

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS
Douglas, Tuesday, 11th November 1997
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); Hon D C Cretney and 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.

REMEMBRANCE DAY — OBSERVATION OF SILENCE

The Speaker: Hon. members, it is not too often that in fact we sit on the eleventh of the eleventh and I think it is both fitting and appropriate this morning that we recognise the occasion by observing the two minutes silence at 11 o'clock.

**HOSPITALS DEVELOPMENT FUND — LOAN CHARGES —
QUESTION BY MR RODAN**

The Speaker: Turning then, hon. members, to our question paper, I call upon the hon. member for Garff, Mr Rodan, to ask the first question.

Mr Rodan: Mr Speaker, I beg leave to ask the Treasury Minister:

In respect of the hospitals development fund -

(1) *Are you satisfied that the investment of £44 million, transferred from the Manx National Insurance Fund, will be sufficient to meet the total loan charges on the capital cost of the new hospital:*

(2) *over what period will these loan charges be repaid;*
and

(3) *what will be the average annual repayment?*

The Speaker: I call upon the Treasury Minister to reply.

Mr Corkill: Thank you, Mr Speaker. In answer to part (1), subject to market forces - inflation, the final cost of the project, and interest rates over the next 50 years - the newly created hospitals estate development fund can be utilised with careful investment and supervision to finance this project well into the next century. Constant monitoring of the fund by the department and the Treasury will ensure that, should there be any shortfall, the impact on general revenue account will be mitigated by the cessation of existing debt charges on projects completed in the last 20 years. Growth in the economy and the effect of inflation in respect of other major capital schemes of government demonstrate the decreasing impact of loan charges from completed schemes on general revenue account.

In answer to part (2) of the question, the period is 50 years, and in answer to part (3) of the question, the figure is £5,144,892. Interest will of course accrue to the fund as long as a balance remains in that fund.

Mr Rodan: Mr Speaker, would the Treasury Minister agree that when that hospitals estate development fund was approved by Tynwald in October 1994 we were told that it was on the basis of a £65 million hospital? Would he also agree that we were told that the interest in capital from the £44 million would be used to meet the loan charges, for a period of 30 years, of around £4.8 million a year? Does he therefore not think that it is inevitable that for a hospital which is now costing £105 million further funds will need to be transferred from the national insurance fund to meet the increased charges?

Mr Corkill: Mr Speaker, the final cost of the project is not yet known. As members are aware, the planning process has not quite been finalised and made public and therefore some of the comments that the hon. member makes I cannot answer.

The original resolution of Tynwald - the hon. member forgets to mention the inflationary and add-on figure, and I have not got the exact figure but it was over £20 million. The actual figure that was passed by the Tynwald resolution was £93 million, I believe. I have not got the figures exactly, but regarding the cost that he says of £65 million, in fact the resolution quite clearly stated that over the period necessary the inflationary factors in all true honesty have to be a best estimate because over a period of 50 years, as these loan charges will be paid over, no-one can predict exactly what that future will hold. It is a best estimate based on the best information available at the time.

With regard to removal of funds from the national insurance fund in the same way as the £44 million was put into this hospitals estate fund, that would be a matter for Tynwald to resolve and certainly not something that could be done lightly just because the hospital was costing more. So until the final out-turn cost of the hospital is known I cannot really answer the hon. member's question satisfactorily, but I would point out that the national insurance fund, the £44 million that was removed for this purpose, the hospitals estate development fund, as stated in the policy document received by and accepted by Tynwald recently, stood at £52.6 million as at March 1997.

Mr Rodan: Mr Speaker, does the fact that the 30-year repayment period has now extended to 50 years not indicate that the original £44 million that was earmarked is, after three years, clearly not sufficient and would he confirm that the hospitals estate development fund is to finance not only a £105 million hospital but the community hospitals also and that those costs have not yet been taken into the equation and that it is indeed inevitable that funds will need to be taken to increase the hospitals estate development fund?

Mr Corkill: The hon. member is highlighting the size of government's capital programme and that does include a community hospital in the south of the Island. Treasury does have concerns about the size of the capital programme, but, as was quite clearly stated in the policy document, it is accepted by government that this peak of capital expenditure in the next few years, because of the desirability of the infrastructure renewal that is going on on the Island at the moment, is something that is necessary and has to be accepted, that we will have to spend capital, perhaps more than we would wish to, in order to achieve what the public deserve and need, that is new hospital estates, new sewerage estates, and all the other things that go with renewing the infrastructure of this Island.

BALDRINE PARK — STREET WORKS SCHEME — QUESTION BY MR RODAN

The Speaker: Question number 2, hon. members. I call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Mr Speaker, I beg to ask the Minister for Transport:

(1) Has your department made financial provision in 1997-98 for phase 2 of Baldrine Park street works scheme;

(2) what other unadopted roads in the Island have been identified for street works schemes by your department; and

(3) what is the order of priority for these schemes?

The Speaker: The Minister for Transport to reply.

Mr Brown: Thank you, Mr Speaker. In answer to part (1) of the question, as I advised the hon. member in Tynwald Court on Tuesday, 21st January 1997, no financial provision has been made in my department's budget for phase 2 of the Baldrine Park street works scheme in the financial year of 1997-98.

In answer to part (2) of the question, I can advise that throughout the Island my department has identified in excess of 90 unadopted roads; that includes lanes.

In answer to part (3) of the question, I can advise that in an endeavour to deal with such a large number of unadopted roads my department has implemented a priority rating scheme. This takes into account the condition of the road and the need for its completion in terms of the extent and nature of the development of the road. My department's current proposals in order of priority are: Baldrine Park, phase 2; Linden Grove, Douglas; main road area, Port Erin; and Laureston Close and Laureston Grove, Douglas.

Finally, I would advise that the inclusion of any road on our list does not constitute any final commitment by my department to carry out the scheme. A final decision can only be made after the department has surveyed all affected property owners to establish the level of support for the department's proposal to carry out a road works scheme, especially due to the financial commitment required from the property owners.

Mr Rodan: Mr Speaker, firstly, would the minister accept my constituents' appreciation for the excellent quality job that has been done in phase 1 of Baldrine Park and perhaps take this opportunity of stating whether the job was completed over or under budget, and, secondly, would he agree that my constituents have had to put up with this awful potholed road for over 20 years and that the sooner phase 2 is started the happier they will be and the happier I will be?

The Speaker: A supplementary of congratulations, I think. The hon. minister to reply.

Mr Brown: Thank you, Mr Speaker. I am sure my department and its officers and the workmen will be pleased at the comments of the hon. member for recognising the excellent work that has been undertaken on phase 1.

I am advised that at the moment, while the accounts have not been finalised, it is unlikely to be over budget. So, as far as I am advised, it is within budget.

The hon. member made the point that it had been a potholed road for over 20 years. I would just make the point of course that it is not a public road until it is actually adopted by the department and, as with all these roads, they were undertaken by private developers who built housing developments, in most cases, and did not bring the roads to a standard where they were able to be adopted by the Highway Board, as it used to be, or my department now and therefore they are virtually private roads.

However, under the Act that governs my department, or one of the Acts, there is provision for us to go in and do street works, as I have indicated, and there has to be a contribution from the property owners and sometimes there can be difficulties in that area. I have to say, however, with regard to phase 1 of this scheme the matter has come to fruition

with the support of the people in the area and my department and we are pleased to undertake that scheme.

Mr Houghton: Mr Speaker, may I offer the hon. minister my praise and thanks? We are most grateful that he has mentioned this morning Linden Grove, Laureston Grove and Close and may I ask if this can be urgently addressed, sir, please?

Mr Brown: Mr Speaker, I need to make it clear, as I did in my answer, that in fact from the department's point of view these are our priorities. A substantial amount of work would have to be undertaken before we would be in a position to progress any of these schemes in terms that we would have to get the agreement of the property owners who are required under the Act and also of course, very importantly, have to make funds available within our budget for such works. At present, apart from the moneys that were allocated for phase 1 of Baldrine Park, no other moneys have been identified for these schemes and, as hon. members will be aware and certainly I am aware, as my colleague on the department is, Mr Singer, we get letters regularly from members and individual members of the public and local authorities requiring us and requesting us to undertake works on the public highways we are responsible for and that we do own and therefore I have to say that they are always of greater priority to us than unadopted roads which of course are private roads.

Mr Karran: Vainstyr Loayreyder, could the minister tell us what sort of grant assistance is now available as far as unadopted roads are concerned? Is it the 50 per cent or is there an opportunity for it to be 100 per cent? And when he talks about the priorities, can the hon. minister tell this House where there are roads where the adjoining landowners have little or no benefit from the making up of the road, does your department ever consider doing the road up on a 100 per cent basis?

Mr Brown: Mr Speaker, as far as I am aware, the regulations that we work under allow the department to bear up to 50 per cent of the apportioned costs. We must remember that in most of these cases a developer developed an estate and that developer made a profit on that development. Where a developer, in the old days, because now there are bonds required under the planning regulations, was not required to make the road up to a standard that could be adopted by the highway department, then in fact those roads and the apportionment were owned by the property owners. What we try to do, as we are permitted to under the law, is to get an agreement to improve the neighbourhood. However, as I am sure hon. members will accept, that is not always an easy task and you might well have a number of residents who are in favour but you could equally have half the residents not in favour because the cost to them could be quite considerable.

I am not aware of my department providing 100 per cent of the cost of such a scheme and I have to say I would not be in favour of that as these are certainly private roads in terms that they are owned by the owners.

The Speaker: The final supplementary, hon. members, on this question, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the hon. minister consider, when there is a matter of public safety concerned and where the adjoining landowners have no real benefit from the making up of a road and there becomes an impasse there as far as the building up of the road to a suitable standard is concerned, will his department reconsider? Is he aware that we have an access road to Howe Road which is in a dangerous state where we have reached this impasse for many years and could he look at the possibility in certain circumstances

where roads could be done up or made into public roads at 100 per cent of the taxpayer's cost?

The Speaker: I think, minister, you actually replied to that before, but the Minister for Transport to reply.

Mr Brown: Yes, I would just make the point, Mr Speaker, as members will be aware, my department is under considerable pressure to actually meet the demands of the public highways we do own throughout the Island and therefore those naturally become our priority, and I think that there will be many members who can identify where they feel there are roads in their areas that require maintenance or repairing or reconstruction, and I have to say, as far as my department is concerned, they have to be of the highest priority.

Certainly where we have unadopted roads we will endeavour to try and rectify some of those over a long period of time. I have to say I think it is unlikely the department will take a view that we would give and pay 100 per cent of the cost for an unadopted road when in fact the department itself did not construct that road and had no say in the construction of such a road.

EXPRESS BUSES — SPEED LIMIT — QUESTION BY MR SINGER

The Speaker: Question 3, hon. members, and I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg to ask the Minister for Tourism and Leisure:

Has your department obtained permission from the traffic commissioners to increase the maximum speed limit of the express buses from 40 mph to 50 mph?

The Speaker: The Minister for Tourism and Leisure, Mr Cretney, to reply.

Mr Cretney: Thank you, Mr Speaker. I would like to advise the hon. member the answer to the question is no.

Mr Singer: Mr Speaker, as your department are using new buses on the express routes and they are capable of 50 mile-an-hour speeds, why have you not applied for them to be granted the increase in speed, particularly as I, and I expect other MHKs, will lobby to support such an increase?

Mr Cretney: Mr Speaker, my department has not obtained permission from the Road Traffic Commissioners to increase the maximum speed limit of the express buses from 40 miles and hour to 50 miles an hour. However, discussions between my department and the now Department of Transport to raise the speed limit of all passenger service vehicles from 40 miles an hour to 50 miles an hour took place between 1993 and 1995. At that time the Road Traffic Commissioners did not feel able to support the proposal and this stance was reiterated at a recent meeting on another issue.

I am obviously aware of the hon. member's support for a 50 miles-an-hour speed limit which would make bus travel more attractive to car users. Furthermore I am satisfied that, providing road conditions permit, the operation of buses up to 50 miles an hour is perfectly safe. In view of the hon. member's interest I have therefore decided to approach the Department of Transport again with a view to increasing the speed limit for passenger service vehicles to 50 miles an hour. This approach would be consistent with the recommendations of the Douglas Transport Strategy Implementation Report and I would be grateful for any support which hon. members may wish to give in my application again to the Road Traffic Commissioners.

Mr Braidwood: Mr Speaker, whilst congratulating the minister on the introduction of the easy-rider buses and particularly the express services, would the minister agree that this service required buses with superior seating, seat belts, and ABS brakes and are his new buses on these express services so fitted?

Mr Cretney: The buses which are on the express service are the latest buses which are available and they have the latest design features.

In terms of seat belts, they are not fitted with seat belts and my advice in relation to the fitting of seat belts has been mixed, so I have yet to come to a final conclusion in relation to that matter.

NARRADALE, SULBY — HEATHER BURNING — QUESTION BY MR SINGER

The Speaker: Question 4, hon. members. I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg to ask the Minister for Agriculture, Fisheries and Forestry:

Do you agree with Manx Ecological Concern that the extensive heather burning at Narradale, Sulby, was a major environmental disaster?

The Speaker: The Minister for Agriculture, Fisheries and Forestry, Mrs Hannan, to reply.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Heath and heather burning is regulated by the Heath Burning Act 1939 and the Heath Burning Regulations 1942 made thereunder. Burning is permitted during the period 1st October to 31st March on prescribed upland areas and areas upon which gorse and/or heather and/or ling extend over more than one half of the acreage involved.

Narradale lies above the 900 foot contour line and consists predominantly of heather moorland. It is eligible therefore for burning and the burning happened in the specified time period. I wish to establish therefore that the operation was legal in terms of the Act and regulations as they presently apply.

Heather burning, alongside cutting and grazing, is one of the three management tools available to the hill farmer to promote new growth and grazing for sheep, a fact, I believe, recognised by conservation groups, including the Royal Society for the Protection of Birds.

Heather burning is long established as a method of speeding up the natural growth cycle, not only here but throughout the British Isles, encouraging new young heather to take the place of mature and degenerate heather.

In considering the environmental impact of heather burning at any one specific site it is necessary to put it into overall context. Without detailed knowledge of the land at Narradale prior to burn it would be imprudent to be dogmatic as to the appropriateness of this burning. However, from past experience and looking at the adjoining areas, the site would appear to have carried a full mature heather cover and would therefore be of an age for burning.

There is at Narradale evidence of other previous season's burning where regrowth has occurred. The land burned on this occasion does not appear to have destroyed the root system or damaged the soil and regrowth as part of the natural cycle is therefore likely, based on the example of the adjoining areas. The impact at Narradale would be much greater had this specified area been subject to frequent burning in the past, but there is no evidence to suggest this.

Reference has been made to the potential damage to wildlife at Narradale, especially birds. I would therefore advise that it is necessary to have a good variety of ages of heather to

provide the right kind of habitat for wildlife, albeit that this is best achieved through strip or other selective burning. Burning at this time of the year does not of course have an impact on nesting birds.

Given that the basic principles of moorland management following burning are adhered to at Narradale to facilitate recovery, I have no reason to believe the burnt area this year will have a major lasting impact on the wildlife status of the holding.

I have to conclude that whilst strip or other phased treatment must be the preferred option for heather control and regeneration on the hills, and whilst this more extensive burning is unfortunate, the long-term impact of this burn is unlikely to be as significant as suggested.

Mr Singer: Can the hon. minister tell me? Do not the tenants have instructions from her department to use best practice in burning, that is, strip burning, and not to do a complete burning of several acres at once, as was done in this particular case?

Mr Hannan: Hill management, Mr Speaker, varies from hill to hill and a burning cycle should preferably be established for each hill, as growth conditions vary markedly right across Mann.

On the department's own land grazing and shooting tenants are entitled to carry out moor burning as part of their management.

When the opportunity arises with lease renewal, the department will consider the insertion of a new clause to provide for burning by agreement with the landlord. However, Narradale, where the burning is that the member is suggesting, is privately owned and therefore comes under the Heath Burning Act 1939 and the regulations laid to that Act, 1942.

Mr Houghton: Mr Speaker, would the hon. minister agree with me that arrangements to burn heather on the hills and mountains of the Island should be regulated in a similar way, as she has alluded to this morning, as those arrangements which currently exist with persons who hold shooting permissions and rights in areas of her department which requires no less than 10 per cent of such area of heather to be burned in a series of strips per year, and does she not agree that this strip-burning arrangement encourages a healthy control of growth of such areas together with the vital encouragement of nesting for our wildlife, sir?

The Speaker: Hon. member, I think largely the question has been covered, but again the hon. minister to reply.

Mrs Hannan: Of course there are two tenants on our holdings but this does not relate to the burning at Narradale. My department is concerned about burning. It is concerned about management and proper management. However, there are two management areas that the member relates to, one is for grazing and one is for the shooting rights, and I would hope that both tenants can work together with regard to the management of land and also with the management of the land when it comes to wildlife, but in the interests of wildlife the burning is the natural process. Strip burning obviously suits the game birds better than it does the sheep people, but there needs to be management and there needs to be agreement, I think, and working together.

The Speaker: The final supplementary, Mr Singer, the hon. member for Ramsey.

Mr Singer: Thank you, Mr Speaker. Can I ask the minister? As the burning took place near the Millennium Way, a public right of way, has your department enquired if permission was sought under the Heath Burning Act 1939 from the DoT for the burning to take place in order to protect the general public?

Mrs Hannan: There has been no representation made to my department from the Department of Transport with regard to the Millennium Way. It does state that there are certain

areas which can be burned under the Heath Burning Act. Of course in the UK there are further guidelines which were brought in fairly recently due to stubble burning but they are incorporated with heather burning, and under health and safety regarding the public, of course the tenant of the land and the landowner, if it is the landowner that is burning, should take notice of the fact that there is a highway which passes along this area and should take reasonable precautions with regard to the protection of the public. However, if the public were in danger, then that would be a matter for health and safety.

NATIONAL HEALTH SERVICE — COMPLAINTS PROCEDURE — QUESTION BY MR SINGER

The Speaker: Hon. members, question 5, the hon. member for Ramsey, Mr Singer:

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

- (1) (a) *Is the department aware that the National Health Service complaints procedure operated in the United Kingdom has recently been revised; and*
(b) *if so, does that remove the department's earlier expressed concern as to the efficiency of the National Health Service complaints procedure in the Isle of Man?*

(2) *Will your department now draw on the experience in the United Kingdom and speedily introduce an updated procedure in the Isle of Man?*

The Speaker: The member for Health and Social Security, Mr Karran, the hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, in answer to the first part of the hon. member's question I would advise that my department is not aware that the National Health Service complaints procedure operated in the United Kingdom has recently been revised. In fact, having spoken to the UK's National Health Service Confederation and the UK's National Health Service Executive, the latter having responsibility for the complaints procedure within the UK's National Health Service, I would advise that no revision has taken place in the UK's procedure since its introduction in April 1996.

The minister advised the hon. members at the March 1997 sitting of Tynwald that the information received from the National Health Service Executive indicated that a full formal evaluation of the procedure was to take place during autumn 1997. However, advice received recently from the National Health Service Executive of the United Kingdom indicates that the earliest date for the evaluation to commence will be early in 1998.

Turning to the second part of the hon. member's question, I can confirm that my department will await the results of the evaluation and on the basis of changes that are made in the UK procedure my department will consider making changes to its own draft procedure as seen as appropriate.

However, I would remind the hon. member that the department's previously expressed concerns about introducing an equivalent Isle of Man procedure were not limited solely to the problems being experienced by the UK's trusts and health authorities in implementing their procedure, as his question implies.

The minister, in her statement to Tynwald in March 1997, made it clear that the cost of introducing an equivalent procedure on the Island was providing a problem. Having now made a number of changes to the draft Island procedure in an attempt to reduce the estimated costs

of up to £60,000 per annum, a revised draft procedure has been prepared and is an estimated cost of up to £28,000 per annum. Whilst my department has included appropriate sums of money in the 1998-99 revenue estimates to cover this cost, I must advise that there is no guarantee that the money will be secured for the purpose, having due regard to the department's many other pressing commitments.

Whilst the delay in introducing the new local procedure is regrettable, my department will not rush into introducing a procedure unless it is completely satisfied that it is workable and affordable.

I do hope that in three or four months' time a much clearer picture will emerge in relation to both these issues and I will keep the hon. members and this hon. House informed of any development.

Mr Singer: Mr Speaker, I thank the hon. member for confirming that the United Kingdom NHS complaints procedure, although not yet revised, is under review. In the formulation of a revised NHS complaints procedure, will your department make provision for a health service ombudsman? If a case has been made for such an official to deal with police complaints, such a provision in relation to health service complaints is fully warranted, don't you think?

Mr Karran: Vainstyr Loayreyder, we had this subject at the health policy not so long ago about an ombudsman for health services. We feel that we need to concentrate on a proper complaints procedure at the present time. I welcome the hon. member's comments as far as an ombudsman is concerned. As a person who put down in another place some years ago the need for an ombudsman for the whole of the Island, I would welcome the principle. I think the problem would be that to have an ombudsman purely for the health services would be overkill. Whilst I have total sympathy and commitment that we do need to bring in an effective and efficient complaints procedure as far as our hospitals are concerned, I believe that purely having an ombudsman and a complaints procedure would not be the way forward in my opinion.

The Speaker: Hon. members, once again I think the clock is beating us according to standing orders. I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, 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.

Messrs Cretney and Cannan: I beg to second, Mr Speaker.

Mr Corkill: I just would like to point out to the hon. House that there are a number of Bills that are at the clauses stage today and I would think it was probably more important for the House to carry on with its usual legislative programme rather than spend time on questions.

The Speaker: Hon. members, the motion is that standing orders be suspended to enable question time to be complete. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

NOBLE'S HOSPITAL — BED CLOSURES — QUESTION BY MRS CANNELL

The Speaker: I call then upon the hon. member for Douglas East, Mrs Cannell, to ask question number 6.

Mr Cannan: A point of order, Mr Speaker, sir! Have we finished with the other question?

The Speaker: The hon. member for Michael.

Mr Cannan: Have we finished supplementaries?

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

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

As of 31st October 1997 how many beds in Noble's Hospital were closed due to staff shortages?

The Speaker: The member for Health and Social Security, Mr Karran.

Mr Karran: Vainstyr Loayreyder, in reply to the hon. member, may I make it clear that in any hospital a policy of temporary bed closures reflects a combination of factors including operational requirements, staff illness, limited service demand and of course staff shortages. It is therefore not possible with any degree of accuracy to indicate the number of beds closed due to one specific reason. Having said that, I can advise the hon. member that on 31st October 1997 a total of 19 National Health Service beds were closed within Noble's Hospital due to in part staff shortages. Eight of these beds have been reopened.

Mrs Cannell: Mr Speaker, does the hon. member for Health find this situation acceptable, given the extensive waiting-lists for people actually waiting to go into hospital for operations, and if he does not find this acceptable, could he further give an explanation to this hon. House as to precisely why we have so many beds empty at any one time?

Mr Karran: Vainstyr Loayreyder, the reason we have such bad waiting-lists, apart from the initiatives that we started many years ago when we were previously in the department of getting people with hips and knee replacements to the adjacent isle in order to cut down the list, the main reason that you have the problem as far as operations are concerned is the limitations on the present theatres and that is the main reason you have got these waiting-lists. Hopefully in the new hospital there will be seven theatres which will be able to deal with the lists much more effectively, so I think it would be wrong to give the impression that the waiting-lists are to do with the fact that we have a shortage of nurses within the National Health Service; it would be ill-informed.

