

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 26th May 1998
at 10.30 a.m.**

Present:

The President (the Hon Sir Charles Kerruish OBE LLD (hc) CP), the Attorney-General (Mr W J H Corlett), Hon C M Christian, Messrs E A Crowe, J R Kniveton, E G Lowey, Hon E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

The Clerk took the prayers.

Apologies For Absence

The President: This morning we have apologies for absence from the Lord Bishop and the hon. Mr Delaney.

Manx Museum And National Trust - Member Elected

The President: Now, turning to the agenda paper, hon. members, we have a number of elections this morning and the first, set out at item 1, is that of an election of one member to the Manx Museum and National Trust and this, as you will recall, was a responsibility discharged by Mr Brian Barton when he was a member of the Council. So may I have nominations, please, for that vacancy.

Dr Mann: Mr Crowe.

Mr Lowey: Yes, I second.

The President: Are there any further nominations? Putting that name to the Council, will those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Declaration Of Members' Interests Committee Of Tynwald -
Member Elected**

The President: Item 2, Declaration of Members' Interests Committee of Tynwald. This vacancy exists and the responsibility has been discharged in the past by the hon. Mrs Christian, who is eligible for re-election. Nominations, please.

Mr Lowey: I propose Mrs Christian.

Mr Radcliffe: I beg to second that, sir.

Dr Mann: Mr Kniveton.

The President: The hon. Mr Kniveton is proposed. A seconder? In the event of no seconder we have one nomination before us and that is the nomination of Mrs Christian. Will those in favour of that nomination please say aye; against, no. The ayes have it. The ayes have it.

**Joint Committee On The Emoluments Of Certain Public Servants -
Member Elected**

The President: Turning now to item 3, it is for a member to serve on the Joint Committee on the Emoluments of Certain Public Servants. Previously this responsibility was discharged by Mr Barton. May I have nominations for the vacancy, please.

Mr Radcliffe: I propose Mr Eddie Lowey, Mr President.

Mr Waft: I second that, sir.

: Are there any further nominations, hon. members? If not, I will put Mr Lowey's name to the Council. Will those in favour please say aye to Mr Lowey's appointment; against, no. The ayes have it. The ayes have it.

Standing Orders Committee - Members Elected

The President: Now, item 4. We have two members to replace the hon. Arthur Luft in this case and Mr Lowey who is, of course, eligible for re-election. So we have two vacancies here and can I have nominations, please, for the Standing Orders Committee?

Mr Radcliffe: I propose Mr Lowey, sir.

A Member: I beg to second.

Dr Mann: Mr Kniveton.

Mr Crowe: I will second Mr Kniveton.

The President: That is seconded. Both proposals are seconded. Are there any further nominations? I will put those names to the Council for endorsement that Mr Lowey and Mr Kniveton will be members of the Standing Orders Committee. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

A Bill Concerning The Wheel-Clamping Of Parked Vehicles - Leave To Introduce Granted

The President: Now, turning over we have at item 5 an hon. member seeking leave to introduce a Bill under the provisions of standing order 21(2), and that is Mr Lowey and I call on Mr Lowey to seek that permission.

Mr Lowey: Thank you, Mr President. Mr President, colleagues, when I tried to amend the Statute Law Revision Bill last year it seemed to me that at that particular time there was a need to get some sort of order into a growing habit that had been imported into the Isle of Man of wheel-clamping. I would have thought that perhaps the authorities would have taken note of the concerns that were being expressed publicly at that time and, as there is no movement, if I can call it that, by the authorities to deal with this problem nearly 15 months on, then I believe it is time that a private member's Bill was introduced.

My Bill, if I am given permission by Council to introduce it, will deal with wheel clamping of parked road vehicles, and I seek the leave of the House to introduce a Bill, which will be published and then no doubt debated in the usual way. I beg leave to introduce the Bill under the appropriate standing order, Mr President.

The President: Now, hon. members, that request has to be met by Council agreeing to the proposal for the resolution. Will those in favour of granting the hon. Mr Lowey permission to introduce that measure please say aye; against, no. The ayes have it. The ayes have it. The matter will now be processed, the Bill printed and circulated by the Clerk of the Council.

Public Order Bill - First Reading Approved

The President: Now we come to the Public Order Bill, hon. members, at item 6 on the agenda and I call upon the hon. Mr Waft to take the first reading.

