

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 23rd June 1998
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton (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), (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Speaker took the prayers.

Tribute To The Late Chaplain, The Venerable D A Willoughby

The Speaker: Hon. members, it is with considerable sadness this morning that this House notes the death of our Chaplain, the Venerable David Arthur Willoughby. Only elected to this office on 26th November 1996, David Willoughby quickly established his own approach to the position and soon knew each member, meeting them with a cheery smile of welcome.

He had a very distinguished church career, being ordained as deacon at Bradford Cathedral in September 1957 following his national service in the West Yorkshire Regiment. He came to the Island as Vicar of Marown in 1972 before moving to St George's in 1980 and was appointed Archdeacon of the Isle of Man in 1982, a post he held until his retirement in 1996.

David enjoyed a very active life outside his church duties and with his sporting interests he would, I am sure, have been following football's world cup, Wimbledon and the cricket test series with considerable interest. He had a lovely sense of humour and a natural ability to help provide comfort and support when and where it was most needed. In fact, the Rotary Club motto, 'Service Above Self', fitted well on his shoulders during this his presidential year. It seems improbable that someone who was so active in the community can have passed away, and our thoughts today are with his wife Brenda, sons Simon and Andrew, and the grandchildren that he loved so well. Hon. members, we remember with affection a true chaplain, and I ask you to rise just for a few moments of reflection in silence.

The House stood in silence.

The Speaker: Thank you, hon. members.

Leave Of Absence

The Speaker: Before we turn to our order paper, hon. members, I would like to report that the hon. member for Rushen, Mrs Crowe, has leave of absence this morning, and members would also be interested, I am sure, to learn that our messenger, Bob Clark, is currently in ward 8 in Noble's Hospital.

Planning Appeals - Question By Mr Houghton

The Speaker: Turning then to our order paper, hon. members, can I call upon the hon. member for Douglas North, Mr Houghton, to ask the first question.

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

(1) *From 1996 to date -*

(a) *how many planning appeals have been held;*

(b) *how many planning appeals have been withdrawn before a hearing; and*

(2) *what is the average cost to the public purse of a planning appeal?*

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

Mr Gelling: Mr Speaker, in answer to (1)(a), since 1996 there have been 326 planning appeals held and, in answer to (1)(b), 24 planning appeals have been withdrawn before a hearing.

In answer to part (2), the average cost to the public purse of a planning appeal in 1997-98 was £374 in fees and expenses, and to this we must add salaries and other costs of supporting the inspector, which raises the cost to something above £500 per appeal.

Mr Houghton: Mr Speaker, is the hon. Chief Minister aware that in many recent cases the planning appeal system has been flouted and in some instances by government departments who, it seems, merely abandoned their intention of contesting an appeal hearing without giving any such reason for so doing? Would the Chief Minister not therefore agree with me that when appeals are abandoned, severe inconvenience is caused to other witnesses and whereby applicants may have inclined to get a great deal of professional help and support? I cite a recent case whereby an appellant -

The Speaker: Hon. member, please, if you would. I am sorry, but would you try to make your supplementary question briefer and to the point and try not to widen it too far, please?

Mr Houghton: Thank you, Mr Speaker, I will do my best but it is the point I am trying to make in this situation.

The Speaker: You are asking a supplementary question, sir.

Mr Houghton: The supplementary question I would like to ask: would the hon. Chief Minister undertake to review this ludicrous situation and perhaps order that a suitable form of compensation be put in place to cater for future situations like that I have described, sir?

Mr Gelling: Yes, Mr Speaker, I certainly can agree that when someone has prepared themselves to go to an appeal and it is withdrawn, it obviously causes tremendous frustration and, I would suggest, expense because of course they do have to pay for their own costs as to preparing their case, but of course this is the democratic planning system that we have and that is what people work within. Now, of course there will be an opportunity, I would suggest, at some time, and I am quite sure the Minister for the Department of Local Government and the Environment will be suggesting that maybe in a later question these are areas that could very well be addressed, but I can obviously agree with the hon. member that it is frustrating and often very expensive.

Mr Houghton: I would like to thank the hon. member for his reply. Thank you, sir.

**Civil Service Commission - Discrimination Against Manx Workers -
Question By Mr Cannan**

The Speaker: Question, 2, hon. members, I call upon the hon. member for Michael, Mr Cannan.

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

Are you fully satisfied that the policy and performance of the Civil Service Commission does not have the effect of discriminating against Manx workers?

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

Mr Gelling: Mr Speaker, government policy in respect of the recruitment and selection of staff requires that, and I quote, 'subject to compliance with the requirements of the Control of Employment Acts, the best available candidate should be appointed to fill each vacant public sector post by ensuring that the recruitment and selection procedures operate fairly and without discrimination.' Now, I am fully satisfied that the Civil Service Commission operates to and within that policy and that its performance does not have the effect of discriminating against Isle of Man workers.

