a professional intermediary is also a deal through which the offence of insider dealing can be committed even if it does not take place on a regulated market. A professional intermediary is defined in clause 8 of the Bill when we get to that particular part.

Sub-clause (4) makes clause 1 subject to the defences specified in clause 2. I beg to move, sir, that clause 1 stand part of the Bill.

Mr Waft: I beg to second.

Mr Lowey: Does any member wish to speak to clause 1? Then I will put clause 1 to stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2.

Mr Radcliffe: Thank you, sir. This clause provides a number of statutory defences to a charge of insider dealing. A person shall not be regarded as taking advantage of inside information if he shows that at the time of the alleged offence he lacked the necessary intent.

An essential component of the offence of insider dealing is that a person takes advantage of inside information. There is a presumption that a person who has inside information and who deals, discloses it or encourages another to deal does take advantage of it - that is the inside information. This clause provides that a person shall not be regarded as taking advantage if he shows that he lacked the necessary intent.

The following sub-clauses lay down the circumstances in which a person can show he lacks the necessary intent. The principle underlining the prohibition on insider dealing is that a person used inside information with the intent of a profit being made or a loss avoided. The principle underlying these defences is that there is no such intent.

Sub-clauses (1) and (2) of clause 2 provide similar defences for the two classes of offence, namely insider dealing by virtue of dealing and insider dealing by encouraging another to deal. An individual is not guilty of insider dealing if he shows that (a) he did not expect the dealing to result in a profit or the avoidance of loss, or (b) that at the time he had reasonable grounds to believe that the information had been widely disclosed, or (c) he would have done what he did even if he had not had the information - for example where securities are sold to pay a pressing debt.

Sub-clause (3) provides that in relation to disclosing inside information to another a person lacks the necessary intent if he does not expect any person as a result of the disclosure to deal in securities in the circumstances mentioned.

Sub-clause (4) introduces schedule 1, which contains a number of special defences.

Sub-clause (5) of clause 2 provides that the Treasury may by order amend the special defences in schedule 1 to meet new developments in business practice.

Sub-clause (6) clarifies that insider dealing refers not only to making a profit but the avoidance of a loss. I do not know what the difference is but I beg to move that clause 2 and schedule 1 stand part of the Bill.

Mr Waft: I beg to second.

The Acting President: Does any member wish to speak?

Mr Barton: Mr Acting President, I am certain it is covered somewhere in the Bill, but I gather if the Treasury do amend by order, would this be approval by Tynwald?

The Acting President: Does any other member wish to speak to clause 2 and schedule 1? Then I will put that clause 2 and schedule 1 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3 and schedule 2.

Mr Radcliffe: Thank you, sir. Clause 3 provides that a security is anything which (a) falls within any paragraph of schedule 2, and (b) is subject to such conditions as may be prescribed by an order made by the Treasury.

Sub-clause (2) declares that each reference to a security in the Act is a reference to a security to which the Act applies, and these are listed in schedule 2.

Sub-clause (3) allows the list of securities in schedule 2 to be amended by order to reflect the development of new securities. I beg to move, sir, that clause 3 and schedule 2 stand part of the Bill.

Mr Waft: I beg to second, sir, and reserve my remarks.

The Acting President: Does any member wish to speak? Mr Barton.

Mr Barton: I would just like to reconfirm that any such order under 3(3) would be subject to Tynwald.

The Attorney-General: It is clause 13(2): 'Any order under the Act shall not come into operation unless approved by Tynwald.'

Mr Radcliffe: That all comes in that particular clause when we come to it.

The Acting President: Does any other member wish to speak to clause 3 and schedule 2? Then I shall put clause 3 and schedule 2 to stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

Mr Radcliffe: Thank you. Clause 4, Mr Acting President, defines the meaning of 'dealing' for the purposes of the legislation.