Mr Waft: Thank you, Mr President. This Bill is a private member's Bill which sets out to address the very serious issue of disorderly behaviour on our streets and public places. The anti-social and threatening behaviour exhibited by the hooligan element in our society, especially towards the elderly, is causing extreme distress. The perpetrators are currently able to get away scot-free. They are able to harass and intimidate, shout and swear at police officers as long as there are no other members of the public in the vicinity at the time. There is scant regard for law and order and the more vulnerable in our society are not adequately protected from this type of behaviour under the present law. The philosophy that the police officer cannot be provoked should not be an excuse for doing nothing or indeed leaving them powerless to act in this set of circumstances. This is an intolerable situation and the public are seeking long-awaited action in the form of legislation such as this for the police officers to do their job effectively. The Bill sets out to rectify a serious deficiency in our present public order legislation.

The Bill will also cover many other areas such as schools, entertainment complexes and private and other public places. There will be no upper age limitation, but I think it is fair to say the Bill focuses mainly on unruly and defiant use. This Bill creates new offences relating to public order and for connected purposes and is not expected to have any effect on the income or expenditure of government. Mr President, I beg to move that this Bill be read a first time.

Dr Mann: I beg to second.

The President: It is proposed and seconded. Does any hon. member wish to speak to this first reading?

Mr Kniveton: Mr President, I do believe, sir, that anything that correctly deals with or assists law and order has to be acceptable in today's modern times provided it is legal. As I read this Bill I believe the mover in another place has made quite a contribution to diminish the problems in present-day times and at this stage, subject to clauses, obviously I do support it, sir.

Mr Lowey: I support the principle behind the Bill, I just hope that we do not find ourselves getting into a position where domestic disputes are going to be suddenly criminalised to the nth degree. I understand exactly from the mover of the Bill that this is to deal with what I would call raucous, uncivilised and foul-mouthed abuse which regrettably seems to be creeping in, and I have to say my own observation of it is that it is not just the lads that are at it, it is the girls that are at it too, and it is offensive and unacceptable. I support the principle, but I put a caveat in that I would hope that the police in operating the Bill will not deem domestic disputes to be other than domestic disputes and that they will be dealt with in what I would call the proper way and not brought in under the Public Order Bill, although it is a fine balance which one it is, but I do genuinely believe that we again would be making a rod for our own backs if we extend it too wide.

Mrs Christian: Mr President, I am quite happy to support the first reading, but I do have concerns about the way in which it might be interpreted. Along with the hon. member, Mr

Lowey, I think that there are areas here where it could well be used for domestic disputes when there is a serious threat made to an individual. The wording of the Act is that the threat cannot be made by the use of words alone, so we are into more than just shouting matches. However, I do think that when we come to clauses they will need to be subjected to fairly close scrutiny because it is one where the interpretation is going to be very important. So I will support the first reading, but I think after that the mover may well have to give us fairly detailed explanation of the implications of the clauses.

The President: Do you wish to reply, hon. member?

Mr Waft: I would just like to thank the members for their general support. I wish we could cure all the problems of domestic disputes as we arrive at them, but we cannot. I do not think this legislation does cover the problems of domestic disputes to any great degree and it should be used with sensible acceptance by the police. I think they can understand the principle behind the legislation: it is to enable them to enforce some legislation to make their behaviour on the streets acceptable and legal. I think the problems that they are coming up against from time to time are totally unacceptable for young constables to really be appreciated for the work they do and we have to ease their work as much as we can. I think with a domestic situation those situations will all arise and there is legislation laid down with regard to assault et cetera, but I do not think this really gets to the situation of domestic disputes. I think I will reserve my remarks for the explanations in the clauses as we do get to the clauses and I would thank the members for their qualified support. Thank you, Mr President.

The President: I will put the resolution, hon. members, that the Public Order Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Street Traders (Amendment) Bill - First Reading Approved

The President: Now we come to the Street Traders Bill at item 7 on the order paper and I call upon the hon. Dr Mann to take the first reading.

Dr Mann: Thank you, Mr President. It is the Street Traders (Amendment) Bill and the principal object is to regulate the carrying on of trades of itinerant traders on open spaces adjoining streets designated by the local authority. The activities of such traders is akin to street trading and the Pedlars and Street Traders Act of 1906 is extended by this Bill to cover such traders. I think trading in these locations it is seen to be, particularly at times when the population of the Island is temporarily enlarged, both a nuisance and of course is undercutting some of the activities of the normal retail activities. The proposals in this Bill are to require persons trading on open spaces to obtain a local authority licence to extend the street trading controls in the Pedlars and Street Traders Act from town and village districts to all local authority districts, to provide for exemptions in respect of trading for the benefit of charities, non-commercial trading and other cases which are prescribed by the Department of Trade and Industry, and to enable local authorities to prescribe fees by means of byelaws and to give enforcement officers a right of entry on to open spaces to examine traders' licences, to extend the byelaw-making powers of local authorities in relation to trading on streets and open places.