The fact of the matter is you have got an ageing hospital and we have a situation where we have limited time as far as the theatre time is concerned. We have looked at it recently, that we need to look at whether we can manage to use the existing theatres at Noble's more efficiently in order to increase the turnover of persons to reduce waiting-lists. But I think it would be wrong to say that the main reason for any waiting-lists for surgery is because of nursing shortages.

Mrs Cannell: Mr Speaker, I thank the hon. member for his reply but during his reply he did indicate that part of the closure of some of these beds was partly due to staff shortages, and with regard to the staff shortages, would he not confirm to hon. members that there is very low morale within the hospital at the present moment and that is partly responsible for the staff shortages? Would he not also further confirm that the low morale is because of the way in which many members of medical staff are actually overworked? And can he also please reassure us as to how and when his department considers that they will be increasing the staff in terms of taking on Manx qualified nursing staff and when this will be done?

Mr Karran: Vainstyr Loayreyder, I think that, whilst I appreciate the hon. member's sincerity, the fact of the matter is that the low morale problem in Noble's is not a new occurrence. I think if you go back 10 or 15 years, this has been a problem. I think one of the problems that I have is trying to get away from this mainland mentality that because it has been done in the adjacent isle we have to do it in this isle.

As far as the situation as far as staff shortages is concerned, I believe that I would be wrong to say that there have not been any staff shortages in the hospital: there are staff

shortages. But at the end of the day the reason why we have got the problems with the waiting-lists in many cases is because of the fact we have not got sufficient theatre time in order to do that.

On the other issue where it is purely on a consultancy basis, where there have been concerns with some of the consultants, one has brought in locum consultants in order to bring the waiting-lists down.

I think the most important thing, if the hon. member is concerned about staffing shortages, is when I try to get money available for reintroducing preregistration of nurse training on this Island that she and the rest of this hon. House come up with the money to do so, and I believe that is something that is important.

Finally, her concerns about not employing Manx staff concerns me. If we have got cases of this happening and I can prove them, I will deal with them because I believe that that is not acceptable, but at the end of the day I have to have the proof and the evidence in order to do so.

Mr Bell: Mr Speaker, the hon. member has made reference to one of the reasons for the growth in the waiting-lists as being the shortage of theatre time available to the various consultants. Would the hon. member not agree that now we have a first-class new operating theatre in Ramsey, Ramsey Cottage Hospital, provided for by the trustees of Ramsey Cottage Hospital, not by the government, there is an excellent opportunity to make more use of this facility to make some inroads into the waiting-lists and could he confirm that it is in fact the policy now of the DHSS to stimulate more use of that new facility?

Mr Karran: Vainstyr Loayreyder, the situation, as the hon. member will be aware, being a member of the Council of Ministers, will be the fact that there are other things that would have to be done with Ramsey Cottage Hospital in order for it to be used for more demanding surgical requirements.

As far as the Ramsey operating theatre is concerned, I actually believe that the people who donated the money should be congratulated, but at the end of the day what we have tried to do with that theatre is to try and encourage consultants to do minor work there. We have at the present time got an awful lot of the dental problems being done in Ramsey as far as this is concerned.

As far as I am concerned, where it is safe and equable to use the Ramsey theatre, then the Ramsey theatre should be used.

The Speaker: Hon. members, we are in danger of extending this question. We are talking about consultants in Ramsey. It was quite simple: 'How many beds were closed due to staff shortages at Noble's?' Three further members have already caught my eye. I have no wish to draw back on supplementary questions but try to keep them related to the main question if you can. I call upon the hon. member for Douglas South, Mr Duggan.

Mr Duggan: Thank you, Mr Speaker. Would the minister confirm that I rang him during last summer, not about beds being closed down, but wards being closed down?

Mr Karran: Vainstyr Loayreyder, the hon. member more than likely did ring me last summer, which I am sure he did, about wards being closed down, but I would imagine that there have been 50,000 other people on my phone since the hon. member rang me, if he rang me last year -

Mr Duggan: Last summer.

Mr Karran: so I cannot recall what my answer was to the hon. member and maybe he could inform me what my response was.

Mr Cannan: A supplementary in relation to the answers given, Mr Speaker. Will the member for the health department tell us, in the new hospital with its seven operating theatres, how he intends to obtain the necessary qualified nursing staff to manage those operating theatres?

Mr Karran: Vainstyr Loayreyder, I am concerned there are two problems as far as the operating theatres are concerned and the hospital is concerned. One is consultants and one is the nursing side.

On the consultants, one of the problems that we have to address is the fact that it is seen professionally as a cul-de-sac to come to the Island as far as that is concerned, and one of the problems that we have to do is to make sure that we can encourage the calibre of person to come to the Island as far as this is concerned to be our consultants.

In the next health policy meeting we are discussing maybe some way of helping, trying to keep persons who leave this Island, who trained in the medical field, informed of what needs to be done in order that they maybe at a later date come back to this Island as consultants and pillars of the National Health Service.

On the second part of the question, as far as the nursing side is concerned and the staffing side is concerned, we have to address the issue of preregistration of nursing. Now, I have fought within the department as far as this is concerned. I think it is of paramount concern. The United Kingdom has got a major problem arising with nurse shortages. Now, we have got to bite the bullet, an expensive bullet as far as preregistration of nurse training is concerned, and I do hope that the hon. member for Michael, like the hon. members for South Douglas and East Douglas, will support my proposals when I come back with preregistration for nurse training back on this Island.

The Speaker: A final supplementary, hon. members, to this question, the hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I would just like to ask the hon. member that given that there are obvious shortages within Noble's Hospital at the moment and we have lost beds, could the hon. member give this House some sort of an idea as to whether he is looking at a contingency plan for the forthcoming TT races or are we going to finish up in June with the same debacle that we had in September when there were cancellations and postponements of practices due to nurse shortages and unavailability of beds at Noble's Hospital?

Mr Karran: Vainstyr Loayreyder, I think that it needs to be pointed out to hon. members that when we talk about staff shortages, one could sort out the staff shortages quite easily by downgrading the level of the staff cover within the hospital from good to adequate. Now, obviously the department has not gone down that road because it does not believe in it. I also would say that we have actually had some wards where we have reduced the number of beds and there has been no reduction in the number of staff, nursing staff, for those wards. So in fact there have been cases where we have reduced in order to help the nurses.

I am not saying I have got it right yet as far as the hospital is concerned, but I would hate hon. members to have this idea that we are totally ruthless as far as our staffing is concerned. We do try to help wherever possible as far as that is concerned so, whilst we have closed beds in two of the wards, we have actually not reduced the staffing of those wards because we believe that that would not serve morale because morale is a problem, as the hon. member for East Douglas said, and it is an issue that is a long-term problem which we have got to try and turn round.

On the second part of his TT, making sure that what happened in Manx Grand Prix does not happen in TT, the fact of the matter is that what we do in TT is we do not do operations unless they are urgent in the TT period, in order that we have sufficient beds in the Isle of Man as far as this is concerned.

As far as the TT is concerned, one hopes that it will not happen again. I have asked a paper from Mr Inman to up the staffing arrangements because lightning struck, and even though I had been assured by officials within my department that lightning never strikes twice, I am not so convinced. So the issue as far as this is concerned is in hand and hopefully what will happen maybe next year with the Manx Grand Prix is the fact that maybe we will cut down on non-urgent cases that will need to go into the intensive care unit. There are more beds on the Island in the ITU than there would be in the adjacent isle.

The Speaker: Perhaps, hon. members, we could be more succinct with both the supplementaries and the responses to the questions.

NEW HOSPITAL AT BALLAMONA — PRIVATE PATIENTS — QUESTION BY MRS CANNELL

The Speaker: Question number 7, I 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:

How many beds and operating theatres in the proposed new hospital at Ballamona are designated exclusively for the treatment of private patients?

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

Mr Karran: Vainstyr Loayreyder, the new hospital plans include provision for a private patients' wing consisting of 15 beds. So far as the operating theatres are concerned, none of the seven theatres will be designed exclusively for the treatment of private patients.

Mrs Cannell: Mr Speaker, is it not a fact that during last year's hospital roadshows, that is to say when the then minister and department members went around different parts of the Island informing the public of what was contained within their proposals, at one such roadshow in Ramsey the people there were informed by a member of the department who is today our health minister that four of those seven operating theatres were going to be used, not designed but used, exclusively for private use? Can the hon. member confirm this?

Mr Karran: Vainstyr Loayreyder, I could not disagree or agree concerning what my minister said a year ago as far as this is concerned. All I can say is that I am giving an assurance to the hon. member that there are no such plans that four of the seven theatres are planned for private use, for private patients. I would find that very unacceptable and at the end of the day the minister is the boss but it has to be both ways and I would find it very difficult to justify building seven theatres with four for the use of private, so I would assure the hon. member that that is not the case as far as this is concerned.

Mrs Cannell: Mr Speaker, could the hon. member for the department further confirm for the benefit of the public who might be listening this morning -

Mr Brown: For the House.

Mrs Cannell: who are deeply concerned, can he further confirm that there is no truth in the rumour that is spread about this Island that 70 per cent of the beds proposed to be in use for the hospital will be used again exclusively for a fee-paying clientele?

The Speaker: Hon. member, the hon. member for Onchan will be replying to the House, not to the general public on the radio. (**Members:** Hear, hear.) The hon. member for Onchan to reply.

Mr Brown: No fairy stories either.

Mr Karran: Vainstyr Loayreyder, I picked up the new hospital when no-one would pick it up. (**Mr Cretney:** Hear, hear.) I warned of many of the problems that were involved with the new hospital and I have found now that the chickens have come home to roost concerning the points where I have been ridiculed, but I do not believe that there was ever any intention of such a proposal by the hon. member. I would find that absolutely outrageous, if that were the case.

I would personally say I believe that the National Health Service should be a first-class service for the patients that need that service and I would find it very difficult to be able to justify, as a Labour man, if I am going to put 70 per cent of the new hospital for the private sector.

NEW HOSPITAL AT BALLAMONA — RESIDENTIAL ACCOMMODATION — QUESTION BY MR BRAIDWOOD

The Speaker: Question 8, hon. members, I call upon the hon member for Douglas East, Mr Braidwood.

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

Have the medical consultants at Noble's Hospital expressed their concern over the lack of residential accommodation for medical staff at the proposed new hospital at Ballamona?

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

Mr Karran: Vainstyr Loayreyder, I can confirm that the minister and myself recently met with Noble's Hospital Medical Staff Committee to hear first-hand the views of the consultant medical staff concerning the provision of residential accommodation to support the new hospital. The hon. member will appreciate that whilst the consultant staff are anxious to be reassured that the appropriate residential accommodation will continue to be available for both junior medical staff who are undergoing training within the Island and visiting locum staff, the hospital also has to provide some limited accommodation for nurses and other staff, particularly those who move to the Island prior to obtaining more permanent homes. These matters are currently under review and the views of the medical staff and others will be taken into account.

The hon. member will appreciate that my department already owns or has access to a substantial level of residential accommodation which is currently being used for staff purposes and there will obviously need to be taken into consideration a review at the present time as far as this is concerned.

Mr Braidwood: Mr Speaker, I thank the member for the Department of Health and Social Security for his answer but would he not agree that this situation could have an adverse effect on the recruitment of junior doctors if accommodation is not up to a suitable standard in the vicinity?

Mr Karran: Vainstyr Loayreyder, I would agree with the hon. member. I made these very statements when I was not a member of the department in another place to the then member for Health, Mr Groves, and was told that one was talking through one's ear, in parliamentary terms. So one totally agrees with the hon. member: we have got to address this issue.

I believe that trainee doctors are vital for keeping standards up, as I believe preregistration nurse training is vital for keeping standards up and is imperative and I can assure the hon. member that I am fully committed to addressing this most important issue.

Mr Cannan: Will the minister, in response to his reply, confirm that the health service does not employ trainee doctors? The only doctors who are employed are house doctors who have completed their training. There are no trainee doctors in the Island.

Mr Karran: Vainstyr Loayreyder, the hon. member for Michael is quite right. I should say it is part of their training process, so if we were splitting hairs, the hon. member would be right as far as this is concerned.

The Speaker: The hon. member for Douglas East, Mr Braidwood, with an eye on the clock, please.

Mr Braidwood: Thank you, Mr Speaker. My last supplementary, then. Would the member not agree that the residential accommodation has to be within a short distance and easy access of a hospital complex for junior doctors to attend emergencies if the doctors in on-call rooms are fully occupied, remembering that the maximum time allowed to elapse for a heart attack is four minutes?

The Speaker: Hon. members, I think by the Court clock and watching the Court clock at this stage I will ask the hon. member for Onchan if he will reply after the two minutes' silence. At this particular stage I think it would be right for the House to sit quietly. It could very well be that we will hear the maroons. If we hear the maroons, hon. members, we will stand and take the two minutes' silence from that point. Failing that, we will take the Court clock when I will invite members to stand for two minutes' silence. Thank you, hon. members.

Two minute's silence was observed.

The Speaker: Can we then return to our order paper and our business of the today and I call upon the hon. member for Health and Social Security, Mr Karran, to reply to a supplementary in the name of Mr Braidwood.

Mr Karran: Vainstyr Loayreyder, I do apologise. Could the hon. questioner repeat his question again? My apologies.

Mr Braidwood: Certainly, Mr Speaker. Would the member for the DHSS not agree that residential accommodation should be within a short distance and easy access of a hospital complex for junior doctors to attend emergencies if the doctors in on-call rooms are fully occupied, remembering that the maximum time allowed to elapse for heart attack victims is four minutes?

Mr Karran: Vainstyr Loayreyder, I would agree with the hon. member. He is quite right that it is important that we do address this issue. There has been land already identified as far as this is concerned but there is a working party at the present time of three members of the medical staff committee and two officials from my department and myself who are to have a meeting next week as far as this is concerned. I do agree with the inference that he says and how it is important. There will be restraints as far as we are concerned with any change of use as far as it is concerned with the planning department but my department, will do everything in its power because it agrees with the hon. member.

Mr Kniveton: Mr Speaker, I would just like to ask the hon. member why was residential accommodation not included in the planning application for the new hospital in the first place, and secondly, if I may, what is the future intent by his department for the present nurses' home?

Mr Karran: Vainstyr Loayreyder, as far as the situation as far as the planning is concerned, as I have said previously, I actually raised this issue when one was not on the department and one said that one was not appreciating the situation. It is proven that we do need to address the issue as far as that is concerned.

As far as the nurses' home is concerned, that will be sold off to the private sector and will help to finance any proposed development as far as doctors' accommodation is concerned and nurses' accommodation is concerned.

Mr Cannan: In response to the member's reply, will he confirm to the Manx public clearly, and it is not splitting hairs, that trainee doctors are unqualified doctors and the junior doctors in the employment of the Department of Health and Social Services are fully qualified doctors able to sign certificates in their own right?

The Speaker: Whilst I appreciate the point which the hon. member for Michael is making, I do not think it is relevant to the question.

HEALTH ESTATE STRATEGY FACILITIES — COSTS — QUESTION BY MR KNIVETON

The Speaker: We move on then to question number 9. I call upon the hon. member for Onchan, Mr Kniveton.

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

What are the estimated (i) capital costs and (ii) revenue costs for each of the following facilities within the health estate strategy approved by Tynwald Court in 1991 -

- (a) the proposed southern community hospital;*
- (b) the northern community hospital;*
- (c) the proposed eastern/Douglas community hospital; and*
- (d) the proposed Peel health facility?*

The Speaker: I call upon Mr Karran to reply.

Mr Karran: In response to the hon. member, the best that I can do at the present time is provide him with the estimated capital costs set down in the department's capital programme as detailed in volume 1 of the government policy document.

The estimated capital costs for each of the schemes is for the southern community hospital, £5,631,600; for the northern community hospital, and this covers the actual costs of the mechanical and electrical works now completed at Ramsey Cottage Hospital, £1,187,650; for the eastern or Douglas centre community hospital, the capital cost will be £1,719,400; for the Peel care facility there is an estimated capital cost of £749,400. In terms of the revenue costs these will depend upon the functional content of the new units taking into account those services which are to be transferred. I have to say at this stage that this matter has yet to be determined. The hon. member will recall that my minister, in responding to a question from the hon. member for Ramsey in Tynwald of the October sitting, advised that a service planning group had been established to review the functional contents of the community hospitals. Until this work is completed it is not possible to provide a meaningful estimate in regard to revenue costs.

Mr Kniveton: Mr Speaker, I thank my colleague, Mr Karran, for that reply and I would just like to ask him a supplementary. Is the hon. member aware that many of his hon. colleagues have the information and plans for the future, and they show that the Ramsey community hospital will have 69 beds; Noble's community, 80; southern, 47; and the new

hospital, 265? Surely, I ask my hon. colleague, cannot his department do some fairly straightforward calculations based on their bed numbers, staff required et cetera, or it is just a matter of whatever the revenue costs government will pay?

Mr Karran: Vainstyr Loayreyder, I think the hon. member is right to express concerns over these proposals but at the present time what he does not seem to grasp is that of course we will be transferring many of these functions that are already existing within the hospital: for example, people will be removed from the Cronks at Ballamona and we will probably be moving people out of Grianagh Court into different units. At the present time there will be a number of other issues that are going to have to be addressed as far as these community hospitals are concerned. I think that as regards the hon. member for East Douglas's point in his previous question about four minutes meaning the difference between life and death, one of the priorities I do feel in the north and south of the Island is the need for a paramedic service. We have one in the north of the Island; we need to make sure we get one in the south of the Island. So the hon. member would be wrong saying that we have not got any idea, but it would be wrong of me, and I would be misguiding this House, to give you figures on what we have not confirmed are actually going to be the functional contents of the southern community hospital and the Douglas one in the first place.

Mr Downie: Mr Speaker, I wonder if the member could confirm that it is still part of the health estate strategy to acquire 100 dwelling houses in the Island as part of the policy to provide homes in the community for those with learning difficulties, and given that the average the department have been paying for properties in and around Douglas as being in the region of £150,000 before conversion, is the member convinced that they can adequately provide this system and still remain on target with their budgets, and has this policy really been thought out?

Mr Karran: Vainstyr Loayreyder, I am a bit concerned about answering that question as really it deals with the social services division as far as care in the community is concerned. As the hon. member will be aware, we did allow a lump of money to be made available to allow the flexibility of the DHSS to buy such properties in the community. I would be opposed to going back to the days where we have ghettos for our mentally and physically handicapped. I believe those days were days of shame and ignorance on the community. Now, the member might have some justification that there might be some justification for very small clusters being bought in certain areas but I would not say that the policy is wrong in order that persons who spend more likely the first 10, 20, 30 years of their life with their parents then should not be able to go into a home instead of an institution.

Mr Downie: Would the minister agree that I am not questioning the department's policy? All I am questioning today is the department's ability to provide the necessary funding for this service.

Mr Karran: Vainstyr Loayreyder, as far as I am aware, I believe we have got, I think, over £1 million in the budget to spend on this provision. I agree with the hon. member that I have to be concerned that we provide a health service and all the external facilities that our country can afford to pay for. I will do everything in my power to do so. I will pass on his concerns to my minister regarding this policy and I hope that my minister will be in touch with him to allay any concerns that the hon. member has.

POLICE — AREA COVERED BY SOUTHERN DIVISION — QUESTION BY MR KARRAN

The Speaker: Perhaps we can reverse the procedure now. I call upon the hon. member for Onchan to ask the question standing in his name. *(Laughter and interjections)*

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Home Affairs:
What area is covered by the southern police division?

The Speaker: The Minister for Home Affairs to reply.

Mr Bell: Mr Speaker, the southern police division comprises most of the parishes of Santon and Malew, the parishes of Arbory and Rushen, the town of Castletown and the village districts of Port Erin and Port St Mary.

Mr Karran: Vainstyr Loayreyder, would the minister not agree with me that if it was so important for operational reasons for the police to have to have a southern police station in the Ronaldsway industrial area, how does his department explain it now that we are seeing a southern police station being built in Port Erin? And would he not agree also that we are seeing once again a situation where the chief constable has taken a temper tantrum over losing the site and because of the actions of the hon. member for Castletown? So now we have a situation where the department is putting the southern police headquarters in Port Erin at one end of the area that is covered; surely it should be somewhere in the middle of a village and that should be in Castletown?

The Speaker: The question related to what was the area covered by the southern police and I do not wish to get into a debate on the headquarters for the south. Nevertheless, the minister to reply.

Mr Bell: Thank you, Mr Speaker. The hon. member is fully aware of the history of this particular problem. It has been debated in Tynwald; a decision has been made in Tynwald on the way forward; the land in Port Erin has been bought; the Port Erin police station is in the process of being designed and will come to Tynwald, as I said recently, in the spring for the final approval of hon. members. I do not intend to go over that history all over again. I would simply remind the hon. member of the fact which has been brought to his attention before, that there will not be one single southern headquarters. Once the Port Erin police station is built it will function jointly with the Castletown police station and there will be very little difference noticed by the residents of that part of the Island.

Mr Houghton: Mr Speaker, can the hon. minister advise whether he is satisfied with the levels of police manpower in this particular division when in 1995 there were some 15 constables, two sergeants and one inspector and in 1997 there are only 13 constables, two sergeants and one inspector to cover a 24-hour day? Does he not agree that this shortfall in manpower should be urgently addressed to bring this division up to an acceptable level of strength, sir?

Mr Bell: Yes, I agree entirely with the hon. member's comments. There has been a shortfall of two constables in the last two years. I would say, though, that my department is restricted by manpower controls like all other departments and we are doing our very best at the moment to release officers from administration duties, particularly in Douglas, by increasing civilianisation and computerisation of a lot of the processes which currently are done by these constables. This cannot, sadly, be achieved overnight. It is going to take us some little time to complete our efforts in this area but I will give the hon. member the undertaking that as soon as officers can be freed up through this process we will be reviewing the deployment of officers all round the Island to see if the situation can be improved, because whilst I fully accept the point that there has been a reduction in officers in the south of the Island there are also concerns in other parts of the Island, particularly the north as well, who

would like to see a greater police presence on the streets, but, as I say, much as though we agree with the point made by the hon. member, we cannot achieve it overnight. It does take us time and obviously resources to be able to achieve this, but we are doing our best to get to that end.

INCINERATOR — PROPOSED USE OF WASTE HEAT — QUESTION BY MR KARRAN

The Speaker: Question 11, hon. members. I call again on the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Local Government and the Environment:

What use will be made of the waste heat from the proposed new incinerator?

The Speaker: The Minister for Local Government and the Environment to reply.

Mr Quine: Thank you, Mr Speaker. The Department of Local Government and the Environment is presently, sir, seeking to define the parameters of the project to build the integrated incinerator facility. One of the many factors taken into account in selecting the preferred site was the prospect of using a surplus heat as a source of energy. The site selection made opens up the serious prospect of both electricity generation and/or district heating. A study has already been commissioned, but until that study has been completed no final decision can be taken by the department. Should a district heating scheme be feasible, possibly involving an area of south Douglas, a material improvement in air quality in that area could be brought about. I should be pleased to provide more information when the detailed studies have been completed.