Mr Cannan: Mr Speaker, is the Chief Minister aware that the personnel section of the Civil Service Commission misuse, in my opinion and others', section 3A of the Control of Employment Act contrary to the spirit of the legislation and to the detriment of Manx workers, and to sustain that position, can I give the Chief Minister as an example that, for the appointment of conservation officer, a resident qualified Manx person applied but the Civil Service Commission selected a person from the Orkney Islands, a work permit was reluctantly granted on the understanding that the Manx person would be seriously considered for deputy conservation officer; When it came to appointing a deputy conservation officer, the Manx person was rejected in preference for a person from the finance sector who required a work permit. The Work Permit Committee refused the application for an indefinite permit -

The Speaker: Hon. member, you are in danger of doing exactly the same as the previous questioner and making an opinionated statement rather than a supplementary question.

Mr Cannan: Mr Speaker, I accept what you say but if I was just allowed to finished I would be asking, does the Chief Minister approve of this conduct and is it not detrimental to Manx workers, and if you had allowed me to finish, sir, that would have been the supplementary.

The Speaker: The Chief Minister.

Mr Gelling: Well, Mr Speaker, the question, of course, was quite straight, the government policy in respect of the recruitment and selection of staff, and I can say that out of 1500 civil servants, something like 98 per cent of those are Isle of Man workers. Now, the hon. member for Michael has now illustrated a particular case which, of course, I do not have the information on and I would not wish to comment upon. All I can say is that the panel that would be doing that selection would be a panel that would be totally au fait with section 3A and, of course, the way in which they engage all people to fill government posts. I would suggest

perhaps, if there was an appeal, that that appeal would either confirm or otherwise the decision that was made, but certainly I would not say that our personnel department go out of their way to try to discriminate against Isle of Man workers. That just is not the policy.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that there is a policy of going for best and not somebody who can actually do the job who is a Manx worker, and would he not agree that, if that is the case, then his Civil Service Commission are actually breaking primary law in that case? And would he also not agree that the legislation needs a complete review. It is an absolutely crazy situation where you do not know that the job is filled with a work permit applicant until afterwards, and surely every applicant for a work permit should have to be advertised that it has been filled by a work permit?

Mr Gelling: Yes, Mr Speaker, I do know that the Civil Service use this system of person specification. Now, that is used for all of them and it is a well-set-down formula which goes back, I think, to something like 1952 when a certain gentleman brought out this specification of individuals when they are interviewed for a job or a position. Now, this takes into account an awful lot of things, possibly, other than their skills and their qualifications: you have to take into consideration how that person will get on with other people and so on. Now, I am at a loss this morning because I do not know the case and I do not know the people, but that selection is made by a panel and I would suggest to the hon. member that no-one in that panel, whoever that panel might have been made up of, would set out to actually discriminate against a person because they are in the Isle of Man or because they are an Isle of Man worker.

Mr Houghton: Mr Speaker, does the Chief Minister therefore agree that in the circumstances outlined this morning whereby the government is currently flouting these regulations and thereby discriminating against Manx workers - would he now advise this House what action he intends to take to put a stop to this disgraceful conduct?

Mr Gelling: Well, Mr Speaker, who says that they are flouting this position? I have no evidence that this is the case so I would suggest that they are not until it is proven otherwise.

Mr Cannan: Can I bring to the Chief Minister's attention and will he agree that the conduct of the Civil Service Commission in the case that I originally outlined went to review, the application was refused, the Civil Service then took the application to the independent appeal board, who also refused the application, and then the Civil Service Commission invoked section 3A of the Control of Employment Act and so obtained the -?

The Speaker: Hon. member, if you would, please. I think we had that case explained and I think we are in danger now of turning the whole of this question on one individual case.

Mr Cannan: There are three, sir.

The Speaker: It would be advisable to pass on.

Entertainment Industry - Tax Advantages Of Manx Residence - Question By Mr Karran

The Speaker: Item 3, hon. members. I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for the Treasury:

In view of the effects of recent changes in United Kingdom tax law on participants in the entertainment industry, has the Treasury identified any advantages to this industry of having Manx residence?

The Speaker: I call upon the Minister for the Treasury.

Mr Corkill: Thank you, Mr Speaker. One of the taxation measures announced in the United Kingdom budget on 17th March 1998 was the ending of the foreign earnings deduction for all UK taxpayers other than seafarers. UK residents who were temporarily out of the UK for a continuous period of one year could be exempted from tax on earned income - that is, income from employment. This did not have to be a complete tax year from 6th April to the following 5th April but may, for example, be from one September to the next. Furthermore, the individual was allowed to visit the UK during that continuous period abroad for up to one sixth of the total period of absence, or 60 days in any one year, without interrupting the continuity of his absence. Provided the work was performed wholly outside the United Kingdom, all the foreign income remained outside the UK tax net by way of the 100 per cent exemption, even if the money was subsequently remitted to the United Kingdom. The concession was not given in respect of any work undertaken in the United Kingdom, remuneration for which is fully subject to UK tax, but provided the continuous period was maintained the individual could return to the United Kingdom and perform work during his return without affecting the concession in respect of his overseas activities and income.