Now, in another place there were amendments which gave further protection against undue use of this Bill in as much as details of dates on which orders come into operation so that there is sufficient public notice of any such order, and secondly that there is a right of

appeal by a trader against being excluded or refused a licence. So additional safeguards have been brought into the Bill in another place. I think the most important single thing about this Bill is that it is only applicable when a local authority decides that a certain open space should be so designated. It does not mean that every open space automatically comes within this Bill. I beg to move the first reading of the Street Traders (Amendment) Bill.

Mr Kniveton: Mr President, I beg to second, sir. There is no doubt in my mind that there should be better control over certain traders who spring up from time to time, especially on open spaces whether they do so by arrangement with a landlord or not. Of course, licence fees should be paid. I believe it is quite unfair for itinerant traders to just set up without paying fees, without having a licence, fees for licences, especially taking into account those retailers who do have to pay their rates, probably have to pay rents, staffing and many overheads. It is correct and proper, I believe, that the genuine retailer and indeed the consumer should be protected. There are many fly-by-night traders I am aware of who are shrewd and can 'work the system', I think the expression is, in the knowledge of the shortcomings of present legislation, especially at those busy times of the year. I am pleased to note, however, that there are exemptions in respect of trading by charities and non-commercial trading. That, to my mind, is absolutely essential. I see no reason why this Bill should not progress to the clauses stage and then perhaps we may have some more interesting comments. Thank you, sir.

Mr Radcliffe: I think this Bill is a bit of a sledgehammer to crack a small nut, really. There are genuine traders who trade on the organised markets. It seems to say in the Bill that they shall have a local authority licence. Those who organise the markets, and it is in some cases the local authorities themselves - would they take a licence *en bloc* to cover the six, eight, ten, twelve traders who may be on that open space for one day a week? Or will each trader have to apply for a licence? I mean, we are talking about some of these markets which run for four months, five months on a weekly basis. That is going to be an onerous task for a trader who does not just find that business will be there week by week; some of them are only there fortnightly or whatever.

The car boot sales are an interesting case, I think, because again many people do run sales from a car boot for charity, but there are other people who run them for their own fun and a small amount of personal gain. There are some fair committees whose funds are used for charity, but who sublet at an event to people to come with their cars and sell off stuff for a small fee to the event organisers. Usually those people who come are trading for themselves.

I can think of one or two instances where young people have had a load of records, of clothes and Lord knows what which young people buy on impulse and then wish they had not, and they go to these events to try and recoup a fraction of what they paid the fashion house for this item of clothing or whatever in the first place, and I think it is rather unfair to penalise them. There is a certain amount of jollity and fun about that sort of activity. They are not vicious, they are not hunting for every penny, and they yet provide a service of a different sort than a retailer, and I think it would be rather unfair that they should be penalised, as it would seem to be under the terms of the Bill.

The hon. mover said that it would appear that the Bill is not going to cover every open space, but I would suggest that if, for example, a fair committee was running a fairly big midsummer fair or whatever and decided that they would try and gain an extra few £5 by

letting spaces or allowing people to come in the field and sell goods, I feel that under this Bill they probably would not be able to and I think it is part and parcel of the afternoon at a fair to be able to travel round, chat to people and generally, in a very willing and goodhearted way, create the atmosphere for the whole event. As I said at the start, Mr President, I think it is a huge hammer to crack a very small nut and we know the people that the Bill is aiming to get to, but in doing that it is going to draw in, I think, an awful lot of other people who are innocent of the trade and the practice which the Bill aims to seek out, so I will be looking at the clause too, very closely I think, Mr President.

Mrs Christian: Mr President, again, supporting the first reading I am to a degree reassured by what the mover has said in that local authorities do not apparently have to act under this provision. It is enabling, and one hopes that by virtue of it being an enabling power most will treat with some common sense, the local fairs and fundraising that goes on. However, when we do come to the clauses I think that we will need to have a measure of scrutiny at what the local authorities will be able to do, and I am concerned about the sort of timescales that we are involved with here in terms of orders having to be approved by Tynwald and then licences applied for and advertising and so on. There will be very little room for spontaneity in any of this by the time it is implemented. So again, I think in looking at the clauses we need to look at them fairly closely.

Mr Crowe: Mr President, yes, I will support the Bill on the first reading and, just following on from Mr Radcliffe's remarks, it is clear that there will be exemptions given in respect of trading for the benefit of charities, non-commercial trading and other cases which are prescribed by the Department of Trade and Industry. So I think the Bill gives powers to local authorities to licence traders on private land, but I am sure discretion will be there by local authorities and it will be overall in charge of the Department of Trade and Industry, who can oversee the thing and make sure that it is interpreted not harshly but in a sensible manner.