Mr Karran: Vainstyr Loayreyder, whilst I would applaud the minister's views on compulsory purchase as I believe that there are many people being ripped off, taxpayers on this Island, would he not agree with me that he has got the cart before the horse before spending any expensive amounts of money on consultancies or indeed compulsory purchase and that the fundamental issue has to be addressed that the waste heat has to be used effectively in order for an incinerator to be even anywhere near viable, and can he give this hon. House an assurance that this fundamental issue which makes the whole viability of an incinerator possible is addressed and we do not have a repeat as we have seen with many other government projects where we have spent an absolute fortune and then we are blackmailed into a situation where we would lose so much money that we have to pursue the policy that is there?

The Speaker: I think you are invited to agree with an opinion, hon. minister.

Mr Quine: Mr Speaker, to take the approach suggested by the hon. member would be overly simplistic and wholly unrealistic. (**Mr Cannan:** Hear, hear.) What matters and what has been made clear is that the design will embrace energy from waste. That consideration has implications in terms of finance and environmental issues. However, as I intimated in the earlier part of my answer to his question, there is a study going on at this time looking at waste-to-energy utilisation, it is already underway and it is being progressed in parallel with other aspects of this project, and I am sure if the hon. member will but reflect on the new hospital project in relation to which he is in part responsible, he will see the logic of the approach which I am taking, because it is a matter of record that solutions to road access, sewage problems in relation to the hospital have still to be resolved, and yet work has commenced on the hospital itself. So this plurality of approach, this parallel line that has to be taken to moving up different aspects of the scheme, is unavoidable, and if we were not to take

that approach then the lead time to producing these projects and the consequential increased costs would be frightening.

Mr Karran: Vainstyr Loayreyder, would the minister not agree with me that we should be more open and honest in government, we should learn from our mistakes and two wrongs do not make a right? As far as his comments are concerned on simplistic, does the minister mean common sense that the fact of the matter is that if for any effective use of incineration on this Island we have to address the issue of the waste heat as far as making it viable is concerned? And if that fundamental issue is not addressed, all the expensive design work that goes ahead at the present time will mean that we will lose that if we cannot address that one fundamental issue.

Mr Quine: I thought it had been made abundantly clear, sir, that the concept being progressed involved waste energy utilisation. That is quite clear. The issue evolves, really, on whether it is going to be taken off in the form of electricity or electricity and a district heating system. That is being worked on now, so I do not see really why he is taking issue. That seems to meet his wishes and particularly as given the present proposed site of the incinerator, it lends itself to a district heating system but, quite clearly, that would have to be phased in accordance with other works beyond the parameters of the incinerator.

Mr Duggan: Is the minister aware, Mr Speaker, that to utilise the waste heat you have got to have the rubbish to put through it, and 55,000 tons of rubbish which is suitable for the incinerator would be inadequate, so it is a dead duck?

Mr Quine: I am afraid it is the question that is a dead duck. *(Interjections)* The design of the incinerator and the quantities of the waste have already been established. They have even been debated in another place. That is not an issue. What we have - and I suppose we can expect it in a democratic society - is an element who are opposed to incineration and indeed one or two members who are opposed to any solution. **(Some Members:** Hear, hear.) What we need is to follow through the remit of Tynwald, and the remit of Tynwald is to put this integrated facility in place. That is what I am tasked to do and that is what I am seeking to do.

Members: Hear, hear.

PULROSE — LAND FOR FIRST-TIME BUYERS' HOUSING — QUESTION BY MR KARRAN

The Speaker: Hon. members, we move on to question 12 and again I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Local Government and the Environment:

Has your department offered land in exchange for part of the Pulrose housing estate site with the object of using the redeveloped area for first-time buyers' housing and, if not, why not?

The Speaker: The Minister for Local Government and the Environment, Mr Quine, to reply.

Mr Quine: Thank you, Mr Speaker. I am sure that the hon. member will appreciate that my immediate concern is to provide improved housing for the 250 families living in lower Pulrose. That is my immediate concern and I am not going to take my eye off that ball. At the same time I recognise the desirability of bringing about a greater mix of housing including homes for first-time buyers. This scheme is, of course, a Douglas Corporation scheme. However, the Department of Local Government and the Environment will be pleased to further

- I stress, *further* - discuss with the Corporation the question of housing mix and to consider land exchange for this purpose.

At each of the seven phases of the Lower Pulrose redevelopment an opportunity will be presented to consider this matter. This department has not, up to this point in time, offered land in exchange for part of the lower Pulrose housing estate. As intimated earlier, until the scheme has been further progressed such a move would be premature. I would, however, reiterate that I recognise the desirability of bringing about a greater mix of housing and will ensure that it is discussed with the Douglas Corporation at the appropriate juncture.

Mr Karran: I thank the minister for his reply.

The Speaker: Thank you, hon. members. That concludes the question part of our order paper. Can I point out to hon. members that it has taken us an hour and twenty minutes to get through the 12 questions on the agenda paper this morning, albeit that there are members in the hon. House who are disappointed that I did not call them to ask supplementary questions, and I think members should really take that on board.

RECREATION AND LEISURE BILL — THIRD READING APPROVED

The Speaker: Can we turn then to item 13 on the agenda paper, Recreation and Leisure Bill, and I call upon the hon. member Mr Cretney for the third reading.

Mr Cretney: Thank you, Mr Speaker. You can be assured I will take it on board; I will not be an hour and twenty minutes!

I have pleasure in moving the third reading of the Recreation and Leisure Bill. It was interesting to read, sir, it described in the *Isle of Man Examiner* of last night as the 'controversial' Recreation and Leisure Bill. I believe this Bill has been the subject of more scrutiny and consultation during its embryonic stages than any other I can think of and certainly any other I have been involved in and, as a result, its passage through this place has been anything but controversial.

During its formulation the original Bill, prepared as a consultative draft, was subject to much discussion and input, and I believe its final form has benefited from this process. As a result I do not believe Douglas members and others have been mesmerised but perhaps they have gone out just in case they were going to be mesmerised (*Laughter*), but they have been able to see through the rhetoric, much of which has been ill-informed from a limited number of parties.

Hon. members are aware of the various protections afforded by the Bill, the most important of which is that any order flowing from it will require to be subject to Tynwald approval and so any Council of Ministers would have to thoughtfully consider the orders before placing them on the Tynwald agenda. At that time certain aggrieved parties, if any existed, if not content with the support of Tynwald members, could appear at the bar of Tynwald and make representation. However, I would like to consider this in a more positive light and consider the Bill affords progressive local authorities with the ability, if they wish, to extend their powers to join with government in the provision of recreation and leisure facilities and amenities for their people.

It also affords my department the ability to make byelaws in its area of responsibility which, by its nature, has grown over the past several years as more people enjoy more leisure opportunities.

At the clauses stage the hon. member for Ramsey, Mr Bell, asked what effect, if any, this Bill would have on the already successfully operating joint authorities - the swimming pools

and so on. The answer is that they are established under the local government legislation and so, unless they choose, this Bill will have no effect.

I would again like to thank hon. members for their support to this Bill during its various stages of progress through the House and I am sure they recognise the amount of work which was put into its preparation before presentation to the House and which, as I said earlier, I think has provided a well-thought-through piece of legislation. Mr Speaker, I beg to move the Bill be read a third time.

Mr Quine: I beg to second, sir.

Mr Brown: Mr Speaker, whilst I welcome the basis of this legislation and not wanting to cause any difficulties for the minister, he did say, as I understand, that if a local authority was not content with the basis of the order they could appear at the House. I would, though, ask the minister to make it clear that under the provisions of this Bill, unlike the Local Government Act, unless the department gets the consent the Council of Ministers cannot make an order, and I just think that is an important factor because we are changing the whole ball-game. We now cannot make an order under this legislation even if we believe it is in the best interest of taxpayers unless we have the consent of a local authority. Therefore - and a point I made at second reading - if you have maybe four local authorities and one does not consent, government cannot make an order. I just think it would be helpful to clarify that because I do think it is an important factor of the Bill.

Mr Bell: Mr Speaker, just a small point following on from the answer given by the hon. mover in relation to combination authorities. He said that this Bill will have no effect on them. Could he just clarify for me nevertheless, will combination authorities still be in the same position as local authorities in their ability to join with government or government departments if they so wish? I think that it is very important that we get this point absolutely clear because they have quite a major influence on leisure facilities on the Island given the fact that they control the two out-of-town swimming pools.

The Speaker: The hon. member Mr Cretney, Douglas South, to reply.

Mr Cretney: Thank you, Mr Speaker. In terms of the hon. minister, Mr Brown, the member for Castletown, he is quite correct: the position is that no order can be put before Tynwald without the specific consent of the local authority. This is one of the matters which was discussed during the preparation of the Bill from its draft form, and I would like to think, as I indicated earlier, that as things progress, as local authorities obtain more powers and as they are able to act in a more mature manner than perhaps has always been the case, this is not something which will cause a problem. However, time will tell.

In relation to the hon. minister, Mr Bell, from Ramsey, my understanding of the position - and if it is not the case I will make sure the members are circulated so that an amendment can be considered elsewhere - is that combination authorities would be able to be included within the provisions of this Bill. If that is not the case, then I will ensure that members are circulated and perhaps an amendment can be moved elsewhere if that is of concern. I beg to move the Bill be read a third time, sir.

The Speaker: Hon. members, the motion is that the Recreation and Leisure Bill be read a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

MENTAL HEALTH BILL — THIRD READING APPROVED

The Speaker: Item 14, then, hon. members, and I call upon the hon. member for Garff, Mr Rodan. The Mental Health Bill for third reading.

Mr Rodan: Mr Speaker, I would firstly thank hon. members for their support of this Bill at the second reading and the clauses stage. It is a lengthy and technical Bill but it brings our mental health legislation right up-to-date to reflect new approaches and practices in the care and treatment of people with a mental illness. It draws on the best of recent legislation and practice in the UK, it clarifies the duties and powers of health and social work professionals, and under it patients' rights will be protected, enhanced and high standards of treatment promoted.

Reminding members of the scope of the Bill, we deal in it with the compulsory admission of patients to a mental hospital and the forms of control over them when they are there - for example, in what circumstances they are sent to hospital; what the procedures are to admit them, how long we can keep them there; when, by whom and in what circumstances a patient can be released from guardianship in hospital; also, under part 2, the concept of after-care under supervision, the supervision of a doctor and a social worker as a half-way house to ensure patients in the community do get the care to which they are entitled. In part 3 new powers are given to criminal courts over offenders and prisoners - for example, the supervision and treatment orders as a half-way house for offenders, short of detention, the transfer directions from prison to hospital for treatment. We have additional safeguards for patients when they are in the system - and this is under part 4 - for example, patients' consent being needed when there are painful or irreversible treatments involved. We have the Mental Health Review Tribunal, which is to safeguard patients' rights for continued detention and powers to order release. Of course, this tribunal will be meeting considerably more frequently than hitherto. The Bill deals with the transfer of patients to and from the United Kingdom and gives power to deal with patients' affairs - for example, the sale of their house. There is new provision for the monitoring of treatment by a Mental Health Commission for both voluntary and involuntary patients. And the last part of the Bill deals with such matters as offences and assisting criminals to escape and giving protection to patients from inappropriate treatment.

While much of this legislation is re-enactment of existing, there are important new changes introduced with the concurrence of the House which have major implications for patients and those entrusted to care for them. Mr Speaker, it gives me pleasure to move the third reading of the Mental Health Bill, sir.

Sir Miles Walker: Mr Speaker, I am pleased to second this Bill, sir. It has been a long time in the course of preparation. It is a fundamentally important piece of legislation for our community. I am delighted that it has got this far and trust that it will continue its way through and become law in the near future. The fact that patients' rights are clarified and that patients' rights are protected within this legislation is, I think, something that is very important. It is a long and complicated piece of legislation, and I would just like to say that I applaud the way the mover, the hon. member for Garff, has handled the Bill. (**Some Members:** Hear, hear.) I am very pleased to second it.

The Speaker: Hon. members, the motion is that the Mental Health Bill be read for the third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

INSIDER DEALING BILL — CLAUSES CONSIDERED

The Speaker: I call upon the hon. member for Onchan, Mr Corkill, to deal with item 15, the Insider Dealing Bill for consideration of clauses. The hon. member for Onchan, Mr Corkill.

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

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

Sub-clause (2) states that an offence is also committed if an individual having information as an insider encourages another person to deal in price-affected securities in relation to that information, knowing or having reasonable cause to believe that dealing would take place in a regulated market, defined in clause 9, sub-clause (1), or relying on a professional intermediary. It is irrelevant to the committing of the offence whether the person encouraged realises that the securities are price-affected securities. Nor is it necessary for the inside information to be given to that person. For example, a simple recommendation to the effect that 'I cannot tell you why, but now would be a good time to buy shares in company X' The offence is committed at the time of encouraging. It is not necessary for any dealing to take place.

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

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

Sir Miles Walker: I am pleased to second, Mr Speaker.

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, sir, and schedule 1.

Mr Corkill: Mr Speaker, this clause provides a number of statutory defences to a charge of insider dealing. A person shall not be regarded as taking advantage of inside information if he shows that at the time of the alleged offence he lacked the necessary intent. An essential component of the offence of insider dealing is that a person takes advantage of inside information. There is a presumption that a person who has inside information and who deals, discloses it or encourages another to deal does take advantage of it. This clause provides that a person shall not be regarded as taking advantage if he shows that he lacked the necessary intent. The following sub-clauses lay down the circumstances in which a person can show he lacks the necessary intent. The principle underlying the prohibition on insider dealing is that a person used inside information with the intent of a profit being made or a loss avoided. The principle underlying these defences is that there was no such intent.

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

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

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

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

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

Sir Miles Walker: I am pleased to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 2 and schedule 1 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member, clause 3 and schedule 2.

Mr Corkill: Thank you, Mr Speaker. Sub-clause (1) of clause 3 provides that a security is anything which falls within any paragraph of schedule 2 and which is subject to such conditions as may be prescribed by an order made by the Treasury.

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

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

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 3 and schedule 2 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

Mr Corkill: This clause defines the meaning of 'dealing' for the purposes of the legislation.

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

Sub-clauses (2) and (3) define the terms 'acquire' and 'dispose.'

Sub-clause (4) deals with the circumstances in which a person is to be treated as procuring an acquisition or disposal of a security.

Sub-clause (5) makes it clear that there are other ways in which a person may procure an acquisition or disposal. Mr Speaker, I beg to move that clause 4 stand part of the Bill.

Sir Miles Walker: Mr Speaker, I beg to second, sir.

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

Mr Corkill: Clause 5, Mr Speaker, defines the meaning of 'inside information' and I beg to move clause 5.

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: The motion is that clause 5 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 6, sir.

Mr Corkill: Mr Speaker, clause 6 defines persons who are capable of committing the offence of insider dealing, to be treated as 'insiders.' I beg to move clause 6 stand part of the Bill.

Sir Miles Walker: I beg to second, sir.

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. Clause 7, sir.

Mr Corkill: Mr Speaker, this clause relates back to clause 5, sub-clause (1)(c) and the reference to 'made public' in relation to information. The clause gives several examples of circumstances when the phrase will apply. The list is not exhaustive, leaving final determination to the court. I beg to move clause 7.

Sir Miles Walker: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 7 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member for Onchan, clause 8.

Mr Corkill: Clause 8 defines a 'professional intermediary' as a person who carries on a business consisting of acquiring or disposing of securities whether as principal or agent or acting as a person through whom such acquisitions or disposals are affected and who holds himself out to the public or any section of the public, including a section constituted by persons such as himself as willing to engage in any such business, or who is an employee of such a person.

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

Sub-clause (4) provides that a person dealing in securities relies upon a professional intermediary if the acquisition or disposal in question is to or from a professional intermediary or is affected through a professional intermediary. Mr Speaker, I beg to move that clause 8 stand part of this Bill.

Sir Miles Walker: Mr Speaker, I beg to second.

The Speaker: Hon. member, perhaps you could answer for me, under (3)(b), 'he occasionally conducts', would executors be covered by that - executors of an estate?

Mr Corkill: Mr Speaker, I do believe they would be covered.

The Speaker: Hon. members, the motion is that clause 8 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 9, hon. member.

Mr Corkill: Clause 9 provides that a 'regulated market' means any market, however operated, which is declared by an order made by the Treasury to be a regulated market for the purposes of the designation. I beg to move clause 9.

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 9 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 10, hon. member.

Mr Corkill: If I may, Mr Speaker, just revert back to the clause where you asked a question and I gave an answer, I do believe I gave the wrong information, inasmuch as it refers to people who hold themselves out to the public whereas an executor does not do that in terms of his function, so I need to reverse the answer I gave you at that reading of that clause. I apologise, Mr Speaker.

The Speaker: Thank you, hon. member.

Mr Corkill: Clause 10, Mr Speaker, provides for the penalties for the prosecution of insider dealing offences. I beg to move.

Sir Miles Walker: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 10 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 11, then, sir.

Mr Corkill: This clause limits the offence of insider dealing so that an offence is only committed if some part of the act involved in the dealing disclosing or encouraging another to deal takes part in the Isle of Man or involves a market regulated in the Isle of Man or the United Kingdom. I beg to move clause 11.

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 11 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 12, hon. member.

Mr Corkill: Mr Speaker, clause 12 excludes from the insider dealing provisions certain actions by persons acting on behalf of public sector bodies, and provides that the commission of an offence will not void any contract. This provides that the offence does not apply to anything done in pursuit of monetary policies or policies with respect to exchange rates or the management of public debt or foreign exchange reserves or any person acting on behalf of a public sector body. This effectively takes out of the scope of the insider dealing provisions the activities of government in managing the economy. It also excludes the activities of officials in disclosing inside information or encouraging dealing to this end. I beg to move clause 12.

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: The motion is, hon. members, that clause 12 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 13, sir.

Mr Corkill: Mr Speaker, this provision is in respect of the various order-making powers under the clause. It provides that such order-making powers are exercisable by order and that

those orders are subject to affirmative resolution by Tynwald. It allows the Treasury to make orders to correspond with like legislation operating in the United Kingdom. I believe at the second reading stage, the hon. member for Douglas North, Mr Crowe, raised the concern as to whether it was subject to Tynwald resolution and I believe that this confirms that it actually is. Therefore I beg to move clause 13 as part of this Bill.

Sir Miles Walker: I am pleased to second, sir.

Mr Crowe: Mr Speaker, I would just like to thank the Treasury minister for clarifying that point I raised at the second reading, and I would also like to just say how we in the Isle of Man pride ourselves on having a well regulated financial centre and this legislation is part of that regulation. May I just compliment the minister on refuting the erroneous allegations that were in the *Guardian* newspaper? I think if anything in the future happens which detracts from the well-being of the Isle of Man and the good name of the Isle of Man he should similarly write and refute any allegations made. Thank you.

The Speaker: The Treasury Minister to reply.

Mr Corkill: Well, I take on board the hon. member's comments and thank him for that. The point made is that the Island is a well regulated financial services centre and certainly insider dealing legislation needs to be in place appropriately, which is why this Bill is before us today, and I thank the hon. member for his support and clarification on this issue.

The Speaker: Hon. members, the motion is that clause 13 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 14, hon. member, and schedule 3.

Mr Corkill: Clause 14, Mr Speaker, gives effect to the powers of investigation and inspection as detailed in schedule 3. These re-enact the existing provisions contained in the Company Securities (Insider Dealing) Act of 1987 with the exception of paragraph 1(8). Mr Speaker, I beg to move that clause 14 and schedule 3 stand as part of this Bill.

Sir Miles Walker: Mr Speaker, I am pleased to second.

Mr Gilbey: Mr Speaker, the paragraph in the printed Bill imposes restrictions on the use of a statement obtained under paragraph 1 - that is, the paragraph 1(8) in schedule 3. It says, 'The statement could not be used against the maker in proceedings in civil or criminal courts unless the proceedings arose out of the truth of the statement.' Now, this restriction, Mr Speaker, was imposed in order to ensure compliance with the European Convention of Human Rights following a case called the Saunders Case which resulted from an appeal to the European Court by Mr Ernest Saunders in connection with his previous conviction regarding the Guinness distillers takeover.

Since the sub-paragraph as in the green Bill was drafted, however, the matter has been considered further and has received the benefit of further expert advice from several QC's and a number of legal officers in the UK Government Legal Service. The result of this consideration is that there is now a general agreement that the restriction can be relaxed without prejudice to the agreement so as to only apply to criminal proceedings, except those criminal proceedings in respect of false statements made to inspectors. The restriction on the use of statements in civil proceedings is admitted in the amendment with the result that the general reference to 'proceedings which arise out of an allegation that the statement is in any respect untrue' has been replaced with a specific reference to the relevant offences under the Perjury Act 1952.

This amended sub-paragraph will be consistent with a similar provision to be contained in the Banking Bill, which of course is the next item on our agenda. The amendment has the full

support of the hon. Treasury minister and the other members of the Treasury and I beg to move:

Schedule 3, page 14; for paragraph 1(8) substitute -

'(8) A statement made by a person in compliance with a requirement imposed by virtue of this paragraph may not be used in evidence against him in respect of any criminal proceedings except proceedings alleging contravention of section 1 or 2 of the Perjury Act 1952 [XVIII p.86].'

Mr Brown: I beg to second.

The Speaker: Does any hon. member wish to speak to either the clause, schedule or the amendment? The hon. member for Douglas North, Mr Crowe.

Mr Crowe: Just to clarify, hon. member for Glenfaba, does this then allow civil proceedings to still be allowed if it is only criminal proceedings that are removed?

Mr Gilbey: That is absolutely right, Mr Speaker. Civil proceedings can now be taken as a result of what people say when they are examined. It is totally right that it should be the case because it enables companies to be wound up, it enables bankruptcy or an insolvency proceedings to be pursued, and therefore the protection now is only in respect of criminal proceedings, except criminal proceedings which are in respect of perjury.

The Speaker: Hon. member in charge, is there anything further you wish to add?

Mr Corkill: Just that I wholeheartedly support the amendment. It is a situation that has been developing over recent months because of the Saunders case; the European Court of Human Rights judgement and the way that that has been interpreted in the United Kingdom in more recent times have brought us to this conclusion, and I fully support the amendment, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 14 and schedule 3 stand part of the Bill, and to that we have the amendment as circulated to you in the name of the hon. member for Glenfaba, Mr Gilbey. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Therefore, hon. members, we put clause 14, schedule 3 as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 15, then, hon. member, along with schedule 4.

Mr Corkill: Thank you, Mr Speaker. This clause makes amendments to items of legislation which make reference to the Company Securities (Insider Dealing) Act 1987 and substitute the 'Insider Dealing Act 1997.' Certain enactments specified in schedule 4 are repealed to the extent that they are specified in column 3 of that schedule. Mr Speaker, I beg to move that clause 15 and schedule 4 stand as part of this Bill.

Sir Miles Walker: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 15 and schedule 4 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

The final section, hon. member, clause 16.

Mr Corkill: Briefly, Mr Speaker, the final clause of this Bill provides the short title and enables it to come into operation on such a day as may be appointed by the Treasury by an appointed day order. I beg to move clause 16 stand as part of this Bill.

Sir Miles Walker: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clause 16 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

BANKING BILL — CONSIDERATION OF CLAUSES COMMENCED

The Speaker: Turning, then, to item 16 on our order paper, hon. members, I call upon the hon. member for Glenfaba, Mr Gilbey, to take consideration of the clauses of the Banking Bill.

