

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 10th March 1998  
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr J R Kniveton (Onchan); Messrs J R Houghton and E A Crowe (Douglas North); Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

*The Chaplain took the prayers.*

**Tribute To The Late Major Geoffrey Thomas Crellin RBV**

**The Speaker:** Hon. members,  
To sing a song shall please my countrymen ;  
To unlock the treasures of the Island heart ;  
With loving feet to trace each hill and glen,  
And find the ore that is not for the mart  
Of Commerce : this is all I ask.  
No task,  
But joy, GOD wot !  
Wherewith "the stranger" intermeddles not -  
  
Who, if perchance  
He lends his ear,  
As caught by mere romance  
Of nature, traversing  
On viewless wing  
All parallels of sect  
And race and dialect,  
Then shall he be to me most dear.  
  
Natheless, for mine own people do I sing,  
And use the old familiar speech :  
Happy if I shall reach  
Their inmost consciousness.  
One thing They will confess :  
I never did them wrong,  
And so accept the singer and the song.

Those words, hon. members, of T E Brown's 'Dedication' express more simply and yet with far greater poignancy the life of Major Geoffrey Thomas Crellin than any that I can announce.

Geoff Crellin was a true Manxman who I was privileged to call a friend. He led a full and eventful life, travelled greatly, and had a successful career in the RAF and army, retiring with the rank of major. A natural communicator, he had a gift that enabled him to encourage young and old in all their endeavours.

Geoff liked nothing better than to recall his youth and growing up around the village of Michael. It was there that his love of his native land was well formed and following his successful army service he returned to the Island to give further service to the community as a member of this House.

First elected in 1966, he was subsequently elected by his peers to the Legislative Council in 1975 and completed 16 years' parliamentary service in 1982. During that time he held many posts, serving on both the Education and the Local Government Boards from 1966 to 1971 and most notably as a member of the Finance Board in the difficult years from 1971 to 1982. Always a gentleman, his common-sense attitude and his way with words during debate marked him as a politician of considerable stature.

Geoff Crellin was ever helpful in his community and had wide interests outside of politics. His delight in country pursuits never left him and many happy hours were spent casting for trout. A founder member of the Rushen Rotary Club, his service was recognised with a Paul Harris Fellowship award. Naturally, following a service career, he fully supported the Royal British Legion and his work for the War Pensions Committee was outstanding.

He followed both the local football and hockey closely and was particularly proud of the growth in the Island hockey. However, it was his love of the arts that led to him being awarded the Reih Bleeaney Vananan trophy for his service to Manx literature. Geoff enjoyed a good sing any time and any place. He was a founder chairman of the Manx Festival Chorus and president of the Meadowside Choral Society. Many times he appeared in drama productions, from the Gaiety stage to the local village hall. His ever familiar and infectious chuckle, that was so much of a link between him and an audience, will be sadly missed.

Geoff was above all a family man whose loving wife Marjorie supported him fully throughout all his changing career and life and whom he sadly missed. He dearly loved young people and our thoughts and prayers today lie especially with his son Ian and daughters Phillipa and Pattie and those extended family members.

Hon. members, the Isle of Man has lost a favoured son, a Manxman who brought to many a love of our native dialect poems with his consummate skill, truly a man of his people. Hon. members, please rise to the memory of Geoff Crellin.

*The House stood in silence.*

**The Speaker:** Thank you, hon. members.

### **Apologies For Absence**

**The Speaker:** Hon. members, the hon. member for Douglas South, Mr David Cretney, is ill this morning and will not be attending the sitting.

## **Commonwealth Day Message**

**The Speaker:** On our order paper, item 1, hon. members, is the Commonwealth Day message and I have the message before me and, as is custom, will read the message so that it becomes a matter of record. 'The Commonwealth provides many special links between its members. Apart from more formal contacts between governments, there are any number of professional associations and voluntary organisations with close connections throughout the Commonwealth. Among the most active are those involved in sport and recreation.

I believe that sport will always play a very important part in the social welfare of all generations. Sport - and team games in particular - teaches young people many valuable social lessons. It demonstrates the value of co-operation, team-work and team spirit; it teaches the need to abide by rules and regulations; it emphasises the importance of self control and how to take victory or defeat with good grace.

Sport is a great leveller. The same rules apply to all; there are no age, racial or cultural barriers to participation. Indeed, enthusiasm for a sport brings together people from every background. Some sports attract dedicated spectators. Some do not, but that makes no difference to the participants. All are absorbing and enjoyable, offering unique opportunities for self discovery and to develop self confidence. For many young people, participation in sport can offer a lifeline and an essential alternative to delinquency, drug abuse or crime.

The Commonwealth Games are the organisation's greatest sporting festival and rightly known as the 'Friendly Games'. It is always the athletes from the smallest nations who receive the warmest welcome and it is the sporting gesture that wins universal recognition. The Games take place every four years; this year they will be held in Malaysia, where every effort is being made to ensure that competitors, officials and spectators will thoroughly enjoy the experience of this great gathering. Manchester too has already begun preparations to host the Games in 2002.

The Commonwealth Games will indeed bring us together. I am much looking forward to joining them. Elizabeth R. 9 March 1998.'

## **Legislative Council Election - Procedure - Statement By The Speaker**

**The Speaker:** Now, hon. members, before turning to our question paper I am aware that concern has been expressed regarding the validity of the procedure I followed during the election to the Legislative Council last week. Whether or not a fourth ballot was properly held at the 3rd March sitting turns on the interpretation of standing order 209.1(k)(i) and is not governed by statutory provisions. That standing order provides, 'Subject to the provisions of paragraphs (l) and (m)' - which do relate to the statutory provisions governing the situation where a candidate receives a majority of the members present and voting but not 13 votes - 'provided that there will be at least two candidates remaining thereafter, in a ballot where no candidate is elected a candidate shall be omitted in accordance with paragraph (ii) and the House shall ballot again.' This standing order contains a certain ambiguity in that it provides for the House to ballot again where the circumstances envisaged in the standing order prevail. However, after ballot three the conditions envisaged in the standing order would not apply, as omitting the candidate with the lowest number of votes would not have left two candidates remaining. The question for my decision was whether, where the standing order did not apply, the implication of the standing order was that there should be no further ballot or whether the standing order merely required a ballot where the conditions within the standing order applied.

There is a statutory requirement to fill vacancies to the Council and a requirement for each candidate to receive 13 votes. Under the new system of voting it was my decision that the system was fully tested and the House balloted accordingly. Standing order 2 provides, 'If any case shall arise for which provision is not made by these Standing Orders, the procedure shall be such as Mr. Speaker shall at the time determine', and I determined that the standing order did not prohibit a fourth ballot, it merely required such further ballot where the circumstances outlined in the standing order applied. My interpretation was influenced by changed procedural circumstances, namely that members were no longer required to vote for as many candidates as there were vacancies remaining but could vote for any number of candidates up to the number of vacancies to be filled.

### **Sunday Trading Bill - Question By Mr Singer**

**The Speaker:** Turning then, hon. members, to our order paper, I call upon the hon. member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

*Will members of the Council of Ministers have a free vote on the Sunday Trading Bill?*

**The Speaker:** I call upon the Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker, we do not have any proposed legislation called the 'Sunday Trading Bill'. However, there is a proposal for an amendment to the Shops Act 1985 being advanced by the Board of Consumer Affairs which will deal with Sunday shop hours. The Council of Ministers has not seen the detailed terms of that amendment but we do not regard this an issue on which the normal convention of collective responsibility should apply and ministers will be able to vote according to their personal preference.

### **Local Government - Consultative Document - Question By Mr Cannan**

**The Speaker:** Order paper number 3, hon. members, and I call upon the hon. member for Michael, Mr Cannan.

**Mr Cannan:** Mr Speaker, I ask the Chief Minister:

*Does the policy of the Department of Local Government and the Environment, as set out in its consultative document 'Securing a Future for Local Government', have the full and unequivocal support of:*

*(a) yourself; and*

*(b) every other member of the Council of Ministers?*

**The Speaker:** Again I call upon the hon. Chief Minister to reply.

**Mr Gelling:** Mr Speaker, in answer to question 2 from the hon. member for Michael, 'Securing a Future for Local Government' is, as the question states, a consultative document. Now, whilst the publication of the document for consultation has been supported, the contents of the document itself do not represent agreed Council of Ministers policy.

Now, policy decisions will only be taken following the conclusion of the consultative exercise and when the Council has received a recommendation from the Department of Local Government and the Environment.

**Mr Cannan:** I thank the Chief Minister for his reply. I am surprised that the document does not have the unequivocal support of the Chief Minister and Council of Ministers. However, I ask the Chief Minister, do you give full and unequivocal support to the regularly and consistently repeated statement by the Minister for Local Government that the status quo is not an option - I repeat - that the status quo is not an option in respect of the local authorities as they presently stand?

**Mr Gelling:** Mr Speaker, as I have said, the reform is a policy of government and in fact it is Tynwald policy going back many, many years, but also what I am saying is the form of the reform has not even been considered as yet by the Council of Ministers. So basically the Department of Local Government and the Environment are going about that consultative period when they will then come back to the Council of Ministers with their conclusions and proposals when the Council of Ministers will then consider it.

Now, the hon. member is asking about the statement made that the status quo is not accepted or will not happen, but of course we do not know what changes, if any, or possibly what might happen in the proposals put forward by the department. So it is anticipated, because even in the department's own information to the press conference which I have here they are stating that they hope to come back, certainly before the summer, with recommendations from their consultative time out there talking to members and local authorities. So I think we have to await the outcome of that consultative period and then we will be in a position to know what the department is actually proposing.

**Mr Cannan:** The Chief Minister, I regret to say, seems to be replying with a certain amount of obfuscation. Will he acknowledge that the Isle of Man Government policy report, under specific policy states, 'To bring about a restructuring of Local Government and the transference of selected functions from Central Government to Local Authorities and thereby strengthen the latter's role in meeting the needs of local communities', and if that is the policy of the Chief Minister's policy document, will he therefore support the Minister for Local Government in his endeavours to bring about that policy?

**Mr Gelling:** Yes, indeed, Mr Speaker, the hon. member has read out the policy and, as I have said, that is the policy, it is the policy of Tynwald, but how that policy then is implemented, or it is proposed to be implemented, is something as yet we have to await the department to report. So therefore I can say quite clearly that, yes, that is the policy of government and therefore the consultative time that we are in at the moment was supported by the Council of Ministers and we await their deliberations.

### **Ferry Services - Question By Mr Downie**

**The Speaker:** Turning then to order paper number 4, hon. members, and I call upon the hon. member for Douglas West, Mr Downie.

**Mr Downie:** Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

- (1) *Does the statement in the Sea Containers Ferries Scotland Limited brochure advertising 'SuperSeaCat' services between Liverpool and Dublin that 'we have sister and associate companies who will be delighted to offer you the same high standard of service on their routes' amount to misrepresentation; and*

(2) *can you account for the price differential between the fares on the Liverpool-Dublin services and the ferry services to and from the Isle of Man?*

**The Speaker:** Again I call upon the Chief Minister, Mr Gelling, to reply.

**Mr Gelling:** Yes, Mr Speaker, as regards the first part of this question, I can only say that it is not part of my responsibilities to offer legal or other advice on what may or may not be written in a brochure published by Sea Containers Ferries Scotland Limited.

So therefore the short answer to the second part of the question is no. I am not in a position to draw any conclusions from the published fares, some of which are cheaper for the Liverpool-Dublin route, but some also are cheaper from Liverpool to the Isle of Man. I have no doubt, however, that there are a variety of factors involved, including traffic volumes, competition, commercial judgement, and, more particularly, the availability of revenue from duty-free sales on the route to Ireland. Also, I understand that there are some special introductory offers on the Liverpool-Dublin route to launch the new service, and this of course is a common practice within the ferry industry.

Now, from the Island's point of view what we need to recognise and concentrate on, I would suggest, is that fares to and from the Island have been increased at below the rate of inflation since the introduction of our agreement with the company, services have improved, more passengers are being carried, substantial investment in the fleet is taking place, and the whole approach of the company is definitely more positive.

**Mr Downie:** Mr Speaker, I would like to ask the Chief Minister, is he aware of a statement made by Mr Jim Sherwood on behalf of Sea Containers, when meeting members of Tynwald, that the Island would be linked to a new generation SeaCat service and would form a hub for operations in the Irish Sea network, and does the Chief Minister not agree that the introduction of a SuperSeaCat service between Liverpool-Dublin with return fares from £29 for the 3<sup>3</sup>/<sub>4</sub> hour journey, including duty-free, will have an adverse impact on the equivalent Steam Packet services to the Isle of Man and encourage tourists to visit Ireland and the north-west of England rather than the Isle of Man?

**Mr Gelling:** Well, Mr Speaker, yes, that is taking a negative view, I would have thought, of that particular situation. I would have hoped that the mere fact that this SeaCat will be going across to Dublin with the advertisements of also they could be carried to the Isle of Man could be taken as positive and therefore we could get more passengers actually coming to the Isle of Man because they have been alerted to the fact that they can travel here so easily.

But of course, again, the hon. member is questioning the costs and of course I have various costs here of different areas of transportation and they vary so much between the two routes, as I have already explained, it is quite obvious that they are looking at encouraging certain types of traffic to Dublin that perhaps the Isle of Man does not need so much encouragement for because they already come here and in that I refer to motorcycles because it is more expensive to come here with a motorcycle than it is to Dublin, but I would suggest that that is probably because they want to encourage them to go to Ireland, whereas the Isle of Man and its reputation and history do not need the same encouragement financially.

**Mr Rodan:** Mr Speaker, is the Chief Minister aware that Sea Containers actively promotes duty-free shopping on this route, which not only attracts the travellers but in fact

subsidises the fares? Does he not agree that we would have a great opportunity for tourism and low fares if we negotiated that particular facility for the Isle of Man?

**Mr Gelling:** Mr Speaker, indeed they do promote it because it is available to them. I could not agree with the hon. questioner that if we were able to negotiate such a duty free arrangement, perhaps there are not other compensating areas of balance that probably might very well be to our disadvantage. So this is a much greater area than the fact of advertising and encouraging people to travel by sea.

**The Speaker:** A final supplementary, the hon. member for Douglas West, Mr Downie.

**Mr Downie:** Thank you, Mr Speaker. I would like to ask the Chief Minister, have any talks taken place between government and any of the Sea Containers' associate companies with a view to offering the same high standard of service that SuperSeaCat brings to the Isle of Man-based routes, initially perhaps on a once or twice per week basis, linking Liverpool and Dublin, and would the Chief Minister remind Mr Sherwood of his statement should he attend the launch of the new Steam Packet vessel in Rotterdam later this year?

**Mr Gelling:** Mr Speaker, I certainly have had no discussions with Mr Sherwood or any of the sister companies of the Steam Packet. It could very well have been that the Department of Tourism or the Department of Transport could indeed have these discussions but certainly I do not know of them.

#### **Film Extras Recruiting Agency - Application Condition - Question By Mr Singer**

**The Speaker:** Order paper item number 5, I call upon the hon. member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I beg leave to ask the Minister for Trade and Industry:

- (1) Is your department aware that a film extras recruiting agency includes a condition in its application form that an applicant can only be represented by that agency;*
- (2) does your department approve of the condition; and*
- (3) if not, should your department establish that if an agency insists on such a condition in its contracts, what action will be taken?*

**The Speaker:** The Minister for Trade and Industry to reply.

**Mr North:** Thank you, Mr Speaker. My department is aware of the situation referred to and in view of this decided to issue a press release in September 1997 advising everyone concerned about the practice to seek legal advice, as it may be that such agreements have no validity on the grounds that they represent an unreasonable restraint of trade. My department was also concerned that this type of agreement may have a detrimental effect on our growing film industry and supports a situation where individuals can seek work as a film extra through any registered agency.

If difficulties arise as a result of such conditions being enforced, we would consider requesting that the Board of Consumer Affairs investigate whether it is an anti-competitive practice within part 2 of the Fair Trading Act 1996.

**Mr Singer:** I thank the minister for his reply and his referral to September 1997 because I have in my hand here a form, minister, that was sent out on January 14th this year that says, if I may quote, 'agree that the Manx Film Services Agency acts solely as the agent on the Isle of Man for appearances in television and films or other productions solely and exclusively, and this also includes the crew', and therefore would the minister again make it quite clear in public to people wishing to be film extras or crew that they should strike out this statement on the application form?

**Mr North:** Mr Speaker, all I can do really is repeat what was said and what I have just repeated, advising anyone concerned about this practice to seek legal advice, as it may be that such agreements have no validity on the grounds that they represent an unreasonable restraint of trade.

**Mr Singer:** Minister, will you then actually directly contact these film agencies and tell them that the department find this sort of clause unacceptable?

**Mr North:** Mr Speaker, my department is already in contact with these agencies.

### **Film Extras Recruiting Agencies - Rate Of Pay - Question By Mr Singer**

**The Speaker:** Order paper number 6, hon. members, and again I call upon the hon. member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I beg leave to ask the Minister for Trade and Industry:

- (1) *Is there an agreed daily rate, after commission, paid by film extras agencies;*
- (2) *if so, does your department check that all the agencies pay this rate; and*
- (3) *is the agreed rate a non-union rate and if so, what is the daily film extras' rate paid to union members?*

**The Speaker:** Again I call upon the Minister for Trade and Industry, the hon. member for Middle, Mr North.

**Mr North:** Thank you, Mr Speaker. Daily rates paid by film employment agencies are indeed agreed, such agreement being made between the agency concerned and the individual extra.

The level payable on each particular production is a matter of negotiation between the film production company and the agency and depends on a number of factors such as the number and types of extras to be engaged.

My department seeks to encourage the payment of rates which are broadly in line with those payable in the United Kingdom, outside the London area, but is not privy to details of individual agreements.