Sub-clause (1) provides that a person deals in securities either if he acquires or disposes of those securities as a principal or an agent or if he procures, whether directly or indirectly, an acquisition or disposal of the securities by another person. The clause makes it clear that a person can be guilty of insider dealing if he acquires or disposes of the securities covered by the legislation either as a principal or as an agent. So therefore an agent who takes advantage of insider information to deal on behalf of his principal with all the benefit arising from the profit or avoidance of loss - and I like that phrase, the avoidance of loss - accruing to the principal with the agent himself not receiving any benefit is subject to the insider dealing prohibition as much as a person who deals himself purely for his own benefit. It also provides that a person who procures or gets another person to do the disposal for him is also subject to the legislation.

Sub-clauses (2) and (3) define 'acquire' and 'dispose'. They provide that this includes agreeing to acquire or dispose of the security in entering into the contract which creates the security or discharging of such a contract.

Sub-clauses (4) and (5) deal with the circumstances in which a person is to be treated as procuring an acquisition or a disposal of a security, and sub-clause (5) makes it clear that there are other ways in which a person may procure an acquisition or a disposal. These sub-clauses expand upon sub-clause (1)(b) and make it clear that a person is dealing even if he does not take legal ownership of the securities or does not enter into the dealing transaction but someone else does this for him or at his behest. This situation can arise where a person acts through his agent or uses a nominee to acquire the securities for him or where an agent or nominee holds securities and disposes of them for that person.

I beg to move that clause 4 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 4 of the Bill? Then I shall put it that clause 4 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 5, sir.

Mr Radcliffe: Clause 5, Mr Acting President, defines the meaning of 'inside information.'

Sub-clauses (1) and (2). The effect of these sub-clauses is that information is inside information not only if it relates to a particular security but also if it relates to a number of securities, say, of more than one company. It is not inside information, however, if it relates to securities generally. The effect of the provision is also that information is inside information if it relates to a particular issuer or to particular issuers. This reflects the fact that inside information may not be directly about securities, whether they are going up or down in value, but about the issuer - for example, about a company's profits. Any information which relates to issuers generally is not caught, so information about a change in company law which affected companies generally would not be inside information. Sub-clause (1)(c) provides that the

information is inside information if it has not been made public. This is a difficult concept which is best judged by the facts of a particular case. Sub-clause (1)(d) provides that the information must be likely to have a significant effect on the price of any securities.

Sub-clause (3), if I could move on to that? The provision is here that price includes value, is included to deal with securities such as index contracts. Where an index contract is entered into by an investor with inside information that the underlying securities are to go up in price, the price consideration which he pays to enter into the contract will not be affected. What will be affected will be the value attributed to the securities or index to which the contract relates - that is the base point; that is the profit or loss under the contract as calculated by reference to fluctuations from the base point. If the person with whom the invested contracts also has the inside information he would demand the same price for consideration for entering into the contract but would probably place a higher value on the base point. It is very technical.

I beg to move that clause 5 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 5 of the Bill? Right, then I shall put that clause 5 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 6.

Mr Radcliffe: Clause 6, sir, defines that persons who are capable of committing the offence of insider dealing are to be treated as insiders.

Sub-clause (1) provides that a person is to be regarded as an insider if he knowingly has insider information from an inside source defined in sub-clause (2). This sub-clause (2) sets out the criteria by which a person is to be treated as having inside information from an inside source. The person has to obtain the information from an employee, director or shareholder, off an issuer of securities or through some other officer - for example, an auditor - or through his employment, say, in a bank, or through his profession - for example, again a lawyer.

I beg to move that clause 6 should stand part of the Bill.

Mr Waft: I beg to second, sir.

The Acting President: Does any member wish to speak?

Mr Barton: Mr Acting President, I think there was a case last week in England of some members of companies - they were employees or directors within the company - making a takeover within a company. Now, the accusation that has been made is that they would have inside information. Would this Act cover such a case? There has been no definition or ruling on that since, but it was mentioned last week. I am trying to think which company it was.