Mr Gilbey: Mr Speaker, during the second reading of this Bill I promised to explain the situation regarding the drawing of cheques in the Manx language. However, as hon. members will have seen, there is now an amendment regarding this matter and therefore, with your agreement, I think it would save time for the whole matter to be dealt with when that amendment is debated rather than for me to say anything about it at this stage. Therefore, with your agreement, I would like to deal with clauses 1 to 4 inclusive.

The Speaker: Agreed, sir.

Mr Gilbey: Mr Speaker, clause 1 defines the term 'banking business'; that includes the receipt of deposits - and a deposit is defined in clause 33 of the Bill - and the payment and collection of cheques. The definition is by design simple and wide in scope. The Treasury may, by order, modify this definition. In addition, the Financial Supervision Commission may declare in writing certain activities to be or not to be 'banking business' for the purposes of the Act. Thus, it is hoped that the definition can be modified either generally or specifically as necessary in order to respond to changing developments in the market, and one should stress, Mr Speaker, that in this modern day and age the market can change and develop very quickly.

Clause 2 states that any person who carries on or holds himself out as carrying on a banking business in or from the Island without holding a licence or in breach of the conditions of a licence is committing a criminal offence. The clause then provides further clarification of what constitutes carrying on business in or from the Island, including the operation of a representative office here.

Clause 3 deals with managers of banking businesses. We do have a number of managed banks in the Island, which are banks which do not have a real presence here but are instead managed by another licensed institution. Very often they are set up as a preliminary move to a full bank with a real presence being set up later. This clause makes it an offence for anyone other than a licensed bank to act as the manager of a banking business here or hold himself out as being the manager of such a banking business. It also creates an offence to act as an unlicensed manager or consultant to an unlicensed banking business.

Clause 4 requires applications with banking licences to be made to the FSC and states that the application should be in such form and be accompanied by such documents and information as the FSC shall require.

Mr Speaker, I beg to move that clauses 1 to 4 inclusive stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 1, 2, 3 and 4 of the Banking Bill now be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 5 to 8, sir.

Mr Gilbey: Thank you very much, Mr Speaker. Clause 5 states that the FSC may not grant a licence unless it is satisfied that the applicant is fit and proper to carry on the business it intends to conduct. This is further expanded by making provisions in relation to companies which are part of a group, something which is ever more important as you find huge companies like British American Tobacco are not only in the industry of tobacco but have banking and insurance subsidiaries, I am glad to say, operating in this Island. These

provisions are designed to ensure that effective supervision can be carried out over the banking business.

Sub-clause (3) states that the commission may revoke a licence if it is satisfied that the licence-holder is no longer fit and proper.

Clause 6 states that the FSC can grant or refuse a licence or grant a licence subject to conditions. The clause also states that the licence conditions may impose certain regulatory codes or other recognised rules and regulations as a condition, thus making a breach of these codes et cetera a criminal offence, and that the conditions may provide a waiver so that a licence-holder need not comply with certain specified regulatory codes. This, therefore, enables the FSC to adopt the application of its codes to suit the circumstances of any licence-holder and to any particular type of business carried on by the licence-holder.

Clause 7 provides that the FSC may revoke a banking licence if, for example, it suspects that the key information provided to it is materially false and the licence-holder providing the information knew that to be the case when he provided the information.

Sub-clause (3) enables the FSC to make a licence subject to conditions at any time and to vary or revoke any conditions at any time. This again is necessary because of the many changes that can quickly take place in modern financial markets.

Sub-clause (5) states that a breach of a condition can lead to the FSC undertaking enforcement action defined in clause 32(2). It should also be noted that a breach of a condition is a criminal offence (see clause 2(1)(b)).

Clause 8 requires the FSC to keep a public register of licences which it has issued.

I beg to move that clauses 5 to 8 inclusive stand part of the Bill.

Mr Corkill: I second and reserve my remarks.

The Speaker: Hon. members, the motion is that clauses 5 to 8 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 9, hon. member.

Mr Gilbey: Clause 9, Mr Speaker, requires the written consent of the FSC to be obtained for the use of the word 'bank' in a business name or in any advertisement implying that the advertiser is a banking business. Failure to obtain such consent is a criminal offence. This is a repeat of existing provisions within the Banking Act 1975. I beg to move that clause 9 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 9 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 10, sir.

Mr Gilbey: Mr Speaker, this clause empowers the FSC to issue regulatory codes. These are the main regulatory requirements which will need to be met by licence-holders. They have already been drafted and have been consulted upon. They have received the broad support of the industry. A licence-holder in contravention of a regulatory code may be subject to enforcement action as defined in clause 33(2) from the FSC. I beg to move that clause 10 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, I move this amendment because I believe in the principle of accountability. We are the elected members and we will be made accountable for these actions of the commission. It would be wrong of this body to be able to make these regulatory proposals without going to Tynwald for their approval instead of laid down.

This amendment recognises the importance of the financial sector and the commission. We need to make sure that there are regulatory codes where there is a need for them to be put in urgently in order to protect the good name of our nation... that their ability is there, and I have done that in this proposal so this would allow that if there was a summer recess and there was a matter of urgency, one would allow the proposals to go ahead as far as the regulatory codes were concerned, but they would have to get approval at the following sitting of Tynwald.

I do hope that this hon. House does support this as I believe that it is important that we do have both the flexibility to allow the commission to work efficiently and effectively when it needs to work but also that it does not allow itself to be a law unto no person but itself. I do hope this hon. House will protect Tynwald and will protect the accountability of us as elected members. I beg to move:

Page 7, lines 36 and 37; for subsection (5) substitute -

'(5) Regulatory codes under this section shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulatory codes are laid or at the next following sitting fails to approved them, the regulatory codes shall cease to have effect.'

Mr Corkill: I beg to second that amendment and, in so doing, recognise the comments that my hon. colleague from Onchan has made. It is important in dealing with these issues that the Financial Supervision Commission has the teeth to act and has the power to regulate but, bearing in mind the safeguards that the hon. member mentions, that these codes shall be laid before Tynwald as soon as practicable I think is a well-balanced amendment and does not detract from the Bill but enhances the Bill, and I am happy to second it.

Mr Crowe: Mr Speaker, I would like to move an amendment which has been circulated because again, like Mr Karran, I see accountability as important and I see Tynwald as the ultimate sanction on all legislation, and that is why I have moved the amendment that the regulatory codes would not have effect unless they are approved by Tynwald. Now, this differs slightly to Mr Karran's amendment but I feel that Mr Karran's amendment, if it was approved and accepted, would leave a grey area where, for instance, regulatory codes were issued and actions were taken in the intervening period but may not be confirmed at a later Tynwald sitting. So I feel that this would leave certainly a grey area and probably a legal nightmare if something went wrong in the intervening period and it would fail to be approved by Tynwald. So I would like to move:

Page 7, line 36; for subsection (5) substitute -

'(5) Regulatory codes made under this section shall not have effect unless they are approved by Tynwald.'

Mr Braidwood: I would like to second, Mr Speaker.

The Speaker: Does any other hon. member wish to speak to either of the amendments or to the principal clause?

Mr Rodan: Mr Speaker, given that banking regulation is so important to the reputation of the Isle of Man and there are 11 aspects or categories of banking regulation within the regulatory code, I think it is clearly insufficient to lay this simply before Tynwald. We have on our desks this morning the Welfare of Livestock Regulations, which run to 18 pages, which were quite rightly subject to Tynwald debate before approval. Certainly, if animal welfare is considered sufficiently important, which it certainly is, as to warrant full debate on regulation then banking regulation warrants no less a consideration by Tynwald.

Mr Cannan: Mr Speaker, I rise to support the amendment by Mr Crowe and to emphasise its importance. On the amendment by the hon. member for Onchan, Mr Karran, it talks about 'laid before Tynwald'. Now, as hon. members know, there is a procedure to have these changed from 'laid before' to having them on the agenda, and my reading of Mr Karran's amendment is that they are just papers laid before Tynwald and that it gives the members the opportunity then to move standing orders to have them debated. As I see Mr Crowe's amendment, then they are items on the agenda, which require to be formally moved and seconded and give everybody the opportunity then to debate them and approve them or reject them accordingly. On that basis - and as Mr Crowe says, it is a thin grey area - I would support the more positive amendment of Mr Crowe in this respect.

Mr Brown: Mr Speaker, I think this clearly is an important issue and I have great sympathy in terms that Tynwald should be asked to positively approve such regulations. However, I have to say that I see some practical problems with the amendment moved by the hon. member for North Douglas, Mr Crowe, where it says 'subject to the approval of Tynwald', because of course Tynwald on occasions goes into recess and it would be, I think, potentially dangerous for the Isle of Man if we had a situation where the Financial Supervision Commission could not act because they could not bring in new regulations until Tynwald sat.

If you look at the basis of the Bill where it says just 'to be laid before Tynwald', that is one issue and that could or could not be acceptable; clearly members are concerned about that and I think that is something we can all share. But I would make the point with regard to the amendment moved by Mr Karran - and I would correct the hon. member for Michael - the procedure that Mr Karran is proposing there is a procedure that is already adopted by Tynwald in many pieces of legislation, and my understanding of it is - and if members read it it is quite clear that what it enables the commission to do is actually make the regulations, lay them before Tynwald as soon as possible, but the regulations take effect immediately they make them. But if Tynwald does not endorse those regulations either at that Tynwald sitting or a subsequent one, which would allow for the summer recess and other recesses, then those regulations cease to have effect. So ultimately Tynwald controls whether or not they are content with the regulations. So it enables the commission to be able to respond effectively and immediately where that may warrant it, and members know in this business it moves very quickly and it may well require us to move very effectively and very fast. It enables that to happen, but if for any reason Tynwald does not subsequently endorse those regulations then they cease to have effect, and I would have thought that gives us the best of all worlds and it certainly takes away the potential practical problem of being in recess and not being able to actually implement regulations, and I do not believe that is in our best interests or the Isle of Man's best interests. We are talking about an industry that moves very quickly; we are talking about an industry that is in its own right quite a powerful industry and how people can act within it. I think it would be unacceptable, and I do not think the people of the Isle of Man would thank us, if we produced a system that potentially made us vulnerable.

I would urge members to support the amendment in the name of Mr Karran, because it is the most practical amendment before us. It enables us to act quickly but it enables us also to control whether or not we like those regulations. And the greatest length of time we would have is three months where the regulations could be in being before they are actually endorsed, but the opposite view is we could be in a position where there are three months where we could do nothing without calling Tynwald to a special sitting, and I do not think that is acceptable. I hope members will support the amendment in Mr Karran's name.

Mr Gilbey: Could I just say, Mr Speaker, regarding these amendments, the hon. member for Onchan was most helpful and courteous in discussing this amendment well in advance and I think that is very helpful with highly technical Bills like this, Bills which have been subject to a lot of consultation. After discussions with him, the legislative draftsman, the officers to the FSC and the Treasury agree that we are happy to accept his amendment. As the hon. Treasury minister has said, the amendment in the name of Mr Karran enables action to be taken quickly if necessary and, on the other hand, Tynwald's approval is still required. So the two main objectives of the FSC having power to act quickly in an ever-moving market and at the same time Treasury approval are obtained.

Unfortunately, the hon. member for North Douglas's amendment would stop any quick action when the Court is not sitting and this could be very serious. It could be the whole time from the beginning of July right through to the middle of October, and sometimes it is necessary for orders to be brought in much more quickly than that.

I will not comment on the remarks of the hon. member Mr Braidwood, who seconded Mr Crowe's amendment. I totally agree, however, with the remarks of the hon. member for Garff, Mr Rodan. Of course he is right about the importance of the financial sector, and that is just why we need to have both speed of ability to act and, at the same time, the approval of the hon. other place should be obtained.

The hon. member for Michael, Mr Cannan, is, I am afraid, wrong that as drafted there is no doubt that another place, Tynwald, would have to approve orders as a result of Mr Karran's amendment. It says so quite clearly. It says 'Regulatory codes under this section should be laid before Tynwald as soon as practical after they are made and if Tynwald, at the sitting at which the regulatory codes are laid, or the next following sitting, fails to approve them' - so they have to be positively approved - 'the regulatory codes shall cease to have effect.'

The hon. member for Castletown Mr Brown's points were extremely helpful and I thank him for them. It is right that the hon. member for Onchan Mr Karran's amendment ensures that there will not be a long delay when Tynwald is not in session but, at the same time, it ensures that as soon as practicable Tynwald's approval will be obtained.

I very much hope that this hon. House will agree and support the amendment in the name of the hon. member for Onchan, because to fail to do so and to adopt the other amendment could lead unfortunately to very serious delays in certain circumstances which could have quite uncharted effects if the FSC could not act. I therefore hope that the hon. member for Onchan's amendment will be approved.

The Speaker: Does any other hon. member wish to speak to clause or amendments? In that case I call upon the hon. member for Douglas North, Mr Crowe, to reply.

Mr Crowe: Thank you, Mr Speaker. I would like to thank Mr Braidwood for seconding the amendment and Mr Rodan for supporting it. Just on a point of detail, regulatory codes are very complicated and voluminous and they are not going to be done at the drop of a hat, so they are not going to be done in a matter of hours or even days; I think to talk about going to delay things with this amendment - I do not see that as an issue. If the government or Tynwald is in recess, and if there is any urgency to have new codes in place, then a special sitting of Tynwald could be summoned if necessary. I would just add that I see the House of Keys as a debating chamber for legislation and, whilst I regret not giving Mr Gilbey notes of my amendments today, we must recognise that the decision-making is taken here, not in the Millennium Room or any committee room. If any member feels that comment is needed in this, that it is in the best interests of the Island, then I see it as a perfectly valid part of the

parliamentary process. I would just finally say that I see my amendment as strengthening the Bill, not weakening the Bill. Thank you.

Mr Karran: Vainstyr Loayreyder, whilst I do not agree with the contents of the amendment, I would agree with the hon. member. I know that the legal draftsmen are very lonely down there and that they do not see members of this hon. House down there; in fact there are only about two of us that ever go to the AG's department and I would support his right to move an amendment, but I do believe that it is flawed on the basis that he talks about the legal nightmare. Well, I believe that if the commission were to put regulations that could create a legal nightmare for us, then we would have to seriously consider whether that commission for putting those regulations forward in the first place should be in office in such a core sector of our finance industry.

He does talk about the fact that we would not be making these codes in minutes and hours or days, but I think the fact of the matter is that we do go into recession from July to the third week in October, and I do think that whilst he is right that there should be no moves to make regulatory codes at the drop of a hat, there could be cases where we need to move fast to protect the good name of one of our core industries in the Manx economy.

I do hope this hon. House does support my amendment. I think it does two things: one, it looks at the fundamental fact that the buck stops with the elected members, but it also allows the flexibility to protect the good name of this nation in a most important sphere of the Manx economy. I do hope hon. members will support my amendment that is standing in my name.

Mr Gilbey: Mr Speaker, the hon. member for North Douglas, Mr Crowe, says that codes could be very long and complicated. Well, of course I admit that some are, but they do not have to be and, if there was some special situation - you could have a situation such as that that we have seen regarding pyramid schemes, which needed most urgent action - a code could be short and to the point. So I am afraid the argument just is not valid that it would take months to prepare a code.

The next idea, that we could specially recall Tynwald, I am afraid is equally invalid. I think in the 14 years I have had the honour to be in the House Tynwald has only been recalled specially once or twice, if that. I am struggling to think . . .

Mr Brown: SIB.

Mr Gilbey: The hon. member for Castletown has been most helpful and says once regarding SIB, which was a quite terrible event and one which our ability to quickly bring in codes is aimed to prevent recurring.

So I do hope that hon. members will support what the hon. member for Onchan has said with regard to his amendment, which I am absolutely certain is the right one. It enables flexibility and speed to remain with the FSC but still ensures that there should be parliamentary approval of the codes. I beg to move that clause 10 stand part of the Bill.

The Speaker: Now, hon. members, the motion is that clause 10 stand part of the Bill. To that we have the two amendments which have been circulated to you, one in the name of Mr Karran and the other in the name of Mr Crowe, the hon. member for North Douglas. Taking Mr Crowe's amendment first, will those in favour please say aye; against, no. The noes have it. The noes have it.

Mr Crowe: Divide.

The Speaker: Too late, sir. Taking now Mr Karran's amendment, will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Therefore, hon. members, the motion is that clause 10 as amended by Mr Karran's amendment stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. member for Glenfaba, perhaps, then, we could take clauses 11 and 12?

Mr Gilbey: Yes, please, Mr Speaker, thank you. Clause 11 enables the FSC to make recommendations and issue directions to banking licence-holders. A breach of a direction under this clause is a criminal offence. It is important to note that directions cannot be given in relation to the affairs of a particular customer of a banking licence-holder except in very limited circumstances - for example, where the FSC considers it necessary in order to protect the licence-holder's other customers, and this is a repeat of an existing provision within the Banking Act 1975.

Clause 12 enables the FSC to request information from a banking institution about the bank itself or about a company within the same group as the bank, and I have explained how now you can have many international groups that are not just doing banking but are doing many other things as well. Information about a customer of a banking institution may also be requested but only in limited circumstances - for instance, if the FSC believes it is necessary to protect the interests of the institution's other customers.

Sub-clause (7) provides a protection for persons making statements to the commission under this clause and has been inserted following the recent judgement in the European Court of Human Rights relating to Mr Ernest Saunders. Indeed, it was to this matter which I referred in moving the amendment to the previous Bill.

I beg to move that clauses 11 and 12 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 11 and 12 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 13, 14, 15 and 16, sir.

Mr Gilbey: Mr Speaker, clause 13 provides that the FSC should have powers to investigate the affairs of a banking institution, former banking institution or manager of a banking institution. The clause empowers the FSC to enter premises, take possession of documents, books and accounts. Again, there is a protection built into sub-clause (7) in relation to individual clients of banking institutions. Any person who obstructs the FSC in exercising its functions under this clause is guilty of an offence under sub-clause (4).

Clause 14 enables the FSC to apply to a justice of the peace for further investigation powers. Where the JP is satisfied that there is good reason to do so for investigating the affairs of a banking institution he can authorise the FSC to exercise the further powers contained in this clause. The powers are twofold: firstly, the FSC can require persons under investigation and third parties - for example bankers, company administrators et cetera - to attend before it and answer questions or otherwise furnish information; secondly, the FSC can also require persons to produce documents which appear to relate to matters under investigation. Failure to comply with the FSC's requirements will, by virtue of sub-clause (8), be a criminal offence.

Again, sub-clause (6) provides a protection for persons making statements under this clause as required following the Ernest Saunders judgement in the European Court of Human Rights.

Clause 15 provides further investigation powers which may only be exercised if a deemster is satisfied that they are necessary. This clause enables the deemster to issue a warrant enabling named officers to enter and search a premises.

Clause 16 enables the FSC to disqualify an individual from acting as a director, chief executive, manager or controller of a banking institution on the grounds that he is no longer considered to be fit and proper.

Sub-clause (3) deals with the procedures to be adopted by the FSC when issuing a disqualifying direction. Any individual who accepts an appointment in contravention of a direction is guilty of an offence (see sub-clause (5)).

Sub-clause (6) requires a banking institution to take reasonable care not to appoint an individual in contravention of a direction. I would stress this is a repeat of the existing provisions in the Banking Act 1975 and in the Investment Business Act 1991. It should also be borne in mind that a disqualification notice is subject to a right of review under clause 24.

Regarding the deemster's search warrant in the other two clauses before that, there have been no complaints in respect of the use of the powers under clauses 13, 14 and 15.

Mr Speaker, I beg to move that clauses 13 to 16 inclusive stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 13 to 16 inclusive stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. member for Glenfaba, perhaps we could take clauses 17 to 20 inclusive?

Mr Gilbey: Please, Mr Speaker. Clause 17 enables the FSC to issue a public statement about a banking business where it deems it desirable in the interests of protecting the public. Safeguards are built in to the clause where a statement is to be issued in respect of a licence-holder to provide such a licence-holder with prior notice of any proposed public statement, thus giving him the opportunity to oppose it if he so wishes.

Under clause 18 those who accept deposits illegally may be required by the court to repay those deposits and any profits accrued as a result of their contravention or to compensate investors for any loss which they may have suffered as a result of any contravention.

Clause 19 deals with the powers of the FSC to apply for, and the powers of the High Court to grant, an injunction restraining a contravention of this Bill.

Of course, it is very important that if the instructions of the FSC are not obeyed they must have the power to go to the High Court to obtain an injunction.

Clause 20 places an obligation on auditors of banking institutions to report certain matters to the FSC. This inclusion, as a clause, is a recommendation of the Basle Committee of International Banking Supervisors following the failure of the BCCI, and the auditors in the Island are cooperating regarding, and support, this proposal.

I beg to move that clauses 17 to 20 inclusive stand part of the Bill.

Mr Gelling: I beg to second, Mr Speaker.

The Speaker: Right, hon. members, the motion, therefore, is that clauses 17 to 20 inclusive stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Could we then, sir, take clauses 21 to 23?

Mr Gilbey: Yes, Mr Speaker. Clause 21 enables the FSC to require a banking institution to appoint an approved accountant or other person of relevant professional skill to make a report on specified aspects of the bank's business or the business of another company within

the same group as the bank. The costs of such a report would be met by the banking institution concerned.

Clause 22 provides an indemnity for the auditors of banking institutions and reporting accountants, enabling them to communicate in good faith relevant information or opinions about a licence-holder to the FSC without incurring any liability for contravening their duty of confidentiality to their clients. I would stress this is a repeat of existing provisions in the Banking Act 1975 and the Investment Business Act 1991.

Clause 23 contains the enabling power for the creation of a depositors' compensation scheme. Such a scheme is, of course, already in existence under an enabling power contained in the Financial Supervision Act 1988. The purpose of this clause is to move the enabling power into the banking legislation, thus making it more user-friendly for practitioners in the industry.

I beg to move that clauses 21 to 23 inclusive stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 21, 22 and 23 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 24, sir.

Mr Gilbey: Mr Speaker, this clause provides a mechanism for certain decisions of the FSC to be subject to an independent review.

Sub-clause (3) requires that on receipt of an application for a review the Treasury should establish a review committee consisting of three members, at least two of whom shall be independent persons of appropriate experience. The review committee is empowered to either confirm, vary or revoke the decision appealed against. The decision of the review committee is final. I would stress that this replicates the existing provisions within the Banking Act 1975, which have therefore been in place for no less than 22 years, and the Investment Business Act 1991, and the system has worked well over many years. I would stress that in fact the number of occasions on which reviews are asked for is certainly not one a week or one a month; they are more like about one a year. They are extremely rare, and I do know of at least two of them and in each case a member of the Treasury, who is not personally in the FSC, is appointed and two other suitable people. The people who have been appointed, to my knowledge, are people of the highest standards, and any suggestions that the arrangement is some kind of old boys' act worked out in advance to enable the FSC's decisions to be supported is totally and utterly false. It has worked over these 22 years and I see no reason why it should not continue to in the future. Accordingly, I beg to move that clause 24 stands part of the Bill.