I understand that employment agencies on the Island do not differentiate between union and non-union film extras and pay the agreed rate to both groups.

**Mr Singer:** Mr Speaker, I understood, minister, that the union rate was higher than the non-union rate. If this is so, would you agree that there should in fact be no difference paid to a member of a union or a person who is not a member of a union if they are doing similar work?

**Mr North:** Yes, I would agree, Mr Speaker.

**Medical Consultants And Supporting Medical Grades - Workload Audits - Question By Mr Singer**

**The Speaker:** Order paper number 7, the hon. member member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I beg leave to ask the member for the Department of Health and Social Security:

- (1) *Can you confirm that there are regular independent peer audits of the workload of (a) medical consultants and (b) supporting medical grades employed in the Isle of Man Health Service; and*
- (2) *if so, (a) when have such audits been carried out over the last three years and by whom; and*
  - (b) *how did the workload revealed by the audits compare with the average workload in UK hospitals?*

**The Speaker:** I call upon a member for the Department of Health and Social Security, the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, in reply to the first part of the hon. member's question, I can confirm that my department has in place a mechanism to audit the workload of medical consultants and supporting medical grades employed within the Island's National Health Service. In the case of consultants this takes the form of a job plan which was included in the work programme set out for the consultant's weekly timetable. A job plan is agreed on an individual basis with the consultant. With regard to the supporting medical grades, there are two separate arrangements in place, depending on the nature of the post. The post within the training grades, namely the house officers and the senior house officers, have their workload reviewed on a regular basis by the relevant training authority which is the Royal College of Surgeons. The non-consultant career posts, such as the staff grades and associate specialists, also have a job plan and this is agreed between the doctor and the responsible consultant and the hospital management.

Turning to the second part of the hon. member's question, I can confirm that consultants' job plans were introduced into the Island's National Health Service in 1993. All consultants employed at that time, and the majority appointed subsequently, have an agreed job plan. The process of the job plan review is yet to be undertaken in respect of a small number of recently appointed consultants. The responsibility for leading the review currently rests with the director of public health which will be assumed by the department's new chief administration medical officer who is due to take up his appointment within the next couple of months.

With regard to the supporting medical grades and the training grade posts, they are reviewed on an annual basis by the postgraduate dean of education for the Island, who is attached to Liverpool University. These visits are supplemented by inspections by the relevant royal colleges.

A job plan review for the staff grades and associate specialists has only recently been established and has yet to be implemented for the posts on the Isle of Man. However, it is intended that this will take place within the next 12 months.

Finally, in answer to (2)(b) of the question, I can confirm that the workload of medical staff on the Isle of Man compares equally to their counterparts in the United Kingdom. Consultants are contracted for either 10 or 11 notional half-days per week. Of this they are expected to undertake between five and seven fixed notional half-days per week for, say, out-patient work, operating sessions or ward rounds. The remaining notional half-days are cover duties such as on call, audit, teaching, research, patient visits and administration. The workload of junior staff is measured in a similar way and again it is apparent that the juniors on the Island have a similar workload to their counterparts in the United Kingdom.

**Mr Singer:** I thank the hon. member for his reply. Given the alleged limited facilities available at Noble's Hospital, for example in the operating theatre, do staffing complements provide extended hours of operation - that is in terms of days of the week or hours of the day - or would not regular extended hours and family-friendly hours offer the opportunity for nurses who have left the profession to be able to offer their services at times more suitable to themselves?

**Mr Karran:** Vainstyr Loayreyder, we have a theatre users group within the hospital. I am pleased to see that the hospital manager is now party to that theatre users group. We have recently seen a number of initiatives which I do not want to get into, another hon. member's question being affected, which have helped the fact that the theatres can be used much more effectively and efficiently. So the issue as far as the hon. member is concerned has been raised and is being addressed at the present time.

**Mr Singer:** Mr Speaker, the hon. member for Onchan often tells this House that he is merely the messenger on DHSS matters. Does he not agree with me that initially 60 per cent of the hon. members of this House indicated last week, amongst other things, that their wish is to receive the answers not from the messenger but from a minister sitting in this hon. House?

**Mr Karran:** Vainstyr Loayreyder, the hon. member has got a right of free speech and I would defend his right to say what he wants to say. I will make my position quite clear. I took up the post as member for health when nobody in this hon. Court would take it up. If it is between becoming member for the health services and member for, say, mineral extraction where you open a quarry up for the same status and the same pay, I agree with the hon. member. He has a point that there is a danger.

As far as the hon. minister is concerned, she has my full support and if one is out, all are out as far as I am concerned because I have found her to be an asset, and I am only sorry in this hon. House there are too many politicians and not enough MHKs worrying about their people instead of their parliamentary careers going up in this House.

**The Speaker:** Hon. members, I am conscious in fact of the clock and conscious that we actually started the question paper a little late this morning, so I call upon the hon. member for Michael.

**Mr Cannan:** Mr Speaker, I beg to move:

*That standing order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.*

**The Speaker:** Are you agreed, hon. members?

**Members:** Agreed.

## Hospital Waiting-Lists - Question By Mrs Cannell

**The Speaker:** In that case, I turn to the order paper number 8 and call upon the hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

*What steps were taken during 1997 to reduce hospital waiting-lists for patients seeking specialist treatment and to what effect?*

**The Speaker:** Again I call upon the member for Health and Social Security, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, during 1997 my department undertook a number of measures designed to contain the waiting-lists for specialist treatment: the inclusion of such special initiatives in general surgery, eye surgery, oral surgery and the provisions of additional staff resources in a number of specialities.

As a result of the measures, the waiting-lists for the in-patient treatment at 31st December 1997 contained 979 patients compared to 1,127 patients 12 months earlier. In respect of out-patients, the number waiting has remained unchanged at approximately 2,500, although there has been a significant reduction in patients waiting for longer than 12 months, which currently stands at 10 per cent of the total compared to 17 per cent in 1996.

This has been achieved despite a continual increase in demands being placed on the hospital services. The hon. member will be interested to learn that during 1997 Noble's Hospital dealt with a total of 85,828 patient episodes, which represents an increase of about 20 per cent in patient activity compared to five years ago. I would therefore take this opportunity to thank not just the medical staff but all our staff engaged within the hospital service for their continuous efforts to contain the waiting-lists for the benefit of the patients in the Isle of Man and I do appreciate my staff and what they do do as far as this is concerned.

Finally, I can advise the hon. member that my department is currently in the process of compiling an annual report to Tynwald on the waiting-lists, utilising the activities in the waiting-lists information as from 31st March of this year which I hope will be presented to Tynwald in May.

**The Speaker:** Now, hon. members, similar questions and similar points have been made in both this hon. House and in another place in recent months and I do not wish to develop into a long debate. The hon. member for Douglas East, Mrs Cannell, a supplementary.

**Mrs Cannell:** Thank you, Mr Speaker. At the end of December 1996 the total number of patients waiting in all specialities were in-patients 746 and out-patients 2,195. Could the hon. minister therefore provide us with the corresponding figures for December of 1997, please?

**Mr Karran:** I do not seem to have the answers for the hon. member as far as that is concerned. I do apologise to her but I have not got that information in front of me, but I will be happy to produce it for the hon. member at a later date.

**The Speaker:** Thank you, hon. member. A further supplementary, the hon. member for Douglas East.

**Mrs Cannell:** Thank you, Mr Speaker, my final supplementary on this one, sir. Can the hon. member confirm that specialist and supporting grades at Noble's Hospital are prepared to

provide aftercare for patients who have received operations or treatment off-Island? More specifically, can the hon. member assure us that problems with aftercare are not preventing your department from arranging off-Island initiatives?

**Mr Karran:** Vainstyr Loayreyder, I can inform the hon. House when we first raised this issue - this issue was raised many years ago when I was on the department with the hon. member for Ayre - we fought long and hard in order to bring in waiting-list initiatives. We have no problems, as far as I know, as far as aftercare is concerned at the present time within the hospital and I am fairly sure that I would have been informed of this because it is something that we have done on quite a regular basis since our original initiatives for hip and knee replacements that the likes of myself and the hon. member for Ayre were very keen on doing many years ago when we were both on a previous Department of Health and Social Security.

So as far as I am concerned there is no problem in having initiatives done by the adjacent isle. At the present time I think we are doing our best, allowing for financial constraints within my department, to try and do as much as we can to try and minimise the waiting-lists on this Island.

### **Health Service - Complaint Procedures - Question By Mrs Cannell**

**The Speaker:** Order paper number 9, hon. members, and I call upon the hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Mr Speaker, I beg leave to ask the member for Health and Social Security:

- (1) *By what procedures may a member of the public seek investigation of a complaint against the Isle of Man Health Service; and*
- (2) *do the procedures include an investigation established by your department under the National Health Service (Isle of Man) Act 1948, section 56?*

**The Speaker:** Again to reply, the hon. member Mr Karran, the member for Health and Social Security.

**Mr Karran:** Vainstyr Loayreyder, in reply to the hon. member's question, I can advise that there are two areas of the health service in which the public may perceive complaints arising. One is the hospital services and the other is the family practitioner service. Within the family practitioner area, statutory provisions in former regulations govern the way in which complaints are handled. Any person wishing to complain in relation to these services provided within the area should make their complaint to the head of the department's family practitioner section in the first instance. Any person wishing to complain against the Island's hospital service should write to the hospitals manager who will normally pass on the complaint to the hospital complaints officer for investigation.

In regard to the second part of the hon. member's question, the department is empowered to institute an inquiry under section 56 of the National Health Services (Isle of Man) Act 1948. It is generally considered that such an inquiry should be reserved for a health service issue which is of national importance to the Island. Consequently, section 56 requirements are not normally allowed for under any other part of the complaints procedure, so for section 56, it would have to be something of national importance. So that would never be used otherwise.

**Mr Downie:** Is the member aware that it is now approaching three years since a previous minister and member of the House of Keys gave an undertaking to introduce a revised NHS complaints procedure? Is it not unreasonable therefore and wholly unacceptable that patients should continue to be deprived of a viable complaints procedure over such an extended period?

**Mr Karran:** Well, Vainstyr Loayreyder, I agree with the hon. member that there has been a delay in bringing in the complaints procedure. I disagree with the hon. member that there is not a viable complaints procedure, particularly with the family practitioner service. I think that is a very effective way of dealing with things. I am not so sure about hospitals.

The hon. member will be aware that any professional complaints procedure brought into this hon. House would involve finance, and one of the problems that I did find when coming to the department was that there was something like £60,000-odd being wanted to set up on an annual basis for a complaints procedure. I have to be honest with the hon. member that I was wrong in taking that money for some other service, but as the hon. member will appreciate, I have just had a meeting before coming to this hon. House this morning with three of your hon. colleagues concerning wanting large increases in the diabetic services. It has been a matter of trying to finance all the new initiatives that obviously our society wants as far as its health care is concerned.

I will give an undertaking to the hon. member that we are going to resolve this issue. I do apologise to the hon. member that we did withdraw the funding for this because I spent it on direct health care, but I do recognise now that there is an importance in having an efficient and effective complaints procedure within the hospital service and it will be done as a priority.

**Mr Singer:** Could I ask the hon. member what his opinion is of a health ombudsman? Would he support one or not?

**Mr Karran:** Vainstyr Loayreyder, as a person who put a motion down in Tynwald to bring an ombudsman in for the whole Island I would support the principle of an ombudsman full stop because I think it would be a good idea. The problem, I would think, is the cost of actually just having an ombudsman doing one small section as far as this is concerned, but I am willing to take back his concerns to the organ-grinder from the monkey and we will discuss that proposal at a later date.

**Mrs Cannell:** Mr Speaker, setting aside for a moment the reasons and excuses tendered for not introducing a revised complaints procedure, what is there to prevent the department either giving complainants access to the investigative procedures under the National Health Service (Isle of Man) Act 1948, section 56, or as my hon. colleague has indicated earlier, from Ramsey, appointing under the health services an ombudsman to supervise the investigation of complaints under the existing procedures? And I accept that the hon. member himself is in support of such a move but can he answer for the department, please, on this occasion?

**Mr Karran:** Vainstyr Loayreyder, as far as the ombudsman issue is concerned, I believe that it would not be an effective use of resources within the health services just to have an ombudsman purely for the health service. I believe that the question as far as an ombudsman in general is a good one, something that I fought long and hard in another place in order to try and achieve and the establishment tried to block.

I do find it rather annoying that I have members of this hon. House who take little or no responsibility, who have no books to balance. I have something like 40 per cent of the gross national product of the government anyways under the health services. I am always happy to accept more money if other members of government departments are willing to give me it. But at the end of the day I have to work within the constraints. And I agree with the hon. member. I maybe was wrong to take the money away that was going to be allowed for the complaints procedure, because I thought we could have done it more cheaply within house.

I appreciate the hon. member's annoyance as far as this is concerned, but like I have said, I have just been to a meeting before here. We will more than likely want another £60,000-plus for their services in their speciality, and the problem I have got is I have got to try and balance the books and keep within the constraints that I am put under from the Treasury and from the Council of Ministers.

**The Speaker:** The hon. member for Douglas East, a final supplementary.

**Mrs Cannell:** Thank you, Mr Speaker. Could the hon. member please explain to this House what is the problem with giving complainants access to the investigative procedure under the National Health Service (Isle of Man) Act 1948 at section 56?

**Mr Karran:** Vainstyr Loayreyder, the procedure under section 56 would more likely be a much more expensive way of dealing with complaints than actually getting the money in the first place to do the original proposal. The problem is also that if you use this section for day-to-day things, when the real issues come of national importance, then it will undermine their importance as far as that is concerned.

Hon. member, this problem has been a matter of finance. Finance is my problem within the health services. I have said in previous questions how we have seen a 20 per cent increase in the requirement of services in the hospital over the last five years, just for wanting in-patient services. The hon. member has to appreciate I have got to try and balance the books and try and bring in the issues. I agree with the hon. member. It is an issue that I need to address as far as the complaints procedure is concerned and it will be put high up on my priority list.

### **Jurby Industrial Estate - Airborne Pollution - Question By Mr Cannan**

**The Speaker:** Question, on the order paper, number 10, hon. members, and I call upon the hon. member for Michael, Mr Cannan.

**Mr Cannan:** Mr Speaker, I ask the Minister for Local Government and the Environment:

*What action are environmental health officers taking to prevent the continuing recurrence of sickening airborne pollution from the Jurby industrial estate permeating Jurby school and the surrounding residential areas?*

**The Speaker:** I call upon the Minister for Local Government and the Environment, the hon. member for Ayre.

**Mr Quine:** Thank you, Mr Speaker. I must advise the hon. member that on such matters as this, that is, an alleged statutory nuisance, the department's environmental health officers are acting as officers of the local authority - in this case Jurby Commissioners - who are required under the Public Health Act to consider and act as appropriate, and I can but suggest that the hon. member seeks the information he requires from Jurby Commissioners.

The hon. member will of course recognise that where a complaint of this nature is under investigation and the question of any legal proceedings remains to be determined, legal issues may attach to the release of any such information.

**Mr Cannan:** First of all, is the minister aware that this problem, this sickening airborne pollution, has been occurring in Jurby for the last three months on a regular basis? Is he aware that there have been consistent complaints made to officials of his department, the environmental officers, about this matter? Is he aware that residents of Jurby have been compelled to draw this matter to the attention of the media? And finally, will the minister agree that were this severe airborne pollution to occur in Douglas, permeating schools and residential areas, the environmental officers of his department would act with alacrity, commitment and efficiency to resolve the problem, whereas since it is at Jurby it does not seem to receive the same attention?

**Mr Quine:** The hon. member seems to have great difficulty accepting what the legal position is and I am sure if I was to interfere in the activities of Jurby Commissioners, there would be people on their feet calling me a dictator. (*Interjections*) The legal situation is quite clear. The responsibilities rest with Jurby Commissioners. For want of their own stand-alone resource, they use the officers of our department. The responsibilities are theirs and they will remain with them unless and until the point is reached where there is a report and a complaint that they have failed to carry out a statutory duty. That is the law and that is what I have to abide by, and there is no question of differentiating in the treatment between areas.

The hon. member appears to be pointing to an underlying issue of local government reform and the efficiency perhaps of his local authority. Well, I can but suggest that if more members of this hon. House put their heads above the parapet, we might get somewhere in resolving the issue.

**Several members:** Hear, hear.

**Mr Cannan:** Would the minister agree that if his department took action in this matter to resolve this matter, I would be the last person to call him having Hitlerite attitudes but rather commend him and his department for a sense of efficiency and get-up-and-go, but will he please get up and do something?

**Mr Quine:** The hon. member seems to have a total mental block, sir.

**Mr Brown:** You have been saying that for years.

**Mr Quine:** Yes, I have said it on a number of occasions. And the situation is a legal situation. I am afraid he will have to come to terms with that situation until the legislation is changed.

**The Speaker:** A final supplementary, hon. member for Michael.

**Mr Cannan:** A final supplementary. If the legislation needs changing, and bearing in mind the minister's oft-expressed commitment to service to the community, will he indicate that he on this occasion will serve the community by amending the legislation pdq?

**Mr Quine:** Two separate issues, sir. First of all, he is bringing into question whether the existing legislation, which allows local authorities to have these powers, is adequate or otherwise. Now, if he wishes to move to change that, he knows exactly what he has to do. This

hon. House, the branches, have previously decided that this is the arrangement, that we should give these local authorities powers and that they should exercise them.

In regard to this particular incident, the law is quite clear. The issue appears to be that he has some difficulty with his local authority, either for want of dialogue or for whatever reason, and he is not able to get them to act as he would wish. That is a matter between himself and his local authority and until and unless I get a complaint that they have failed to carry out a statutory duty, that position is clear. And I would suggest he goes back and endeavours to get onto the same level as his local authority, get down to the practical aspects of this and find the information that he needs and find a solution.