Apparently up to 20,000 taxpayers per annum benefited from the scheme, ranging from executives working abroad, engineers, construction workers and, of course, entertainers. The position of the Rolling Stones and the cancellation of their UK tour following the ending of the foreign earnings deduction has been well publicised in recent weeks.

The impact of these changes will depend upon whether the individuals affected decide to become non-resident or not. They will now be forced to choose. Some may opt to become non-resident and will then be subject to the non-resident rules. Some of these may seek to become Isle of Man residents. However, the Isle of Man has never had a relief equivalent to the United Kingdom foreign earnings deduction other than relief for seafarers introduced in section 1 of the Income Tax Act 1995. Manx resident taxpayers remain liable to income tax here in respect of their worldwide income. Nevertheless, because of this ending of the relief, some may feel that a moderate tax liability here, compared with that which they will now suffer in the United Kingdom, is an acceptable price to pay for living in the Isle of Man. This may be attractive to some entertainers and I can think of several who have already made their home here. Others may resent paying any tax and will no doubt be considering other jurisdictions which levy no tax at all or have specific reliefs for entertainers or have schemes like the United Kingdom's foreign earnings deduction.

I am grateful to the hon. member for drawing the House's attention to the fact that the United Kingdom has, for a long period of time, indulged in extremely competitive tax practices, many of which continue today despite the hypocritical rhetoric about the harmful effects of low tax areas emanating from certain quarters. (**Members:** Hear, hear.) Thank you, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I thank the Treasury minister for his reply.

Financial Supervision Commission - Appointment Of Chief Executive - Question By Mr Cannan

The Speaker: Item 4, hon. members, I call again upon the hon. member for Michael, Mr Cannan.

Mr Cannan: I ask the Minister for the Treasury:

(1) Has a chief executive designate been appointed to the Financial Supervision Commission;

(2) if so, what are the terms and conditions of the appointment; and

(3) will you supply members with a copy of the curriculum vitae of the successful candidate?

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

Mr Corkill: Mr Speaker, as hon. members will know from the press release, issued by the FSC on Friday, 19th June, the commission has appointed Mr John Aspden as chief executive in succession to Jim Noakes who, as members will know, retires at the end of August. As Mr Gilbey, the commission's chairman, has said, 'The commission and the Treasury have searched long and hard to find the right person for this post. I am confident that Mr Aspden's background is appropriate, having a blend of regulatory and commercial experience over many years, and that he has a track record of success in both areas. I believe that he is the right person both for the commission and for the Island at this important time in their development.'

Hon. members will be aware of the importance of the finance sector to the economic security of the Isle of Man and that there are a number of developments which need to be handled properly. A vital element in all this is that the commission must continue to enjoy the highest reputation amongst international regulators, so finding the right person for this role has not been easy and it is necessary that someone charged with these heavy responsibilities should be offered terms that reflect the value that the Island places upon the future development of this vital sector of the economy.

Hon. members may also be aware there have been substantial improvements in the pay and the conditions of senior posts within the regulatory authorities of the United Kingdom and elsewhere in order to attract good people from the market. The Island cannot isolate itself from market forces in this area, therefore we have offered Mr Aspden a salary of £130,000 per annum. I would emphasise that the post is non-pensionable, which does reduce the value of the nominal salary; the appointment is under a five-year contract, which is renewable and does not carry any of the benefits which would be available to senior regulators in the United Kingdom.

A copy of Mr Aspden's CV will be available to hon. members this morning and I am sure that, when you have had the chance to examine it, you will agree with me that the commission has found a first-class man to succeed Jim Noakes.

Mr Speaker, in answering this question concerning the Financial Supervision Commission, it would be quite wrong if I did not pay tribute to Mr Jim Noakes's contribution to the Island's financial affairs. That contribution has been immense and will be difficult for anyone to follow, but I am confident that Mr Aspden will apply himself to the difficult tasks ahead and I hope that hon. members will welcome him with positive support.

Mr Cannan: A supplementary, Mr Speaker. I thank the Minister for the Treasury for his answer but I do ask him, would it not be more appropriate and in accordance with democratic and parliamentary practice if this question had first been answered in this House rather than released to the media last Friday?