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

Mr Crowe: Mr Speaker, whilst accepting most of what Mr Gilbey said, I would still like to move an amendment on this clause which would, after the word 'appoint', insert 'subject to the approval of Tynwald.' Now what I envisage here is that I would like to see a permanent panel set up which need not just be three people, it could be seven or even ten people with relevant experience who would make up this panel but they would be appointed by Tynwald and be in place in the event that any decisions were taken under clause 24(1). I would just, in closing, ask the mover of the Bill, the hon. member for Glenfaba, Mr Gilbey: if a decision under clause 24(1)(a) or (b) was taken, would it mean that the company would be allowed to continue until an appeal was held or would the business cease immediately an order was given by the FSC? Thank you. I beg to move:

Page 22, line 7;

after 'appoint' insert ', subject to the approval of Tynwald,'

Mr Cannan: I beg to second. The mover of this amendment has a very good point, sir, and I see no reason why a panel of five or six names cannot be brought by the Treasury for approval to Tynwald of a review body and, when there is a review, the names are chosen from that panel as to availability. But at least then Tynwald will know who these fit and proper persons are. There is nothing wrong with that. In many other cases we appoint people onto various review commissions such as the traffic commissioners, there are four or five people, they meet fairly rarely, appeals are made to them. This can be seen in a similar context where there is seen to be an injustice, the matter goes to a panel, the fit and proper persons are approved by Tynwald as fit and proper persons, and two or three of those persons are invited to conduct a review. So if you have six then you can have the review because you will only need to choose two or three. It is like choosing a panel from the panel of justices of the peace; two or three magistrates are chosen for a sitting, and I think that Tynwald should know who these fit and proper persons are and it would give much more credibility to the review if they were there with the approval of Tynwald. It would give more credibility to the persons sitting on the review also to know that their independence had the credibility from Tynwald. I think that is important - justice not only being done, but being seen to be being done.

Mr Corkill: There are two points I would wish to raise concerning the hon. member Mr Crowe's amendment and subsequent to the comments of the hon. member for Michael, Mr Cannan, who is now referring to a panel of people. I do not believe, in the way the legislation is drafted and in the way that the clause is drafted, that that would facilitate a panel to be approved by Tynwald. I do not think that works, but perhaps hon. members can read the print and see that for themselves. I take on board the aspect of public scrutiny, that is an important part of what we do in this place, but I would also make the point that we have to have independent persons of appropriate experience who understand the situation, who are of high standing, as the hon. mover Mr Gilbey, mentioned. Sometimes - and I am aware of this - when their names are in public on the Tynwald agenda, it is a wee bit off-putting that they have to be approved in public. At the end of the day these people come forth on the basis of public service to this Island and I would not wish to see a situation where we put people off. That may not be the case, but it is a point for hon. members to consider. Therefore I would also state that this situation that the Treasury appoints the committee has worked well on the rare occasion that it is needed for a number of years now, and I do believe that the amendment is unnecessary.

Mr Shimmin: Mr Speaker, I will be supporting the original clause within the Bill. I understand Mr Crowe's concerns, however, and at the briefing last week issues were raised on this matter regarding the independence of the review panel. It is one that, at that meeting, we were advised that after lengthy consultation with the industry was deemed to be the appropriate way forward. However, as Mr Gilbey, the mover of the motion, has said, this has operated for 22 years. To continue something after a period of 22 years at times is a good thing, at times it can be questioned. We are under ever greater scrutiny and I would urge the FSC and the mover of this motion to keep a close eye on this issue in the years ahead, because I believe at some stage in the future we will find it an appropriate way forward to separate and get the independence of that review committee more for the publicity that we will gain from any problems that may be perceived in the future rather than any reality of the independence of those people. I acknowledge that there will be a number of circumstances

where specialists are required from different fields; however, it is something which has already raised the issue. It is a cosy arrangement in the eyes of some external observers that the Treasury have such an integral part in this, and I believe that we will have to revisit this in the future. But I have confidence in the mover of the motion and the FSC that they will keep a close eye on this matter. Thank you.

Mr Karran: Vainstyr Loayreyder, I spent some time with the legal draftsman about this because I actually agree with the principle of what the hon. mover of the amendment is doing. But the problem was that time limitations were put so that we did not have time enough to really come up with something that could be acceptable and practical within this proposal.

The fundamental principle from the member for Douglas North, Mr Crowe, is right as far as the fact that these people should be accountable, and I have no problem with that at all. The problem I have is that there is a difficulty in getting people to sit on any of these panels, I believe; it is quite difficult to do so. I can understand the problem as the legislation is drafted. At the present time it is difficult to get people to sit on the panel; it is going to be increasingly difficult if it is going to be public and they could end up with public ridicule because one of us hon. members has some position we do not like about the individual and his work.

There is the problem also that if it becomes a public investigation the way the present clause is written, then people say, 'Well, what is this panel looking at?' and of course if it then comes out that we are looking at this bank or that bank, then you could have a legitimate concern that you could end up actually destabilising an institution where they are actually innocent. That is one of the problems that I find with the proposal.

But the fundamental principle of what the hon. member for Douglas North is saying is right. I believe that there should be some accountability. I just feel that there needs to be a way where we can guide between the two sectors.

I am very tempted to vote for the amendment so that then the Legislative Council would have to come back with a workable scheme to replace it in order to show that we do want the principle recognised of accountability and that Tynwald is the House where the elected members are. They are accountable; it will not be the faceless members of the Financial Supervision Commission.

I do find it rather concerning when the mover says about the old boys' network - and it is not an old boys' network - and the hon. member may be right, it is not an old boys' network at the present time. But we are never making legislation for today, we are making legislation for tomorrow. So I do think that the hon. mover of the Bill needs to come back with some sort of reasons why we should not support the member for Douglas North.

I looked at this proposal and decided not to move an amendment at the present time in case there was another way that we could deal with this issue so that maybe the review committee could be at the approval of the Council of Ministers, even though there could be an argument that it would all be nodded through like an old boys' club if it went there. But the point is that I do not know whether, if we support this proposal, we will be practical as far as that is concerned.

The hon. member, the mover, I would like to clarify this clause about a panel, because that was the very issue that we discussed with the legal draftsman and, as far as I am concerned, the legal draftsman said to me that it would take some time to draw up a suitably worded amendment to bring in the idea of a panel. I believe at the present time the hon. member is not quite right as far as that is concerned unless there were going to be some regulations moved in Tynwald Court.

I do hope the hon. mover does seriously give reasons why we should not support the hon. member, because the principle is right but I think the workability of it is naive.

Mrs Cannell: Thank you, Mr Speaker. I rise in support of the amendment moved by the hon. member, Mr Crowe, for all the reasons that he explained, and I would like to add further to that. I see nothing wrong at all including in this particular clause that the approval of the committee be subject to the approval of Tynwald. If we are an open and honest government, as the hon. member for Onchan alluded to earlier on during another debate, then we have nothing to hide here and I think, in the absence of such a panel as has been referred to, then the very least we can do is to put provision in here that it be subject to the approval of Tynwald.

With regard to the practicalities of including such an amendment to this particular clause, again we are looking at a review committee and presumably, if someone were to object to a decision that had been taken and were asking for a review, then, like planning, there would be a time set aside for the consideration of a review, for the date of such a review to be set. Therefore to me it would be practical because it would provide sufficient time to enable the item to go on an agenda for consideration and approval or rejection by Tynwald. So therefore I see it as a practical measure and I think it is the only sensible measure, given that at the moment it is proposing to do it all in-house, all behind closed doors.

I think, hon. members, we all have to remember that we are accountable to the public purse. Treasury and every other government department is financed by the public purse, and it is right and proper that it should come before Tynwald for approval. Just to add very briefly, again when putting together or agreeing to have put together a planning committee that is subject to Tynwald scrutiny and approval, names are forwarded of individuals who are being proposed to serve on a planning committee for the purpose of looking at applications, reviewing applications and so on.

With regard to, finally, and just commenting on the concerns expressed by the hon. Treasury minister when he said that there could be a degree of embarrassment or reluctance for certain individuals' names to come forward in the public arena, again I do not think that is sufficient reason for actually rejecting the amendment. As much as I have sympathy with and am prepared to agree to a degree with what he has said, to my mind it does not make a case for rejecting the amendment and I think it is very important that, when Tynwald is able, it is in a position to approve or otherwise situations such as this and a review hearing of a committee's decision is an important one, particularly in banking terms.

So I will be supporting the amendment moved by Mr Crowe and I hope that other hon. members will do so also.

The Speaker: It appears, hon. members, as if the debate on clause 24 and the amendment will continue for some time, so I think it is an appropriate time in which we can adjourn for lunch. We will adjourn until 2.30 and the next member to speak will be the hon. member for Middle, Mr North. Thank you, hon. members.

The House adjourned at 1.01 p.m.

BANKING BILL — CONSIDERATION OF CLAUSES CONCLUDED

The Speaker: We resume our debate on clause 24 of the Banking Bill, and the next to speak is the hon. member for Middle, Mr North.

Mr North: Thank you, Mr Speaker. I would just like to talk about the amendment from the hon. member for North Douglas, Mr Crowe, and I think a lot of us, including myself, have a lot

of sympathy for that particular amendment, but if you start to look at the implications - and I think it is unfortunate that the hon. member has not really circulated it well before and had discussions with the Treasury about this - I think from what hon. members have said prior to the lunch break on this that really, if the Treasury, as they have during the lunch break, had a look at it and have given me an undertaking that they will go to the consultative committee together with the hon. member with this amendment, then it would solve an embarrassing situation, because unfortunately the amendment from the hon. member for North Douglas, I think, is not what I would call sound legislation and I would really query that amendment. So I hope that hon. members will, if the hon. member with the Bill, Mr Gilbey, confirms that, which I am sure he will - that they will take it back and have a look at it - I am sure that this House should take comfort in that.

Mr Gilbey: Speaking to the amendment of the hon. member for North Douglas, I certainly confirm that having discussed it at lunch we would be more than happy for him to join us at a meeting of the appropriate consultative committees, particularly the banking consultative committee, to discuss his concerns and the best ways of overcoming them, and we have certainly promised that on behalf of the FSC and the Treasury Minister has agreed to it on behalf of the Treasury. I do feel that if he was prepared to withdraw his amendment at this stage it would be the most statesmanlike thing to do and it would be in the best interests of the whole of the financial sector, because I am sure, through consultation with the sector, we can get an answer that will please everyone.

Mr Downie: Mr Speaker, I would urge the member not to withdraw his amendment at this stage. One of the areas in which we are constantly criticised in this Island regarding our banking and finance is in supervision, and only this last few weeks the Isle of Man has been pilloried by critics of our system here, and I feel that unless we are perfectly open and Tynwald Court has an opportunity of approving the persons recommended to serve on this committee and everything is out in the open we will continue to be pilloried. Now, we do it in lots of other ways throughout government and, as far as I am concerned, if we are going to have a committee which is looking at probably the biggest issue and the biggest revenue-earner that the Island has, I think the membership should be out in the open and the membership should be fully endorsed by Tynwald Court, and I would urge the member not to withdraw this particular amendment at this time.

Mr Braidwood: Mr Speaker, I have listened to the debate with great interest this morning. There were a lot of people in favour of a panel. There were a lot of people in favour of it going for the approval of Tynwald, sir. May I offer a suggestion that I move a substitution on clause 24, sub-clause (3), 'That a panel of independent persons of appropriate experience shall be appointed by the Treasury with the approval of Tynwald from which a committee, in this section referred to as the 'Review Committee', shall be appointed by the Treasury to conduct a review under this section on receipt of an application under sub-clause (1)' and delete sub-clause (4). I think that will appease the people who have spoken for the amendment and also for the Treasury.

Mrs Hannan: I am a little bit alarmed, Vainstyr Loayreyder, that we should be moving amendments such as this without reasonable consideration to the extent of what that would do and the ramifications that it would have. It is quite detailed. I think we all know of various committees within a number of departments where people from outside serve, and this is really a committee to look at a particular area within this piece of legislation, and I am concerned that we should be flagging this committee up as being something that should be approved by Tynwald when, if the object to have people approved by Tynwald, maybe all the

committees should be approved by Tynwald, but surely that takes away, then, the responsibility of departments to operate, ministers to be politically responsible to this House and another place, and I think this particular piece is right. I would feel happier with the names being submitted to Tynwald, but to have somebody voted upon to give them a higher position maybe than a lot of other people I think might undermine their position if they are not approved, and I think that is something which has concerned us over the years even if it is only - I am saying 'only' - a member of the Electricity Authority when they come forward and they are severely criticised for something, maybe not in particular but in general because they have been on the authority for quite a long time. And so there are these sorts of issues which really concern me, and I do not think we should bring it forward in an amendment more or less on the hoof at this time. I think, because of the seriousness of the legislation, we should be doing it in a very careful and considered way and a fully considered way and not just on the floor of the House here and now.

The other comment I would like to make is about the comments made by the member for East Douglas who said that we have been severely criticised and, because of that, this would clarify that. I cannot accept that. It was two articles in two UK newspapers; the first, written by a woman who does not know anything about the Isle of Man, knows nothing at all about the Isle of Man, (**Mr Gilbey:** Hear, hear.) was able to comment on the Isle of Man and how we operated, and I am critical of that newspaper and I think we should complain to the Press Council and ask for them to put in a proper apology to us for that article that was written, and I do feel very strongly about that - even if it is my newspaper. I think that we should, but it was followed up by a very positive article in another UK newspaper. So you cannot say that we were absolutely pilloried and therefore we need the sort of suggestions that are being made.

I do go back, though, to this amendment which is suggesting, I think, that we do something which, while we can get people to sit on a review committee and work for us, I think would give them a higher profile than other people within a sort of area where we are seeking advice, and that would at this stage be wrong.

The Speaker: Hon. member for Douglas North, I am aware that you did indicate to me that you wished to speak, sir, but I am also aware that you have the right to reply to the amendment which you have moved and has been seconded, so I was trying to complete the debate before we reached that particular stage unless you are indicating something different, sir?

Mr Crowe: Yes, Mr Speaker. May I be allowed to withdraw the amendment, because I have received assurances that the situation will be fully looked into? So if the House will agree or if you will agree, I withdraw my amendment.

The Speaker: I am happy if the House is happy and your seconder is happy, sir.

Mr Cannan: Yes, sir.

Members: Agreed.

The Speaker: So in that case the amendment in the name of Mr Crowe is withdrawn. To continue with the debate, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I rise merely to second the amendment which has been proposed by my colleague for East Douglas in that I think it is important that we do have - (*Interjections*)

The Speaker: It has not been circulated yet.

Mrs Cannell: It has not been circulated but I rise to second it anyway, Mr Speaker. I think it is important, especially in view of that fact that Mr Crowe, the hon. member for North

Douglas, has withdrawn his. I think it is important that the members of this hon. House do have a choice here with regard to determining what should and should not be considered by a committee behind closed doors and what is considered to be more appropriate, and that is for consideration and approval by the hon. Court of Tynwald. Thank you.

The Speaker: Hon. members, Mr Braidwood has indicated in his speech that he wished to move the amendment. The amendment has been moved; it is in the Secretary's hands. It has been signed. It has not yet been typed so that it can be circulated to this hon. House, but the position is that it is now an amendment proposed and seconded.

Mr Karran: Vainstyr Loayreyder, just a point of order: I thought when you had spoken to a clause you could not second an amendment once you had spoken once to that clause (**Mr Gilbey:** Hear, hear.) and, if that is the case, I do not think the hon. member for East Douglas, as much as I am all for debate, is entitled to be able to second when she has already spoken to the original clause.

The Speaker: You are correct, sir. Mrs Cannell had spoken. It is confirmed Mrs Cannell had spoken and therefore cannot second the amendment in the name of Mr Braidwood.

Mrs Cannell: Mr Speaker, on a point of clarification. When I did actually speak I spoke to the amendment which was actually proposed by Mr Crowe, and not to the actual clause.

The Speaker: That was still in front of the House as the main clause and the amendment. Does any other hon. member of the House wish to speak? Mr Singer, the hon. member for Ramsey.

Mr Singer: Could I, then, in the circumstances second the proposal by Mr Braidwood?

Mr Gelling: Mr Speaker, I am getting increasingly more concerned as we are progressing on this particular clause. I just hope that members will consider that we are talking here about the revocation of a licence or the non-renewal of a banking licence. Now, in the Isle of Man we renew the licences of a bank every year and I can just imagine the scenario of a bank licence coming up for renewal on, say, 1st August and we go through exactly the same scenario as we have already on a clause previously where, if a committee had to be assembled . . . I am talking now about this review committee that is basically within the hon. member for East Douglas's panel as well, because I would suggest that this is something that is so sensitive and has to be kept so confidential that the slightest leak that the FSC were thinking of not renewing a licence for a bank would cause a run on that bank and it would automatically close; it would finish that particular bank completely.

Now, what I am saying is, we have agonised over this for years to try to give those people some way that they can have a review outwith the actual Financial Supervision Commission but, at the end of the day, we as Tynwald have given to the Financial Supervision Commission through Treasury not just the power but the responsibility of making sure that our banks are regulated correctly, they are fit and proper people to take invested money. That is where the responsibility lies. Within that is a review which is conducted from within the Treasury, with no-one from the FSC who has had any input whatsoever into it, to review that decision. Now, I would suggest that to try to amend something like this on the floor of this House at this time - the implications could be devastating, and I would say that the very people that we are saying everybody should know, the people out there who are regulated and controlled would be the last people who would want their particular case aired in public or the suggestion that a review panel be formed to actually review that decision, because by that time I can assure hon. members the bank would have closed because a run would have come on the bank and that would have been it. So I would suggest that the hon. member who has

withdrawn his particular amendment, I think, appreciates the difficulties that are there and I think those difficulties can be ironed out, as the hon. Minister for the Treasury has already agreed that they will look at this situation again because it is a very sensitive one and I would say to hon. members please be very careful. I would suggest that they go along with the clause as it is written with the assurances of the Treasury.

Sir Miles Walker: Mr Speaker, it has been an interesting debate on this particular clause and the amendments and there has been a fair amount, perhaps, of emotion in the debate. It is obviously an important matter and I think the hon. member, the Chief Minister, has just spent out some of the possible repercussions. But, listening to the debate, you would think that this had been an area of our law - and I think it has been in place, or a similar provision, since 1991 - that had caused some problems, and to my knowledge there has been no problem caused by it and certainly no criticism of it and I think that it is a piece of law that has worked pretty well for us and I think there would have to be good reasons to change it. And so the practical application of this piece of law, as far as I am aware, has had no problems over the last number of years.

The point made by the Chief Minister is very relevant, and that is that matters considered by these review committees and by the FSC in its turn are confidential and it would be dangerous in the extreme if they became public knowledge before the process of review and decision-making had finished, and even then, I believe, it remains confidential unless the party involved wishes to make it public which is, I would suggest, highly unlikely.

We do know what the issues will be that a review committee will have to consider. To try in advance to identify independent persons to sit on that review committee can be difficult, and I think it is worth underlining that there are not people out there volunteering to come forward to sit on these panels, review the decision of the FSC, perhaps go against the decision of the FSC - and that may be their job, it may be the right decision - and yet at some stage require the FSC to look at their area of work, whether they be in banking or in some other financial institution.

So to find independent people is not easy. To find independent people in advance of identifying the issue that needs to be reviewed is even more difficult. To think of having a panel of people, perhaps six or whatever number it is, eight, approved by Tynwald so that those names are known by everybody - I can imagine the sort of lobbying they may come under by somebody who has been refused a licence and wished it to be reviewed, and I can understand that if some of that lobbying falls on deaf ears the people who are lobbied for filling their responsibilities are in great danger of petitions of doleance and further court action down the road.

I think the suggestion that has been made could pose some inherent difficulties. This is not the only situation where there is a review committee; it is also in the Investment Business Act and there, I am told, apart from the difficulty of identifying people the practical application of the Act has not identified any problems.

I do not think a case has been made for any change. I think it is an important suggestion, it is an important provision, and the suggestion that has been made that this matter can be discussed further by the consultative committees, as this Bill has at length, but could be identified and put under the microscope by a consultative committee is a fair one and, if there is a general feeling that there should be change, that there is something unfair about the provisions as written in this Bill or that it is unworkable or not transparent, as perhaps has

been suggested, then it can be revisited, but I think at this stage I certainly have not been convinced to do anything else but vote for the green Bill as it is written.

The Speaker: Hon. members, I appreciate that you still have not got the circulated amendment. Nevertheless, we have reached a stage, if no other member wishes to speak, where I call upon the hon. member for Douglas East, Mr Braidwood, to reply and as soon as the amendment in his name arrives back in the hon. House it will be circulated to members and given plenty of time in advance of the vote.

Mr Braidwood: Thank you, Mr Speaker. In light of the comments made by the Chief Minister and if I could be given an assurance that my amendment will be looked at by the Treasury before the third reading, I am quite willing, sir, to withdraw my amendment.

The Speaker: Are we happy that the amendment should be withdrawn, bearing in mind, if the mover of the Bill will indicate, that he would equally be happy to have it looked at?

Mr Gilbey: Certainly, Mr Speaker. I think it is most statesmanlike of Mr Braidwood, as it was of Mr Crowe. I am sure it is the way to proceed and I will certainly undertake on behalf of the Treasury, I am sure, with the full concurrence of the Treasury Minister that both Mr Braidwood and Mr Crowe would be invited to a meeting of the consultative committees, particularly the banking one, to discuss their fears and discuss the best way of dealing with this matter with the members of the consultative committees. I certainly very willingly give that undertaking on behalf of the Treasury and I am sure the Treasury Minister will concur.

Mr Cannan: A point of order. Can the mover of the Bill give an assurance that this will happen before the third reading of the Bill, sir?

The Speaker: No, I am not sure that he can give the assurance that it would happen before the third reading. I would have to look to the mover of the amendment to accept the good offices of the member for Glenfaba that it would happen, not necessarily before the third reading, sir.

Mr Braidwood: It would be preferable if it were before the third reading, but if I can be given quite categorical assurances that Mr Crowe and myself will meet the consultative committee. . . ?

The Speaker: Okay. Well, in that case, hon. members, can I ask the hon. member for Glenfaba to wind up the debate on clause 24? That is all that remains now, both amendments having been withdrawn.

Mr Gilbey: That is correct, Mr Speaker. Can I categorically give the assurance that both hon. members will be asked to the consultative committee? As the hon. member for Michael knows having been Treasury Minister, you cannot just call consultative committees like that before the week after next, because they consist of a lot of very eminent figures in the financial sector who like meetings to be booked very well in advance. There are usually between six and ten members on each consultative committee and we have agreed that it should not just be the banking consultative committee because, of course, this affects investment et cetera, so we are probably talking of the professional consultative and possibly the Chamber of Commerce consultative as well. But certainly this will be fully discussed and I know the Treasury Minister and the other member of the Treasury, the hon. Sir Miles Walker, would confirm that we will definitely do this, and I hope that assurance will be accepted by this hon. House. It certainly will be in *Hansard* and I hope on that basis, Mr Speaker, the clause will be approved as it is in the Bill.

The Speaker: Hon. members, the motion is that clause 24 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, Cretney, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Karran, Corkill, Kniveton, Gelling and the Speaker - 22

Against: Mrs Cannell - 1

The Speaker: Hon. members, the motion carries in the House, 22 votes being cast for and one vote being cast against. We then, hon. members, move on to clause 25. I call upon the hon. member for Glenfaba.

Mr Gilbey: Mr Speaker, this clause introduces an offence where a person knowingly or recklessly induces another to make a deposit on the basis of false, deceptive or misleading information. This is a vital element of customer protection.