### **Criminal Justice (Money Laundering Offences) Bill - Clauses Considered**

**The Speaker:** Hon. members, that concludes then our question paper for today and we turn then to order paper number 11, the Criminal Justice (Money Laundering Offences) Bill, for consideration of clauses and I call upon the hon. member for Ramsey, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. Before I start to move the clauses of this Bill I would just like to point out to hon. members that although there are in fact only in effect two clauses to this Bill, the explanations of both these clauses are in fact quite lengthy. So I hope the hon. members will bear with me as I plough through the explanations of the various aspects of this legislation.

Clause 1 introduces schedule 1. This schedule contains a series of amendments to the Prevention of Terrorism Act 1990. The amendments relate to the giving of financial assistance for terrorism, improvements to the powers for the investigation of terrorist activities, and the imposition of an obligation to give information of a knowledge or suspicion of certain offences relating to financial assistance for terrorism.

Paragraph 1 deals with financial assistance for terrorism. The amendments in this paragraph are based upon section 49 of the Criminal Justice Act 1993 of Parliament. The paragraph amends sections 7, 8 and 10 of the Prevention of Terrorism Act 1990 which mirrors the Prevention of Terrorism (Temporary Provisions) Act 1989 of Parliament. Those sections provide a scheme of investigation, prosecution and forfeiture of funds or property destined to be used to finance terrorism.

Sub-paragraph (1) amends section 7 of the 1990 Act which creates offences in relation to soliciting or inviting others to give money or property or to receive money or property to be applied for terrorist purposes. The amendment creates a new offence of using or having possession of money or other property, intending it to be applied or used for acts of terrorism. In this context an act of terrorism is one which is connected with the affairs of Northern Ireland and other acts of terrorism, except acts connected solely with the affairs of the Island or Great Britain. Acts of terrorism connected solely with the affairs of the Island or Great Britain can normally be dealt with under the normal criminal law.

Sub-paragraph (2) amends section 8 of the 1990 Act. That section creates a similar offence to section 7 but in this instance it applies to funds which are collected, given or received for the benefit of proscribed organisations. Proscribed organisations are listed in schedule 1 to the 1990 Act and currently consist of the Irish Republican Army and the Irish National Liberation Army. The amendment is small but significant. It extends the offence in

section 8 to include the use or possession of money or property for the benefit of a proscribed organisation.

Sub-paragraphs (3) to (6) amend section 10 of the 1990 Act. That section deals with the disclosure of information to a constable. It permits a person to pass information to a constable about money or property which is suspected or believed to be derived from terrorist funds. The section also provides defences for persons who enter into transactions or arrangements relating to terrorist funds with the consent of a constable or, if disclosure is made to a constable, soon after the transaction is entered into. The object of the section is to reduce to a minimum legal obstacles which may prevent banks, lawyers, accountants and others from passing on information because of a legal obligation of confidentiality.

Sub-paragraph (3) will ensure that no legal obligation of any nature will prevent the disclosure of information about terrorist funds to the police. This also protects the person passing on the information because they will be absolved from the legal obligation of confidentiality and will not themselves be liable as a result of the disclosure of the information.

Sub-paragraph (4) inserts a new subsection (2A) in section 10 of the 1990 Act. The new subsection ensures that the defence in subsection (2) of section 10 takes account of the amendment in sub-paragraph (1) of this schedule. In effect it will be a defence to a charge of using or possessing terrorist funds, provided the consent of a constable has been obtained or the possession or use is promptly reported to a constable.

Sub-paragraph (5) amends subsection (3) of section 10 of the 1990 Act. The amendment is entirely consequential upon the addition of a new paragraph (c) to section 7(1) of the 1990 Act. The effect is to provide a defence to a charge of using or possessing money or other property which represents terrorist funds where a person intended to disclose the information to a constable but has a reasonable excuse for failure.

Sub-paragraph (6) adds three new subsections to section 10 of the 1990 Act. The new subsections all have equivalents to be found in the money laundering provisions of the Drug Trafficking Act of 1996 and the all-crimes money laundering provisions provided for by schedule 2 of this Bill.

The new subsection (4) provides for references to disclosure to a constable to include, in the case of a person's employment at the relevant time, disclosure to the person to whom it is appropriate to make disclosures in accordance with procedures established by his employer. Such disclosures or intended disclosures will have the effect as if made or intended to be made to a constable.

The new subsection (5) excludes constables and others from offences in this section in respect of anything done by them in the course of acting in connection with the enforcement or intended enforcement of any provision of the Prevention of Terrorism Act 1990 or any other enactment relating to terrorism or the proceeds or resources of terrorism.

Subsection (6) will ensure constables and others enforcing the 1990 Act will not be committing an offence merely by reason of possession of any property which represents terrorist funds.

Paragraph 2 deals with investigation of terrorist activities. This paragraph follows provisions of section 50 of the Criminal Justice Act 1993 of Parliament. The paragraph

amends section 15 of the Prevention of Terrorism Act 1990. Section 15 contains powers for the effective investigation of terrorism connected with the affairs of Northern Ireland or places outside Great Britain and the Isle of Man, terrorist offences under the 1990 Act, and investigations into the resources of proscribed organisations. The powers introduced by section 15 of the 1990 Act are quite extensive and include powers to require the production of evidence, powers of search, and requirements for the explanation of seized or produced material.

Sub-paragraph (1) amends section 15(1)(a)(ii). The amendment has the effect of applying the investigation powers to offences committed under section 16 of the 1990 Act, that is, persons failing to disclose information about terrorism to the police.

Sub-paragraph (2) replaces subsection (2) of section 15 with six new subsections. The existing subsection (2) makes it an offence to pass on information about a terrorist investigation or falsifying, concealing or destroying material relevant to a terrorist investigation.

The new subsections (2)(a) to 2(b) make it an offence to disclose information which prejudices a terrorist investigation or to falsify, conceal or destroy material relevant to a terrorist investigation in three particular circumstances: first where the disclosure is made when a person knows or suspects that the police are acting or proposing to act in connection with a terrorist investigation - this is subsection (2); second, where the disclosure is made by a person who knows or suspects that a disclosure has been made about terrorist funds - section 10 - or material information about acts of terrorism which relate to section 16, and this constitutes subsection (2A); third, where the disclosure is about a disclosure made by an employee under section 10(4), and this constitutes section (2B).

Subsection (2C) - this applies subsections (2) to (2B) in the case of a disclosure by a professional legal adviser of any information or other matter which is an item subject to legal privilege. Without this relaxation it would be all but impossible to obtain proper legal advice, but subsection (2D) ensures that subsection (2C) is only to apply in legitimate cases.

Subsection (2E) excludes constables and others from offences in this section in respect of anything done by them in the course of acting in connection with the enforcement or intended enforcement of any provision of the Prevention of Terrorism Act 1990 or any other enactment relating to terrorism or the proceeds or resources of terrorism.

Sub-paragraph (3) amends the defence in subsection (3) of section 15 to take account of the amendments made by this paragraph to section 15. The amendment is a necessary consequential amendment.

Sub-paragraph (4) inserts a new subsection (3A) in section 15 of the 1990 Act. The new subsection contains a defence in relation to criminal charges under the new provisions inserted by this paragraph. The defence is the same as that contained in subsection (3) of section 15 of the 1990 Act and is necessary as a consequence of the amendments inserted by this paragraph.

Sub-paragraph (5) amends subsection (4) of section 15 of the 1990 Act. Subsection (4) contains a defence to a criminal charge of falsifying, concealing or destroying et cetera information relevant to a terrorist investigation where the person shows that he has no intention of concealing the information from the persons carrying out the investigation. The

amendment extends to the defence so that it applies not only where a person had no intention of concealing information from the person carrying out the investigation but also from the person likely to be conducting the investigation or proposed investigation. The defence will more accurately reflect variations in circumstances.

Sub-paragraph (6) inserts a new subsection (4A) in section 15 of the 1990 Act. The new subsection contains a defence which is on all fours with that contained in subsection (4) but is provided for the purposes of new offences inserted in section 15 by this schedule.

Sub-paragraph (7) amends subsection (5) of section 15 of the Prevention of Terrorism Act 1990. The amendment is a consequential amendment and applies the penalties on conviction to the new offences inserted into section 15 by this schedule.

Sub-paragraph (8) adds the new subsection (6) to section 15 of the 1990 Act. The amendment contains a technical modification which is necessary as a result of the amendment contained in sub-paragraph (1) of paragraph 2 of this schedule. The effect of the amendment is that when the investigation powers under section 15 are being used in relation to acts the references to 'act' are to be treated as including 'omission' because section 16 deals with acts of omission as well as commission.

Paragraph 3 deals with the failure to disclose knowledge or suspicion of financial assistance for terrorism. This paragraph inserts a new section 16A in the Prevention of Terrorism Act. The provision is based on section 51 of the Criminal Justice Act 1993. The new section 16A replicates section 48 of the Drug Trafficking Act 1996. The section creates a new offence connected with the laundering of terrorist funds. It will require certain persons to provide information to the police in relation to terrorist funds.

Subsection (1) provides that a person is guilty of an offence if he knows or suspects that another person is providing financial assistance for terrorism, The information or matter on which the knowledge or suspicion is based came to his attention during the course of his trade, profession, business or employment, and he does not disclose the information to a constable as soon as reasonably practicable.

Subsection (2) provides that it is not an offence under subsection (1) for a professional legal adviser to fail to disclose any information or other matter which is an item subject to legal privilege.

Subsection (3) provides a defence where the person has reasonable excuse for not disclosing the information to another or other matter.

Subsection (4) provides that a disclosure to the police of any suspicion or belief that another is providing financial assistance for terrorism or any related information shall not be treated as a breach of any restriction imposed by statute or otherwise. Similar provisions are contained in schedule 2 to this Bill, section 17A(3)(a) and section 17B(5)(a).

Subsection (5) provides for a defence in the case of a person in employment at the relevant time of disclosing the information to the appropriate person in accordance with the procedure established by his employer.

Subsection (6) provides that a disclosure by an employee in accordance with subsection (5) is not a breach of any restriction imposed by statute or otherwise.

Subsection (7) defines 'providing financial assistance for terrorism' for the purposes of section 16A. It will mean doing any act that constitutes an offence under the specified sections of the 1990 Act. The expression also covers activities which, although done outside the jurisdiction of the Isle of Man, would, if they had been done in the Isle of Man, have constituted one of those offences.

Subsection (8) provides for the purposes of subsection (7), having possession of any property shall be taken to be doing an act in relation to it. This is an extended meaning of the word 'possession' and will cover circumstances where the person does not have actual possession of the property but deals with it or does some other act in relation to it.

Subsection (9) defines the items which are subject to legal privilege for the purposes of subsection (2).

Subsection (10) will not permit the operation of legal privilege under subsection (9) if the information is communicated to the legal adviser with a view to furthering criminal purposes. In other words the exemption for information which is the subject of legal privilege is only to apply in legitimate cases.

Subsection (11) sets out the penalties for offences committed under section 16A. The maximum penalty on summary conviction is custody for a term not exceeding six months or a fine not exceeding £5,000 or both. Where a person is convicted on information before a Court of General Gaol Delivery the maximum period of custody is five years and a fine without a maximum amount.

Paragraph 4 amends section 21 of the Prevention of Terrorism Act 1990 by inserting a new subsection (2A). Section 21(2) of the 1990 Act enables the Governor in Council, with the approval of Tynwald, to repeal the Act. This was originally included to allow for circumstances where it was necessary, because of a successful peace process or for some other reason, to repeal the Prevention of Terrorism Act 1990 speedily at the same time as the United Kingdom repealed its equivalent legislation. The new subsection (2A) will enable the Governor in Council to exercise that power of repeal in relation to the other legislation which amends the 1990 Act and would have to be repealed as a consequence of the repeal of the 1990 Act.

Mr Speaker, I am very pleased to move clause 1 of the Bill.

**Mr Duggan:** I rise to second, Mr Speaker.

**The Speaker:** Does any other hon. member wish to speak? In that case, hon. members, the motion is that the Criminal Justice (Money Laundering) Bill 1997, clause 1 and schedule 1, be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2 and schedule 2, sir.

**Mr Bell:** Thank you, Mr Speaker. Clause 2 and schedule 2. Schedule 2, amendment of the Criminal Justice Act 1990.

Paragraph 1 amends three sections of the Criminal Justice Act 1990. Section 7 of the 1990 Act enables applications to be made to the High Court for freezing the proceeds of crime by means of restraint orders. The amendment will mean that applications for restraint orders may only be made by the Attorney-General or with the consent of the Attorney-General.

Section 8 of the 1990 Act enables applications to be made to the High Court for charging orders in respect of certain types of assets which represent the proceeds of crime. A charging order in effect ensures that the income from any assets will be paid over to the person benefiting from the charging order. The effect of the amendment is that applications for charging orders in these circumstances may only be made by the Attorney-General or with the consent of the Attorney-General.

Section 10 of the Criminal Justice Act of 1990 deals with the realisation of property when a confiscation order has been made. That section contains a number of powers which may be exercised by the Court. The effect of the amendment is to limit applications to the Court to applications made by the Attorney-General or with the consent of the Attorney-General.

Paragraph 2 adds nine new sections to part 1 of the Criminal Justice Act 1990. That part currently deals with the confiscation of the proceeds of criminal conduct. The new sections 17A to 17I deal with the laundering of the proceeds of criminal conduct. The new offences introduced by these provisions apply only to the laundering of the proceeds of crimes other than drug trafficking offences. This is because the Drug Trafficking Act 1996 already contains similar money laundering offences in relation to the proceeds of drug trafficking.

The provisions of new section 17A to 17D follow very closely the provisions of sections 93A to 93D of the Criminal Justice Act 1988 of Parliament. The new sections 17A and 17G to 17I do not follow the UK precedence on this subject and are indeed intended to enhance local control on information and prosecutions. The new section 17F does not follow a United Kingdom precedent but is intended to enable codes to be made which are equivalent to the United Kingdom money laundering regulations which were made to implement the EC money laundering directive.

The new section 17A deals with assisting another to retain the benefit of criminal conduct. This new section makes it an offence to assist another to retain the benefit of criminal conduct. The section replicates the offence in section 46 of the Drug Trafficking Act 1996 in relation to the proceeds of drug trafficking. The purpose of the clause is to make it as difficult as possible for criminals to enjoy the fruits of their crime and the clause recognises that those who assist criminals to launder the proceeds of crime are assisting another to retain the benefit of criminal conduct.

Subsection (1) makes it an offence for a person to be involved in an arrangement under which the retention or control by or on behalf of another of their proceeds of criminal conduct is facilitated, or the proceeds are used to place funds at the other's disposal, or they are used for the other's benefit to acquire property as an investment, knowing or suspecting that the other person is or has been engaged in criminal conduct or has benefited from it.

The subsection allows for crimes to be committed in a number of different circumstances but the offence can be reduced to a fairly simple and understandable level. The offence has three elements: first an arrangement which need not be formal; second, facilitation of retention or control of proceeds of crime, and this can be by concealment or removal from the Isle of Man or by transfer to a nominee; and third, a knowledge or suspicion by the alleged launderer that the other person has or is engaged in or has benefited from criminal conduct. If these three elements are present, then subject to the defences provided in subsections (3) to (5) the offence has been committed.

Subsection (2) defines the references in the clause to a person's proceeds of criminal conduct as including any property which in whole or in part directly or indirectly represent his proceeds of criminal conduct. This can, for example, include property purchased with the proceeds of crime.

Subsection (3) deals with the disclosure of information to a constable. It provides that where a person discloses to a constable a suspicion or belief that any funds or investments are derived from or used in connection with criminal conduct or any matter upon which that suspicion or belief is based, the disclosure shall not be treated as a breach of any restriction upon the disclosure of information. This ensures that banks, lawyers, accountants and others will not be liable in respect of any obligation of confidentiality when they report a suspicious transaction to the police.

The subsection also provides a defence. In cases where an act is done in contravention of subsection (1) an offence is not committed if a disclosure is made in relation to the act before it is done and it is done with the consent of a constable. Alternatively, if the disclosure is made to a constable after the act is done but on the person's own initiative and as soon as it is reasonable for him to do so, there is also a defence. 'Constable' in part I of the 1990 Act includes an officer of the Customs and Excise.

Subsection (4) provides a defence where the person who is charged did not know or suspect that the arrangement related to any person's proceeds of criminal conduct, or he did not know or suspect that the arrangement would facilitate the retention or control of the property by the other person, or that by the arrangement any property was used to secure funds, or where he intended to disclose to a constable but he had reasonable excuse for not making a disclosure in accordance with subsection (3).

Subsection (5) provides for references to disclosures in subsections (3) and (4) to include, in the case of a person in employment at the relevant time, disclosures to the person to whom it is appropriate to make disclosures in accordance with the procedures established by his employer. Such disclosures or intended disclosures will have effect as if made or intended to be made to a constable. Banks or other financial organisations will be required by codes to be made under new section 17F to have in place internal reporting procedures for their employees.

Subsection (6) provides that a person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding six months or a maximum fine of £5,000 or both, or on conviction on indictment, that is, the Court of General Gaol Delivery, to custody for a term not exceeding 14 years or to an unlimited fine or both.

Subsection (7) defines 'criminal conduct' for the purposes of part I of the Criminal Justice Act 1990, including the new sections 17A to 17I. Criminal conduct is conduct which constitutes an offence to which part I of the 1990 Act applies or would constitute such an offence if it occurred in the Isle of Man. Part I of the 1990 Act applies to criminal offences which are triable on indictment. Part I also applies to offences which may be triable either on indictment or by a court of summary jurisdiction. The effect of subsection (7) is that for the purposes of the new money laundering offences criminal conduct means any offence which is capable of being tried by the Court of General Gaol Delivery. In effect this captures all the more serious offences.