Mr Radcliffe: Well, can I say, Mr Acting President, I am not aware of the facts of the case that the hon. member has mentioned -

Mr Barton: Is it Betterware, I think? Something like Betterware.

The Attorney-General: There are cases, Mr Acting President. What is inside information, what the position is as held by a person and whether that information is within the public domain or not tends to be subjective as to the circumstances of the investigation. There was one reported last week where a number of officers within a company had sold on information which they had obtained because of their position within the company and they sold while the price was strong. The price then weakened and investigations with a view to prosecution are being undertaken.

Mr Barton: Right.

The Attorney-General: This Bill will enable investigations to be taken and if the person, the investigating authority, is satisfied that there is insider dealing, then prosecutions will flow.

The Acting President: Any other member? Dr Mann.

Dr Mann: Just looking at the implications of this particular clause, or the whole Bill, really, in most large companies most of the directors hold very large blocks of shares and one is imposing very severe limitations on these people, because if one sells a large block of shares he alters the price, almost certainly, and so it is very difficult as a director of a company in which you own a large section of those shares. The responsibility here is immense. The circumstances under which that person can sell his shares is extremely limited.

The Attorney-General: Mr Acting President, the situation is that quite often with companies they suspend share activity at certain times of the year - for example, when the accounts are going forward to the board of directors. Persons are aware of this. It is not only directors, say, of the main company; it could be a director of a subsidiary company which is aware of the holding company's position, but if you accept the office or an office or employment, which means that there will be available to you price-sensitive information, then you accept the burdens as well. This has been accepted. It is not a new Act within the Isle of Man, it is a replacement and consolidation and improvement of the existing position. Directors are aware of their obligations.

The Acting President: Does any other hon. member wish to speak?

Mr Radcliffe: I am obliged, sir, to the learned Attorney for the explanations there. As he rightly says, the insider dealing Act 1987 is being superseded by this. I beg to move.

The Acting President: I put it that clause 6 do stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 7, sir.

Mr Radcliffe: Clause 7 relates back to clause 5(1)(c) and the reference to 'made public' in relation to information. The clause gives several examples of circumstances when the phrase will apply. The list is not exhaustive but the final determination would have to be left to a court.

I beg to move, sir, that clause 7 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 7? Then I shall put clause 7 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 8, sir.

Mr Radcliffe: Thank you. Clause 8 defines a professional intermediary as a person (a) who carries on a business consisting of acquiring or disposing of securities, whether as a principal or an agent or acting as a person through whom such acquisitions or disposals may be effected and who holds himself out to the public or any section of the public as willing to engage in such business. A professional intermediary is also a person who is an employee of such a person.

Sub-clause (3) gives an exclusion for persons who only occasionally conduct this type of business. This is intended to encompass persons such as stockbrokers and market makers. Such people carry on the business of acquiring or disposing of securities either as principal or agents or they set up and make the arrangements through which acquisitions and disposals by clients are effected. These activities are caught by the definition. There are other people, though, who merely carry on activities related to the acquisition or disposal of securities - for example, solicitors who advise upon such things and the arrangers of loan finance. They are not caught by the definition because they are not responsible for the acquisition or disposal

itself of the securities - that is, they do not effect it but are responsible only for arrangements in respect of the transfer or sale.

Sub-clause (4) of this clause provides that a person dealing in securities relies upon a professional intermediary if the acquisition or disposal in question is to or from a professional intermediary or is effected through a professional intermediary.

I beg to move that clause 8 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to clause 8 of the Bill? Then I will put clause 8 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 9, sir.

Mr Radcliffe: Thank you. This provides that a regulated market means any market, however operated, which is declared by an order made by the Treasury, to be a regulated market for the purposes of the designation.

Sub-clause (2) of this clause provides that for the purposes of the legislation an issuer in relation to any securities includes any person by whom the securities have been or are to be issued. This is included to make it clear that an issuer is not only a person during the period in which he is in the process of issuing but also a person by whom securities have been or are to be issued.

Sub-clause (3) of this clause defines the expression 'company' and 'public sector body'.