This is an important new clause which will hope to catch fraudsters. As other countries have provisions which are similar, we need to stop fraudsters using the Isle of Man because they think that our legislation is weaker than that of other countries. I would say here that the FSC and the Treasury have considered the amendment which has been tabled but obviously not yet moved and, to save lengthy debate on this, I can say that we are totally prepared to accept it and have advised the hon. member for Onchan of this. We appreciate again him discussing it with us in advance and were quickly able to concur with his proposal. Mr Speaker, I beg to move that clause 25 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, I have some concerns about this Bill, and this is one of the concerns I have: we talk about fraudulently inducing someone to make a deposit and you think, well, if somebody is stupid enough to part with money that is their problem, but when you think about the effects that crimes have on society then you have got to weigh up what effect they do have. Now, burglary is bad and things like that, but we have a situation here where this crime can deal a severe blow to our society and can have a damaging effect on one of our core parts of the Manx economy, and that would affect a lot of people.

So when we talk about this clause, I believe that we need to have a message that goes out. We have seen in the debate today on this Bill about certain UK papers that have a fixation of blackening the good name of this Island, trying to put out that our finance system is full of dirty money when the fact is, even for somebody with as limited knowledge as I have of the finance industry, that more likely what goes through one day in the City of London would take well over a year to do so in the Isle of Man. Allowing that we do not lose that fact, what I feel is important is that we should have a clear message. This is an important strand to our economy and I believe that this attitude of 'Well, it is better than Jersey but it is the same as the UK' - I believe the message should go out in this piece of legislation that we are hard on this sort of crime on this Island because it can have such dire effects on the whole economic base of this Island.

I feel that it would be a missed opportunity if we allowed this Banking Bill just to follow the UK. When people say about our finance industry this House can point out that our fines are more severe than they are in the adjacent isle, and we have a commitment as far as this is concerned. I believe it is important that this amendment is accepted because it puts out a clear message that we want business and we want good business and we want business that will protect the integrity and good name of this Island and I believe this and the other clauses that are here should be supported on that basis so that that message is clear outside - that we

want to be tough with those who would blacken the good name of the finance industry on this Island. I beg to move:

Page 23, line 15; for '7 years' substitute '10 years'.

Sir Miles Walker: Mr Speaker, I am pleased to second, sir.

The Speaker: Hon. members, therefore we have the clause and an amendment put to that clause, properly proposed and seconded, Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Clause 25, then, as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 26, sir.

Mr Gilbey: Mr Speaker, this clause states that obstructing an investigation being conducted by the FSC through the falsification, destruction or concealment of relevant documents is a criminal offence. In this case again the FSC and the Treasury are more than pleased to accept the amendment that has been tabled by the hon. member for Onchan, Mr Karran. I beg to move that clause 26 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, again the principle behind this amendment is that I think we are simply following the adjacent isle and saying, because it is five years in the adjacent isle, that we should do the same. Again, I believe it is about a message that needs to be put out that this legislature and the government of this Island does not want bulk business, it wants quality. That is the only way we are going to survive and I believe again that this amendment should be supported in that it should show that our commitment to a squeaky clean finance industry on this Island. I beg to move:

Page 23, line 29; for '5 years' substitute '7 years'.

Mrs Hannan: I beg to second.

The Speaker: Hon. members, the motion is that clause 26 stand part of the Bill. To that we have the amendment in the name of Mr Karran and circulated to you, substituting seven years for five years. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

The clause, then, as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 27, and possibly clause 28?

Mr Gilbey: Yes, please, Mr Speaker, clauses 27 and 28. Clause 27 provides that any person who knowingly or recklessly provides materially false information to the FSC shall be guilty of an offence. This is a new clause.

Clause 28 provides that where an offence is committed by a company, then the directors or others involved in the management of that company are accountable unless they can satisfy the court that the offence was carried on without their consent or that they did all they could to prevent it. This clause replaces an identical section which currently appears within the Banking Act 1975. I believe that with power comes responsibility and accountability and that directors and others in senior positions should be accountable for the actions of organisations for which they are responsible. I would also say that this clause is in line with international trends regarding such matters.

I therefore beg to move that clauses 27 and 28 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 27 and clause 28 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 29, hon. member for Glenfaba.

Mr Gilbey: Mr Speaker, clause 29 lays down the penalties which will apply to those persons who are guilty of an offence under the Bill, except where otherwise provided - in fact, in the case of the Bills where we have had amendments about the penalties already; it also states that if a banking licence holder is convicted of an offence under the Act the FSC may take action against it under the Act.

Again, the FSC and the Treasury have been consulted by the hon. member for Onchan, Mr Karran, about the amendment that has been tabled in his name and we have advised him that we fully accept it. Mr Speaker, I beg to move that clause 29 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, this is a similar amendment that I have proposed to this Bill. Again, it is simply reaffirming the principle that this legislature deems this sort of activity unacceptable to a most important section of our economy, the finance sector. I do hope that the hon. House will support my proposal. I beg to move:

Page 24, line 27; for "2 years" substitute "3 years".

Mrs Hannan: I beg to second, Vainstyr Loayreyder.

The Speaker: Hon. members, the motion is that clause 29 stand part of the Bill, and to that we have the amendment circulated to you in the name of Mr Karran, substituting three years for two years. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Clause 29, then, as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

The miscellaneous and general section now. Perhaps we could take clauses 30 to 34 inclusive, hon. member?

Mr Gilbey: Thank you, Mr Speaker. Clause 30 provides that the Treasury may give the FSC directions as to how it should exercise or perform its powers under certain sections of the Bill. This provides an important mechanism of political accountability and oversight to the FSC, because of course the Treasury through the Treasury minister is responsible to the Council of Ministers and to Tynwald.

Clause 31 provides the enabling power for the making of regulations to bring the Act into effect. Regulations may be made by the FSC after consulting the Treasury. All regulations will be subject to the approval of Tynwald, which I am sure is absolutely right regarding such important regulations and the effect they could have on the economic well-being of the Island.

Clause 32 provides a definition of 'related company' which should be read in particular in conjunction with clauses 12, 'Requests for information', and clause 21, 'Reporting accountants.'

Clause 33 provides further definitions of a number of terms used throughout the Bill. Of particular interest is the definition of 'enforcement action' which is contained in sub-clause (2).

Clause 34 deals with the repeal of section 12 of The Royal Bank of Scotland International Limited Act 1995. Clause 12 of The Royal Bank of Scotland International Limited Act 1995 made provision for the change of name of that organisation in the event the change of name did not occur and the provision is therefore being repealed. Mr Speaker, I beg to move that clauses 30 to 34 inclusive stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 30 to 34 stand part of the Bill, both being inclusive. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Now, you could perhaps take clause 35 and schedules 1 and 2.

Mr Gilbey: Yes, please, Mr Speaker. Sub-clause (1) of clause 35 specifies by way of schedule 1, part 1, a series of enactments which are amended by this legislation. These amendments are minor and consequential in nature. In addition, schedule 1, part 2 includes a further series of enactments which are amended by this legislation. These amendments are more substantive in nature and can be summarised as follows: Bills of Exchange Acts, paragraphs 1, 2, 3, and 7. These amendments to the Bills of Exchange Acts enable cheques to be cleared electronically, thus keeping the Island's legislation in line with international developments and enabling banking institutions to take advantage of new technology. Then the Companies Act 1931, which covers paragraphs 4 and 5. Opportunity is being taken to amend sections 42 and 51 of the Companies Act 1931 with a view to authorised and restrictive collective investment schemes in a corporate form, including professional investor funds being exempt from the requirements to file returns of allotment and redemption of shares. This is being done on the basis that such schemes are regulated by the FSC and investors' interests will not be jeopardised by the removal of this procedure.

Paragraph 6 refers to the Companies Act 1931. Opportunity is being taken here to amend section 130 of the Companies Act 1931 to delete the requirement for banking institutions to display the information provided in the seventh schedule in their registered and branch offices. Instead, it is intended to include in the new regulatory code for banks a requirement for banking institutions to display a notice at their registered and branch offices stating that a copy of their latest audited balance sheet and auditor's report may be inspected on demand.

Paragraph 8 refers to the Companies Act 1982. This amendment to section 14 of the Companies Act 1982 will enable the FSC to obtain information and explanations from authorised auditors and to enable the commission to make such authorisations subject to conditions.

Paragraphs 9 and 10 are in relation to the Financial Supervision Act 1988. Paragraph 9 proposes a minor amendment to section 22(1)(c) of the Financial Supervision Act 1988, 'Public notices', to enable the FSC to issue statements for the protection of persons as opposed to investors. This would be necessary, for instance, if the FSC wished to issue a public statement about pyramid schemes as people putting money into such schemes may not technically be classed as investors. Nevertheless, it may be considered desirable to issue a public warning in such circumstances.

Then we come to an amendment to the Investment Business Act 1991. Paragraph 11 amends section 3 of the IBA, covering the parts for application for and granting of investment business licences. This brings provisions in the IBA which are equivalent to clauses 5 and 6 of this Banking Bill.

Paragraph 12 amends section 8 of the IBA, 'Inspection and investigation.' This section is being expanded slightly so that the commission may exercise its powers of investigation in relation to persons who have ceased to be permitted persons. Under the existing legislation such powers can be exercised only against those who have ceased to hold an investment business licence, thus making no provision for the investigation of those who had previously been, for instance, recognised persons. This was a dangerous loophole in the existing legislation which will be dealt with by this amendment.

Paragraph 13 amends section 8A of the IBA, 'Power to obtain information.'

Paragraph 14 amends section 9 of the IBA, 'Recommendations and directions to permitted persons' and brings into effect provisions which are equivalent to clause 11 of the Banking Bill.

Paragraph 15 amends section 10 of the IBA regarding directors and controllers, and the opportunity has been taken to amend this section so that a notice of direction under section 10 declaring someone to be unfit and improper could have the effect of stopping someone from continuing to act as a director, controller or manager of a permitted person. The legislation as it currently stands merely stops such persons from being appointed, and thus they can continue in their current roles. Clearly this is a very undesirable loophole.

Paragraph 16 amends section 12 of the IBA regarding public statements, so it is equivalent to clause 17 of the Banking Bill.

Paragraph 17 amends section 13 of the IBA, 'Injunctions and restitution orders', so that injunctions may be obtained if there is a likelihood of a breach of section 17A, 'Misleading statements' and 17B, 'Misleading practices.'

Paragraph 18 amends section 15 of the IBA, 'Review of commission decisions', so that there is a right of review in respect of an FSC decision to direct a person to provide information under section 9A, which is a new section imported by virtue of this Bill.

Paragraph 19 amends section 15A of the IBA, 'Identity of designated bodies', so that the FSC's indemnity will apply when the FSC is exercising its existing functions under the Companies Acts and the legislation pertaining to credit unions.

Paragraph 20 inserts a new section 15B into the IBA which contains provisions equivalent to those contained in clause 20 of the Banking Bill, which covers matters to be communicated by auditors.

Paragraph 21 inserts two new sections, 17A, 'Misleading statements', and 17B, 'Misleading practices', into the IBA. These create new offences in respect of persons who dishonestly or recklessly mislead investors or potential investors and to engage in a course of conduct which creates a false or misleading impression, thus inducing persons to invest. These provisions are similar to those contained in clause 25 of the Bill.

Paragraph 22 amends section 18 of the IBA, 'Fees and expenses', to provide greater flexibility to the FSC when charging fees so that it can recoup its costs. Such fees are, of course, prescribed by secondary legislation.

Paragraph 23 amends section 22 of the IBA to provide additional interpretation.

Paragraph 24 inserts a new section 22A of the IBA, 'Gaming contracts', to clarify the impact of provisions relating to gaming contracts on the enforceability of futures and options contracts. This is being done by importing a similar provision to section 63 of the Financial Services Act 1986 of the UK Parliament.

Mr Speaker, I am sure you will be delighted to hear, as will members of the House, that finally sub-clause (2) of clause 35 introduces by way of schedule 2 a series of enactments which are repealed either in whole or in part by this legislation. I have been through all these and am totally satisfied with them and that they are of a technical nature.

Mr Speaker, I beg to move the adoption of clause 35 and schedules 1 and 2 and that they stand part of the Bill.

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

Sir Miles Walker: Mr Speaker, the amendment that has been circulated in my name is to section 17 of the Investment Business Act. As it currently stands, only some of the investigation powers available to the FSC can be utilised to assist foreign regulators - we know

them as recognised regulators - whereas it would be more appropriate for all the FSC's investigation powers to be available for that purpose.

The powers available to the FSC were amended by the Investment Business (Amendment) Act of 1993, and that is regards 8A, which this amendment inserts, and by this Bill, section 9A, but they are not included in section 17. This amendment does that. It is desirable that all the commission's powers of investigation should be able to be exercised in order to assist another regulatory body. If the Island agrees to co-operate it should be able to do so properly. This gap in our legislation is unlikely to be understood by foreign regulators and hence create an unfortunate impression; therefore, Mr Speaker, it should be closed.

I do believe the importance of inter-regulatory co-operation has been graphically demonstrated on a number of occasions, not least as a result of the collapse of Barings Bank in 1995. The policy of the Isle of Man Government has always been to co-operate with other regulators, and indeed the FSC to this end has entered into a series of memoranda of understanding with a variety of different regulators which cover the exchange of information, mutual assistance arrangements and so on. It is important in the interests of the Island's financial security and reputation that these arrangements should be maintained and enhanced wherever it is possible.

Thus, sir, I recommend that section 17 of the IBA should be amended so that sections 8A and 9A, to which I have referred, can also be used to assist a recognised regulator. In making that recommendation, sir, I would point out that the commission's powers can only be exercised to assist a recognised regulator in the exercise of its functions. They could not, for example, be used to assist a foreign territory to obtain information for tax inquiries. Similarly it should be noted that if the commission wished to disclose information about the client of a bank in the Island, it would under the provisions of section 17(2) need to obtain the Chief Minister's approval. That is an important check on the system.

Mr Speaker, it is a far reaching amendment, but I believe that it is one that is absolutely proper and should be supported by this House, sir, and I beg to move.

Mr Shimmin: Mr Speaker, I would like the mover of the sections to clarify for me, if he would, in paragraph 22, sections 17A and 17B on page 39, we have recently just amended some penalties for offences committed under this Banking Bill. There are two sections there in section 3A a period of seven years for misleading statements, and likewise in section 17B(4)(a), seven years for misleading practices. Could he just comment whether any of the amendments we have made this afternoon would have any bearing on these two lengths of sentence as well, please? Thank you, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I have an amendment here. The reason why I put this amendment down is, like my other amendments, it is about the image of the Isle of Man. I believe that we should not be ashamed that we are not an English county and we should not be ashamed of our past and our past is bound up with our linguistic heritage.

In this piece of legislation today, we are talking about a Manx Banking Act - not a UK Banking Act but a Manx Banking Act, though which other country in the world would be ashamed of their linguistic heritage? The idea that was put out by other people was that we were going to force people to have to write their cheques in Manx. No such thing! What we are saying is that we believe that within any Manx Banking Bill there should be a part that says that part of the registration is that Manx cheques should be acceptable. This Island's finance industry is going to survive by the will of this hon. House and the fact of us having identity. We need to put the message out that we are not a sub-branch of the North-West of England, that

we are not and never have been part of an English county, and that we have an identity of our own, but unless we are prepared to stand up and have the self-respect of our own past I believe we do ourselves a lot of harm.

This amendment will not do any wild and wonderful things. I have heard of how the whole of the finance industry would collapse if we supported this amendment. This amendment is about a principle; it is about this Island. This Island needs to make sure that it nurtures its identity, and at the end of the day I find it unbelievable when I hear the sort of reactions that I have heard about this.

I withdrew amendments to other clauses to do with clause 24, because we had had a good argument and we put down the points of view and I spent many a half-hour or an hour with the legal draftsman.

Now, I am not trying to do something that is going to wreck the Isle of Man, but I think it is about self-respect in ourselves, and I believe that it is not unreasonable that this amendment is not part of a Manx Banking Bill, and I hope that hon. members will support this proposal. I do not expect people to go running out and writing all their cheques in Manx, but it is important. It is about preserving the identity of this Island. If this Island acts like a county council of England, then expect the United Kingdom Government to treat it like a county council of England. We should be proud of our past and we should not be ashamed of it and we should support this amendment. I beg to move:

Schedule 1, page 30; after paragraph 1 of Part II,

insert -

“1A. After section 73 insert -

“Cheques in the Manx language.

73A. (1) Where a cheque is -

(a) drawn on a banker who is licensed under section 6 of the Banking Act 1997 [c.?];

and

(b) presented for payment in the Isle of Man, payment shall not be refused on the ground only that the cheque or any part of it is in the Manx language.

(2) Except as expressly provided in subsection (1), that subsection is without prejudice to any rule of law relating to the validity of bills which are drawn in a language other than English.”.

Mr Downie: Mr Speaker, I rise to second the amendment, not to support it, because I think that in supporting it we would be creating a whole series of problems for the banking system in the Isle of Man and in other places. I do accept the member's point. He is entitled to his view. He is a promoter of the Manx language and I know he uses every opportunity available to him to further his interest in the Manx language, but I would just draw to members' attention that we are in the Isle of Man running an international banking and finance business and, as anyone who deals with a bank on a fairly regular basis knows, any difficulty in interpreting the account holder, the signature, the amount of moneys, would mean that there would be a particular problem with the transaction.

Now, anyone who understands the Manx language and the way that the words can be turned round at will, as it were. . . When you look at the figure 76, for example - and the member has circulated some examples - some people will write it sixteen and three score, other people will write it three score and sixteen. Now I am afraid that is not good enough when you write a cheque down, because you have to be absolutely clear. In this country we

write our cheques in the English language. In some of the banks some people can open up Euro accounts, but even with a Euro account there has to be a common language.

I would suggest that if a person wanted to open an account and just use Manx he would probably be able to go along to his bank manager and make some sort of private arrangement, but whether the other banks would indeed honour that cheque. . . And I mean this is the problem that you have when the cheque goes from the Isle of Man to another jurisdiction, where they do not understand all the foibles appertaining to the Manx language, I think that is when the real problem starts to arise.

I know that I think in Ireland now you can have cheques which are bilingual and there are the two boxes available so you can put your figures in in Irish and your figures in the English language, if you wish, but I think, there again, that is a system that has to be brought about by agreement between the holder of the bank account and the bank itself.

I would urge members, no matter how strongly you feel about supporting the Manx language - and I think this House has an excellent record to date of supporting it - I think to venture out into the international banking and finance areas would be a very dangerous precedent to set and one fraught with disaster for a person who could make a major mistake and for moneys to be misinterpreted or misappropriated or in fact the bank being put in a position where they did not understand what the person who was signing the cheque actually wanted. So with that, Mr Speaker, I would thank you.

Mr Gelling: Mr Speaker, I only rise to second the amendment of the hon. member for Rushen, Sir Miles, because I do not think it has been seconded.

The Speaker: No, it has not. You are right, sir. The hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I rise to second the amendment moved by the member for Onchan, Mr Karran -

Several members: It is seconded.

The Speaker: You are doing it correctly.

Mrs Hannan: I am seconding it positively because I believe it should be supported. I believe we are an international banking country but I do believe that we have our own language and it should be appreciated and supported as such, extremely positively. All banks have this explanatory card, so if you want to write a cheque in, they can check it off against that, and they have had it for quite some time. If any bank would like a copy, they can always get it from Yn Cheshaght Ghailckagh, so it is available.

But people have had in the past problems with certain banks, writing cheques in Manx, and that is why this was drawn up - to give guidance. It is there, it can be used and it is supported by the banks, and I would suggest, if people do have problems with cheques, then they ought to take it up with their particular bank.

The member for Douglas West reported there could be a problem if it was supported positively. I have been in countries where I have written on my cheque - and I did not know whether it would be accepted or not - but a different currency and it has been accepted in this country by the clearing banks without any problem whatsoever. The people in these countries have said, 'Oh, yes, that is perfectly all right.' I was not sure. I thought if it was not going to be supported by the bank, then I would have to find some other way of getting money to pay for goods, but when I have made enquiries, no problem and it has cleared through the banks. So there is an international exchange of money and ordinary cheques can be used to pay in other countries, other countries do accept it, and if we cannot support our own language in writing

cheques, then I think we have come to a sorry state. (**Several Members:** Hear, hear.) So I support the amendment moved by the hon. member for Onchan very positively.

Mr Crowe: Mr Speaker, I have no difficulty in supporting this. We are an international financial centre and long may we be so, but we have our own identity as well that we must preserve and keep. On a technical point, I believe the amendment is incomplete and I think, before voting on it, we should at least complete it. Mine has a question mark on it so I think we should at least delete the question mark and put the proper clause in there.

The Speaker: My understanding from the learned Secretary is that the box which is in the amendment with the question mark is for the chapter number and we do not know the chapter number until it is enacted. The hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. I too acknowledge that we have a special identity here on the Island and, as the hon. member for Peel has said, banks do in fact have this printed list of words in the Manx language to enable people to write their cheques in Manx if they wish to and also to help the staff behind the counter to understand what is being written. I believe that that is being done at the moment with the co-operation of the majority of banks. But unfortunately this amendment in my view has a compelling nature to it and I think that in terms of promoting the Manx language, a language which I was unfortunate enough not to have learned when I was younger because it was out of fashion or whatever you wish to say, if you introduce an element of compulsion, you will draw the line, you will draw resistance to that line and in fact the job may become even more difficult as time goes by perhaps in other areas of legislation, because people who do not particularly want to promote the Manx language will react to it and I think that would be unfortunate.

What I would say is that banks are in the service industry, they service their customers, and if that customer is not getting the service that they expect, then firstly they have recourse to the bank manager, and secondly they have recourse to go to a bank who does provide the service, and I would hope that perhaps a message goes out today to our local banks in particular that this is an issue for a number of people of our community, that they feel the need and wish to see this promoted. But I think to introduce an element of compulsion would cause a reaction and I think that would be unfortunate. It has already been mentioned about the operational difficulties that could be involved for the banks who in this day and age process millions of cheques each year, and I think it could lead to mistakes being made.

But I think that is a minor point. I think the major point is that the Manx language should be encouraged but not made compulsory and I think this is a point we should bear in mind on a more general basis and not just specifically to this Banking Bill today. There are other areas where we may wish to introduce the Manx language by encouragement.

The Speaker: Does any other hon. member wish to speak? In that case, I call upon the hon. member for Onchan, Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I welcome the fact that the hon. member for West Douglas thought that the issue needed to be debated and I think that is an important principle. I do hope that he does reconsider his stance as far as not voting for the amendment, because we are not talking about thousands or tens of thousands of cheques; we are more likely talking about a couple of hundred cheques a year. I cannot see how that will collapse the finance industry on this Island and I think he misses the point, just like the Treasury minister misses the point: it is not about forcing people, it is about self-respect in yourself, in this House in Manx. That is what it is about. He talks about the fact that have a situation where you could have some confusion over whether it should be 'shiaght-jeig as tree feed' or whether it should

be 'tree feed as shiaght-jeig'. Well, let me say, if you are saying that is a problem, then do we say it is the same problem as to whether we write a cheque out for fifteen hundred pounds or we write a cheque out for one thousand and five hundred pounds? This is really nonsense. I think unfortunately we have lived through generations of where we have tried to denigrate ourselves because we had to be more English than the English in order to get on on this Island, and I think the time has come for us to shut that sad door and leave it alone.

I do not need any lectures about protecting the industry. As I say, I did not move amendments to other things because you put up an argument. There is a principle there, but I could not work a way around it.