The new section 17B makes it an offence to acquire, possess or use property representing the proceeds of criminal conduct, knowing the property to be such proceeds. This clause replicates the offence in section 47 of the Drug Trafficking Act 1996 of acquiring, possessing or using the proceeds of drug trafficking.

Subsection (1) makes it an offence for a person to acquire, possess or use property representing another person's proceeds of criminal conduct. The launderer must know that any property directly or indirectly represents in whole or in part the other person's proceeds of criminal conduct.

As with section 17A, the elements of the offence are relatively straightforward. First, there must be knowledge that the property represents another person's proceeds of criminal conduct, and secondly, the launderer must acquire, use or have possession of the property.

Subsection (2) provides a defence where a person acquires the property for adequate consideration.

Subsection (3) provides that consideration, that is, the purchase price given in return for any property, is for the purposes of subsection (2) to be considered adequate if its value is not significantly less than the value of the property.

Subsection (4) provides that for the purposes of subsection (2) the provision of goods or services which are of assistance to any person in criminal conduct are not to be treated as valid consideration for the purposes of any defence.

Subsection (5) contains similar provisions to section 17A(3)(a) and (b). It provides that disclosures to a constable about property which is believed or suspected of being the proceeds of criminal conduct shall not be treated as a breach of confidence. The subsection also provides a defence to any prosecution under subsection (1) where there has been disclosure to a constable and the constable has consented to the activity, alternatively if disclosure is made after the activity takes place but on the person's own initiative and as soon as is reasonably possible.

Subsection (6) provides that for the purposes of section 17B possession of any property means doing an act in relation to it. This is an extended meaning of possession and will cover circumstances where the person does not have actual possession of the property but deals with it or does some other act in relation to it.

Subsection (7) provides a defence where the person intended to make a disclosure to a constable of a suspicion or belief under subsection (5) but there was a reasonable excuse for failing to do so. This defence is similar to that in section 17A(4)(c).

Subsection (8) provides for references to disclosures in subsections (5) and (7) to include, in the case of a person in employment at the relevant time, disclosures to the person to whom it is appropriate to make disclosures in accordance with the procedure established by his employer. Such disclosures or intended disclosures will have effect as if made or intended to have been made to a constable. This subsection replicates section 17A(5).

Subsection (9) provides that the person guilty of an offence under section 17B is liable on summary conviction to custody for a term not exceeding six months or a fine not exceeding £5,000 or to both, and on conviction on indictment, to custody for a term not exceeding 14 years or a fine or to both.

Subsection (10) excludes constables and others from offences in this section in respect of anything done by them in the course of acting in connection with the enforcement or intended enforcement of any provision of the Criminal Justice Act 1990 or any other enactment relating to criminal conduct or its proceeds.

The new section 17C makes it an offence to conceal, disguise, transfer or convert the proceeds of criminal conduct. This section replicates the offence under section 45 of the Drug Trafficking Act of 1996 which concerns the proceeds of drug trafficking. The section is designed to prevent and punish anyone who hides property from or moves property outside the Isle of Man, whether his own property or another's. The section extends to actions designed to disguise or remove evidence, thus assisting in the avoidance of prosecutions or the removal of assets which could form the basis of an enforcement or confiscation order.

Subsection (1) makes it an offence to conceal or disguise any property which is in whole or in part directly or indirectly represents one's own proceeds of criminal conduct, or to convert or transfer that property from the Isle of Man for the purpose of avoiding prosecution for an offence to which part I of the Act applies, or the making or enforcement of a confiscation order. The elements of the offence are first to conceal, disguise, convert, transfer or remove from the Isle of Man proceeds of his crime, and secondly, to avoid prosecution or enforcement of a confiscation order.

Subsection (2) makes it an offence to carry out any act listed in subsection (1) for the purpose of assisting someone else to avoid prosecution for an offence to which part I applies or the making or enforcing of a confiscation order. The elements of the offence are, first, knowledge or suspicion that property represents another person's proceeds of crime; second, conceal disguise, convert, transfer or remove from the Isle of Man that property; and third, to assist the other person to avoid prosecution or enforcement of a confiscation order.

Subsection (3) provides that the references in subsections (1) and (2) to concealing or disguising any property include references to disguising or concealing its nature, source, location, disposition, movement or ownership or any rights over it. This will have an effect on the use of entitles outside the Isle of Man for the purpose of preventing assets being identified and moved beyond the jurisdiction.

Subsection (4) provides that a person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding six months or a maximum fine of £5,000 or both, and on conviction on indictment, to custody for a term not exceeding 14 years or a fine or both.

The new section 17D makes it an offence to pass on information to anybody, knowing or suspecting that it is likely to prejudice an investigation into money laundering. The new section replicates the tipping off offence contained in section 49 of the Drug Trafficking Act of 1996. In essence the offence provides a criminal sanction against those who warn others of an investigation of their or other activities in relation to money laundering.

Subsection (1) makes it an offence for a person knowing or suspecting that a constable is acting or proposing to act in connection with an investigation which is being or is about to be conducted into money laundering to disclose to any other person information which is likely to prejudice the investigation or proposed investigation.

Subsection (2) makes it an offence for a person knowing or suspecting that a disclosure has been made to a constable under section 17A and 17B to disclose to any other person information which is likely to prejudice any investigation which might be conducted following the disclosure.

Subsection (3) makes it an offence for a person knowing or suspecting that a disclosure has been made by an employee to his employer to disclose to any other person information which is likely to prejudice any investigation which might be conducted following the disclosure.

Subsection (4) disapplies subsections (1) to (3) in the case of a disclosure by a professional legal adviser of any information or other matter which is an item subject to legal privilege. Without this relaxation it would be all but impossible to obtain proper legal advice, but subsection (5) ensures that subsection (4) is only to apply in legitimate cases.

Subsection (6) provides a defence where the person did not know or suspect that the disclosure was likely to be prejudicial.

Subsection (7) defines 'money laundering' to mean doing any act which constitutes an offence under section 17A, 17B or 17C, whether in the Isle of Man or elsewhere.

Subsection (8) provides for the purposes of subsection (7), having possession of any property shall be taken to be doing an act in relation to it. This provision ensures that the reference to money laundering offences under section 17B which involve possession are treated in the same way as under section 17B(6).

Subsection (9) provides that a person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding six months or a fine not exceeding £5,000 or both, and on conviction on indictment, to custody for a term not exceeding five years or a fine or, again, both.

Subsection (10) replicates section 17B(10) and it provides that no constable or other person shall be guilty of an offence under this section in respect of any thing done by him in the course of acting in connection with the enforcement or intended enforcement of any provision of the Criminal Justice Act 1990 or any other enactment relating to an offence to which part I of the 1990 Act applies.

The new section 17E will require the consent of the Attorney-General before proceedings can be commenced for money laundering under section 17A to 17D of the Criminal Justice Act 1990. The Attorney-General is the Crown officer responsible for the supervision of prosecution of offences. In many cases of serious offences the Attorney-General's consent is necessary.

Subsection (1) prevents the commencement of any proceedings for money laundering offences under sections 17A to 17D unless the proceedings are commenced by the Attorney-General or with the consent of the Attorney-General.

Subsection (2) is supplemental. It ensures that persons may be arrested or remanded in custody or on bail before the Attorney-General's consent is given.

Subsection (3) deals with certificates which purport to contain the consent of the Attorney-General to the commencement of proceedings under sections 17A to 17D or to applications under sections 7, 8 or 10 of the Criminal Justice Act 1990. Any certificate

purporting to be such a consent is to be treated as proof of consent unless a proof to the contrary is produced to a court. The certification procedure avoids the need for the Attorney-General to give evidence in each case to prove that consent to the proceedings was given.

The new section 17F contains enabling powers which will permit the Department of Home Affairs to make codes for the purpose of assisting in the prevention and detection of money laundering.

Subsection (1) contains the principle of an enabling power and permits codes to be made to provide practical guidance to businesses; to require businesses to institute procedures, record-keeping and training; to require compliance with systems and training instituted in accordance with the codes; and to make breaches of the code a criminal offence.

Subsection (2) enables the incorporation within the code of money laundering requirements issued or made by the Financial Supervision Commission or the Insurance and Pensions Authority. This will avoid the need to set out word-for-word requirements which are already contained in directions or guidance notes issued by those bodies.

Subsection (3) imposes an obligation on the department to consult before making a code, and subsection (4) excludes civil and criminal liability for a failure to comply with any provision of a code except to such extent as is specifically provided by subsection (1)(d).

Subsection (5) requires codes to be laid before Tynwald and makes them subject to a negative resolution procedure.

The new sections 17G, 17H and 17I deal with information which has been disclosed to a constable and the circumstances in which it may be disclosed by the constable. The provisions are similar, though not identical, to provisions relating to restrictions on disclosure of information contained in the Financial Supervision Act of 1988. That Act limits the disclosure of information which has been obtained as a result of investigations undertaken by the Financial Supervision Commission.

Section 17G prevents a constable from passing on information relating to suspicious transactions which has been passed to him. The restriction also applies to other persons who obtained the information, directly or indirectly, from the constable. This section and section 17H and 17I specify the only occasions when the information can be passed on to others.

Subsection (1) limits the disclosure of information about suspicious transactions to cases where the constable or the person who obtained the information from the constable has the consent of both the person who first gave the information to the constable and the person to whom the information relates.

Subsection (2) makes the restriction on disclosure subject to the exceptions in section 17H and 17I.

Subsection (3) exempts from the restrictions information which has legitimately been disclosed to the public. In such cases, as the information is already in the public arena, there is no purpose in preventing with criminal sanctions the release of the same information to others.

Subsection (4) provides penalties for disclosing information contrary to subsection (1). The offence attracts a fine not exceeding £5,000 on summary conviction.

Subsection (5) provides a defence for cases where a person who disclosed the information can show that he took all reasonable steps and exercised all due diligence to avoid committing the offence. Defence covers those cases where persons have taken reasonable steps to prevent disclosure.

Section 17H sets out the circumstances in which information of suspicious transactions in the hands of a constable or a person who obtained the information from a constable may be disclosed to others.

Subsection (1) sets out the principal circumstances in which information can be disclosed. These are, first, investigation of crime and criminal proceedings; second, for the purpose of civil proceedings; and third, by order of any court. It should be emphasised in each of the above cases that disclosure is limited to investigations, proceedings or court orders in the Island.

Subsection (2) allows disclosure to, firstly, the Attorney-General; the Financial Supervision Commission; the Insurance and Pensions Authority; a constable; any other person in the Island who is authorised in writing by the Attorney-General to receive that information. The authorisation may be made conditional under subsection (3).

Subsection (4) enables the Department of Home Affairs to amend the circumstances in which and the persons to whom information may be disclosed, and subsection (5) requires any amendment order under subsection (4) to be approved by Tynwald.

The new section 17I sets out the circumstances in which disclosure of suspicious transactions may be passed to persons outside the Island. There are two basic cases: the first, requires the consent of the Attorney-General and the second requires the consent of the Chief Minister.

Subsection (1) permits the disclosure of information where the Attorney-General gives his consent and the purpose of the disclosure is in the prevention or detection of crime for the purpose of criminal proceedings outside the Island. The principal class of release of information will be in cases where suspicious transaction reports are passed to criminal intelligence agencies.

Subsection (2) provides for the second case in which information can be disclosed to persons outside the Island. It is thought that these cases will be exceptional but it may on occasion be in the public interest for information to be passed to authorities outside the Isle of Man. In such cases the consent of the Chief Minister is required, who must consult with the Attorney-General before issuing any consent.

Subsection (3) permits the disclosure of information to persons outside the Isle of Man if a court in the Isle of Man orders the release of such information.

Subsection (4) will enable the Attorney-General to grant a general consent where necessary. For example, police officers may be given a general consent to add specified classes of information to criminal intelligence agencies without the need for individual consents, and subsection (5) will enable the Attorney-General and the Chief Minister, when granting consents to the disclosure of information to persons outside the Isle of Man, to impose conditions and restrict the circumstances in which the disclosures may be made.

Paragraph 3 of schedule 2 amends section 21 of the Criminal Justice Act of 1990. Section 21 is a provision which is similar to the new sections 17A(3)(a) and 17B(5)(a) in that it provides a waiver of any liability where a person discloses to a constable the suspicion that property has been obtained as a result of criminal conduct. At present section 21 only provides a waiver of liability where there is a duty of confidentiality imposed by contract. This paragraph amends section 21 so as to make it consistent with the new provisions inserted into the 1990 Act. The effect of the amendment is to extend the waiver to cover all legal duties of confidentiality.

Paragraph 4 of schedule 2 amends section 22(2) of the Criminal Justice Act 1990. The amendment inserts into the list of defined expressions the cross-reference to the definition of 'criminal conduct'.

I beg to move clause 2 and schedule 2, Mr Speaker.

**Mr Duggan:** I rise to second, Mr Speaker.

**Mr Shimmin:** Mr Speaker, the amendment which has been circulated to members is one of clarification and refers to the new section 17F which the hon. minister has just discussed.

In the new section 17F which is to be inserted into the Criminal Justice Act 1990 by paragraph 2 of schedule 2 to this Bill it provides for the making of money laundering codes. Since the Bill was drafted a question has arisen as to whether this section is as wide as had been intended and whether in particular it would permit the Department of Home Affairs to make codes in respect of the proceeds of crime other than those to which part I of the Criminal Justice Act applies. It could be argued that it excludes the proceeds of drug trafficking. That obviously was not intended. This amendment removes any doubt that might exist and makes it clear that the reference to money laundering covers all forms of money laundering and that the reference to the proceeds of criminal conduct also covers the proceeds of drug trafficking. I beg to move the amendment:

*Page 12, in section 17F(1) -*

*(a) after the words 'money laundering' insert -*

*'whether in respect of the benefits or proceeds of criminal conduct, drug trafficking within the meaning of the Drug Trafficking Act 1996 [c.3], or otherwise)';*

*(b) in paragraph (a) after 'criminal conduct' insert -*

*'or drug trafficking within the meaning of the Drug Trafficking Act 1996'.*

**Mr Downie:** I rise to second.

**Mr Crowe:** Mr Speaker, can I just raise with the mover of the Bill the new clause 17F which states the Department of Home Affairs shall make such codes as it considers appropriate for the purpose of preventing and detecting money laundering et cetera et cetera and goes on to say in sub-clause (2) the code may incorporate by reference any relevant regulations or codes made by the Financial Supervision Commission or the Insurance and Pensions Authority and then in number (3) it talks about consulting persons or bodies that appear to be appropriate. Now, this obviously is a very significant part of the whole Bill, the codes of practice, and I wonder could the minister just explain who will be consulted, over what period, when and is that consultation process currently taking place? Thank you.

**The Speaker:** Does any other hon. member wish to speak to either the clause, schedule or the amendment? Hon. member, do you wish to reply to the amendment?

**Mr Shimmin:** No, Mr Speaker.

**The Speaker:** The minister to reply.

**Mr Bell:** Thank you, Mr Speaker. Yes, the hon. member for North Douglas has obviously touched on probably the most sensitive part of the Bill in terms of the need for my department to consult, along with Treasury, those interested parties or affected parties in the industry.

I did mention, I think last week at the second reading, that there is already in being an initial draft of codes which will be introduced very shortly and the first meeting with the industry and Treasury will take place on April 3rd, it has already been set up and will include all those bodies, I think largely the consultative committees representing the various aspects of the industry and those who Treasury and my department consider have a valid interest outside of those groups. So the first provisional meeting is for April 3rd and there may obviously need to be further meetings after that until we get an agreement with the industry as to the content of those codes. But it is the intention of both my department and Treasury to fully consult all aspects of the industry which may be affected by any code which is brought in either now or at any time in the future. I beg to move.

**The Speaker:** Hon. members, the motion is that clause 2 and schedule 2 stand part of the Bill. To that we have the amendment which has been circulated to you in the name of the hon. member for Douglas West, Mr Shimmin, referring to drug trafficking within the meaning of the Drug Trafficking Act and imposing the proceeds of criminal conduct. Those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Clause 2 and schedule 2, as amended, hon. members. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Complete then, sir, with clause 3.

**Mr Bell:** Mr Speaker, clause 3 deals with the short title and commencement. Subsection (1) provides a short title for the Bill, the Criminal Justice (Money Laundering Offences) Bill 1998. However, it should be noted that the title on each page of the Bill in members' hands at the moment omits the word 'Offences'. That will be corrected at the next stage of printing. The omission of the word has no legal significance, nor does it require an amendment, and subsection (2) enables the Department of Home Affairs to bring the legislation into operation by means of an appointed day order. Short and sharp, Mr Speaker, I beg to move.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** Hon. members, the motion is that clause 3 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Thank you, hon. members.

### **Agriculture And Fisheries (Miscellaneous Provisions) Bill - Consideration Of Clauses Commenced**

**The Speaker:** We now turn to item 12 on your order paper, the Agriculture and Fisheries (Miscellaneous Provisions) Bill, in the hands of the member for West Douglas, Mr Shimmin. We have reached the clauses stage. I have been noticed that the hon. member for Onchan,

Mr Karran, is desirous of altering the long title. I call upon the hon. member to move standing orders at this stage then.

**Mr Karran:** Vainstyr Loayreyder, I move the suspension of standing orders to extend the long title of this Bill because I believe there are issues that this House should be debating. I hope that this hon. House will support the extension of the long title in order that my amendments and new clauses can be debated in this hon. House, even to give the hon. minister and her department members an opportunity to judge whether there is sufficient support for the areas in which I believe there should be.

The reason I want to amend the long title of the Bill is because I believe some of the issues are more important than others. As I say, the resale of ivory, I feel, is something that we should be leading on as far as destroying the market. That is the only way this fine animal will survive for future generations, is to destroy the market for the resale of ivory. Obviously we will debate that issue at a later stage of this debate if it goes through.