Mr Lowey: Mr President, I will be prepared to support the first reading, but I share the general concern. It may be a small nut; it is a hard nut that needs to be cracked and, if we are being honest, the reality is we are dealing with certain sites on Douglas promenade or in what I would call strategic sites where people congregate, where a lot of this alleged creaming off of business is going on.

I have to say that perhaps the Bill will not achieve the object for which it is clearly designed, which is to try and regulate that element. In trying to regulate that small hard core problem we are spreading a very wide net. I note the Bill says it is not expected to increase the government expenditure nor to reduce the income of government. One thing I will guarantee: it will certainly increase the expenditure of the local authority who dares to pick it up and, what is more, once a local authority does pick this one up the very people who will be objecting, i.e. the resident traders of the town who are paying rates et cetera, will start applying pressure and then we will see whether it will be dealt with in an even manner; the very fabric of life as we know it and the enjoyment, as illustrated by other members, will certainly be in jeopardy, and I wonder whether that is a price worth paying. I am sure the mover of the Bill in another place certainly had her eyes on the right target, but whether this Bill will actually bring the desired results I have great doubts. For example, the mover of the Bill did say that there will be an appeal situation introduced. Now, I can just see the wide boys saying, 'Get in, the local authority will try to stop us and then we will appeal' and we all know you cannot alter a

situation while an appeal is pending and by that time the fortnight's peak trading will have been in and over. They will not bother with the appeal after that.

So I do think the mechanics of this particular bit of legislation need to be carefully looked at. I am prepared to give the mover the first reading, but again I will be a bit sceptical when it comes to the clauses.

Mr Waft: Just a quick word on this one, Mr President. Some of our captains of industry and catering and retailing started off as street traders and they have taken advantage of the fact that they take up onerous positions at places of entertainment and social gatherings to offer a service to those people who are gathered there where the established traders will not even bother to cater for that end of the market, so there is a provision there and I would not like to see that entrepreneurship being diminished by legislation or over-legislation.

With regard to the registered charities, there are charities who do act but are not registered charities and they might be put off by actually raising anything because they are not aligned to a registered charity, so I do have concerns in that area. Thank you, Mr President.

The President: Reply, sir?

Dr Mann: Well, Mr President, it seems that I have got a political health warning (*Laughter*) proceeding past the first reading! However, I am very interested in the comments of the many members who have so far spoken, and I have to say that especially the first speaker inadvertently, I think, fell into the first trap of this Bill - that it applies to everything. It is, as another member has said, an enabling Bill. I think one of the main reasons why this has come forward undoubtedly relates to the situation, for instance, in Douglas in particular, but of course it also relates, or could relate, to other centres around the Island, and some of these traders who, as a member also said, use the system undoubtedly use the system considerably to their advantage at this moment. A genuine street trader trading along the street has to get a licence and has to pay a fee, but somebody on a piece of land that actually adjoins that street is totally exempt. Now, to allow that situation to continue really is quite unequal and, apart from any consideration of the impact of these traders on the regular established retail units near at hand, it just seems crazy that somebody trading on the street has to pay these and is restricted and somebody attached to the street is completely free. Some way, I think, has to be found. Now, okay, it is a very difficult situation to cover all possibilities, and an enabling Bill was the only way or seemed to be the only way, in which one could look at every possibility without actually having to enforce it; as one member said, it is a very large hammer to crack a very small nut. No land adjoining any street will come under this Bill unless it is directly designated by a local authority. Now, any local authority is not going to take on a whole lot of hassle and additional expenditure to deal with other aspects. They are only going to deal with real trouble spots, and these other possibilities, which it is true could be remote if you had a very arrogant local authority acting out of character with the community they represent, but such a situation really is extremely unlikely to be the case. So, yes, there could be remote possibilities where there could be difficulties, and this is why I think they have built in support. The amendments that were moved in another place are a safeguard.

Now, an issue was made of the spontaneity. I think the very fact that it cannot be spontaneous is going to make local authorities think very carefully before they designate such an area. It certainly is not going to be going round suddenly stopping some market place that

has been going on for years and years. This sort of situation is very, very unlikely, and I think one has got to try and see the difference between the real small trouble spots in which an enabling Bill is necessary and try and see this in its correct proportion.

I will look forward to the comments that undoubtedly are going to be coming forth at the next reading. I think a lot of thought has gone into this. Unfortunately, it is not until you think through all the possibilities and all the variations that one really accepts that this is a well-thought-out way of dealing with a very difficult problem and we are dealing with traders who are the cowboys, the boys who will use every crack in the armoury to get what they want, and they do do damage to other traders - they are also frequently a nuisance - and they certainly do not enhance the vision of a well organised community. So I beg to move that the Street Traders (Amendment) Bill be read a first time.