Mr Corkill: I would say quite to the contrary, Mr Speaker, that in fact this appointment and the impending announcement was probably known by a number of people but, subject to certain things such as medicals and contracts of employment being exchanged, last week was the earliest date that we could actually announce this to members and then to the public and I would say that the hon. member Mr Cannan's question has actually coincided with what was already in process and had been in process over a number of weeks and months.

Mrs Cannell: Mr Speaker, can I ask the Treasury minister for a point of clarification, really? Was I correct in hearing that he said a sum of £130,000 annual salary?

Mr Corkill: I can confirm the hon. member's hearing is perfect.

Mr Cannan: In respect of the terms and conditions of this gentleman's employment, is there a clause in his contract that says he cannot accept, during his term of office, a non-executive directorship in a licensed financial institution?

Mr Corkill: It is quite clear, Mr Speaker, that that would be wholly inappropriate and is not a thing that any regulator would do whilst he was in post.

Mr Karran: Vainstyr Loayreyder, can the Treasury minister give an assurance to this hon. House, with employing a person who has come from another British colony, what assurances can he give to this hon. House that this individual's loyalty will be to this government and to his Treasury and not to the imperial government in the adjacent isle, to be sending off information to them?

Mr Corkill: Mr Speaker, there were 32 candidates who applied for this post. I am pleased to say that Mr Aspden was the successful candidate and certainly when interviewed, those sorts of issues were obviously in the minds of those people on the interview panel; certainly they were in mine. I can tell hon. members that Mr Aspden is very much looking forward to coming to live on the Isle of Man with his wife and three children and I wish him every happiness here and success in his new role.

Several Members: Hear, hear.

Hospital Referrals To The UK - Travel Expenses - Question By Mr Downie

The Speaker: Question 5, hon. members, I call upon the hon. member for Douglas West, Mr Downie.

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

- (1) What are the reasons for ceasing to fund the travel expenses of certain patients attending hospital referrals in the United Kingdom; and*
- (2) what, if any, are the estimated savings of withdrawing this support?*

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

Mr Karran: Vainstyr Loayreyder, I should like to thank the hon. member for his question as it provides me with an opportunity to correct a lot of misinformation surrounding this issue.

First, let me make it clear that the change of policy relates to the travel between the patient's home and their point of departure from the Island, either the Sea Terminal or the airport. It does not, as is suggested by some, affect the travel from and back to the Island or the transport arrangements between the UK airport or ferry port and the hospital or clinic that the individual is going to. This will continue to be funded by the department.

That being said, I can say in answer to part (1) of the hon. member's question that my department periodically undertakes a review into most aspects of services provided to ensure the needs are being met and value for money is being obtained. In the case of patients' transfers to the United Kingdom hospitals, a small working group was established which came forward with a number of recommendations, having regard to the fact that the department is expected to expend in excess of £1 million this year in meeting the travel costs of National Health Service patients and escorts going to the United Kingdom for specialist treatment, compared to a quarter of a million pounds at the beginning of this decade.

In the case of off-Island transport, the group took the view, supported by the department, that it was clearly important that with the increase in demands on the health services we ensure resources are properly targeted, and we should not be spending money in circumstances where patients can reasonably be expected to take some responsibility for themselves.

In terms of the second part of the hon. member's question, the new arrangements in respect of travel on the Island, whether by full support but provided on the basis of low income. It is estimated that the saving will be £40,000. However, the department is conscious that in applying the low income tests there will always be some individuals who just fall outside the criteria set. In these circumstances the department is presently looking to see how it can make it more flexible in the interests of avoiding circumstances where individuals might be deterred, for reasons of financial hardship, from going to the UK for necessary specialist treatment. I am confident that we will be able to make some movement as far as this in the near future.

Mr Downie: Mr Speaker, I would like to ask the member for health: in the interim period then, what level of discretion is allowed to grant assistance when DHSS staff are arranging transport for patients who live in outlying areas or who have no young dependents or relatives who can take them to the airport or the harbour to meet the ferry?

Mr Karran: Vainstyr Loayreyder, the present system - unfortunately it is rather junior staff that are dealing with this issue. They work very hard and I am very pleased with the excellent arrangements that they do as far as transport of our sick off the Island for specialist treatment, but I have to say that they would have to stay within the strict guidelines of the present criteria, but there is a move, as far as my department is concerned, to review that criteria. I am concerned that whilst I believe that it would be unreasonable for persons like ourselves in this hon. House not to be expected to pay for our own taxi fares and make our own arrangements

to get to the airport, I do recognise that the problem is that there are people who genuinely cannot afford, and this should be addressed, and who are not on state benefit.

Mr Singer: Mr Speaker, my supplementary is two parts and I ask for your indulgence, as I firstly wish to ask the hon. member if he is aware of certain information. Could Mr Karran tell me if he is aware of the problems faced by a person from the north of the Island who has to travel to Liverpool for treatment and cannot afford the taxi fare and therefore had to get a bus? The first bus they can get into Ramsey does not arrive at Ramsey bus station until 7.36 a.m., subject to that bus arriving on time they have four minutes to get onto the Douglas bus which arrives in Douglas at 8.31 -

The Speaker: Hon. member, can I ask that you draw the individual's case to the hon. member and I am sure that he will deal with it.