I understand that my proposal trying to bring in this new subsection will not make the world spin any greater, but I believe it is about a stance that I have been promoting through the Wildlife Act of 1994 and the Wildlife Act of 1990. This amendment is a long held belief as far as I am concerned, that this is where the government should be leading the way as far as that issue is concerned.

The other issue why I want to broaden the remit of the short title is because my second clause deals with a very important issue that can have a major effect and I believe that the agricultural industry on this Island needs some support and what I want to do is give the Department of Agriculture, Fisheries and Forestry the ability to acquire land in order to produce a scheme to give the ability for young farmers to have a chance of getting on the rung in this industry, because I believe at the present time if we do not start making some sort of initiatives as far as this is concerned, we are going to see this whole sector of our economy completely die because we will not be able to get the fresh blood into that industry and what this second clause will do will make the ability of giving the department the chance to start working on some sort of scheme to produce the rungs in the ladder, because at the present time there is no way any young farmer could possibly go into farming because it just does not make economic sense. So that is an enabling piece of legislation and is very dear to my heart in the fact that I believe our department, our government should be addressing this issue. This gives the department the opportunity and the legal power to do so.

Equally another issue that is dear to my heart is the third amendment which will give the opportunity for the large amount of tholtans on our Island that gives the department the power in order to spend public money to use these tholtans in ways of helping to give access to the general public to their lands. One of the issues that I have tried to get addressed is bivvies, as they are called in Scotland, but we would call them walking huts. I believe this is something that should be considered, with the large amount of tholtans on our Island, that they should be used. It would also give the opportunity to try and break the impasse, that we have a large amount of tholtans on our property that could be used for holiday accommodation in order to broaden the economic base of the Island. This third clause which would be extended would do that.

The last reason why I want to extend the short title of the Bill is so that within part of the Wildlife Act to do with bird sanctuaries where the fact of the matter is now we have allowed persons to shoot certain birds in bird sanctuaries and this has created abuses within the present legislation, in particular with one bird sanctuary.

I do hope this hon. House, even if they do not support all my proposals or any of my proposals, I believe this hon. House should debate them and therefore I move the amendment in front of me and I hope that somebody will second my proposals in order that these issues can be debated. I beg to move:

*That standing order 155 be suspended to allow consideration of the long title of the Agriculture and Fisheries (Miscellaneous Provisions) Bill prior to consideration of clauses.*

**The Speaker:** Hon. member, you are actually seeking suspension of standing order 155 to allow consideration of the long title of the Agriculture and Fisheries (Miscellaneous Provisions) Bill.

**Mrs Cannell:** Mr Speaker, I am happy to second.

**Mrs Hannan:** Vainstyr Loayreyder, I am a little bit alarmed by receiving these amendments this morning. These are issues that were not raised at second reading. I appreciate that they have been in the hands of the Secretary at the requisite time, but these are major provisions into a number of pieces of legislation which operate within the auspices of my department. The member moving them has not consulted the department.

The first, new clause A, relates to the rights of individuals who do have these items not to sell them. It would be the policy of the department changing anything such as this to consult. We also have to take note within the department of our CITES obligations, that is trading in endangered species, and we also have to look to European Union trading regulations. We do have a responsibility under protocol 3. So these are all areas which are not necessarily precise because CITES does change with consultation. They meet on I think it is a five-yearly basis to discuss any changes. The European Union could change tomorrow, but with protocol 3 we have an open trading arrangement. So that could cause us some concern.

With regard to provision B, it would possibly give the power because it says the Department of Agriculture may acquire agricultural land for the purpose of leasing. There should have been a provision within this particular piece of legislation relating to land tenancies but that was withdrawn and is now due to come back in another Agriculture (Miscellaneous Provisions) Bill, hopefully this year, which relates to the letting of agricultural land. So this does not really give the department any more powers. What it does say is the department may purchase land with a view to leasing this land to persons to occupy it and work it. But this relates to the provision of finance, and my department does not have finance at the moment to implement that proposal.

With regard to the provision of shelters, again the department may, for the purpose of improving facilities for those seeking access to the countryside, erect and maintain et cetera. I accept that it is only a 'may', but my department does not have enough finance at the moment to make good the hill walls, and that is something that we are seeking to do in this year. So I think the member is suggesting that we should have ever more funds to erect or maintain buildings and shelters.

With the protection of birds, the protection of birds comes under the Wildlife Act and regarding an authorised person, I am not sure the member did not state who an authorised person would be, because it relates to the owner or occupier or any person authorised by the owner or occupier of the land on which the action authorised is taken, and I dare say the member could say that it is somebody firing into the bird sanctuary from other land and they have been authorised by someone else, or the authorised person also means '(b) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, the Department or the Isle of Man Water Authority; so, however, that the authorisation. . . for the purposes of this definition shall not confer any right of entry upon any land'. This relates to an area which is protected under clause 3 and designated as such, areas of special protection for birds, and it relates to an authorised person shall not by virtue of any order be guilty of an offence by reasons of killing a bird under schedule 2, and schedule 2, part II relates to crows, gulls, jackdaws, magpies, pigeon, rooks, starlings and woodpigeon and it relates to what would be called or could be called in certain cases pests because they do actually prey on other birds, so that is a bit of a difficulty. But if we were going to take out this piece of legislation, we would need to consult with interested parties to do that, and I believe that if the representation were made to the department, the department could look at it and could, if it found a case to be made, consult with the necessary people to change that legislation.

Those are the areas that I think the member has raised. I have obviously got concerns with the other areas that have been raised by the member as amendments to this legislation. As I say, they were not raised at the second reading of the Bill and something that my department could actually have addressed or looked at with the member and it does concern me that any of the issues that have been proposed, I feel, should be consulted and it should actually be treated like any other Bill where there is a consultation period, where there is a period of considering the options that have been put to the department and then the legislation read, because this is primary legislation, it does have an impact on my department and on the work that my department is involved in.

But I would not want to hold up this legislation. One part of it is a major piece of legislation. It changes the aspect of the territorial sea and that is the reason why I took out the tenancy part of this legislation, because it was imperative that the territorial sea changes go through so that we can become competent authorities to operate within the jurisdiction of our 12 miles. That is the reason I would not want this legislation to be held up and I would hope that members would allow this Bill to progress as it is written, and the amendments that have been proposed to be considered by the department in conjunction with the member that has raised them to form part of the next Agricultural (Miscellaneous Provisions) Bill which should be with us during this session. Thank you, Vainstyr Loayreyder.

**The Speaker:** Now, hon. members, I was lenient with the mover of suspension of standing orders and I was equally lenient with the hon. Minister for Agriculture in her comments with reference to the new clauses which are within the white paper which Mr Karran has submitted. I would point out we are still at the stage of seeking suspension of standing order 155 to allow the long title to be amended. Could I ask, and I would be grateful, if members could keep the debate to that point. The hon. member for Douglas West, Mr Downie.

**Mr Downie:** Yes, thank you, Mr Speaker. I will be supporting the suspension of standing orders. Like the previous speakers, I feel it is sad that the member who is moving the suspension has left it really quite late to come in (**Mr Gilbey:** Hear, hear.) but in saying that, and not criticising him in any way, some of the points he has raised are very valid and I think they are worthy of investigation.

His concern about elephants I think was covered in the Wildlife Act and in fact there was part of the Wildlife Bill taken out at one stage and it went to committee and parts of the CITES arrangements were adopted which also include rhinoceros, walrus, narwhal and all other products derived from ivory.

So what I am concerned about and why I think that we should be examining this Bill a little closer is that it is so wide-ranging. We are moving from the territorial seas to elements to deal with animal welfare and so on and so forth.

Now, over the last few weeks I have been aware that there is a problem in the Isle of Man with the protection of birds and one of the new clauses that the member wishes to introduce I think would deal with this. And I accept I have to be brief but at the same time there is a situation which has arisen in the Isle of Man where a person is taking young ducklings into a reserve, he is breeding them and bringing them on and then at certain times of the year he is inviting parties to go down and shoot them on the water. Now, in my opinion that is totally wrong (**Mr Duggan:** Hear, hear.) and this is an ideal opportunity for something to be done to address that situation, and I know another member in this House has also received a similar complaint, and I feel that what needs to happen here is we need to support the move to suspend standing orders. I would be prepared to take the new clauses and just deal with the issues that the member for Onchan has brought and refer those to a committee and let the minister get on with the rest of the Bill which deals with the situation regarding the territorial seas which I think is totally alien to this Agriculture and Fisheries (Miscellaneous Provisions) Bill. I think it is a different issue altogether. It is very, very important and serious but at the same time there needs to be a coming together of some of these new clauses that Mr Karran seeks to introduce and some debate in another place and, if possible, with the Department of Agriculture. Thank you.

**The Speaker:** Hon. members, can I again point out that in fact we are seeking suspension of standing orders. Standing order 198 will apply and if it goes to a vote 16 votes will be required for it to be carried. The hon. member for Middle, Mr North.

**Mr North:** Mr Speaker, I will try and be brief really. I will not be supporting this suspension of standing orders, although I do believe, as others have said, that there are some very good provisions here, but the hon. member for Onchan has been in this House long enough to know that you should consult on things like this (**Mr Gilbey:** Hear, hear.) and there are several items, one in particular, in this suggested new clause that I myself am very interested in and already consulting with the department about and with the National Farmers Union, and to just dump it in the House like this without any pre-discussion (**Mrs Crowe and Mr Gilbey:** Hear, hear.) I think is just totally wrong.

**Mr Rodan:** Mr Speaker, the hon. member for Onchan is asking us to amend the long title in order to accommodate the introduction of new clauses on subjects which he says are dear to his heart: protection of elephants, agricultural tenancies, tholtans, and protection of birds.

And we have heard that these are issues of substance and they do give cause for concern in this House. But we had no indication of this at the second reading stage. We are at the clauses stage today.

Not only have we heard that the hon. member has not consulted the Department of Agriculture but of course with these amendments landing on our desks this morning, hon. members have had no chance at all to do the necessary research or to brief themselves on issues which are important, and I think it is perhaps a little unfair to expect us to give reasoned consideration to these issues just on the hoof, as it were, and I would have liked an opportunity to do some research and brief myself. I certainly do not feel that I am equipped to discuss these matters this morning.

**Mr Brown:** Mr Speaker, whilst I acknowledge and accept the right of any member to introduce either amendments or new clauses, I do think, especially with new clauses where we are usually introducing a totally new principle, that how we handle that is very, very important. Whilst the rights of members are vital, the rights of the public are also of paramount importance to us, and I just believe, whilst the hon. member Mr Downie has said he thinks that these matters are worthy of consideration, I also accept that, but I do think it is how we do it and I think the responsibility on the House is quite clear. I certainly will not support suspension of standing orders because I do not believe moving such important legislation in this way is in the best interests of the Island. Now, whether or not it comes back at some stage in another form, in a proper Bill form, and if it is warranted, then I would welcome it, and I think the point made by the last speaker, the hon. member for Garff, in terms of having a chance to consider and understand the implications of what is being suggested, is of course very important to us all.

I am certainly very concerned about this and concerned about the procedures under standing order 154 and I am going to write to the Standing Orders Committee on this because of course we have an old procedure under standing order 154 but we have changed our procedure when we consider legislation and at the one sitting now, if we adopt this, we would consider the principle and then the detail of these new clauses at this one sitting. There will have been no public information because this matter has not been made public before, it was not dealt with at second reading and in fact if the House passed it today, the first the public would know about it is when it is reported in the press that we have actually passed it, and I do not believe that is what we are here for. I believe it is very important that we consider very carefully any changes such as this, and as I say, I support wholly the hon. member trying to make the change but I do believe the prudent way to be successful is to deal with it at some stage by talking to the department with statutory responsibilities and with the department whose responsibilities will be changed by this legislation.

The only other thing I was not sure of, and again because we have not time to check, the point made by the hon. member for West Douglas about shooting ducks, my very quick reading of the bit that is in the new clause I would not have thought covered that, but again we have not had chance to really look at this properly and I would urge members to be cautious and, taking that caution into account, oppose the suspension of standing order 155.

**The Speaker:** The hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Mr Speaker, thank you -

**Mr Brown:** Mr Speaker, the hon. member has already spoken.

**Mr Gilbey:** Hear, hear.

**The Speaker:** I think you are right. Sorry, Mrs Cannell. The hon. member for Douglas West, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. I will try and be brief. As the person or the member moving this Bill I did have an opportunity some time ago to speak to the hon. member Mr Karran about some of these new areas and following those discussions I assumed that at the second reading when they did not come forward those items had been delayed. I did make it clear to Mr Karran and the House last week, and the minister has repeated it today, that there is another Bill coming forward in the not-too-distant future where all of these issues could, if they have legitimate concerns, be raised by the member or any other members. There will be another vehicle.

The minister made it quite clear that this legislation which is going forward today is vital to the department and to our serious concerns for our own territorial waters.

Mr Downie, my colleague, mentioned about wide-ranging areas. It is the one department. It is the Department of Agriculture, Fisheries and Forestry and therefore whenever we come forward with a miscellaneous Bill it will cover any or all of those areas as appropriate. By the nature of a miscellaneous Bill it is going to be wide-ranging in order to try and improve or consolidate or introduce legislation.

I sympathise and understand that my hon. friend Mr Karran wishes to get these on the floor. It has got a period of time of debate. We now understand his concerns and we will follow those up with him. However, today is not the appropriate course and I would urge members not to suspend standing orders, and dialogue will continue with that member, as it would with any member who has any issues concerning the department. Thank you, Mr Speaker.

**Mr Karran:** Vainstyr Loayreyder, I think it is a very sad day in this hon. House. I have got a letter here to write to you. I have decided to tone it down from what I was going to write to you about the appalling way that members in this hon. House who want to put legitimate amendments and new clauses to Bills have got to be by grace and favour of the legal draftsmen's department. I only managed to get an appointment with the legal draftsman yesterday morning. I had then a meeting at 9 o'clock, then a meeting to do with the Water Authority at midday, then a meeting with the new hospital at 1 o'clock. So if you have got problems, hon. members, as far as the timescale of these proposals is concerned, so have I. I would have liked more time. The issue of getting a legal draftsman within the Clerk of Tynwald's Office is important and I have written to you on that point.

So I think today I find it rather annoying and rather insulting that if some members in this hon. House do not want to be a branch of the executive within this hon. House, then they should not be ridiculed or belittled. . . in the process of their democratic right to produce laws for this Island. The greatest honour of any MHK - and I think you were saying it yourself, Vainstyr Loayreyder - is the ability to change the law. And I totally agree with you that it would have been nice.

If there had been a real sincere commitment to investigating this, what we would have been seeing today is a proposal to not move this Bill until the following sitting, but there is no

proposal, there is no tolerance. What we have seen today from the input of today is the fact that we are determined to turn this part of the legislature into a branch of the executive, and that is where it is a sadness today. It is a sadness today that that is the case.

I get a little bit annoyed when I hear the minister and she says about consultation, about CITES. My ivory amendment was raised in 1990, in 1994. I think the hon. member will be aware of the fact that this issue has been raised, and the notice - that is eight years this issue has been debated around the corridors of power, and I would say that as far as that is concerned it is a fundamental principle and I believe this Island should sometimes take the lead and I believe that this Island should be saying that ivory products should not have a market value within the Isle of Man and they should not be up for resale. That is the only way you are going to protect these fine beings. But that issue is an issue that needed to be debated if the long title was to be extended. But as it looks as if we are not going to get that today we are not going to get it. But for the hon. member for Peel to start this thing 'Oh, you know, it is . . .', it is just a rabbit out of a hat. This issue has been debated thoroughly in this House while she has been a member of this House. So that is wrong for her to say so.

Her position as far as belittling my new clauses as far as giving the power for the department to purchase property for the opportunity to create some sort of council house farm system on the Island, that is a situation where it is a power. There is a power there that can be given to the department and obviously there would have to be amendments to the Agricultural Holdings Act of 1969, of which I am fully aware and that is why I did not move any amendments to this Bill after consulting the hon. mover. So the position is that those amendments would be enabling pieces of legislation to give them the opportunity, if they feel they want to, to spend public moneys on both the tholtans on the Island and also to be buying up farms in order that we can try and create some fresh blood in this important sector of our community.

The hon. member for West Douglas - I thank him for his recognition of the fact that we have a right to move amendments if we want to, and really speaking where the hon. mover maybe was wrong was the fact he is right and the hon. member for Castletown is wrong to try and make out that the hon. member for West Douglas is wrong in the fact that there is a blatant breach of the law, but he should be moving amendments in this hon. House in order to curtail those abuses in the present law and what society is concerned about.

I am annoyed as far as the hon. member for Middle is concerned, talking about dumping them in this House. This House has stages of this Bill and the fact of the matter is I have been trying to find a convenient time when I am free and when the legal draftsmen are free to see me. It should not be something like you want an appearance in front of the Queen of the adjacent isle in order to be able to get the services you require. Now, many in this hon. House may not want those services. That is their problem. But I do and that is why the timing of this is done, because of the lack of support, because what we are seeing in this House is it is slowly being taken over by the executive. And I am annoyed by the hon. member for Middle in the fact that he sees the value of my new clauses but yet is tied to the party line from the executive that he cannot act as a parliamentarian.

The hon. member for Garff is quite right. He feels it is a bit unfair that this amendment is here to widen the long title of the Bill. I agree it is an unfair life and if I had had my opportunity to do what I wanted to do at an early stage, more likely it would not have come in. But at the

end of the day it is the right of every member of this hon. House to move the amendments that he or she wants to move in this hon. House. This House, as I said when we were passing the ministerial legislation, must be careful that it keeps its independence from the executive and it must make sure that it does not become one of those plastic dogs that just nods because it cannot defy the gravitational pull of the executive over its potential career.