The President: I will put the resolution, hon. members, that the Street Traders (Amendment) Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Agriculture And Fisheries (Miscellaneous Provisions) Bill - Clauses Considered - Third Reading Approved

The President: Turning now to item 8 on the agenda paper we come to the Agriculture and Fisheries (Miscellaneous Provisions) Bill, and I call upon the hon. Mr Kniveton to take the clauses and eventually the third reading. Clauses, sir. Clause 1.

Mr Kniveton: Thank you, sir. Clause 1 deals with false statements. Sub-clause (1) makes it an offence to make a false statement for the purpose of obtaining assistance from the government under any agricultural assistance scheme. Such offence would be liable to a fine not exceeding £5,000.

Sub-clause (2) explains the terms 'agricultural assistance scheme', 'agriculture' and 'assistance' and makes it clear that this covers all the department schemes, whether monetary or otherwise.

Sub-clause (3) states that this section is additional to any existing offences. This provision arises out of the department's consultation with the Budget and Financial Management Section and the Internal Audit Division of the Treasury. Mr President, I beg to move that clause 1 stand part of the Bill.

Dr Mann: I beg to second.

The President: I will put the resolution, hon. members, that clause 1 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, sir.

Mr Kniveton: Yes, Mr President. Clause 2 deals with offences by bodies corporate. Sub-clause (1) deals with an offence under clause 1 committed by a body corporate. Where an individual acting on behalf of the body corporate is proven to be involved, then both he and the body corporate are guilty of the offence.

Sub-clause (2) deals with a body corporate which is managed by its members, in which case a member can be treated as if he were a director of the body corporate.

Sub-clause (3) defines 'body corporate' for the purposes of sub-clause (1). I beg to move, Mr President, that clause 2 be part of the Bill.

Dr Mann: I beg to second.

Mr Crowe: Mr President, it just strikes me in both clause 1 and clause 2, bringing in this offence for somebody guilty of making a false statement, and in clause 2 it goes on to a corporate body being similarly guilty - are you saying that at present there is no legislation if anybody makes a false statement or a reckless statement and that they can do this now under the current law?

The President: Would you care to reply, sir?

Mr Kniveton: Yes. I understand that that is the case, that no action can be taken under present law.

Mr Crowe: Thank you.

The President: I will put the resolution, hon. members, that clause 2 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Kniveton: Clause 3, Mr President, amends provisions of the Sea Fisheries Act 1971. Sub-clause (1) deals with the department's power to grant licences to fishing vessels subject to conditions and limitations set out in the licence. The conditions and licences may permit something which might otherwise be prohibited or restricted under the department's bye-laws.

Sub-clause (1) also introduces penalties for any person in breach of those conditions and limitations up to a maximum fine of £50,000. At present the department issues licences under delegated powers from the United Kingdom Ministry of Agriculture, Fisheries and Food. MAFF, as it is called, has similar powers to those in this Bill. The amendment is to enable the department to assume direct responsibility for licensing in our territorial sea. The conditions and limitations in the licence consist of fisheries management arrangements, some of which alter on a regular basis and some of which require to be changed quickly, particularly for conservation purposes. As presently set out, the department would have to seek an amendment to its byelaws, including seeking Tynwald approval for every amendment of management. As changes come on at least a monthly basis, with other measures arising on an ad hoc basis throughout the year, the system would be cumbersome and involve members in constant revision of an administrative, not a legislative, nature.

Sub-clause (2) removes the requirement for the granting of licences to be subject to conditions set out in byelaws. This will mean that conditions and limitations of licences can be amended in response to management requirements without having to amend byelaws on each occasion. Sub-clause (2) also increases the fine for offences against the byelaws from £10,000 to a maximum of £50,000, which again is on a par with fisheries offences in British waters.

Sub-clause (3) deals with the problem of salmon poaching off the coast. As a non-DAFF member, I have learned quite a bit about this salmon poaching. Salmon poachers use small boats to carry out their illegal activity as well as any other thing which is described in the Act as an instrument. The amendment in sub-clause (3)(a) enables a court to view the boat, used as a thing which may be taken in evidence and detained, together with all other paraphernalia

used in committing an offence. The Act at present attempts to deal with salmon poaching using a small boat on the same basis as it does illegal fishing by a large commercial fishing vessel. References to detention in port of boat and crew are not practical or appropriate in dealing with a small boat used for salmon poaching. Sub-clause (3)(b) enables a sea fishery officer to make arrangements for a small boat to be taken in evidence and detained, being stored in a port or other place which appears to be convenient, while (3)(c) provides that it can be detained until completion of proceedings.