Sub-clause (4) treats information about a company as including information about its business prospects.

I beg to move that clause 9 do stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 9 of the Bill? Then I will put clause 9 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 10, sir.

Mr Radcliffe: Thank you. Clause 10 provides, Mr Acting President, for the penalties for the prosecution of insider dealing offences.

Sub-clause (1) provides that a person guilty of insider dealing shall be liable on summary conviction to a fine not exceeding the statutory maximum of £5,000 or imprisonment for a term not exceeding six months or to both, or that a person shall be liable on conviction on indictment to a fine or imprisonment for a term not exceeding seven years or to both. The penalties provided for in this clause apply to all the forms of the offences of insider dealing.

Sub-clause (2) makes it clear that proceedings for the insider dealing offences shall not be instituted in the Isle of Man except by or with the consent of the Attorney-General.

Sub-clause (3) states that the consent of the Attorney-General will not be required before the arrest without warrant or the issue or execution of a warrant for arrest of a person.

Sub-clause (4) says that it is an evidential matter for the courts. Any document giving the consent of the Attorney-General to the commencement of proceedings and signed by the Attorney-General shall be admissible as evidence without further proof.

I beg to move that clause 10 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President. Could I just request, though, with regard to departments of government, perhaps, who may advisedly or inadvisedly give advice on the investment of funds, do they come under the same situation?

The Attorney-General: Only if they have inside information. I find it very difficult for any department to give advice. They should not give advice on securities. The Treasury,

presumably, is the only one and then, presumably, if they were issuing stock they would suggest that everybody on the Isle of Man buy it, but insider dealing means where you sell to make a huge profit or to avoid a loss; really, it is where you use that mischievously. If it is government it is government, if it is police it is police. Everybody is subject to the law.

Mr Barton: Mr Acting President, under 10(1)(b) - perhaps the learned Attorney could comment on this - if a person was convicted in another jurisdiction, say in Hong Kong, and got a 10-year sentence or a 15-year sentence and was either British or Manx and at some stage was transferred back to the British Isles, does the original sentence stand or would it come under this clause?

The Attorney-General: It does not come under this clause at all. All Acts that are passed by the parliament of the Isle of Man affect the jurisdiction of the Isle of Man. It is a very good point, and in the Criminal Sentences Act of the United Kingdom Parliament, which dealt with transfer of prisoners, we had to deal with the differential between their sentencing policy, and our sentencing policy because we are under the Custody Act. The situation is that if a prisoner is transferred from one jurisdiction to another, then the transferring jurisdiction can make it conditional - that is, that the prisoner will serve the sentence in accordance with the jurisdiction law which gave the sentence, or unconditional, which means that we do conversion rates here and they would serve on a sentence as imposed here. But this one merely relates to the conviction; clause 10(1)(b) says that where it is a conviction on a Court of General Gaol Delivery the court may impose a maximum custodial sentence of seven years, a fine or both.

Mr Waft: Could I ask, Mr Acting President, does that do away with the necessity which has been stated in the past that we follow very closely the criminal sentencing in the UK as opposed to the Isle of Man?

The Attorney-General: Well, sentencing is a matter for the court, Mr Acting President, and I was merely indicating that there are procedures for conversion of the sentences passed by the courts.

Mr Radcliffe: I have nothing further to add to what has been said, Mr Acting President.

The Acting President: I will put it that clause 10 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 11.

Mr Radcliffe: Clause 11, Mr Acting President, limits the offence of insider dealing so that an offence is only committed if some part of the act involved in the dealing, disclosing or encouraging another to deal takes part in the Isle of Man or involves a market regulated in the Isle of Man or the United Kingdom.

I beg to move that clause 11 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to clause 11? Mrs Christian.

Mrs Christian: A query, really, not in terms of where the offence takes place - I think that is clear - but one can imagine that the same offence could apply with different people participating in the UK and the Isle of Man, and really, whilst we set out offences and penalties and prosecutions, I just wonder if the mover could give any indication of how this whole thing is policed in the Isle of Man.