But I think that this hon. House should support my proposal because I think that these issues should be debated. I hope this hon. House will support the suspension of standing orders because I think it does a disservice to this House.

I do agree that I do have the opportunity to try and get a private member's Bill drafted as far as the provisions of this Bill, but I feel that this was an opportunity to have these issues addressed and aired so that the department could take on the views of this hon. House. But you have got to address the issue of our support as far as legal drafting requirements are concerned if we are to do so.

Hon. members, you have made your decision whether to support suspension of standing orders or not. I think you should think long and hard before you just go with the flow for a quiet life and not defend the right of an individual member to move amendments as he feels fit.

**The Speaker:** Hon. members, I have heard what the hon. member for Onchan has said and will take the point which he is making in relation to my looking at the procedure which is relevant to the legal draftsmen. That will be taken on board and considered whether or not the hon. member writes to me.

I would again point out to this hon. House that we are dealing now with the suspension of standing order 155 to allow consideration for the long title of the Agriculture and Fisheries (Miscellaneous Provisions) Bill, and I would also point out to this hon. House that the amendment as is on your sheet from Mr Karran relative to clause 5 can still be moved at the relevant time regardless of whether or not the long title is altered. So the motion is, hon. members, that standing order 155 be suspended to allow consideration and alteration of the long title of the Agriculture and Fisheries (Miscellaneous Provisions) Bill. Will those in favour please say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

*For: Mrs Cannell and Mr Karran - 2*

*Against: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Kniveton, Gelling and the Speaker - 21*

**The Speaker:** Hon. members, the motion fails to carry with 21 votes cast against and 2 for. In that case, hon. members, we will call upon the hon. member for Douglas West, Mr Shimmin, to move clause 1.

**Mr Shimmin:** Thank you, Mr Speaker. Having had a reasonable introduction to this Bill already over the last half-hour, I will move straight into the clauses and try and be somewhat quicker than the hon. Minister for Home Affairs who had to go through a lengthy section. Each of these six clauses is relatively short but important.

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's schemes, whether monetary or otherwise.

Sub-clause (3) states that this section is additional to any existing offences and the provision arises out of the department's consultation with the budget and financial management section and the internal audit division of the Treasury.

I beg to move that clause 1 stand part of the Bill.

**Mrs Hannan:** I beg to second and reserve my remarks.

**The Speaker:** Hon. members, the motion is 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 Shimmin:** Thank you, Mr Speaker. Clause 2 is linked to clause 1 in that it 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 that 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 that body corporate.

Sub-clause (3) defines 'body corporate' for the purposes of sub-clause (1).

I beg to move that clause 2 stand part of the Bill.

**Mrs Hannan:** I beg to second and reserve my remarks.

**The Speaker:** Hon. members, the motion is that clause 2 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, hon. member for West Douglas.

**Mr Shimmin:** Thank you, Mr Speaker. Clause 3, as has been stated, is probably the most important part of this Bill. It amends the 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 byelaws. 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 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 a 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 these changes come on at least a monthly basis, with other measures arriving 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. This sub-clause also increases the fine for offences against byelaws from £10,000 to a maximum of £50,000, which is again on a par with fisheries offences in British waters.

Sub-clause (3) deals with the problem of salmon poaching off the coast of the Island. 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 a 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 another place which appears to be convenient, while sub-clause (3)(c) provides it can be detained until completion of proceedings.

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.

Consultation has taken place with anglers, the Isle of Man Fishermen's Association, the Home Office and MAFF. They have all be consulted and I beg to move that clause 3 stand part of the Bill.

**Mrs Hannan:** I beg to second and in doing so I would reiterate what the mover has mentioned with regard to this legislation. It is the most important piece of this miscellaneous provisions legislation, as it will give the Isle of Man responsibility for its 12-mile area and I think it is a provision which we have long thought necessary and therefore it has been in this legislation and that is precisely why this legislation is before us today.

It is administrative, most of this legislation, although it is various pieces of legislation that is being addressed through this miscellaneous provisions Bill, but this is the most important aspect. It allows for the issuing of licences and of course updating fines in relation to British waters and also other areas where offences have been committed, such as poaching, which is something which certainly the anglers are concerned about and I am sure it will improve our coverage in relation to poaching and illegal activity. So I beg to second clause 3.

**Mr Crowe:** Mr Speaker, just a simple question to the mover. Does this clause affect in any way the granting of reasonable quotas in the Isle of Man? Does it strengthen our hand as an Island to get better quotas for fishing in Manx waters?

**Mr Brown:** Just to say, Mr Speaker, very briefly, that this is an important part and I congratulate the minister and her department getting this next stage in the management of our territorial seas. As members will know, the issue of progressing and extending the ownership of our territorial seas has been going on for a long, long time and in fact I can remember I think it was before the 1976 election it being a major issue and being promoted by members of what became the then House and others who wished to be members of the House back in 1976, dare I say before I got involved in the issues of this House but was involved at another level.

So I do think we should acknowledge the importance of this step and say how pleased we are that it is another move towards the control and management of another important part of our own Island and that is our territorial seas and I congratulate the minister and her department for getting it this far.

**Mr Gilbey:** Hear, hear.

**The Speaker:** The hon. member for West Douglas to reply.

**Mr Shimmin:** Thank you, Mr Speaker. I would like to thank the Minister for Transport who has just resumed his seat and the Minister for Agriculture, Fisheries and Forestry. There is only one question to answer and that concerns Mr Crowe and whether this move will give us a better opportunity to obtain quotas for the Island and the waters around. I feel that the moral issue has already been won. This will merely reinforce our serious and mature approach to taking responsibility for our territorial seas. Whether that actually strengthens the case which has already been made to MAFF is a different issue. I think that it is a necessary step to show our maturity and seriousness.

The arguments which the minister has already taken to MAFF involve a far greater political agenda than one which is dealt with in this clause. I would be misleading the House if I said it gives us a better opportunity at this stage. I do, however, feel that it will help to allow us to be taken more seriously and to be more responsible for our own waters. I beg to move, Mr Speaker.

**The Speaker:** Hon. members, the motion is 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. We move on to clause 4, sir.

**Mr Shimmin:** Thank you, Mr Speaker. Clause 4 amends the Wild Animals (Restriction on Importation, Etc) Act 1980 to permit imports in exceptional cases, for example film production purposes. At present the department can permit importation of animals which would otherwise be restricted under the Act from performing in a circus or to display at a zoological garden. We have that permission now. 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 the department would then propose to bring an order before Tynwald which would enable us to allow the importation of an animal for use in the film industry. If Tynwald were to approve this order we would then 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 that it does not escape or to pay for the costs of recapture or destruction if it did escape.

May I make it clear to hon. members if you support this clause, that does not give the department the power to permit wild animals to be imported for film purposes or anything else. We would then bring an order towards this House which would then facilitate us in the future to do that in a far more efficient and effective manner.

It is also worth noting that when we have had to request Tynwald approval in the past I think I mentioned last week that that actually is a less secure mechanism because it allows any individuals to import those animals during that period of time. This way it will be specific, it will be tighter regulation and will be more efficient.

Mr Speaker, I beg to move clause 4 stand part of the Bill.

**Mrs Hannan:** Vainstyr Loayreyder, I beg to second and reserve my remarks.

**Mr North:** Mr Speaker, I would just like to thank the mover of the Bill on behalf of the Department of Trade and Industry and the department in looking at this and making the procedure for facilitating animals on film sets more efficient.

**Mr Karran:** And we can sleep in our beds, Vainstyr Loayreyder. We will be able to have the power whether we allow a fox to come in to be filmed again. It is a shame that we are not worried about getting more approvals on more important things subject to the approval of Tynwald.

I have only one concern with this clause which is what happens in the summer recess? Is there a facility within this clause to allow that you can go ahead and import a wild animal if it happens that we had a recess and you would be able to go ahead and do that and then the consequent Tynwald you would be able to seek the approval or would you not? Or are you allowing yourselves to be put into an awkward position where you could have a situation where a request comes at the beginning or end of July and there is no sitting until October? I do hope that this has been dealt with, there is the flexibility so that you can put an order that is backdated to Tynwald, because I do not see this as a major issue. I am all for things being approved by Tynwald but I do not know whether there is a bit of overkill as far as this is concerned.

**Mrs Hannan:** Vainstyr Loayreyder, I had thought that the member moving this had made it quite clear that this provision would be in an order which would have to be approved by Tynwald. Then it would be an administrative procedure for the department to authorise the importation of an animal and also impose on the conditions under clause 1A, escape of wild animals, where the person who is in possession would have to take appropriate action to ensure that the animal did not escape from captivity but if it did, action would have to be taken by them to either capture or destroy that animal.

These are provisions which were dealt with when the orders came before Tynwald, but the order itself is a blanket order which gives the department the authorisation in respect of filming to allow the importation of animals when a case is made to the department. That order would be in place. It would then give the department the authority to allow that importation, with conditions. I thought the member moving it had explained that but that is the way that it

will work. So an order would come before Tynwald as an ordinary regular administrative procedure and it would allow the department then to administer that procedure.

**The Speaker:** The hon. member for West Douglas to reply to the debate.

**Mr Shimmin:** Mr Speaker, I think that the minister has answered the only real question which was raised. I hope that is to the member's satisfaction. I beg to move.

**The Speaker:** Hon. members, the motion 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, hon. member.

**Mr Shimmin:** Mr Speaker, clause 5 amends the Animal Health Act 1996 to extend the provisions relating to regulation on the welfare of livestock to include the welfare of animals generally but only in a comparatively limited way.

Owing to our 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 references 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, '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 Speaker, I beg to move that clause 5 stand part of the Bill.

**Mrs Hannan:** I beg to second, Vainstyr Loayreyder, and reserve my remarks.

**Mr Karran:** Vainstyr Loayreyder, this amendment is a long-held belief by myself that we should be stopping all forms of battery farming within this Island. I believe that if we had had the vision and the foresight to bring in legislation on these lines 10 years ago we would more likely have an agricultural industry at the present time, but because of the lack of vision there has been in this important sector we have just tried to compete with the adjacent isle instead of trying to produce the produce of an agricultural industry that would mean that there would be animal welfare and animal health.

Now, because there is a select committee dealing with hens at the present time from another place I have taken out the inferences towards hens from this new clause because that would be wrong of me to do so, but this would deal with pigs and would deal with calves and would deal with any other animals so that there would be legislation to outlaw it within three years.

I believe that the debate, as the hon. member for South Douglas has said, 'Oh, we've heard this before', you have heard before, sir, and one day common sense will prevail as far as this is concerned and we will get this through because the fact of the matter is if we would have brought this through 10 years ago we would have an industry now that would have been free from BSE and we would not be able to produce enough beef for the adjacent isle, and I would say we have no pig industry now because of the lack of foresight.

I hope that this hon. House will support my proposals to outlaw this form of factory farming within the agricultural industry. The hon. member will stand up or has said in the past it will not affect anybody, there is no need for it. Well, if that is the case, then there will be nobody that she will need to consult with as far as this is concerned. The truth of the matter is your pig industry on the Island is almost dead and it is almost dead because we have not made the legislation that would have made it effective to be able to compete with the adjacent isle. This Island can not compete with the adjacent island where we have agricultural holdings of 250 acres to 2,500 in the adjacent isle. What we have got to do is create the legislative package in order that we can get a niche market for our agricultural industry and we should be able to say that any pork on this Island has been produced, has never been near intensive farming, and that is a selling point. That is the only way this agricultural industry will survive. If you cannot support me on the moral ground that it is unacceptable for these highly intelligent beasts to be trapped and forced into horrendous cages, then you should support me on the economic grounds that it is the only way that this agricultural industry and pig production will survive on this Island.

I hope this hon. House will support my proposal because it should be. As the hon. member for South Douglas has said, we have had lengthy debates on this issue and there has been no legitimate argument for outlawing this disgusting practice which I believe we as superior beings should not allow to happen on this Island. I beg to move:

*Page 4, before line 27; insert -*

*'(b) after section 28 insert -*

*"Prohibition of battery systems.*

*28A (1) Subject to subsection (2), any person who keeps, or causes or knowingly permits to be kept, any livestock to which this section applies in a battery system shall be guilty of an offence under this Act.*

*(2) Subsection (1) shall apply only in respect of livestock which are for the time being -*

*(a) situated on agricultural land; or*

*(b) on or in any vehicle, container or movable structure for the purpose of treatment, slaughter or feeding.*

*(3) This section shall apply to any animal of the porcine species and bovine animals of 6 months or less.*

*(4) This section is without prejudice to the generality of section 28 and does not limit the powers conferred by section 29.*

*(5) In this section, "battery system" means an arrangement of cages in rows or tiers or rows and tiers.*

*(6) This section shall come into operation on the expiry of the period of 3 years immediately following the commencement of this section.*

*Accommodation for livestock.*

*28B. (1) No person shall keep, or cause or knowingly permit to be kept, on agricultural land any livestock in any accommodation unless the accommodation and its fittings and equipment meet the behavioural and physiological needs of the livestock.*

*(2) No person shall keep, or cause or knowingly permit to be kept, on agricultural land any animal of the porcine species in any accommodation unless the accommodation allows each animal to turn round without difficulty.*

*(3) Contravention of subsection (1) or (2) is an offence under this Act.*

*(4) This section is without prejudice to the generality of section 28 and does not limit the powers conferred by section 29.*

*(5) This section shall come into operation on the expiry of the period of 3 years immediately following the commencement of this section.”;*

**Mr Cannan:** Mr Speaker, having listened to the hon. member for Onchan I have to disabuse him.

**The Speaker:** Are you seconding, sir?

**Mr Cannan:** No.

**Mr Singer:** I will second the amendment and reserve my rights, Mr Speaker.

**The Speaker:** You cannot reserve your remarks on an amendment, sir.

**Mr Singer:** Thank you, Mr Speaker. I would support what the hon. member has said. I think his points are most valid. I think that perhaps we do not take into account the conditions of livestock as we should do in the quest for profit, not only on the Island but elsewhere in Great Britain and the world.

The only query I would have is on the second section, in 28B(1), where he talks about livestock ‘in any accommodation unless the accommodation and its fittings and equipment meet the behavioural and physiological needs of the livestock’. It is the definition of ‘livestock’ really. I am just wondering what perhaps the effect might be on the Wildlife Park and what the definition of livestock is because ‘livestock’ nowadays can include animals like ostriches and other animals that are eaten. So I just wonder whether there would be any effect on the Wildlife Park he might wish to answer. Thank you.

**Mr Cannan:** Mr Speaker, we listened to the presentation by the hon. member for Onchan and he singled out particularly the pig farmers and the pig industry and I want to tell him that there is a very healthy free-range pig farming industry in the Isle of Man and if he particularly wants to see it I suggest he goes out to Bride where he will see a large pig farm and all the pigs free range at Ballaghennie, and that meat is first-class, free-range, for the use of a better word, pork on sale in butchers’ shops, and I hope that he will take these things on board before the hon. member makes accusations that the pig industry is collapsing in the Isle of Man and that it is all due to the problems of intensive farming, and that is just not true.

**Mrs Hannan:** Vainstyr Loayreyder, in the last few years there have been quite a number of changes taking place within agriculture and this is not just through legislative procedures or even regulations but it is, I suppose, through farmers themselves, through the marketplace and through rising standards throughout.

One of the areas that was addressed through my department is the Welfare of Animals Act which brought in the Welfare of Livestock Regulations 1996 which were approved by this House on 21st May 1996. They brought in provisions after consultation, and the member has said that we will not need to consult because there is nobody involved in intensive farming. We consult widely when we bring in regulations and we did consult widely with animal welfare groups as well as the industry in bringing forward these regulations. It allows people time to adapt to the new situations as laid down and where it relates to pigs, I think, which the member is talking about, but this is any livestock the member is suggesting, but when it comes to pigs, this is in schedule 3 of the regulations 1996 and it relates to pigs and says, 'This paragraph shall not apply in relation to the use of any land before 1st January 1999', and it allowed that transition period, as we did with battery hens, we allowed that transition period for farmers to adjust to the new standards. So these new standards are to be applied from 1st January. However, saying that, most of these regulations apply now simply because of the way that farming is carried out. So they have been addressed. The member for Michael has suggested that Mr Karran and Mr Singer should go and have a look at Ballaghennie and, yes, I would support that absolutely, and I would also suggest that they go and look at other farmers and how they are changing their working practices.

The other areas where there have been changes have been in farm assurance schemes which have been brought in by the marketing people but with the support of agriculturalists. These farms are visited by independent assessors who look at the conditions of the farms and unless the conditions and the welfare of animals are up to a particular standard they will not be allowed to trade as being from a farm-assured farm and therefore the marketing society will not take their animals because they do not come up to the standard of that production.

The member suggested that if years ago we had brought in this extensive farming we would have led farming, we would not have had BSE. I do not believe that that is the case. I do not believe that anybody would say that dairy farming, which used primarily the feed which caused the problem, was not extensive. The cows, when they are in, are free to roam. When they are out they are free to roam. They know when to come in for milking and they go again. So I do not think the member could say that that could not have happened. However, farmers here, the same as anywhere else, need a level playing-field and I wish the member had been with us last night when the department met the northern branch of the MNFU when they expressed concerns about the other changes that are being brought in with regard to agenda 2000 and all the other changes that they will have to be aware of, as the department will have to be aware of, in addressing the changes and support and the way ahead for agriculture, but I would absolutely condemn the member suggesting that there is cruelty out there to animals when there is not, that the pig industry or any industry is dead because it is not.

However, there are areas that do concern me with the amendment. It is 28B(1) and (2), if I could cover them in some detail. 'No person shall keep, or cause or knowingly permit to be kept, on agricultural land any livestock in any accommodation unless the accommodation and its fittings and equipment meet the behavioural and psychological needs of the livestock.' Now, that has not been clarified by the member, what he means by this. For animals, by their very nature, farming is not their natural habitat and therefore to say that they should be restricted in any way is possibly, when it comes to livestock and accommodation and farming, most livestock would be out all the time and would seek shelter, would not be housed at all. So that

area does concern me because the behaviour and psychological needs of livestock are that they would run free, that they would not be farmed at all.