Finally, sub-clause (4) provides that a boat which has been so detained is liable to confiscation if the court thinks fit, together with other things used in committing an offence, and any sea fish taken illegally. Mr President, I beg to move clause 3 stand part of the Bill.

Dr Mann: I beg to second.

Mr Radcliffe: I wonder, Mr President - I do remember some years ago where the court had power not only to take the boat, but also vehicles which were used to carry stuff and things like that. This new sub-clause does not do away with that particular part, I hope? I think there were fairly wide powers of arrest.

Mr Crowe: I am happy to support any legislation that tightens up the law and brings within the Isle of Man control, extra powers that the UK presently has. The one thing that concerns me but is not part of this Bill is the lack of quotas in the Irish sea for Manx fishermen. It is not something I would expect you to answer here and now because it is outside the brief of this Bill, but it is something we should all be concerned about because of the parlous state of the Manx fishing industry, and unless we can get some quotas for our local fishermen the industry will continue to decline.

Mr Lowey: Mr President, I was just going to mention on the byelaws, and the mover of the Bill said it is to allow the department to introduce them quickly. Does that mean that a regulation that would be imposed by Europe would be able to be imposed almost instantaneously by the department under these new regulations? The other point I would like to mention and I think it is worth mentioning - is that on summary conviction a fisherman can be fined up to a sum not exceeding £50,000, but in clause 1 of the Bill, which we have just approved, if somebody commits a fraud of a serious magnitude it is £5,000, so it does seem to me that some explaining needs to be done as to why a fraud on land is worth £5,000 maximum where a fraud at sea is worth £50,000 maximum, and while I can understand large sums being imposed for fishing in the United Kingdom because they have big fishing boats that go deep sea and the catches are quite huge, we do not operate such vessels from the Isle of Man, so therefore it seems we are having the offences being applied but not the wherewithal to operate them. It does seem to me some explanation is required and perhaps the mover would like to give me it on that.

Mr Waft: I just mention that in clause 3, section 2AA, 'The Department may grant licences permitting any act which would otherwise be prohibited or restricted by virtue of byelaws made under section 2(1)'. The department appears to be able by this to be making legislation 'on the hoof', as it were, and time will need to be given to make the industry aware of exactly what the situation is with regard to byelaws and how long they are going to be in place before the department changes them. Is there any sort of communication or co-

operation with the local fishing industry to see with regard to the bye-laws and when they are to be changed and what consultation should take place?

The President: Reply, sir?

Mr Kniveton: Yes, thank you, Mr President. Very quickly, if I take Mr Waft's comment first, consultation has taken place with various bodies throughout the Island, especially the Isle of Man Fishermen's Association, anglers, the Home Office, MAFF and so on, and I feel that that point has been covered as far as Mr Waft is concerned.

Now, Mr Lowey's point on the comparison of fines - I understand, Mr Lowey, that there are large fishing vessels now within the Manx waters and the clause is to cover that situation. You discussed also the difference between fines being £50,000 and in clause 1 the £5,000. Fifty thousand pounds is for those caught in the act of fishing whereas the £5,000 is purely on the claim side for assistance. That is, of course, the idea of the department itself.

The byelaws themselves - yes, they can be brought in in accordance with European standards as required.

Mr Crowe expressed concern about quotas and he also agreed that this was not actually part of the Bill, and I am aware that the department is actively considering the situation. It is a matter of great concern and I think, once we get this limit in, then that will be the next progression.

Mr Radcliffe - you mentioned, sir, the vehicles: do they get taken away as well if caught in the action and the answer to that I understand is, yes, they do, they are included in that expression 'paraphernalia', I believe. That is the situation as far as I see it. Thank you, Mr President.

The President: I will put the resolution, hon. members, that clause 3 do 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 Kniveton: Clause 4 amends the Wild Animals (Restriction on Importation, Etc.) Act 1980 to permit imports in exceptional cases, for example for film production purposes. At present the department can permit importation of animals which would otherwise be restricted under the Act performing in a circus or for display in a zoological garden. However, on two recent occasions the department has come to Tynwald to obtain approval to vary existing legislation on a temporary basis to allow what are classed as wild animals to be imported to allow them to be used on film sets. If this clause is successful and accepted, the department would propose to bring an order before Tynwald which would enable it to allow importation of an animal for use in the film industry if Tynwald approved the order. The department would have the power to regulate such imports without having to return to Tynwald on each occasion. The clause also imposes a statutory obligation on those in possession or control of a scheduled wild animal to ensure it does not escape or to pay for the costs of recapture or destruction if it did escape. Mr President, I beg to move clause 4 stand part of the Bill.

Dr Mann: I beg to second.

The President: Does any hon. member wish to speak to clause 4? The hon. Mrs Christian.