Mr Singer: Mr Speaker, this is a case of all people who are living in the north of the Island, not an individual. But in fact -

The Speaker: Your point has been made, sir. What is the second part of your supplementary?

Mr Singer: Thank you, sir. Accepting that it is difficult, very difficult, for people to use the bus service to get to Ronaldsway in time, and Mr Karran has talked about the department comparing value for money, which he says the department is balancing it against the inconvenience of the sick, does he not feel that in admitting that they will be looking for movement in savings on the £40,000 and therefore he is saving less than £40,000, there will be little saving and that he might as well abandon this policy change which is really affecting the sick and the elderly?

The Speaker: Hon. members, before the hon. member replies to the question, can I just say that I may be fractious this morning but I am getting somewhat tired of prepared supplementary questions (**Mr Cretney:** Hear, hear.) which are prepared in the form of a statement. Now, can I call upon the hon. member for Onchan to reply?

Mr Karran: Vainstyr Loayreyder, I was one of the members who has been in the vanguard as far as sorting out social welfare for the less well-off in this Island and I do not need any lectures from the hon. member for Ramsey, or anybody else in this House. The situation is simple. I have a lot of sympathy with the hon. member and his statement regarding his constituents in Ramsey, but at the end of the day, if you are reasonably well off, should the health services pay for the taxi for you to go to the airport? I personally do not think that I should expect the health services to pay for me to go to Ronaldsway. I should be able to find my own way there or pay the cost. I believe that the hon. member is quite right, that the present criterion needs a review, and I think the problem has been that we have allowed this issue of health to be dictated to on a social security basis and there is a totally different emphasis between social security and health, but at the end of the day I do think that it is not unreasonable that people who are reasonably well off should not be expected to pay for their own transport arrangements to get to Ronaldsway or to the Sea Terminal.

Mr Duggan: Mr Speaker, could I ask the member in charge, does he not feel it is a means test on the sick, especially where there are cases of children of six-and-a-half having to

go for kidney treatment in the United Kingdom and it is creating great difficulty for some families?

Mr Karran: Vainstyr Loayreyder, I am aware of the case of the hon. member for South Douglas's concern, I sympathise in what he says and I hope that the new criteria will take effect for people like that that are affected at the present time. I believe that living in a civilised society, a society that provides services, I think that it is a sad reflection that we have had to bring this in because I believe that it should be a matter of people saying, 'Well, yes, I can provide myself with transport to the hospital' if they are of reasonable means. I think it is unreasonable if you are a millionaire or whatever, expecting the health services to pay for your taxi fare to Ronaldsway but, alas, I quite agree with you, I have got it wrong as far as this criterion is concerned in the fact that I have allowed it to be too much influenced as far as social security and not enough inference on the health care standard. But I do believe that the principle is a reasonable principle - that is, that I believe that it is not unreasonable for people who have a reasonable amount of income to make their own way and pay for their own taxis to the airport.

Mrs Cannell: Mr Speaker, is the hon. member for health aware of the public impression given in relation to this issue in that once they get to the other side they are greeted like royalty but when returning to this Island, particularly if they have had surgery, 'You are on your own, mate,' and how does he reconcile with that? Does he appreciate that there has been a lot of talk -

The Speaker: Hon. member, is there a question coming?

Mrs Cannell: Yes, there is a question but, Mr Speaker, the hon. member has talked about people going to see specialists, have specialist care. Does he consider that it is equally important when they return, following surgery sometimes but not sick enough to merit an ambulance, that that too is important?

Mr Karran: Vainstyr Loayreyder, I am aware that people come back from surgery and, if they need an ambulance, an ambulance is provided. I am quite proud of the services the health services provide as far as the adjacent island is concerned, and the hon. member may be aware that only for our intervention the value for money committee and other parties would have almost certainly done away with the excellent services in the adjacent island. I still maintain that if I am going off the Island, I am reasonably well off, I do not expect a free taxi fare at the expense of health services. We saw in the previous sitting in another place in Tynwald where people were on to me about the diabetes. Now, I have only got so much cake and I can only spread it so much that length of area. Now, if Mainstyr Loayreyder wants me to cut here and provide services there, I have to allow these parties to review these things openly and frankly, and that is what I have done.

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

Mr Downie: Thank you, Mr Speaker. I would just like to ask the member for health, why has this service, this assistance with travel, been linked to social security benefit claimants and not linked to patients or their particular needs or circumstances, and does he feel that this saving that his department are now going to make of £40,000 a year is the right message to send out by a prosperous and caring society?