The Attorney-General: Well, the situation is, Mr Acting President, that is quite common. Because the Isle of Man has an international base it is not uncommon, for example, for a person to have dealings in the United States, the Isle of Man, France or wherever. If investigation takes place here there are checks with other jurisdictions and the prosecuting

authorities will then liaise to determine which jurisdiction has the better jurisdiction for the offences. So a matter may be, say, in the Isle of Man and France and it may be agreed between the prosecuting authority that the person will be prosecuted in France because there is a better jurisdictional position there or vice versa. That is not uncommon. There are extra-jurisdictional provisions, for example, in the Corruption Act, from memory, no matter where the corruption of a Manx civil servant takes place, it is deemed to take place in the Isle of Man. So if he is corrupted for one weekend in Dublin, shall we say, or Timbuktu, it makes no odds, we have strong jurisdiction. It is a practical situation, a practical matter. There is considerable liaison within the criminal proceedings world between jurisdictions and prosecuting authorities.

The Acting President: I think you were right the first time, sir, as well.

Mrs Christian: May I ask for further clarification?

The Acting President: Certainly.

Mrs Christian: I understand the inter-jurisdictional procedures now, thank you, Mr Attorney. I am just wondering how any insider dealing would in the first instance come to light in the Isle of Man if it was not a matter referred to us by another jurisdiction. Is there any body or mechanism for identifying insider dealing within our shores?

The Attorney-General: Mr Acting President, the minister is correct to a certain extent. For example, the stock exchange carry out random audits of their members and will look for patterns, and wherever the member resides they will advise the police or the prosecuting authority there. It is a question of intelligence, and to say that there is this particular avenue or that particular channel is to undermine the web-like intelligence situation. Obviously, with regulated markets we do not have any at the moment; we may in the future but at the moment we do not. But it could be an aggrieved shareholder, say, of a Manx public quoted company who says 'I bought those shares because I saw XYZ was in it and I am aggrieved that he sold all his shares the day after I bought mine.' Now, we would then carry out investigations. It is basically all intelligence, but the questioner is perfectly correct: we do rely on intelligence from other jurisdictions, particularly those that discipline and regulate the markets themselves if there is any wrong-doing by our people.

Mrs Christian: Thank you.

The Acting President: Any other questions on clause 11? Mr Radcliffe, are you happy?

Mr Radcliffe: I am obliged again to the learned Attorney, sir.

The Acting President: I shall then put that clause 11 stand part of the Bill. Those in favour? Those against? The ayes have it. The ayes have it. Clause 12.

Mr Radcliffe: Thank you. Clause 12, Mr Acting President, excludes certain actions by public-sector bodies from the scope of the offence.

I think there is little more to add to that so I will move that clause 12 stand part of the Bill.

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

The Acting President: Does any hon. member wish to speak to clause 12? Then I will put it that clause 12 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 13.

Mr Radcliffe: Clause 13, Mr Acting President. The provision is in respect of the various order-making powers under the clause. It provides that such order-making powers are exercisable by order and that these orders are subject to affirmative resolution by Tynwald. It allows the Treasury to make orders to correspond with like legislation operating in the United

Kingdom. So there is the safeguard that hon. members were seeking, that orders are subject to Tynwald approval.

I beg to move that clause 13 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 13? Then I shall put clause 13 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 14 and schedule 3.

Mr Radcliffe: Thank you. Clause 14 gives effect to the powers of investigation and inspection as detailed in schedule 3. These re-enact the existing provisions contained in the Company Securities (Insider Dealing) Act of 1987 with the exception of paragraph 1(8). An amendment was made in another place to schedule 3. Members will have had a copy of that, but I can explain that amendment if members so desire.

I would therefore beg to move that clause 14 and schedule 3 as amended stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Any questions from hon. members for clause 14 and schedule 3? Then I shall put it that clause 14, schedule 3 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 15 and schedule 4, Mr Radcliffe.