Mrs Christian: Mr President, this, I am sure, will make the role of the department easier in relation to filming, but what would be the position if an animal was not recaptured or immediately destroyed and there were any consequences for animal health, for example? Would the knock-on effect also be recoverable as a civil debt from the person who had control of the animal when it escaped?

Mr Lowey: Mr President, as someone who was virtually responsible for the first importation officially of a fox for filming purposes - and to have the plug, I believe the film is being shown this week in Douglas, 'Stiff Upper Lips', if anybody is interested - I believe this clause is a sensible application and I would say the point raised by the hon. Mrs Christian could be in the regulations dealing with the licence; in other words, you would have to take out insurance and produce an insurance cover. That could be regulated, but I do think it is necessary. I think if we are having a film industry, and occasionally we need these trained animals to perform, then I think it is nonsense to deny the growth of an industry by then denying them the wherewithal for actually producing that particular good . . . in a strictly regulated way and I am certain the department would . . . without having to come to Tynwald, to parliament every time, to get permission. It does seem a sensible way and I am certain the department would act in a responsible way.

Mr Crowe: Mr President, Mr Lowey's remarks about the fox - I remember, at the end of a long Tynwald debate we brought this order in and it led to great hilarity about having this fox running across a road and whether it was going to be tied by a piece of string, so I can see that that debate went on for quite some time and this, I understand - perhaps Mr Lowey can confirm this - will short-circuit the procedure and will allow the department to have certain authorities to allow wild animals in, although, having said that I believe now with many films, including the latest one on the Titanic, I think with virtual reality they have so computerised ships or animals or whatever, they can add to the film, so this, although it is very sensible as a way of helping the film industry in the Island, may not actually in reality prove to be a very busy order that we need to implement.

The President: Reply, sir?

Mr Kniveton: Thank you, Mr President. I will take Mr Crowe first, if I may, sir. It certainly will short-circuit the procedure, and I know the department is eager to be in that position where they do not have to keep coming back to Tynwald.

Now, going back to Mrs Christian and Mr Lowey, I think their subject was really a joint subject about what happens if the animal is not recaptured and the cost if the animal is not found immediately. Yes, I think the point can be taken from what Mr Lowey said. I certainly would note the recommendation to the Clerk that some form of insurance be put into a licence or before a licence is granted, and that will of course be conveyed to the department. Thank you, Mr President.

The President: The resolution, hon. members, is that clause 4 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 5, sir.

Mr Kniveton: Mr President, clause 5 amends the Animal Health Act 1996 to extend the provisions relating to regulation of the welfare of 'livestock' to include the welfare of animals generally, but only in a comparatively limited way. Owing to international obligations on the

uniform treatment of animals, there is a need to make provision for the transport of a wider variety of animals than just livestock. The amendments in clause 5 specifically substitute the reference to 'livestock' with the words 'animal' or 'animals' in sections 29, 32 and schedule 2 and add 'and other animals' to the cross-heading for part III of the Act. Where the term 'livestock' remains in the Act it is to enable the department to carry out its primary task of ensuring the welfare of farm animals kept for production purposes, which is the main thrust of the Animal Health Act. In section 33(2) it states that 'Nothing in this part shall be construed as prejudicing any provision of the Cruelty to Animals Act 1996', and it is this Act which deals with cases where animals of any sort are mistreated. Mr President, I beg to move clause 5 stand part of the Bill.

Dr Mann: I beg to second.

The President: I will put the resolution set out at clause 5, and it is that clause 5 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 6, sir. Short title and commencement.

Mr Kniveton: Thank you, sir. Clause 6 gives a short title to the Bill and enables the department to bring it into operation by means of an appointed day order. I beg to move clause 6 stand part of the Bill, sir.

Dr Mann: I beg to second.

The President: I will put the resolution, hon. members, is that clause 6 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Bill read a second time. Do you wish to proceed to the third reading now, sir?

Mr Kniveton: Yes, if that is acceptable, sir. Thank you. I believe, Mr President, that this Bill is essential and urgent to the department. The Bill incorporates some important changes and a few minor amendments which are necessary and of use to the Department of Agriculture and Fisheries.

Firstly, this Bill makes it an offence to make false statements in order to obtain any benefit from any of the department's schemes.

The Bill deals with fishing limits and displays the change from three miles to 12 miles in our territorial limits and, most importantly, replaces UK delegated powers to issue sea fishing licences and will allow the department to take responsibility and control up to the 12-mile limit. The department has a problem with salmon poaching presently and it has been experiencing this for some time. This amendment will give greater powers to the sea fishery officers.

There is also an amendment to the Wild Animals Act concerning alteration to legislation so as to facilitate the importation of wild animals specifically for the film industry. Mr President, the final change involves the Animal Health Act 1996 where limited adjustment has been found necessary following recent subsidiary legislation to meet our international obligations in the importation of animals.