And then the next area relates to the keeping on agricultural land of any animal - this is a pork animal - in accommodation unless the accommodation allows each animal to turn round without difficulty. There is a provision in the welfare regulations, if I can find it, which is under part III and it relates to sows and gilts and it relates to weaning: 'During farrowing, an unobstructed area behind the sow or gilt shall be available for the ease of natural or assisted farrowing. Farrowing pens where sows are kept loose must have some means of protecting the piglets, such as farrowing rails.' The difficulty is that sows do have a habit of rolling on their piglets, so there needs to be this balance. Do we allow sows to roll on their piglets? This is when they are very, very young and cannot get out of the way of the sow and she does have a habit of rolling on them because they are so small and they are tucked underneath her. So there is this area where we need this balance. If we are going to allow farmers to continue to farm - and I have done more, I believe, in my time in the department to look after the welfare and bring that to this House by bringing forward regulations than previous ministers in the department and I am extremely aware of some of these concerns - do we allow sows to roll on piglets and kill piglets? Do we allow them that freedom? That is the difficulty that I have with these provisions. There needs to be this balance.

Again this is an element where the department has not had time to consider the whole gamut of the provision of the amendments and I would certainly like time to consult with my officers so that we know exactly what we are doing with this legislation and what the member purports to do with this legislation, as we are talking about farming and we are talking about farming procedures, but we are also talking about the welfare of animals which to a great extent is covered in the Welfare of Animals Regulations of 1996. So I would like more time to consider the amendments as proposed by the member for Onchan and I would hope that, following consultation, the member would be happy, if that was the case, to bring these amendments into the next agricultural miscellaneous provisions regulations. Thank you, Vainstyr Loayreyder.

**The Speaker:** Speaking to the amendment, sir, do you wish to speak to the amendment? The hon. member for West Douglas, Mr Shimmin.

**Mr Shimmin:** Yes, please. I will try and be brief. The minister has covered many of the areas in more detail than I intend to. I would just put down to hon. members, when considering this amendment, it is down to a matter of credibility. I will never oppose the rights of an hon. member to put forward amendments to this floor. That is what we are all here for and it is appropriate. But it is not rubbishing those members if we question the accuracy and the sensibility of what they are actually putting forward. You have got here once again a lot of emotional rhetoric and moral rhetoric as if the hon. mover of this amendment is the only person who cares about the conditions of animals and livestock.

**Mr Karran:** Show it!

**Mr Shimmin:** Once again he has the moral high ground, the rest of us have no feelings or concern for this. He talks about the economical grounds of his initiatives as if he is more blessed with knowledge in that area than the members of the department, and certainly it has taken me over a year and I am nowhere near understanding the economical grounds of the

whole agricultural industry. So he says that he has the right argument, that we do not care, yet what is one of his main first statements? The pig industry is dead. Now, if you have got somebody coming forward to this House with an amendment coming out with comments so blatantly out of character with the reality how can we seriously take that amendment as being one that has been worked through and should be supported? If on no other grounds, it needs to be validated.

Now, I do not believe that emotional rhetoric from the member is going to satisfy hon. members here to consider that he has got his facts right, that the details are accurate and that we therefore would be morally inept if we did not support his amendment. Please, members, use common sense. The facts are not there. The common-sense thing to do is to discuss this with people who know what they are talking about. Thank you, Mr Speaker.

**The Speaker:** Does any other hon. member wish to talk to the amendment or the clause? Hon. members, I think in that case, with the clock at the top of the hour, I think it is an appropriate time at which we should adjourn and we will recommence at 2.30. The first member to speak will be the hon. member for Castletown, Mr Brown.

*The House adjourned at 1.00 p.m.*

### **Agriculture And Fisheries (Miscellaneous Provisions) Bill - Consideration Of Clauses Concluded**

**The Speaker:** Hon. members, we continue our discussion on the Agriculture and Fisheries (Miscellaneous Provisions) Bill 1998 and I call upon the hon. member for Castletown, Mr Brown.

**Mr Brown:** Thank you, Mr Speaker. Whilst I do not really have much to add after the last speaker, the hon. member for West Douglas, the mover of the Bill and the Minister for Agriculture, the member for Peel, in terms of where they are coming from and what they are saying, which I have a lot of support for, I think it would be helpful if the mover of the amendment relating to clause 5 was able to maybe expand on some of the definitions that he is using in the amendment. I note with interest that it says under 28A(2)(a) that subsection (1) shall apply only in respect of livestock which are for the time being 'situated on agricultural land' and then it carries on 'or . . .' et cetera, et cetera. I just wonder, why only on agricultural land? Is that definition, can he tell us, broad enough to cover somebody, for example, who may well have livestock in a holding that is not agricultural land, or are we just saying it will only apply, for example, to somebody with agricultural land and therefore his amendment will not have any effect if somebody has a backyard and is keeping, for example, livestock in that backyard? And if that is the case, and that is certainly how it reads to me, I wonder why. Again, if the member is keen, as he seems to be, to move amendments like this, and taking note that there are other provisions that already provide safeguards for the welfare of animals, I just wonder why he has homed in on the agricultural land, and also I notice that goes through the accommodation of livestock, battery systems, so I think it would be helpful to be clear on that. Is he saying that if somebody has a battery system in a backyard that is not agricultural land, then that does not matter? If that is the case, then it would be helpful just to know really where the member is coming from on it in terms of his definition, because the definition of 'agricultural land' does not cover a backyard.

**The Speaker:** I call upon the hon. member Mr Karran to reply to the debate and the amendment.

**Mr Karran:** Vainstyr Loayreyder, I really do find it rather amazing, the hon. member for Castletown's way of trying to rubbish me. I think we have seen enough of that today from the hon. member for South Douglas. Livestock is livestock, and it means under the Animal Health Act, livestock is any specimen that is there specified to produce food, wool, skin, fur or for use for any farming land. So that will actually answer the question also of the hon. member for Ramsey. The situation is that there is legislation where it is not livestock; it would be under the cruelty to animals legislation. So I would thank the hon. member for Castletown for his marbles, part of the campaign, but I am afraid it did not work.

Now, going to the hon. member for West Douglas, I would say to the hon. member for West Douglas I am here long enough, sir, to know my standing orders and I know the pathetic tricks of some of the hon. members in this hon. House. Now, I would say, Vainstyr Loayreyder, as I said to my hon. colleague for West Douglas here, on pig production he made a great plea about how pig production was on the up -

**Mr Shimmin:** No, I did not!

**Mr Karran:** - at the present time and that it was a healthy industry. Now, this is what the hon. member was trying to infer to this hon. House, and there was no need for this and I did not know what I was talking about. Now, the figures for pig production in 1988 - there were 8,534 and in 1996 there was 4,687. Now, the hon. member talks about facts, and he tried to make out, if I remember rightly and picked it up rightly, that I did not know what was the problem as far as the industry was concerned. That is a fact and I think that is about all that I will say regarding the hon. member for West Douglas. I understand he has to defend his corner, but he has not just a department role but a role as a member of this legislature, and it is important that members have that right to pursue this role. So this idea that somehow it is all hunky-dory and there are no problems there - there is a problem there. I hope that he does reconsider and he supports my amendment, because I actually think it would be more help to the pig industry on this Island if we came up with a proper legislative package of animal health and animal health legislation so that we could market Manx produce on this basis, and this is what we need to do if it is ever to survive.

Now we go on to the hon. member for Peel. Obviously the hon. member, once again, allowing personalities to get involved instead of principles, we have a situation in the Bill there, there is a three-year time limit for this to come into operation. Now, she says 'Oh, no consultation, it will have to be done overnight.' It does not say that in the amendment. It talks about a three-year period of consultation, and the fact is, my friend in the corner here, the hon. member for Michael, will find it will have little or no effect on the premises he is talking about, if I have got the right premises. So the hon. minister first wants to just check back on the amendment and she will see that there is a three-year operating requirement, so it has got to be up to three years. Now she talks about us losing it as far as this industry is concerned, and competing with the adjacent isle. Why don't we come clean, hon. members? We can never compete with the adjacent Island on agricultural produce if we are talking about a level playing field. It will never exist, because where we talk in agricultural units in hundreds of acres, they talk in thousands or tens of thousands of acres and just the volume of size means that we cannot compete and I think we have got to come clean and say we understand that point. The agricultural industry has to specialise on this Island.

If you do not support this proposal morally it is absolutely indefensible. It talks about squashing the piglets. The situation is, if people knew the way bacon is produced, they would be mortified to think these intelligent animals are chained to floors in this -

**Mrs Hannan:** They are not. They are not.

**A Member:** Oh, no.

**Mr Karran:** Vainstyr Loayreyder, they have had their say. If you go down the road of this type of battery system farming they are. Now, I know it does not happen in this Island -

**Mrs Hannan:** Right!

**Mr Karran:** - but the point is that we should be making that quite clear that it is unacceptable in this Island for that operation ever to exist. That is what we are talking about today. We had a Bill the other week there about the pure beer Act; now, the situation was that that was a marketing point as far as that is concerned. I am fully aware that we do not have the system of operation in the Isle of Man at the present time that they have regarding this intensive pig production, but we do not want it in the Isle of Man and we should be banning it and not allowing it ever to be considered in the Isle of Man, and it should be used, if there was any intelligence in this hon. House, as a marketing tool to help the agricultural industry.

I would just like to say before I close that some people say it is about emotion; I agree, I think it is absolutely immoral, factory farming, and it is something that human beings should not allow in my opinion. It should not be tolerated. Now, whether I have got the moral ground or not, there is an economic ground for this, an economic ground for the survival of the agricultural industry on this Island, which is to specialise, and we should be bringing up a legislative package of measures that should do so.

I believe that we should be making a statement today that this is not tolerable on the Isle of Man. I hope this hon. House will support the principle - forget the personalities - and the principle is that we should not be supporting this sort of activity being able to start up in the Island.

**Mrs Hannan:** A point of order, Mr Speaker: 89(3)(ii) 'with the leave of Mr. Speaker, to explain some material part of his speech; but in doing so, he may not introduce any new matter.' This is for no member to speak twice.

**The Speaker:** Hon. member, you are requesting permission to clarify some material part of what you said earlier. Is that correct?

**Mrs Hannan:** That is right.

**The Speaker:** Please, hon. member, you have the floor.

**Mrs Hannan:** Thank you, Mr Speaker. The member that has just resumed his seat suggested that there was a great deal of cruelty and abuses to animals and that this is the reason why he was introducing this particular amendment to this Bill. I have already explained, Vainstyr Loayreyder, in my presentation to this hon. House that there is welfare legislation in being which is being promoted. We are talking to farmers and producers about these sorts of issues. My vets are responsible for these sorts of issues and so are the farmers, and if the member has got some problem with welfare then he should bring it to the attention of my department. He states that animals are being chained to floors -

**Mr Singer:** No, he did not.

**Mrs Hannan:** Yes, he did.

**Mr Karran:** A point of order, Vainstyr Loayreyder. Absolute rubbish.

**Mrs Hannan:** He stated that animals were being chained to floors; that is not correct and I would like him to clarify that situation.

**The Speaker:** I think the hon. member equally made it plain that he acknowledges that no animals are chained to floors in the Isle of Man. I think he made that perfectly plain and I think, as far as that is concerned, his point was that cage production should be banned, irrespective of whether it is used on the Isle of Man or not. Can I call upon the hon. member for Douglas West to reply to the debate?

**Mr Shimmin:** Thank you, Mr Speaker. Much has been said and I would like to try and bring us back to what is true. There has been an awful lot stated this afternoon and earlier this morning which is factually inaccurate.

Now, I have not got all of the facts and figures. Mr Karran, in traditional fashion, might have pulled the proverbial rabbit out of the hat, but he misquotes me, as he misquotes many of us on other occasions. (**Several Members:** Hear, hear.) In his attempt to try and bludgeon or badger his way through, he made out that I had stated that the pig industry was thriving and doing well. When he looks at *Hansard* he will refer to the fact that I commented on his inaccuracy of saying the pig industry is dead. That is what I said; I am commenting on what he is reporting. There is a difference between saying a pig industry is dead and then an arguable fact that you can pluck out of your hat, but it is economic madness not to go down this road. Where are Mr Karran's credentials to actually start making some of these comments? I have not discussed agriculture with him. I have no idea where he is getting all of his information from, but he would have us believe that we should support his amendment and, by doing so, we will both advance the agricultural environment and economy of the Island, also that we will, all of a sudden, do away with all these nasty practices of maltreating animals. What we are not sure about; he does not have to clarify. He merely makes the comments as if it is fact and we are expected to believe it and swallow it and if, heaven forbid, we should challenge those facts as he makes them, it then gets into different agendas. You would expect that. The personal abuse that I have received already today outside of this chamber is typical, whereby we are assumed, if we do not agree with him, to have got another agenda; we are feathering our own nests; we are looking after our own interests, as opposed to looking after, as Mr Karran does, the moral welfare of the Island.

**Mr Karran:** It is a good job there is someone here!

**Mr Downie:** Oink, oink!

**Mr Shimmin:** Mr Speaker, as has been said before, common sense must prevail. His argument is fundamentally flawed. It does not bear scrutiny and please, show him that it is not merely sufficient to come here with rhetoric and moral high ground; you have got to get some facts and you have got to get some detail. When he does and when he works up an argument, then maybe people will take him more seriously. Until then, please can we kick this amendment out and get on with the Bill?

**Mr Gilbey:** Hear, hear.

**The Speaker:** Hon. members, the motion is that clause 5 do stand part of the Agriculture and Fisheries (Miscellaneous Provisions) Bill 1998. To that I have the amendment moved by the hon. member for Onchan, Mr Karran, which has been circulated to members on their white paper. Will those in favour of Mr Karran's amendment please say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

*For: Messrs Singer and Karran - 2*

*Against: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Corkill, Kniveton, Gelling and the Speaker - 19*

**The Speaker:** Hon. members, the amendment fails in the House, 19 votes cast against and 2 for.

I then put the clause in its totality, hon. members, Clause 5 to stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We then complete the Bill, sir, with clause 6.

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

**Mrs Hannan:** I beg to second and reserve my remarks, Vainstyr Loayreyder.

**Mr Brown:** Mr Speaker, I think whilst it is a small Bill clearly some of the points in it are very important, and I just really put on record congratulations to the hon. member on his first Bill through this House, and I hope he has enjoyed the experience. *(Laughter)*

**The Speaker:** The hon. member to reply.

**Mr Shimmin:** Thank you, Mr Speaker, I beg to move.

**The Speaker:** Hon. members, the motion is that clause 6 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Criminal Justice (Exclusion Of Non-Resident Offenders) Bill - Clauses Considered**

**The Speaker:** We then turn, hon. members, to item 13 on your order paper, the Criminal Justice (Exclusion of Non-Resident Offenders) Bill 1998 and I call upon the hon. member for South Douglas, Mr Duggan.

**Mr Duggan:** Thank you, Mr Speaker. It is nice to move on to something non-contentious, I hope. *(Laughter)*

Clause 1, 'Orders excluding persons from the Island.' Clause 1 will enable a criminal court to make an exclusion order prohibiting a convicted person from remaining in or returning to the Island.

Sub-clause (1) enables a court, where convicting a person of an offence which is punishable with custody, to make an exclusion order which will prohibit the person from being in or entering the Isle of Man. The court can only exercise this power when it is convicting and

sentencing a person in relation to an offence punishable with custody, i.e. detention in prison. Where an exclusion order has been made in relation to a person, the person is prohibited from being in or entering the Island. This means, in effect, that the person will be required to leave the Island and must not return before the expiry of the exclusion order.

Sub-clause (2) deals with the dates of commencement and expiry of an exclusion order. Under paragraph (a) the exclusion order will last five years. Paragraph (b) provides for the determination of the date on which an exclusion order is to be treated as coming into operation. The provision is intended to ensure that a person is not required to leave the Island before the time allowed for an appeal against sentence or conviction has passed. This is a period of 28 days. In addition, if an appeal is commenced against conviction or sentence, then the exclusion order will not come into operation until such time as the appeal is completed and any further rights of appeal to the Privy Council have expired.

Sub-clause (3) permits the court to make an exclusion order either on the application of the prosecutor or, if the court is so minded, on its own initiative.

Sub-clause (4) creates an offence for failure to comply with an exclusion order. If, during the currency of an exclusion order, the person remains on the Isle of Man or returns to the Isle of Man he will commit an offence.

Sub-clause (5) provides a defence to the prosecution for an offence under this section if the defendant shows the court that he took all reasonable steps and exercised all due diligence to avoid committing an offence. For example, if a person attempts to leave the Island in compliance with an exclusion order but is prevented by extreme weather conditions or a problem with the air or sea service, then he will be able to rely upon this statutory defence.

Sub-clause (6) provides that for the purposes of the Bill any reference to an exclusion order is a reference to an order made by the court under sub-clause (1) of this clause. Mr Speaker, I beg to move clause 1 stand part of the Bill.

**Mr Gelling:** I beg to second, Mr Speaker, and reserve my remarks.

**Mr Karran:** Vainstyr Loayreyder, I think it is a waste of time for me to move any amendment, as the situation is that if it has not got government sanction this House has now become part of the parliamentary system so I shall not be bothering wasting my breath or the time of this House by moving the amendment. Obviously, until times change and we have a situation where legislation gets full scrutiny in this hon. House, then the only answer is for us members in this hon. House who are independent of different groupings to vote against every clause of every Bill that is not up to standard. As far as I am concerned, the piece of legislation is the best that the hon. mover and the select committee could come up with. It is a political compromise and clause 1 is just part of a Bill which is another political compromise where they will not address the real issue that for 10 years we have been trying to get - residency. I will not be moving any of my amendments to this Bill. I see it is a waste of time because it is proven to me that this House has now become an arm of the executive.