Mr Radcliffe: Thank you, sir. This clause makes amendments to items of legislation which make reference to the Company Securities (Insider Dealing) Act of 1987 and substitute the Insider Dealing Act of 1997. Certain enactments specified in schedule 4 are repealed to the extent that they are specified in column 3 of that particular schedule.

I beg to move that clause 15 and schedule 4 stand part of the Bill.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any hon. member wish to speak to clause 15 and schedule 4? Then I will put it that clause 15 and schedule 4 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 16, sir.

Mr Radcliffe: Thank you, sir. This is the final clause of the Bill and provides a short title and enables it to come into operation on such day as may be appointed by the Treasury by an appointed day order.

I beg to move that clause 16 stand part of the Bill.

Mr Waft: I beg to second, sir.

The Acting President: Does any member wish to speak to clause 16? Then I shall put clause 16 stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it.

Mr Radcliffe: Mr Acting President, aware of the fact that this hon. Council will probably not meet again as a Council until late in January next year, I would beg Council's indulgence to move:

That Standing Order 22(2) be suspended to enable the third reading of this Bill to be taken.

(Interjections and laughter)

The Acting President: Council has been asked to suspend the appropriate standing order. Is that agreed? Will those in favour please say aye; those against. The ayes have it. The ayes have it. Mr Radcliffe.

Mr Radcliffe: Thank you, sir, and I thank Council for their indulgence in this particular one. There is little more really to say about the Bill. The Bill was, of course, issued for consultation to the Treasury's various consultative committees and received some mixed reactions. They were all given very careful consideration by the Treasury but the Bill was not changed in any significant manner. The words of one consultee are worth remembering, I think, in this; he said, 'This mirrors the UK and best practice as *already* practised in the Isle of Man.' I think that was a sort of an accolade for the endeavours of our legislation programmes here. It is promoted as a measure towards maintaining the Island's reputation as a well-regulated centre and I beg to move that the Insider Dealing Bill be now read a third time and do pass.

Mr Waft: I beg to second, Mr Acting President.

The Acting President: Does any member wish to speak to the third reading? I think in the season of good will the mover has done extremely well! Therefore I am going to put to the Council that the Insider Dealing Bill 1997 be read a third time and do pass. Will all those in favour please say aye; those against. The ayes have it. The ayes have it.

Hon. members, can I thank you first of all for your indulgence of a very inexperienced Acting President and thank you for your co-operation.

Farewell To The Attorney-General

The Acting President: Hon. members will note that this is the final sitting of the Council at which we will have the pleasure of the company of the learned Mr Attorney, and I am sure you will join me in expressing the pleasure we have had working with him. (**Members:** Hear, hear.) He has been a pleasure to work with. His professional ability to put into layman's language the legal niceties that we have to deal with from time to time has been greatly appreciated by all members. We shall certainly miss him and that, I think, is the best advert we can give you, sir. You will be missed; you will be missed a lot. We do wish you, sir, a very long and very successful career on the bench, hoping that we will never have to come before you but you will have to interpret perhaps some of our handiwork from time to time! Sir, it has been a great pleasure and we shall certainly miss you.

The Attorney-General: Thank you, Mr Acting President. I have certainly enjoyed my period as a member of this Council. When talking to my successor, I said to him about legislation that preparation is the key word. Go through every clause, read every word, figure out logical questions and then look for ones that come from nowhere, and those are the ones that you will get from the Council, because they have an ingenious habit of asking questions where you really do not know the answer! I have thoroughly enjoyed my time here. I will be sorry to move on. I have enjoyed not only the official work, I have enjoyed the camaraderie and the kindness shown to such a gentle spirit as myself from time to time. Thank you.

The Acting President: Hon. members, the Council will adjourn until Tynwald commencing on Tuesday, 16th December 1997 and thereafter to Tuesday, 27th January 1998 at 10.30 a.m. Thank you very much.

The Council adjourned.