I would like to thank hon. members for their support and interest in this Bill, especially sir, as this has been my first Bill I have taken through this hon. Court. Mr President, I beg to move the third reading and that it do pass, sir.

Dr Mann: I beg to second.

Mr Lowey: Mr President, I will support the Bill. It is just one of general interest now. I see it is the Agriculture and Fisheries (Miscellaneous Provisions) Bill. Now, it deals with varied subjects from fraud to animal importation et cetera; that is an outline. Does this mean that we are now going to have every department bringing in a miscellaneous provisions Bill? These matters used to be considered under a Statute Law Revision Bill that was introduced into the branches at least once a year. Now, is every department going to bring in a miscellaneous Bill dealing with all their little odds and - excuse the unparliamentary language - sods, or are we going to continue with the Statute Law Revision Bill in each parliamentary session or is every department going to introduce their own miscellaneous provisions Bill? It is a matter of interest because the Department of Agriculture has taken the opportunity to tidy up its legislative programme. Are the other departments going to do the same?

Mr Crowe: Mr President, just taking up Mr Lowey's remark, generally speaking it would seem to make sense that in any legislation if there is something omitted or if it is wrong in a detail or needs some tidying up, a small Bill like this which can be moved quickly through the branches would seem to be the correct way to do it rather than leave some defective legislation in place waiting for a larger Bill to pick it up. So on a general point I do not know what other members might think, but it does seem to make sense as a tidying-up basis.

The President: Reply, sir?

Mr Kniveton: Yes, Mr President. On the point raised by Mr Lowey regarding whether other departments are going to introduce such measures. I personally cannot answer that, but perhaps the learned Attorney-General may give some advice on that, whether he has got any ideas on the situation referring to other departments.

The Attorney-General: Mr President, I am afraid I do not have any up-to-date information on that, but may I suggest that in fact it is very useful for people who have to use legislation in their daily working life to be able to find out if there has been any particular amendment to the agriculture and fisheries legislation by looking out for 'Agriculture and Fisheries' rather than Law Reform (Miscellaneous Provisions). I certainly do recall, Mr President, that when in private practice advocates would have great difficulty and they would sometimes be quite annoyed to find that quite an important amendment might have been made to a particular piece of legislation by a Law Reform (Miscellaneous Provisions) Act. It is always easier, perhaps, to headline the particular subject matter in a Bill like that. That is perhaps the other side of the coin. But I am afraid, Mr President, I do not know the programme of the other departments in that respect.

Mr Lowey: Mr President, the reason I did raise it is because, like the hon. member, Mr Crowe and the Attorney, it does seem to make sense to have it all under the one heading, but as we have had that machinery in place and it has always been the way in which it has been done, to find a department bringing in a miscellaneous Bill is not unique, but a rather welcome move, but that means if every department is going to do it, if they have need to remedy, then we are going to have nine extra Bills to discuss, and I think that might be a good thing.

Mr Crowe: Mr President, could I just ask the Attorney, is all legislation on CD-ROM now as well as in hard copy? It is updated immediately an Act comes into place?

The Attorney-General: Mr President, yes, so far as I am aware, certainly efforts are made to keep the legislation up to date and we have recently had the latest edition of Juta, a

supplementary copy in a purple binder now which updates our green copies. As far as CD-ROM is concerned, I believe we are in the hands of the computer programmers and software houses, but although the CD-ROMS themselves, I think, are being updated, hon. members and indeed government departments are having great difficulty obtaining access to the central computers, and this is something that is causing my chambers some concern, and representations are being made to Treasury so that legislation is going to be more accessible to hon. members and departments.

The President: Does the hon. member wish to -?

Mr Waft: Could I just ask if perhaps the Attorney-General might clarify the position with regard to animals as such? With the increase in the film industry we might be thinking about things such as alligators, crocodiles, snakes, tarantula spiders - is it just purely animals, I take it?

The Attorney-General: Mr President, the animals in question are those which are scheduled in the legislation. We have to look at the schedule to see if a special order is required to import the particular animal in question. I think the latest one was the members of the Elephantidae - all elephants and something to do with elephants had to be specially imported.

The President: Does the hon. member wish to add anything to his reply?

Mr Kniveton: A very interesting finalisation there. I assume, Mr President, that members have no opposition to the Bill. The only opposition I can see appears to be outside the Bill. Thank you, Mr President.

The President: Hon. members, I will now put the resolution that the Agriculture and Fisheries (Miscellaneous Provisions) Bill 1998 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.

That, hon. members, concludes our public business for this day and Council will now sit in private.

The Council sat in private.