Several Members: Hear, hear.

Mr Karran: Vainstyr Loayreyder, as far as a prosperous and caring society is concerned, I am all for a prosperous and caring society but caring starts with yourself, caring to make sure that the resources that the state provides are going to the right people. Personally I think it is a sad reflection that we have had to introduce this. I believe that this has come about basically by many people being selfish within our community and expecting the state to pay for things where they should be reasonably expected to pay for themselves. All I can say to this hon. House is that the emphasis on its being based on the social security logic will be changed to a more health logic which hopefully will provide the criterion so that the genuine cases of hardship such as the hon. member for South Douglas, Mr Duggan, has raised will be addressed.

The Speaker: Now, hon. members, looking at the Court clock we have now been beaten by the time. I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Yes, 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.

Mr Cretney: I beg to second, Mr Speaker.

The Speaker: Are you agreed, hon. members?

Members: Agreed.

Special Constables - Issue Of Helmets - Question By Mr Houghton

The Speaker: In that case, hon. members, we will continue with the order paper. Item 6, I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Home Affairs:

Why are helmets no longer issued to special constables?

The Speaker: I call upon the Minister for Home Affairs.

Mr Bell: Mr Speaker, helmets have never been formally issued to special constables in the Isle of Man, although the possibility of doing so has been considered. Following suggestions from the hon. member when he was Commandant of the Special Constabulary, several ideas were debated concerning the uniform, equipment and training of members of the specials. It was readily conceded that special constabulary officers should have protective equipment, and each officer who has passed the training course in their use has been issued with a baton and also, again following qualification, a pair of speed cuffs. The suggestions of a change in uniform, including headgear, were debated both with the hon. member and subsequently with his successor as commandant, Lieutenant Colonel Roy Leader. Then the force review, which was produced in April 1997, contained several recommendations involving the special constables which have been debated both by officers of the regular force and also the management team of the special constabulary. The force review in relation to uniform outlined the following recommendations: firstly, that the special constabulary should be accorded the same protective equipment as regulars; secondly, the special constabulary should retain its own distinctive uniform; and thirdly, helmets should be retained as the

distinctive headware of the regular constabulary only. As with all recommendations in the force review, there has been much consideration and dialogue, and it was concluded in March 1998 that the recommendation concerning the use of helmets was right and thus it was announced to the special constabulary in April 1998 that specials would not be issued with helmets. Male officers will therefore continue to use their issued flat caps.

Mr Houghton: Mr Speaker, would the hon. minister not agree, though, that as the streets are becoming ever more dangerous a real issue exists here with regard to health and safety, and does he not agree that helmets should be used by all police officers, special constabulary or otherwise, whilst patrolling streets?

The Speaker: A question of opinion. The minister to reply.

Mr Bell: Yes, all I can say to that, Mr Speaker, is that my department and the management of the Isle of Man Constabulary have the welfare and health and safety of all officers, both regulars and specials, at the top of their agenda. I would also suggest that the traditional police helmet is not necessarily an item of protection for the officers and that the force provides them with the facilities to defend themselves if they are attacked on the streets, which is regrettable, but we will be doing our very best to make sure that the specials are protected in the very best way.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that in the force review morale was an important issue and that morale in the police force has increased in recent times, but would he also not agree that the fact that there was a ballot amongst the specials which unanimously wanted to have helmets . . .? And does he not agree that this goes against morale in the specials where there has been a desperate need for a change of emphasis within the specials and the police force, and does this not show that there is an arrogance as far as the leadership is concerned within the police force to then go against the total view of this important sector of the police force?

Mr Bell: Mr Speaker, the views of the specials are always considered by the management of the regular police constabulary. The points which the hon. member raises are valid ones. They were considered by management and the conclusion was drawn as I have explained to the hon. member.

Mr Downie: Mr Speaker, I would just like to ask the minister: given the great increase in street and domestic violence in the Isle of Man, are any of the special constables now issued with protective clothing which they wear underneath their uniform, as is the case in the United Kingdom, to shield them from knife or needle attacks and, if this is not the case in the Isle of Man, have we got plans to make sure that our specials are fully protected when they are on duty?

Mr Bell: To the best of my knowledge, Mr Speaker, they are not issued with such protective clothing but I would have to double-check that and I will assure the hon. questioner of the answer later on.

Mr Braidwood: Mr Speaker, would the minister agree with me that in 1996 Her Majesty's Inspector, Mr Geoffrey Deere, recommended the use of helmets for special constabulary officers and, although the minister has explained this morning that they have been accorded

the same protective equipment as regulars, would he not agree that this change in policy to issue helmets to the special constables would be a step in the right direction?