Now, I thank the hon. member for Peel and the hon. member for North Douglas for his support, because I think the point is that no-one is there trying to force the issue. This issue is about self-respect and giving status to what is on this Island instead of what is off this Island.

The hon. Treasury minister says that he does not want to force Manx. Now, his department actually came up with an offer of maybe making all banks have bilingual cheques. Now, I do not want that. I think that that is something that has to come and evolve. I do not want to force something onto people who do not want to do it. That is all right with me, but why do you want to force it onto us that we cannot do it? That is the problem that we find in the Manx language community and, all right, I only speak for a very small number within that community but that is the point we want to get. Unfortunately, the hon. Treasury minister has missed the point of this proposal, which is that we do not want it on a grace-and-favour basis. This Island must protect its identity, and its identity is linked with the past and I ask the Treasury minister where would any country in the world say, 'Oh, no, you cannot use the native language. Oh, no, we cannot do that because we have got to be . . .'? That is the problem. I believe it should be part of the condition of registration as far as a bank is concerned. There is not the big problem. It is not going to collapse but it is again like the principle with my other amendments: it is a statement from this House that we have pride in ourselves. We want to say that, yes, it should not be on a grace-and-favour basis. Yn Cheshaght Ghailckagh and Coonceil ny Gaelgey, would be more than willing if there is a problem with anybody as far as any banks are concerned, but I do believe that instead of this intolerance against it about people who want to speak it, why can we not have a bit of tolerance on the other side? I hope this hon. House supports it; I think it is important, Vainstyr Loayreyder.

Mr Gilbey: Mr Speaker, some very interesting and worthwhile points have been made. I, of course, happily accept the amendment by the hon. member for Rushen, Sir Miles Walker, which was proposed by the Treasury.

Regarding the interesting point raised by the hon. member for West Douglas, Mr Shimmin, I have to apologise to him that neither I nor the officers of the FSC at the bar of the House fully understood it, and what I would like to suggest is that after this session he could explain it to us and we will give a full answer at the third reading. I do apologise that we did not quite follow it.

While referring to the officers, I would like to thank them for all their very hard work over several years in preparing this Bill and going through the consultative processes and for the excellent briefing notes which they have provided.

Now, the hon. member for Onchan, Mr Karran, said only a couple of hundred cheques a year would be issued in Manx. Now, if this was compulsory, I do not know how we can possibly say that. (*Interjections*)

Mrs Hannan: No, it is not compulsory.

Mr Gilbey: But if it was. And he is wrong that the present law does not prevent banks accepting cheques in Manx; the law allows them to accept cheques in Manx, in fact in any language, but it does not force them to do so. It is up to each bank to decide, and I personally believe that is right that they should have the freedom of choice. Indeed, I know of one bank that has said that it would not deal with them and another bank literally just over the road is prepared to deal with them. Now, the hon. member Mr Downie is quite right in pointing out the practical difficulties which I shall touch on more in a minute, and he is also right that although one bank might agree, another might not.

I totally agree with the hon. Treasury Minister that what is unfortunate about this is the aspect of compulsion, because very often when you compel people to do things, even if they have to do it with reluctance, it is not the same as getting them to do it voluntarily.

I would like to assure the hon. member for Onchan that actually the Treasury and I strongly support trying to help the Manx language. Only the other day at a Treasury meeting I proposed that the Treasury adopt some of the proposals in the letter from Mr Gawne which all hon. members will have received, and the Treasury readily agreed to this. Also I am certainly going to hear the Maddrell lecture which I am sure will be very interesting in telling us how the Manx language can add to our economic strength. So I would not like the hon. member for Onchan to think that the Treasury, the FSC or I are against the Manx language - far from it, we are not. But we would be very unhappy for this new clause to be put into the Bill at this stage because it has not been consulted on by the industry as to the effect it might have on their businesses, and I believe that the proper way to deal with this is again to talk to the Banking Consultative Committee and possibly ask Mr Karran to come along to discuss this. There are real difficulties; we have got to be blunt about this. It might be that the payee of a cheque issued in Manx would have to wait longer for the cheque to clear because someone with a knowledge of Manx would have to be identified by the bank dealing with it because the fact is that only hon. members may so know, the banks have a duty to check that cheques - excuse the pun - are correct - (*Interjection and laughter*) and they have to see, for example, that they have not run out of time, because there is a time after which a cheque becomes invalid, the same with a bill of exchange - six months, as the hon. member for Castletown says. But it would be the duty of a bank to check that the cheque had not run out of time and, if the date was written in Manx, they would have to find someone who could either know straight off or they would have to look it up, all of which takes time; you cannot get away from it.

The next thing is that our banking industry is fortunately a very international one, and we have to be careful of imposing additional requirements from banks in respect of purely local issues unrelated to their mainstream business. Now, if a cheque was drawn on an account in dollars in Manx, it might well go to be cleared in a bank outside this Island, even in a US bank, because that is how bank clearing works, and it is perfectly possible that there could be nobody there who could understand Manx. What would happen then? There would be an appalling delay which could be prejudicial both to the person in whose favour the cheque was drawn and to the person drawing it. Again, I think in fairness people who receive cheques need to be able to understand them and, if the date was in Manx, I am afraid many people would not.

Now, I would suggest, instead of writing the details of the cheques in Manx, people should put some Manx statement where there is a place for information where signatures are put. Very often firms put their names, authorised signatories and so on, and I would have

thought that would be an appropriate place to put a Manx statement. But what I would seriously suggest is that this matter should be discussed with the Banking Consultative Committee to get their views and I certainly would agree - and I can see the Treasury minister would too - to asking Mr Karran and Mrs Hannan and anyone else who is very interested in this important matter to come along and discuss it with them, but I honestly do feel it would be a great mistake to pass legislation now without consultation, forcing banks to take cheques in the Manx language, so I do hope that hon. members on reflection will not support this amendment but will accept the very firm promise that it will be discussed with the Banking Consultative Committee.

Mr Karran: Vainstyr Loayreyder, on a point of order, this House is being misled. I am not trying to force anyone to have to write cheques in Manx. I am just putting in that any banking business in this Island should, as part of the registration, have to accept cheques in Manx as part of the fact that they are in the banks.

The Speaker: Hon. member, I think the point has been made. I would just like to point out to this House that the hon. mover in charge in his reply there again referred to the Banking Consultative Committee. I would point out to the House the fact that that is a Treasury committee and is nothing to do with this House, and this House is dealing with the clause stage of this Bill.

Having said that, we are at clause 35 and to that we have the amendments as moved by the hon. member Sir Miles Walker and the hon. member Mr Karran. Will those in favour of the amendment as moved by the hon. member for Onchan, Mr Karran, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gilbey: Divide!

The Speaker: Too late, sir. Will those in favour of the amendment as moved by the hon. member for Rushen, Sir Miles Walker, please say aye; against, no. The ayes have it. The ayes have it.

Mr Corkill: On a point of order, Mr Speaker. I did call for a division on the first amendment.

The Speaker: It certainly was not heard at this end, sir, and I was being very deliberate in my pronouncements. Can any other member -

Mr Cannan: It was definitely heard at this end, sir.

Mr Cretney: Just in the middle here it was heard. *(Laughter)*

The Speaker: Hon. members, it is fairly evident that there is confusion. Now, I was perfectly deliberate; I thought I was being absolutely deliberate in calling 'The ayes have it' quite distinctly and plainly. If in fact divisions are to be called, I would equally ask members to be up front with their divisions. It makes it simpler for us all. Having said that, will the House accept that the division be called for this particular motion?

Members: Agreed.

The Speaker: Right. So we will divide, then, on Mr Karran's amendment and accept that Sir Miles Walker's amendment has carried. Division called on Mr Karran's amendment.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, North, Brown, Houghton, Crowe, Cretney, Braidwood, Shimmin, Mrs Hannan, Messrs Singer, Karran and Kniveton - 13

Against: Messrs Gilbey, Cannan, Sir Miles Walker, Mr Duggan, Mrs Cannell, Messrs Downie, Corkill, Gelling and the Speaker - 9

The Speaker: Hon. members, the amendment carries in the House with 13 votes being cast for and 9 against. Now then, hon. members, both amendments having being put and carried, we now put the clause as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Short title and commencement, clause 36, the hon. member for Glenfaba.

Mr Gilbey: Very quickly, Mr Speaker, this clause provides a short title and enables the Bill to be brought into operation by means of an appointed day order. I beg to move that clause 36 stand part of the Bill.

Mr Corkill: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 36 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

COMPANIES (TRANSFER OF DOMICILE) BILL — SECOND READING APPROVED

The Speaker: That takes us, then, hon. members, to item 17 on your order paper. I call upon Sir Miles Walker to move the second reading of the Companies (Transfer of Domicile) Bill.

Sir Miles Walker: Thank you, Mr Speaker. This is a Bill promoted by Treasury to introduce into Manx law a facility by which companies meeting certain criteria will be able to effect a transfer of their domicile to this Island from another jurisdiction, and it provides for the reciprocation of that action. This legislation allows for the continuity of life for the migrating company and obviates the usual winding-up and dissolution process attaching to companies which would otherwise have to deregister and discontinue their corporate being and reregister with a fresh incorporation in the new jurisdiction in order to attain a new domicile of their choice.

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

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

There is a close precedent to this Bill in the form of the Insurance (Amendment) Act 1995, which hon. members will be aware facilitates the inward and outward migration of captive insurance companies. In fact, these two pieces of legislation are intentionally very similar in the interests of consistency of law. However, the scope and application of that Act is strictly confined to captive insurance and which to date has worked extremely well with a small number but of valuable captive insurance companies already having been added to the Island's economic base as a result of it. Similarly, Treasury is encouraged, having identified a small number of companies fulfilling the eligibility criteria under this Bill which already wish to take advantage of the legislation when enacted. Legislation is in fact of particular attraction to those major corporate groups which already have some presence on the Island and, by virtue of the positive experience of that, would wish to consolidate additional parts of their operation here without disturbing existing corporate structures and relationships or the need to enter into the novation of contracts.

The mechanics of the operation of the Bill and the checks and balances within it are matters of considerable detail and for that reason I do not propose to enter into any explanation of them at this stage.

Members will see that the Bill consists of 19 clauses and is divided into three parts. Part 1 of the Bill is concerned with companies migrating to the Island or their continuance here. Part 2 of the Bill is concerned with provisions for the outward migration of companies or their discontinuance here and is an essential feature of the Bill, though clearly not one which Treasury would wish to encourage the use of. I think it should be explained that the potential outward migration of companies is on much the same criteria for eligibility as applies to those who would seek to move into the Island. In other words, there is a reciprocity in the application of the provisions for inward and outward migration. This, I believe, is arguably an equitable approach in law; moreover, it is the accepted form of this legislation in virtually all other countries with similar legislation permitting this, which incidentally is another prerequisite of redomiciliation being able to take place at all. Of the numerous countries which are understood to have legislation permitting redomiciliation, probably Luxembourg, Switzerland, Bermuda, Cayman and Liechtenstein are of the most interest to the Island as areas of potential business.

Finally this brings me on to part 3 of the Bill as a concluding part and which deals purely with matters which are miscellaneous and general.

Mr Speaker, I have sought here to provide merely an overview of the scope and intention of the Bill by way of introduction and the detailed mechanics of its operation can and will properly be discussed more fully during the clauses stage. I would like to add that the Bill forms part and parcel of our policy to widen and diversify the financial and corporate base of this Island forming a make-up of the business sector of our Island and, since it is intended to be selective in its operation, is generally welcomed as an initiative which will have its own small part to play in helping the Island position itself as a jurisdiction of quality in the competitive international market place in which we are operating.

Mr Speaker, I beg to move that the Companies (Transfer of Domicile) Bill 1997 be read a second time, sir.

Mr Crowe: Mr Speaker, I am pleased to second this Bill as I see it as a further step forward in providing legislation which will enable listed companies who are quoted on a recognised stock exchange or subsidiaries of those listed companies to redomicile in the Isle of Man. The target groups for this legislation will be corporate entities who may be

contemplating establishing themselves on the Isle of Man or groups which may already have a presence here and wish to add to an existing establishment.

In this modern day and age corporate structures utilise various jurisdictions as bases for companies. This is usually done for strategic business planning purposes and this legislation will allow a company to move domicile rather than go through a formal dissolution process. This legislation will allow a transfer of a company taking with it all of its assets and liabilities and obligations, subject to the constraints outlined in the Bill. I believe that this legislation will attract further quality business to the Isle of Man and I am happy to support the second reading.

Mr Rodan: Mr Speaker, I am quite pleased to see this legislation coming forward because, as the hon. mover has said, it is important and it demonstrates a flexibility of approach that is needed if the Isle of Man is to keep at the forefront on a global financial stage. He referred to the 1995 Insurance (Amendment) Act, and I am certainly aware that on the strength of that legislation a particular long established quite small captive insurance company very quickly relocated from Bermuda, which of course is a leading centre for captive insurance, to the Isle of Man. It could not do so before, but it did take advantage of that legislation passed two years ago and its office is now to be found in Castletown. It only needs that sort of trend to continue to deepen and widen our economic base to the ultimate benefit of the Island.

Mr North: Mr Speaker, I very much welcome this legislation. I would just like to ask the mover of the Bill perhaps to consider and comment upon the progress of this, because certainly a lot of very large private companies, as I understand it, will not be able to move in with this legislation. Perhaps we do not do it in this Bill, but I would like to see possibly in future, once the Island is happy with the new Act, that we look at it and extend it, but also look at having on a list in the definitions perhaps a list of approved states where we would accept it from, because I can think of many states where we would not even want to entertain any companies transferring their domicile into the Isle of Man.

Mr Karran: Vainstyr Loayreyder, I am happy as far as diversifying the economy is concerned, but what I am concerned about is, can the hon. mover assure us that we will not have a problem - which is not a new problem - where we allow these sub-companies, if I have got it right, to come to the Isle of Man and we will end up with a situation where the assets, or the liabilities, are somewhere else and we have a situation as we have seen, not recently, we had a situation where we had a company that was called the Bank of Mona that was financially solvent, but the Bank of Mona was part of the Bank of Glasgow, which was bust, so consequently the situation was that people on the Island lost out because the first creditors were the mother bank in that case, which would be in the Bank of Glasgow. Admittedly that was a very long time ago, but what I am concerned about this company is that I would hope there is some sort of safeguard so that for any companies that transfer their domiciliary to the Isle of Man their first port of call as far as any creditors are concerned would be to that company in the Isle of Man and to its liabilities and only secondarily to anything that is outside the Isle of Man, because I think it is important when you talk about this sort of legislation that we could have a situation where people are affected in the Isle of Man and the company could be legitimate, but if there are no safeguards... That is the only thing. Maybe I have misread the Bill. I would be interested to hear what the hon. mover has to say, but I do feel that what I have seen of the Bill, the thing that does concern me is that that could happen.

Mr Shimmin: Mr Speaker, I do not wish to return too much to a debate we have had at some length this morning and this afternoon, but in the previous Bill, on item 24, 'Right to reviews', we had a lengthy debate which I believe was carried on at dinner-time with the Treasury concerning the structure of a review panel for the Banking Bill. On page 11 of the Companies (Transfer of Domicile) Bill 1997 we have part 3, 'Miscellaneous and General', clause 14, where once again we seem to have a similar type of formation of a review of decisions, and I would ask the mover of the motion to consider the debate we have had so far today and, when he returns to the clauses stage, to clarify the position regarding the review of decisions. Thank you, Mr Speaker.

The Speaker: The hon. member, Sir Miles Walker, to wind up the debate.

Sir Miles Walker: Thank you, Mr Speaker. Can I just start by thanking Mr Crowe for seconding the second reading and for those members who have I think all spoken in support.

Mr Crowe rightly said that a number of companies could be targeted that were wishing to domicile here; in fact, I think I did mention in my opening remarks, that a number of them had been identified and we believe there is great scope for attracting to this Island, which is recognised from all over the world, I think, as being a good jurisdiction from which to operate.

Mr Rodan was pleased to see the legislation coming forward and he thinks it demonstrates a flexibility of approach, and that is indeed what it does and it is something that has been in the minds of Treasury, the FSC and, I know, the Council of Ministers for some time. He mentioned under the Insurance (Amendment) Act, an example of one captive that redomiciled here. I think there have been, in fact, seven under that piece of legislation, all of which are substantial business and bring employment and tax into central government from their operation.

Mr North was supportive of the Bill and he would like me to comment on its progress. I can say that this Bill has been in its formation stage for a couple of years and was put back two years ago, I think, to allow the Insurance (Amendment) Bill to come forward and then it was interrupted by the general election and so on. It has been thoroughly discussed by the private sector and anybody else who wished to put in a view on it and has received considerable support. We feel we have erred on the safe side by narrowing its application to those companies that are listed on acceptable stock exchanges; that has been done on purpose and certainly at this stage does not allow private companies to be redomiciled here under the legislation. That fact, though, is one that we are in full knowledge of, and we will be watching the operation of this Bill to see if it shows up any problems and, if not, I am sure it will be extended to cover companies such as the ones that he has mentioned, although when he was on his feet the hon. member, Mr North, said that he could easily think of states from which we should not be prepared to accept companies, and I think that just underlines some of the dangers that there are out there. I am convinced we are better erring on the safe side and just going for those top shelf companies that we all recognise.

I say the same to the hon. member for Onchan, Mr Karran. I think that all the safeguards that he is looking for - and he has identified some of the problems that could arise - are written in this Bill, and when we go through it clause by clause I think I will be able to demonstrate to him, sir, that all the safety nets are there as far as they possibly can be, and I am not going to stand here and say that there is nobody who is going to try and do something that this Island does not want to happen; there are always those individuals. What we have to have, though, is to make sure that this legislation will catch those that seek to blacken the name and the reputation of this Island of ours.

As far as the review committee is concerned which Mr Shimmin mentioned and certainly is aligned to the debate we had earlier on today, of course the Banking Bill, the Companies (Transfer of Domicile) Bill, I guess the Investment (Amendment) Bill and surely the Investment Business Act all have these review committees, and so, when the legislation was written, it just reflected what has been the case to date. We will certainly in Treasury discuss this particular aspect and I will be ready, hopefully, to respond to any questions that may be asked in due course, sir. Mr Speaker, I beg to move.

The Speaker: Hon. members, the motion is that the Companies (Transfer of Domicile) Bill 1997 be read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL — SECOND READING LOST

The Speaker: Item 18, our final item on the agenda paper for today, hon. members. I call upon the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. In moving the second reading of the Representation of the People (Amendment) Bill 1997 I am mindful that we all have many and various views on this legislation, but I am offering to this hon. House this legislation, which I consider to do a number of things. First, it will give every person who is able to vote one vote; second, it will ensure that we have equality of voting strengths for everyone; and third, it provides the same value of voting for all. It will ensure that we have a democratic system, one person, one vote, while retaining different sized constituencies.

There have been many changes introduced to amend the Representation of the People Bill 1866 when electing this House at that time. That was the first time that this House was elected by, I accept, a limited electorate, but at that stage it was a major step forward. Some 50 years later in 1919 universal suffrage was introduced, equality for men and women to vote in one, two or three-seat constituencies. After almost 80 years I am seeking equality for all voters and I believe, if this Bill is supported by this House, this will also be a major step forward.

I have made mention before of universal suffrage. It was, of course, not universal suffrage, same value attached to all votes or suffrage as is expected in this time of the sophisticated voter, a vote having the same value. Universal suffrage means everyone who votes gets a vote, or two votes, or three votes depending on where they live. In Ayre, in Michael, in Middle and in Glenfaba, one vote, as in Castletown, Garff, Malew, Santon and Peel, but three votes if that voter were to live in Rushen or Onchan, and if that very same voter lived in Douglas or Ramsey they would have two votes. That is not fair or just.

This amendment Bill is very basic, I accept that, but as most other solutions have been voted on in this hon. House I offer this Bill to the House. This Bill allows every voter to vote for one representative no matter how many seats there are to be filled, but that is no different from a single seat where maybe two or even 10 persons seek election, the only difference being that one person is returned in one seat and three in a three or two in a two-seat constituency. Vainstyr Loayreyder, I beg to move that the Bill be read a second time.

Mr Singer: Mr Speaker, having heard the proposer speak just now I am not quite clear what she is trying to get out of this amendment to the Bill, which is supposed to improve the present system. Certainly it will not make -

The Speaker: Are you seconding, sir?

Mr Singer: No, Does it need a seconder?

The Speaker: The hon. member for Michael, are you seconding?

Mr Cannan: I am, sir. I am seconding it and I am saying I am pleased that it has come forward. For over 12 years I have supported or brought forward a series of Bills to this House to serve two purposes: one is to have equal representation for every voter in this Island, as the hon. member has said, so that each vote carries equal weight and that nobody has more votes or more voting strength than any other person and that each part of the Isle of Man is equally represented - one person, one vote, one constituency. I supported the X first past the post. I did not support it in the context of multiple-seat constituencies, because I cannot for the life of me understand why the people of Onchan should have three votes or two votes or one exercising that right, or Rushen, or the people of Ramsey or Douglas exercising the right to vote for one or two candidates as they chose.

I have always been on this principle of equality and I propose later on to bring forward a new clause and a new long title that introduces the concept of 24 single seats, and that will mean that each person has one single vote for one representation and the representation is equal. In other words, for Ramsey there would be Ramsey North and Ramsey South - one member, and therefore the voters in Ramsey could only vote for one person; likewise in Rushen or Onchan.

In 1987 there was a select committee of this hon. House that recommended single seats, and it failed because the voting of the house was 12 all.

I do believe that the member for Peel has got it right. It cannot be just and fair that in some constituencies the electors vote for a candidate they want to represent them. Why should the voters in other constituencies have privileges to vote for two or three candidates and be represented by two or three persons? The select committee of the House at that time found that that was wrong. It was wrong then and it is still wrong now, and the democratic principle must be that each elector in this Island has the same and equal voting strength and the same representation, and on that I rest my case, Mr Speaker. I will at the clauses stage bring forward a new clause that introduces that principle of single seats.

The Speaker: The hon. member for Ramsey, Mr Singer, now that the motion is properly before us, sir.

Mr Singer: Thank you, Mr Speaker. Having had the benefit of listening to the proposer and the seconder my view has not changed, because I do not think we are going to get an improvement to the present system with this Bill. (**Mr Gilbey:** Hear, hear.) Certainly it will not make the electoral system at present more democratic, certainly it will not reflect accurately the voters' views in the final result of the election in a multi-seat constituency, and certainly interfering with the system, I believe, will disenfranchise thousands of people, and there is no doubt about that.

Mrs Hannan: Why? (*Mr Cretney interjecting*)

Mr Singer: What is the reason? What is the true agenda of the proposer? Is it to bring back STV through the back door? STV has clearly been rejected by the public, the local authorities and by Tynwald. One person, one vote, yes, in a single-seat constituency and if Mr Cannan is going to bring that forward next time, then that is a completely different matter, but at the moment that proposal is not before us and perhaps the proposer should have put it into this Bill as a clause.

My view is that one vote in a two or three-seat constituency is nonsense. The elector has every right to indicate the people he or she wishes to be their representative. It is not acceptable that in such a constituency an elector has to choose between candidates whom he

or she supports equally. Of course, any voter now who wishes to use only one vote is entitled to do so. This proposal, if accepted, I believe would see a major step backwards in this democratic society, actually preventing the electors voting for candidates they think are suitable to represent them. I therefore believe that this proposed Bill is ill conceived, undemocratic and a nonsense.