**Mr Brown:** Mr Speaker, I think it would be unfortunate to let such comments go by relating to this Bill. First of all I would say I find it a cheek from the hon. member, a feeble excuse, on the points he has made. He has moved amendments; I see no amendments even

here to be moved, therefore the member has no intention of moving any amendments, and therefore -

**Mr Karran:** A point of order, Vainstyr Loayreyder. Am I to be misquoted and misrepresented in this House again? There are no rights of the individual in here!

**The Speaker:** My understanding is that the amendments have been circulated and they should be on members' desks.

**Mr Brown:** Well, Mr Speaker, I have not been able to find one, but certainly, as the member is leaving now, I would just make the point that if I have, that is fine, but I have to say I find it unfortunate that if a member wishes to move an amendment, then clearly that is his right so to do and I am really just responding to the point made by him where he is actually blaming what he sees as the House being part of the government. The majority of the House are not ministers. The amendments of the hon. member, which I now have a copy of, clearly have not as far as I am concerned been considered by the department, unless the minister can clarify that, and certainly has not been considered by the Council of Ministers, and I just think it is unfortunate; at the end of the day this House is about, if members wish to move and successfully move, changes to legislation and I really just respond to that. For the member, who is a member of the only official party on the Isle of Man, the Labour Party, to say he is an independent member - as an independent member I find that an insult.

**The Speaker:** Hon. member, I wish to make it quite plain and quite clear that Mr Karran is perfectly within his rights at this particular stage of the Bill to move an amendment. (**Members:** Hear, hear.) He does not have to have the clearance of the government or the Council of Ministers or anything else. He can at this stage move his amendment.

**Mr Cretney:** Absolutely.

**The Speaker:** He can move an amendment to this particular clause if he so wishes. He has declined so to do. Does any other hon. member wish to speak to clause 1? In that case, hon. member, do you wish to respond?

**Mr Duggan:** Yes, thank you, Mr Speaker. Just to say I am disappointed in Mr Karran's attitude. Like Mr Brown, from Castletown, I share his views. The amendment Mr Karran was going to move I was going to accept. I checked it out with the Clerk of Tynwald and also the legal draftsman, so you would have got it through, Peter. I am disappointed in you.

**The Speaker:** Hon. members, the motion is that clause 1 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, hon. member.

**Mr Duggan:** Thank you, Mr Speaker. Clause 2 sets out the criteria for making an exclusion order. Some of the requirements of this clause are absolutely crucial to the working of the Bill to ensure that it complies with international obligations which extend to the Isle of Man.

Sub-clause (1) requires a court to make an exclusion order if it is satisfied that the criteria are complied with. First, the court must be satisfied that the exclusion order is conducive to the public good. This might arise where the court believes that an exclusion of the offender from the Isle of Man will have a positive effect for good on the community of the Island or that the effect of the offender on the public peace in the Island warrants his exclusion. Second, the

court must be satisfied that the order will not be in breach of any international obligation extending to the Isle of Man. This is a very serious and onerous responsibility for the court. Third, the court must be satisfied that the circumstances justify the making of the order. This will require the court to take into account the circumstances in which the offence was committed, the seriousness of the offence and the appropriateness of an exclusion order in the particular circumstances.

Sub-clause (2) specifies certain cases in which an exclusion order must not be made. These, first, are where the convicted person is ordinarily resident in the Island. This means that, no matter what their nationality or length of residence, a person who is already resident on the Island cannot be made subject to an exclusion order. The reason for this particular limitation stems from the operation of the Isle of Man's obligation in relation to the protection of an individual's right to respect for private and family life, which is protected by the European Convention of Human Rights amongst other international conventions. I beg to move clause 2 stand part of the Bill, sir.

**Mr Gelling:** I beg to second, Mr Speaker and reserve my remarks.

**Mr Karran:** Vainstyr Loayreyder, I again will not waste my time putting it. As the hon. member for Castletown summed up, the proposal to this clause has not got sanction from the Home Affairs Department or the Council of Ministers, so there is no point, Vainstyr Loayreyder.

**The Speaker:** Hon. member, can I make it quite plain again that you are perfectly at liberty within this House to move the amendment (**Members:** Hear, hear.) and this House will make the decision of whether the amendment is accepted or not, not the Council of Ministers.

**Mr Cretney:** Absolutely.

**Mr Karran:** Vainstyr Loayreyder, I carry on about this clause and another clause that I feel is defective. One of the biggest problems we have here with this whole piece of legislation is to do with ordinary residents, and the problem we have with this is, of course, with the fact that we have not got any residence legislation. We can drive a cart and horse through this piece of legislation, but at least I did have an attempt to try and do something, but again, if I have to do the forelock touching of other parties outside this hon. House, again I feel that it is a waste of time even proposing any extra pieces of legislation so I shall be voting against this clause as I opposed the last clause because, at the end of the day, it is defective and I think, until there is a change of policy in this House that there are some members who are members of the legislature, I see no point in moving my amendment.

**The Speaker:** Does any other member wish to speak to clause 2? Hon. member, do you wish to reply?

**Mr Duggan:** I do, Mr Speaker, certainly. As I say, the Bill has its limits, but as I said before at the second reading, it is better than nothing, sir.

**The Speaker:** Hon. members, the motion is that clause 2 stand part of the Bill. Will those in favour please say aye; against, no.

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Cannan, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Corkill, Kniveton, Gelling and the Speaker - 19*

*Against: Mr Karran - 1*

**The Speaker:** Hon. members, the motion carries in the House with 19 votes being cast for and 1 against. We turn then to clause 3 and again I call upon the hon. member for Douglas South, Mr Duggan.

**Mr Duggan:** Thank you very much, Mr Speaker. Clause 3 contains a number of miscellaneous supplementary provisions relating to exclusion orders.

Sub-clause (1) makes it clear that an exclusion order may be made in addition to any other sentence or order which may be made on conviction. This declaration will avoid any argument that exclusion orders should only be imposed in substitution for existing penalty options.

Sub-clause (2) will enable a court to impose a period of custody on conviction and make an exclusion order which comes into operation immediately after the convicted person has served his term in custody. So in a sufficiently serious case the court could impose a period of imprisonment and then, in addition, order that upon his release the exclusion order, which will be valid for a period of five years, would come into operation.

Sub-clause (3) is a technical provision which takes account of any legislation which restricts the sentence of young or first offenders in custody. In general terms, the sub-clause will enable the court to ignore special rules relating to young or first offenders when determining whether a particular offence is punishable with a term of custody.

Sub-clause (4) provides a rule for the determination of whether a person continues to be ordinarily resident in the Island. If a person is ordinarily resident in the Island the fact that he remains in breach of any statutory provision, e.g. immigration laws, is not to be treated as bringing his ordinary residence to an end.

Sub-clause (5) deals with cases where a person who is otherwise a non-resident serves a term of imprisonment on the Island. In such a case the term of imprisonment is not to be treated as conferring residential status on that person.

Sub-clause (6) will ensure that the court can make an exclusion order in respect of a person even though previous orders have been made and have expired, if a person is subsequently convicted before the court.

I beg to move clause 3, sir, stand part of the Bill.

**Mr Gelling:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** Hon. members, the motion is that clause 3 stand part of the Bill. Will those in favour please say aye.

**Mr Karran:** Divide!

**The Speaker:** Hon. member, would you accept if I was to say at this stage that you would be recorded as voting against?

**Mr Karran:** I am afraid I would not, sir. If we want

to -

**The Speaker:** Well, let us do it the proper way round. Will those in favour of clause 3 standing part of the Bill please say aye; against, no.

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Cannan, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Corkill, Kniveton, Gelling and the Speaker - 20*

*Against: Mr Karran - 1*

**The Speaker:** Hon. members, the motion carries in the House with 20 votes being cast for and 1 against. I call, then, upon the hon. member for Douglas South to move clauses 4 and 5, sir.

**Mr Duggan:** Thank you very much, Mr Speaker. Clause 4 deals with appeals against exclusion orders. Clause 4 will confer a right of appeal against the making of an exclusion order. Appeals will be to the Staff of Government division of the High Court in the same manner as appeals against a sentence.

Sub-clause (1) requires all appeals against exclusion orders to go to the Staff of Government Division of the High Court.

Sub-clause (2) declares that an exclusion order is to be treated as a sentence for the purpose of an appeal.

Clause 5 deals with postponed determinations and will permit a court to postpone the making of an exclusion order to enable it to make further enquiries as to the appropriateness of the order.

Sub-clause (1) permits the court to postpone the making of an exclusion order if the court feels that further information is required. This might be necessary in cases where, for example, it was necessary to obtain further information about the resident status of the convicted person, the arrangements which may need to be made to remove the person from the Isle of Man, or questions concerning the international obligations affecting the Isle of Man.

Sub-clause (2) permits the court to make more than one postponement of a case. There may, therefore, be consecutive postponements, subject always to the aggregate limit to sub-clause (3).

Sub-clause (3) limits a postponement to an aggregate period of 14 days, calculated from the date of conviction.

Sub-clause (4) allows for postponement to be made at the request of the defendant or the prosecutor by the court on its own initiative.

Sub-clause (5) permits the court to postpone the making of an exclusion order even though it has already exercised its powers to impose other sentences. It is probably likely that the court will wish to deal with both the sentences and exclusion order at the same time, but this sub-clause does give the court a lot of flexibility.

I beg to move that clauses 4 and 5 stand part of the Bill, sir.

**Mr Gelling:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** Hon. members, the motion is that clause 4 and clause 5 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it.

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Cannan, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Corkill, Kniveton, Gelling and the Speaker - 20*

*Against: Mr Karran - 1*

**The Speaker:** Again the motion carries in the House, hon. members, with 20 votes being cast for and 1 against. I call then upon the hon. member for Douglas South, Mr Duggan, to take clauses 6 and 7, sir.

**Mr Duggan:** Thank you very much, Mr Speaker. Clause 6 is removal directions. This clause deals with the practical arrangements which the court makes for enforcing an exclusion order.

Sub-clause (1) enables the court to give directions for the removal from the Island and, where necessary, the detention of a person pending removal.

Sub-clause (2) specifically enables the court's directions to require removal from the Island in accordance with arrangements to be made by the chief constable. It is expected that removals will be dealt with on an ad hoc basis depending upon the nature of the crime, the destination and other factors. It also permits directions to be made to the court which authorise the placing of a person to be removed under the authority of a police constable or prison officer on board any ship or aircraft. Sub-clause (7) requires the Department of Home Affairs to pay out of government funds the cost of complying with directions made by the court under this clause.

Clause 7, detention pending removal, deals with the detention of a person in accordance with directions pending removal under an exclusion order.

Sub-clause (1) permits the detention of a person who is removed from the Island under an exclusion order. The detention must be in accordance with directions issued by the court.

Sub-clause (2) permits a police constable to arrest a person without warrant if that person is liable to be detained under this clause.

Sub-clause (3) deals with the cases where a person has been removed, has been placed on board a ship or aircraft by a police constable or prison officer. In such a case the police constable or prison officer may request the captain of the ship or aircraft to prevent that person from disembarking in the Island. The sub-clause also deals with cases, for example, where an aircraft might touch down at an intermediate airport before reaching the final destination. In such cases, the captain of the aircraft may prevent disembarkation.

Sub-clause (4) gives the captain of a ship or aircraft the power to detain a person in custody aboard the ship or aircraft to prevent disembarkation.

I move clauses 6 and 7 stand part of the Bill.

**Mr Gelling:** I beg to second, Mr Speaker, and reserve my remarks.

**Mr Karran:** Vainstyr Loayreyder, this clause interests me because it seems that the Manx taxpayer will end up having to foot the bill if it wants to get people off the Island through this piece of legislation to wherever the person has come from outside who have not got British nationality. My only concern is the fact that we pay 2<sup>1</sup>/<sub>2</sub> per cent of all government funds to the adjacent island for defence and foreign affairs, and I just wonder, why should we be having to foot the bill? We should be putting them into the adjacent isle. Why should we end up having to deport people to any of the four corners of the Earth? If they are a problem in our country, we should just deport them to the nearest country that is to us.

The other issue that I do just wonder about is the thing about the power of the captain; once he is outside our jurisdiction how can he stop an individual getting off a plane if the plane

**Mr Singer:** It is in the air!

**Mr Karran:** Once it lands, sir, on the way to wherever he is supposed to be. Because once it is outside our jurisdiction there is little that we can do anyway and obviously our legislation does not abide. So I just wonder whether the hon. mover can just clarify how a captain of a plane who puts down, say, at -

**A Member:** Jurby!

**Mr Karran:** - London on the way to somewhere else can actually force that individual to get back onto the plane to his place of abode in Bangladesh or wherever - Austria. *(Laughter)* The point is, I am just a little bit concerned about this clause because it can have an effect on the public purse unless this will not be used as an excuse to use the immigration legislation. I think hon. members should take this more seriously because this could be used as a loophole in certain circumstances.

**Mr Downie:** Mr Speaker, there is an interesting point the previous speaker has just touched on here, and it bears thinking that in the last 12 months we had a couple of cases in the Isle of Man of illegal immigrants. I want to know what the situation is where we look at removal directions and a person comes over here or gets his way into the Isle of Man as an illegal immigrant, as it were, and then claims asylum, and whether this legislation can actually cover that. As we know, one of the problems that exists at the moment - if a case happens where a person arrives in this country and he is an illegal immigrant, the onus has been falling on the airline and the airline have had to be putting their hands in their pockets and paying for this person to go right back down the line. Now, this removal direction - does this now raise a situation where the Manx taxpayer will have to pay for this person to be deported, and are we in fact going to present ourselves with some sort of constitutional problem when they get back to the UK? At the moment my understanding of the situation is quite clear: if a person comes in here illegally, it is up to the carrier to sort it out. There seems to be an area within this particular clause which needs some clarification. I know it is perhaps a complicated issue and I would be grateful if the mover could perhaps clarify this position at the next reading.

**The Speaker:** Does any other hon. member wish to speak to clause 6 or clause 7? Hon. member, do you wish to reply?

**Mr Duggan:** Yes, certainly, Mr Speaker. In reply to Mr Downie and also to Mr Karran, in the Bill it does make directions that the court will actually direct what the situation is when we

put people off the Island. But once they get out of our territorial waters the position is, for instance, if we have deported someone out to the UK, it would be an offence for that person to come back to the Island. They would be committing an offence. So actually once they got to the UK they could find their own way - as long as they did not come back to our Island, that is the point.

**The Speaker:** Hon. members, the motion is that clauses 6 and 7 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it.

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Corkill, Kniveton, Gelling and the Speaker - 21*

*Against: Mr Karran - 1*

**The Speaker:** Hon. members, the motion carries in the House, 21 votes in favour and 1 against. I call then on the hon. member for Douglas South to take clauses 8, 9 and 10, sir.

**Mr Duggan:** Thank you very much, Mr Speaker, sir. Clause 8, detention: supplementary provisions. Clause 8 deals with a number of matters relating to the detention of persons pending their removal from the Isle of Man.

Sub-clause (1) will enable a justice of the peace to issue a search warrant to a constable. The justice must be satisfied that there are grounds for suspecting that the person liable to detention pending removal is on any premises. The warrant will authorise a constable to enter and search the premises for the purpose of arresting the person to be removed.

Sub-clause (2) specifies the status of a person detained under the Bill. The person is to be deemed in legal custody, including when detained on a ship or aircraft. While awaiting removal from the Isle of Man, the person may be detained in a place which the Department of Home Affairs may direct. Normally this will either be a police station or the prison.

Sub-clause (3) permits a constable or prison officer to take steps to photograph, measure or otherwise identify the person in detention. In most cases this will be unnecessary as it will have taken place on conviction.

Clause 9 is just the interpretation and clause 10 is just the short title of the Bill. I move that clauses 8, 9 and 10 stand part of the Bill.

**Mr Gelling:** I beg to second the clauses 8, 9 and 10, Mr Speaker.

**Mr Karran:** Vainstyr Loayreyder, again, with clause 10 there was a problem, and maybe the hon. mover can clarify it at the third reading stage. This was to do with why there were different appointed days for different parts of the Bill. I could not manage to maybe comprehend the reason when I talked to the legal draftsman, as far as it is concerned; maybe he will be able at the third reading stage to come back and explain to this hon. House why different days were needed, for such a small piece of legislation to have different appointed days as far as that is concerned. I just wondered if he could do that, Vainstyr Loayreyder.

**The Speaker:** I call upon the hon. member to reply.

**Mr Duggan:** Thank you, Mr Speaker. I will check that up at the third reading, sir.

**The Speaker:** Hon. members, the motion is that clauses 8, 9 and 10 stand part of the Bill. Will those in favour please say aye; against, no. The ayes -

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Crowe, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Kniveton, Gelling and the Speaker - 22*

*Against: Mr Karran - 1*

**The Speaker:** Hon. members, the motion carries in the House with 22 votes being cast for and 1 against. It draws to a conclusion the Criminal Justice (Exclusion of Non-Resident Offenders) Bill 1998.

Hon. members, I have to express some concern that it appears as if Mr Karran's amendments could very well have been discussed by this House had the hon. member been prepared to have tabled them in front of this House for discussion. The choice is entirely his. I will defend his right so to do and make absolutely sure that in fact it was his decision to withdraw them. Nevertheless, hon. members, I think it is incumbent upon us to consider such items when they are brought to the House in paper form. I would stress that to the hon. member for Onchan. The House will now stand adjourned until Monday next, 16th March, at 10 a.m. for our single-item agenda.

*The House adjourned at 3.23 p.m.*