Mr Bell: Yes, the hon. member is right, Mr Speaker, that the 1996 HMI report did recommend helmets, but subsequently the police review, which was also done with the involvement of the HMI, reversed that decision and this is the policy which is operating at the moment.

The Speaker: A final supplementary, the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. But is the minister aware that this decision was taken during a meeting with senior police personnel, about a quarter of a million pounds in salary worth of senior police officers, where they had nothing better to discuss but the presence at the Laxey duck race of two special constabulary officers actually wearing helmets for the remuneration of just 10p an hour?

Mr Bell: I cannot comment on that, Mr Speaker.

Criminal Drug Activity - Policies To Reduce - Question By Mr Karran

The Speaker: Order paper item 7, hon. members. I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Home Affairs:

What are the policies of your department to reduce the incidence of criminal drug activity on the Island?

The Speaker: Again, I call upon the Minister for Home Affairs to reply.

Mr Bell: Mr Speaker, with the support of the department a three-pronged approach exists within the Isle of Man Constabulary with regard to drug use in the Isle of Man. These approaches are education, enforcement and harm reduction.

With regard to education, the drugs squad gives a large number of lectures to a wide audience over differing age groups in an attempt to inform people on the issues surrounding substance abuse. There is a nominated officer within the drugs squad who, together with a detective sergeant, collates suitable material and, together with other agencies with the co-operation of the Department of Education, gives a co-ordinated approach to the education of young people. This education is generally aimed at the last year of primary school and the first year of secondary school. The local community officers also have a strong role in this area and a close liaison exists between those officers and the nominated officer within the drugs squad. Children today may be more informed about drug-related issues than their respective parents. To this end, a co-ordinated multi-agency approach has been adopted to encompass as wide an age group as possible so that any person can, if desired, become more informed about the issues involved. There is a strong link, too, with Mrs Margaret O'Reilly, the Department of Health and Social Security Drug and Alcohol Co-ordinator, concerning drug and alcohol abuse and prevention.

With regard to enforcement, the Isle of Man Constabulary and the drugs squad in particular remains committed to a high proactive investigation of drug-related offences, especially the importation and distribution of controlled drugs within the Isle of Man. The drugs squad itself is enhanced in its work by secondments from elsewhere in the force and by drugs

liaison officers in each division. Additionally, certain officers are temporarily drafted into the squad's work for surveillance, intelligence-gathering and raids. The force is on the offensive and targets importers and local dealers principally.

Finally, with regard to harm reduction, the drugs squad has linked with other agencies, for example the health services, the Department of Education and voluntary organisations in an effort to highlight the dangers surrounding substance abuse and its associated conditions and diseases. These efforts relate to the long-term health of the current user and, together with the policy on education, to those who may be exposed to drug or other substance abuse in the future. This cannot be achieved by the police alone and it is hoped that with this multi-agency approach the effects of substance abuse can be minimised and/or the level of substance abuse can be reduced in the future.

Mr Karran: Vainstyr Loayreyder, would the minister not agree with me that the eight members in the drugs squad at the present time were requested well over 10 years ago by this hon. member, and would he not agree with me that because of the lack of adequate funding as far as this issue is concerned, we have seen a growth in the drug abuse on this Island because of our reactive instead of proactive approach towards policing drug abuse on this Island? And could the hon. minister also agree with me that the drugs squad is virtually on its knees at the present time with its workload, and does he not feel that we are doing a disservice to the population outside if we do not get a drugs squad that is adequately staffed and resourced?

Mr Bell: Mr Speaker, the hon. questioner knows full well what the history of the drugs squad is. It is a number of years now, as he rightly says, since its numbers were increased from four to eight members. However, the decision on the size of the police drugs squad is an operational decision of the chief constable and the management of the Isle of Man Constabulary. It is not a specific decision of the Department of Home Affairs. If it is felt internally that the drugs squad can be increased, there is nothing at all to stop that happening.

In terms of the current position of the drugs squad, I would agree with the hon. member that the drugs squad currently is overworked and I am currently in discussion with the relevant sections of the Isle of Man Constabulary to see if there is a way of improving that situation in the not-too-distant future.

Mr Cannell: Mr Speaker, I would like to ask a supplementary question, if I may, please. With regard to the importation of illegal drugs, would the hon. Minister for Home Affairs be prepared to establish control of flight activity into Andreas airfield, or Andreays as it may now be referred to?

Mr Bell: I do not fully understand the point of the question, Mr Speaker, but it is my understanding that all these flights are controlled by the police anyway.

Mrs Cannell: Mr Speaker, in relation to the question, can the hon. member please inform members here today how his department is working in order to reduce the incidence of drugs actually coming into the Island, particularly in relation to hard drugs such as heroine, and, if there is no such action, can the hon. minister inform us as to how he proposes that that situation can be further curbed? What action does he feel is necessary?