If I may take the argument a little further, the hon. proposer is linking this Bill to the House of Keys elections, but equally important and directly linked to our democratic system are local authority elections, and surely any change of the voting system must extend to local authorities. Many local authorities have more than one member retiring each year on a rotational basis. The logical conclusion to Mrs Hannan's proposal would mean yet again the voter being disenfranchised in local authority elections, and why should this be? Why should that voter have to choose, for example, between two candidates when two vacancies are available and both candidates are considered to be able to do the job equally well?

The Department of Local Government have produced the consultative document securing a future for local government, and within that report a recommendation may well be accepted that local authorities, like this hon. House, have elections for all seats at the same time. Therefore, under the terms of this Bill, the obvious result would be electors having only one vote when six or more seats may be vacant when there are no ward boundaries. If you are looking for increased democracy, then you have to consider local elections in the same breath as House of Keys elections.

I believe, therefore, that this proposal is unacceptable. I hope that this hon. House will not support this Bill as it is undemocratic with our present system and will quite clearly prevent the electors' true views being reflected in the results of any election. Thank you.

Mr Rodan: Mr Speaker, in this deceptively simple Bill Mrs Hannan has correctly identified the unfairness where, out of 15 seats in the Isle of Man in five constituencies, voters have two votes and in two constituencies voters have three votes. This is clearly unfair on the voters of the eight constituencies like hers and my own where they only have one vote. In Onchan, which has been given as an example, if there are six candidates the voter with his three votes will be far more likely to elect a preferred candidate than in Peel, where his single vote will have to be cast for only one out of the six. Now, it is quite obvious that in areas where people have two or three votes they are far more likely to become electors and not mere voters, and I emphasise the difference in meaning between an elector and a voter.

What Mrs Hannan is trying to achieve, of course, is equality of voting power for the people at election time, one person, one vote, but I would caution members against believing that this is what the Bill actually achieves, because unfortunately the Bill does not achieve equality. The Bill certainly amends the election rules in the 1995 Act, forbidding the voter to vote more than once, but of course it does nothing to clause 11 of the Act, which states that the 15 constituencies which are listed all stay the same. So the dog's breakfast that we have of one, two and three-member seats, which is half the problem, actually remains.

Now, the effect of staying the same means that the unfairness she is trying to abolish with a single vote is actually made worse. If you vote for a candidate in Rushen and Onchan who comes third or second in the poll, he has not lost as he would have if he came third or second in Peel or Garff or Castletown - no, he gets elected. The voter in Ramsey can cast his single vote in the safe knowledge that if his candidate is runner up he has not lost either, unlike if he had voted in Peel. Now that is not right. It is not the one person, one vote which matters, but the value of that vote in terms of its power to elect someone. It is wrong that the

Rushen and Onchan voter should have a more valuable vote than anyone else, a vote with three times the power to get a preferred candidate elected.

Now, the only way to resolve this question, this unfairness in voting, is to give the single vote equal power in every constituency however many seats are to be filled (**Several Members:** Hear, hear.) - one person, one vote, one value, and this is exactly why the single transferable vote was invented. (**Members:** Hear, hear.) It is an instruction to the returning officer to ensure that the one vote is actually used to elect someone. The voter is saying 'Use my single vote to elect my preferred candidate; if that candidate has so few other votes that he has no hope at all of election or does not need my vote because he has enough to reach a certain quota, then do not waste my vote, transfer it instead to my second preference and use it to try and get him elected, and if that does not work go on down the line in the order of preference I have indicated, 1, 2, 3, et cetera until the vote does actually help elect someone.'

One of the criticisms of first-past-the-post voting is that many voters are not electors at all; their votes are wasted. They may as well have stayed at home. In this Bill we not only get first-past-the-post voting, but second-past-the-post and third-past-the-post as well, depending on where you are lucky enough to live. So I do not see this Bill as an actual improvement at all. The only way to ensure equality to voters whether in Peel, Ramsey, Garff or wherever is to give everyone one vote, and the only way to ensure that that one vote is the same value across the board is to allow it to be used to express a preference according to the number of seats. There is only one way to do that and that is the single transferable vote, which regrettably is well and truly outwith the scope of this deceptively simple Bill.

Mr Karran: Vainstyr Loayreyder, I will support this Bill. I am concerned that it will be seen outside that we have once again got a fixation about representation with the people, but I will give the hon. member the opportunity to debate her clauses in detail. I very much doubt that I would support her, because I can see the situation that would have happened at the previous election, where we had eight candidates, 60 per cent of the vote voted for one candidate in my constituency and 40 per cent voted for the other seven candidates, so I do think that there are fundamental flaws, because we could have a situation where in a triple-seat constituency, on the basis that the hon. mover is saying, where we could have a member being elected with 60 or 70 per cent of the total vote in that constituency, the second member being elected with 15 per cent of the vote and the third member could be elected with less than 10 per cent of the votes cast, simply if there were, say, 9 or 10 candidates and it was spread out.

So I do think, whilst I think the proposal in front of us is flawed, the hon. mover is more interested in seeing this issue going to a committee, and I think at that stage we should consider it.

I personally would welcome the opportunity to amend the voting rules at the present time. There is one issue that I find absolutely ridiculous that we seem to be unable to get changed in this hon. House. Thank goodness we had common sense when at least we got it to four hours for the period for members to be nominated. The simple move I will be doing to this Bill if it receives a second reading is making it that they can put their nomination in within a fortnight's period and get a certificate at the end of the job instead of the present time.

The second amendment that I will be trying to move to this Bill will be the mileage allowance for this House. I believe that that should be part of this Bill when we look at this position of the Representation of the People Bill. I think it is an outdated form of payment. It was when we were here on a basis of expenses and not on payment and I think it should be included in this Bill.

I also feel that if this Bill is to get a second reading, the issue of STV does need to be addressed because I do think that as it is at the present time I cannot see this Bill getting through the clauses because, as I say, you get 10 candidates in a three-seat constituency, you could end up with the ridiculous situation where you could have a candidate on 8 or 9 per cent being elected with all the other six candidates on 4, 5 and 6 per cent. I just do not think it is feasible, but I am prepared to give the hon. mover the opportunity to move this Bill and I will support the second reading.

Mr Downie: Mr Speaker, hon. members, this subject must have had more airing in this House than any other subject in the last 8 to 10 years, and here we are again going over and over it again. I do not deny anybody's right to come forward with a private member's Bill; in fact, I would probably go as far as to say I would support single-seat constituencies in the Isle of Man.

But if we are going to go down that road, I think what we have got to do is look at proportional representation. In Douglas and Onchan we have got over 60 per cent of the Island's population and yet, when you look at the members who have to cope with the demands of busy constituencies - lots of members in Douglas have local authority housing, council housing matters to deal with, social problems to deal with - it is a completely different kettle of fish when you come to looking at Glenfaba when all you have got to worry about is where the next speed limit sign is going to be put up (*Laughter*).

What I object to is the fact that because of the way the constituencies are in Douglas where you have got two representatives, we are looked upon as if we have only got half the amount of work to do because there are two of us. I can assure you, hon. members, that is not the case. If we are going to look at 24 single seats in the Isle of Man, it should be looked at in conjunction with the boundary commission and done properly so that everybody knows where they stand. I would give you a good argument that some of these rural seats are well past their sell-by date. There has been no additional people living in some of these areas and perhaps it is time that they were amalgamated, and with two members sitting opposite, Glenfaba and Peel, there is no reason why Glenfaba should not be amalgamated with Peel and we have another seat in Douglas. I could give you an excellent argument for that.

So I would urge caution here. At the moment, from where I sit, every seat in this Island, I think, is well represented. There is good debate; we do not have a running battle here with town versus country. If a member brings a particular issue in and it is debated, there is support from right across the board. What we are in danger of doing here, I think, is creating a monster that will go off to a committee and we will sit for another two years arguing the toss and, at the end of the day, we will finish up with exactly what we have got at the moment. This position we are in now has not been arrived at easily and, although it might not be a perfect solution to everyone's requirements, at least it works and there is an old saying, 'if it is not broken, well, it definitely does not need fixing', and I would suggest that we leave the present situation as it is.

Mr Brown: Mr Speaker, it has been mentioned today that this Bill is undemocratic, and I would put to the House that the Bill that was undemocratic was the Representation of the People Act 1995, which took away the equality and the equal value of voting for the people of the Isle of Man. It is quite easy for members in multi-seats, of course, to say, 'Well, of course, there is nothing wrong with the system, because the system allows us to come in second or third and we still get elected.' The point is that the voters in single seats are, under the system we now have, disenfranchised in terms of their voting value, and I do not know how any democracy can sit and say that is a system that is acceptable.

We had a system, the STV, which enabled the value of the votes to be equal, and the problem with it was that everybody tried to explain to people right down to the nitty-gritty how it worked when they did not understand it themselves. The point was that all that mattered was that people needed to know they put '1' for the person they want to vote for and '2', '3' and '4' for their preferences after that. Unfortunately the system we now have can allow for people to be elected on a minority of the votes cast; it creates distortions throughout the Island, and quite clearly it is something that is not going to go away, it is always going to keep raising its head because the system is not fair. We have people in one area and they can only have one vote for this House and across the boundary they can have three votes for this House. That cannot be right.

I believe quite clearly that what is important to us, regardless of our own positions, is to be satisfied as to whether or not we are providing equality of voting throughout the Island. That is the only question that really should be before us. The hon. member for Peel has brought forward a Bill where it says quite simply everybody in the Island, regardless of the number of seats, will have one vote. It is a very simplistic system and, as the hon. member for Garff has said, clearly can create distortions in its own right. However, this Bill does not stop amendments being put forward to allow STV to be brought back in. You could try to achieve that. I have to say I do not believe that there is the will in the House for STV to be brought back in for many different reasons, and I think that is most unfortunate because that is not providing us with a system that is fair to the people in the Isle of Man. When we had STV, that system was not developed by politicians; it was actually through a report that was undertaken by an independent person - I am not sure whether it was a royal commission or whatever it was, some sort of commission - in the late 1970s, and they said the only way to bring through equal voting power throughout the Island so everybody was equal was in fact through an STV system, and I have to say I think it worked very well.

As far as the situation goes as to whether we have all single seats, two seats, three seats, whatever it may be, we can all go through that sort of sequence. I have to say, though, that we do need to recognise that, whether we like it or not, like any other country, there are different geographical variations throughout the Island where there are differences you cannot ignore, and it is very easy just to say, 'Well, let's just bring this bit together, that will work fine.' It does not necessarily work that way in certain parts of the Island.

I hope members will support the second reading, which I am going to do, but I have to say that if the Bill is amended in the way that certain members are talking about and if they are successful, I, for one, would then end up voting against the third reading, because then the Bill may well be in a format that I do not believe is in the best interests of the Isle of Man. But I do believe there is a concern about this issue, here is an opportunity to see if we can sort it out and, if the House decides the way forward is not to do it this way, so be it, but at least we are not ignoring the issue. There are people on the other side of it who are aggrieved that they have less voting power than others, and that may not be seen in multi-seats, but I can assure you that in many of the single seat areas people are aggrieved that they are denied the same voting power authority that the people in other areas have. There is no doubt about that. At the end of the day representation of the people, equal rights, equal value, equal voting.

Mrs Cannell: Mr Speaker, I will be very brief because it is late in the day and we have had rather heavy debates on previous items.

I have to say that, in response to some of the comments made so far regarding STV, STV for whatever reason was not trusted by the people of this Island. The STV system of

voting was thrown out by a previous administration and we returned to the system of first-past-the-post, a system that is trusted by the people of this Island. Now, it is no good crying over spilt milk. STV came, it ran and it was thrown out. It is gone; it is buried. Forget about STV. There is no way that the people would support any members bringing forward a return to STV. So that is gone. We have got to be looking forwards, not backwards.

Now then, again I would have no objection to someone coming forward at some point in time with a proposal for 24 single-seat constituencies, but I have to remind some of the hon. members that, given the level of population that we have in Douglas and they are presently represented by eight individuals in this hon. House, that figure may well increase and you could end up with more representatives in here representing Douglas and Onchan. I would not be opposed to that because it would give us a bigger say than we have already. Is that what the other members in the other smaller country constituencies are trying to encourage? That is what will be inevitable if we go along that particular road.

But I really have to say that I appreciate the hon. member for Peel and her views, and I respect the fact that she does have strong principles with regard to this, and I uphold anybody who remains and sticks with their principles; we all have, hopefully, strong principles. But I cannot support the second reading because I would concur with the view submitted to members from the hon. member for Ramsey in that he feels that perhaps there is a hidden agenda here and we all know the hon. member for Peel does support STV and would like to, somehow, reintroduce it back into the voting system in the Isle of Man. But really, looking at this issue and comparing every other issue that is at large at the moment, and looking at the issues of great concern of the people, we are fiddling here while Rome burns (**Members:** Hear, hear.) and it really is not good enough. Thank you.

Mr Quine: Mr Speaker, I do not welcome this Bill. I have seen so many Representation of the People Bills over the relatively short period I have been here that I am fed up hearing about it (**Several Members:** Hear, hear.) and I am afraid that what we are doing here once more with this Bill is reopening Pandora's box, and it is already apparent from the comments we have had from a number of members that the support is not for the Bill as printed; the support for that Bill is because they see it as a vehicle for getting their own pet wishes in respect of electoral reform back into the political agenda. Well, that is a matter for them and I have no doubt during the process there may be some academic interest in all the matters that are discussed, from the members' point of view.

But of one thing I am certain: it is not going to be welcomed outside there. (**Members:** Hear, hear.) It is not welcomed outside there. The vast majority of people outside there are fed up (**Members:** Hear, hear.) hearing us try to manipulate electoral reform to fit individual circumstances, and that is really what it comes down to in most cases. The public, as far as they are concerned, do not want any changes. They have heard enough about electoral reform. They are basically happy with the fact that they have got a broad representation - the number of persons returned is roughly the same for each person that comes into this House - and they are satisfied with this, and all these academic arguments and discussions about this is the best system or that is the best system it is unwanted and I think it certainly is going to put this hon. House in a very poor light indeed if they see us entering into this. Just imagine, this is going to come at the tail of discussions about salary reviews and all the rest of it. What are we going to do now? Waste hours of legislative time debating something and, as the hon. member for East Douglas said, it really does amount to fiddling while Rome burns and nothing more.

Throw this Bill out now, get rid of it and get on with something that matters.

Members: Hear, hear.

A Member: I'm glad you came, Edgar! (*Laughter and interjections*)

Mr Corkill: I will be brief, Mr Speaker. I think I would like to say that the previous House and the House before that obviously did spend a lot of time on the STV issue, and the reality of it is, I believe, that in fact the differences between the two systems are not that great to make such a big issue out of it. I have stood in elections with both systems, and the reality is the results are not that much different. The system of voting of STV, despite the theory behind it, the fact that it is a fair way of voting - I can accept all that, there are points to be made in terms of its fairness but, having said that, it does not alter results, to my knowledge. It is not what the people out there want and this issue is inevitable when a Bill such as this comes before us. It is a simple Bill, but the issue is very complex.

I think all the points generally have come out, as they always do in these debates, but I think the one issue that I always feel strongly about is the boundary situation, where there are inequalities in boundaries; where you talk about the number of votes per member sitting in this hon. House, it does not balance up in certain areas because there have been population changes over a period of time, and that is certainly an issue that I would wish to see progressed if this Bill was to go forward.

I have been in this House since 1991 and I know that when I stood in 1991 for election to this hon. House people were saying, 'For goodness' sake, don't get involved in this process of how to elect yourself.' For four or five years I think I resisted the challenge but then obviously the STV situation cropped up again and the late hon. member David Corlett moved a successful amendment which, by and large, was received well by the public outside to go back to first-past-the-post voting. But I really do think that this hon. House gets hung up on this issue about STV vis-à-vis first past the post, because I do not believe it is really that important. The results are cast; people who have cast their vote are satisfied that a fair result, a fair representation, occurs at the end of the day and that is what is important. Therefore I will be voting against this Bill (**Members:** Hear, hear.) because, as previous speakers have said, it is Pandora's box and I do not particularly like what I see inside it today, just based on the comments from even the seconder of the Bill, who is straight into 24 single seats. These are major issues which will take a long time and I believe, so soon after an election, people, the electorate, were generally content.

Mr Duggan: Mr Speaker, just to support Mr Quine's view, the public outside are cheesed off about this voting system all the time. They say, 'Every time they get back in they talk about voting, representation of the people' and they are cheesed off with it, as Mr Quine says.

Another thing, too, is about the salaries, which Mr Quine touched on too. They get back in, in ten months they are on about the voting system again and feathering their own nests with a fancy salary. People outside in general are very fed up of it all, hon. members, so honestly I cannot support the second reading of this Bill.

Sir Miles Walker: Mr Speaker, I can understand people feeling a bit fed up about this sort of legislation, and certainly during the course of every period of the House of Keys it is debated. I would suggest, though, that it is right that it is debated. It is a fundamentally important issue and, if we debate it and then cast aside the proposed legislation and stay as we are, at least it has been reviewed, at least it has been looked at and there is an up-to-date view on it.

My view has not changed over the years, and it is very easy during a debate like this just to sit down and shut up, but I think it is important that we go on record, as it were. I believe in multi-seat constituencies. I am an unashamed supporter of them. Any piece of legislation which is going to take me toward single-seat constituencies I am going to avoid and vote against. I do believe that representation of the people by single-seat constituencies on a first-past-the-post system is the worst form of representation that anybody can think of. As I said, I am in support of multi-seat constituencies; whether they be two seats, three seats or five seats, I think, is immaterial and I would prefer the constituencies to be equal in number of representatives. But there are more ways to achieve that than just to divide up the double and three-seat constituencies into single seats, and those members who are in single seats who feel that some of their constituents are aggrieved by the situation have also got a solution in their hands as far as I am concerned, and that is they can join with their neighbours, they can join with the neighbouring constituency and form a two-seat constituency or a three-seat constituency. I believe that that gives our people a better form of representation.

I do not see the Bill that is in front of us today leading me towards that situation so I think we have got a situation that I cannot support with this Bill in front of us today, although I understand completely what drives the hon. member for Peel forward with her attempt with this legislation. But I think the points that were made by the hon. member for Garff, Mr Rodan, are ones that I can very clearly align myself with. I think the points that he made were relevant and so I will not be supporting this piece of legislation.

The Speaker: Hon. members, I ask the hon. member for Peel to reply to the debate.

Mrs Hannan: Thank you, Vainstyr Loayreyder, I thank Mr Cannan for supporting this legislation and seconding it. I understand his concerns with regard to single seats.

I cannot accept Mr Singer's submission that this is a hidden agenda and it is necessarily bringing forward anything different than this legislation states. The legislation quite clearly states that the object of this private member's Bill is to secure that an elector in an election for the House of Keys may vote for one candidate only, however many vacancies there are to be filled. There is no hidden agenda there.

I accept the proposition put forward by Mr Rodan that this is a simple Bill. He suggests that it is a dog's breakfast but I would say that for years, I think since 1866, there have been changes to the representation of the people legislation through debates in this House and another place, so it is not something that has stood still, it is not something that has remained the same. What has remained the same is the actual voting of multiple seats, or at least different-sized seats and different voting opportunities for people depending on where they live.

I thank Mr Karran for his support. I understand also his concerns with regard to a number of issues which he raises, and I think he brings it home by stating the percentage of votes that people need to get elected, and I will come to something else in a minute that he raised about that.

I am not surprised about the attitude of Mr Downie with regard to this legislation. He states that Douglas members cope with demands of people, and I would suggest that the rest of us also cope with similar demands and similar expectations from the electorate that elect us. I think the impression has been given that Douglas has some little problems whereas the rest of us do not. I would comment to members that this Bill is not personal as suggested; it is about people being represented, it is about the representation of the people and he is saying if it is not broken do not mend it. I am suggesting that it is broken and it does need mending.

I thank Mr Brown for his support. He covers the time when this was looked at in detail with the commission that looked at the whole of the elections in the late 1970s, and they suggested there that, yes, you could leave the historic size of constituencies exactly the same, but bring in STV. So you recognised historic situations with regard to sheddings and to parishes, but you brought in STV so that everyone had the same value of vote.

Mrs Cannell suggests that this is a hidden agenda for STV and I would say no, it is not, because we had the vote on STV and, if members want to go back to that, I am quite happy to go back to that and put that before the House again, as other issues that have been before the House before.

Mr Quine says that he is fed up with hearing about this. I would suggest that we have not heard about this for at least two years, so I do not know what he is going on about. And he is saying we are seen in a poor light and to throw this Bill out. Obviously he is very upset by this. I cannot understand why. It is a suggestion, people have got their votes, they can vote on this, and I am sure that they will.

The member for Onchan, Mr Corkill, stated that there was no big issue in this, that the fairness of the electoral system was perfectly okay, that results were no different at an election using STV or first past the post. I would suggest that is not the case. Nobody knows, on first past the post, who would be returned. Nobody knows. With STV one knows who is the first choice of each individual person and where that vote would transfer to if that person did not get majority support. So I cannot accept the argument which he puts forward. Some people, yes, said that they did not want any further discussion about elections, but we are discussing many and various issues in this House and I cannot accept the argument that unfair representation should be left alone.

Mr Duggan says the public are cheesed off.

Mr Duggan: They are.

Mrs Hannan: Well, that is your opinion, Mr Duggan -

Mr Duggan: What about the people in Peel?

Mrs Hannan: I would say the people in Peel want proper representation. (*Interjection*) They do not have the same value of vote, they do not have the same number of representatives as other constituencies do. I can explain to this House, if they do not already know it, that of any one seat returned, Peel has the largest vote.

I thank the member for Rushen, Sir Miles Walker, for his comments. I would just add, in winding up this second reading, that votes should be of an equal value, and I would also ask, is plural voting right? I would suggest that, no, it is not. One person, one vote only for 30 per cent of the total electorate - this arrangement is manifestly unfair and creates three classes of voter. All constituencies should return members with the same value of vote and, if certain members are suggesting STV is the way forward or proportional representation, that was mentioned in another place, that is not within this legislation, but I support equality for all voters and I would urge members to seriously reconsider and support the second reading of this Bill. Nothing I reckon is more important than the representation of the people. If there had not been these changes, started in 1866, allowing our people the vote, we would not be here today. Members would still be appointed by the Governor and it would be at his whim and Man would be a very different place. So I would urge members to support the second reading and to support this hon. House. Thank you. I move the second reading of this Bill.

The Speaker: Hon. members, the motion is that the Representation of the People (Amendment) Bill be now read for a second time. Those in favour please say aye; against, no.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Brown, Cretney, Mrs Hannan and Mr Karran - 5

Against: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Messrs Houghton, Crowe, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Corkill, Kniveton, Gelling and the Speaker - 18

The Speaker: Hon. members, the motion fails in the House with 18 votes cast against and 5 votes cast for the Bill. The Bill therefore fails.

Hon. members, it has been pointed out to me that Mrs Crowe has been missing. I would just tell the hon. House that I did give her permission to leave, as she did at quarter past three this afternoon. For the purposes of the record she did have my permission.

The House will now stand adjourned till Tuesday next, the 18th November when we will meet in Tynwald Court at 10.30 a.m.

The House adjourned at 5.04 p.m.