Mr Bell: The hon. member knows full well what the answer to that question is because it is the same policy as applied when she was a member of the department. The police work extremely thoroughly on preventative action to stop drugs coming into the Island. It works very closely with the Isle of Man Customs and Excise; it works very closely with police officers off-Island, particularly in the Merseyside area where a lot of the drugs come from; it relies heavily on intelligence, and the intelligence which has been forthcoming to the police over the last year or three has led to quite a number of successful exercises by the drugs squad and has prevented a large number of drugs coming into the Island; it also works closely with the Post Office, the postal authorities, because that obviously is another source of importation into the Island. We do now run the drugs dogs on occasions at the airport and at the sea port, and that in itself has operated as a deterrent and we have obviously legislation now which permits the police to, under certain circumstances, carry out intimate searches which in itself has resulted in a number of arrests having been made and a number of seizures having been taken. So I can give the hon. House an assurance that the police are doing their very best within their present resources to prevent as much of the importation of illegal substances as they possibly can, but I would have to say that, no matter how effective that drugs squad is, there will always be people who will find new ways to circumvent whatever preventative arrangements are set up, and it is a matter of being forever vigilant on the Island and for the police to, as best they can, keep one step ahead of the dealers who find the Isle of Man, sadly, a very lucrative market.

Mr Singer: Mr Speaker, as this question deals with the policies to reduce the incidence of criminal drug activity on the Island, does the minister not think that for persistent drug-dealing offences we should be considering introducing a policy of preventative detention to keep these criminals off the street?

Mr Bell: That is an extremely complicated and sensitive issue, Mr Speaker, which would need a great deal more thought and detailed planning than an off-the-cuff response now.

Mrs Cannell: Mr Speaker, would the hon. minister not agree with me that regular custom checks at all ports of entry into the Isle of Man might help eliminate the amount of drugs being imported into the Island?

Mr Bell: That is always a possibility, Mr Speaker, but it would also cause a lot of problems.

The Speaker: A final supplementary on this question, I think, hon. members. We will return to the original questioner, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister agree with me that the previous speakers talking about penalties and about the stopping of drugs coming into the Island have missed the point? The point is, would the minister not agree that we have a staffing level of eight on a drugs squad, which is a joke, and would the minister consider putting down a motion in the July Tynwald so that this issue can be debated and we can get a drugs squad that is effective in the stopping of the growth in drug abuse on this Island?

Mr Bell: Mr Speaker, I thought I had answered the bulk of that question at the outset. We are in discussions at the moment with the management of the police to see how we can best improve resources to be made available to the drugs squad. That is ongoing at the moment. A resolution of Tynwald would not make any difference one way or the other. We need to find

the most effective way of assisting the drugs squad in what it does. But I would reiterate the point I made at the outset: the responsibility for tackling the drugs problem in the Isle of Man is not simply one for the drugs squad; (**Mr Gilbey:** Hear, hear.) it is an all-Island problem and simply criminalising drugs or anything involving drugs and saying it is entirely the police's responsibility and, through that, the drugs squad's responsibility is entirely missing the point. It has to firmly follow the course of education, of health advice and ultimately weaning people off the almost glamorous image that surrounds the taking and use of drugs on the Island and elsewhere. The Isle of Man is not immune and never will be immune to developments off-Island. We have to recognise that and we have to recognise the mentality which finds the taking of drugs attractive; indeed, they themselves do not believe that what they are doing is actually a criminal act. We have a much wider responsibility if we are going to tackle the problem of drugs in society than simply throwing more and more police at it. I accept entirely that that is an integral part of the war on drugs and it is my intention to give the drugs squad as much support as I possibly can, but we must not get hung up on this idea that this is the be-all and end-all of our war against drugs. It is a much greater responsibility of all agencies of government as he himself knows full well, being an occasional attendee at the advisory committee on the misuse of drugs. It is essential that we get full and close working co-operation between all agencies of government to ensure that we do our very best to at least stem the tide of drugs coming into the Isle of Man.

Town And Country Planning Bill - Vexacious Planning Appeal Applications - Question By Mr Houghton

The Speaker: Now, hon. members, before turning to your order paper, item 8, I am aware that the Town and Country Planning Bill appears on our agenda for first reading at item 16 and therefore I have no intention of allowing this to develop into a second reading debate on that Bill. If the hon. member still wishes to ask his question that is in his right.

Mr Houghton: Yes, if I may, sir, I beg leave to ask the Minister for Local Government and the Environment:

Will the Town and Country Planning Bill address vexatious planning appeal applications?

The Speaker: I call then upon the Minister for Local Government and the Environment.

Mr Quine: Thank you, Mr Speaker. No provision exists within the Isle of Man town and country planning legislation for the award of costs against parties involved in what may be considered as vexatious appeals. The department has, however, recognised that unreasonable conduct by a party to a planning application can give rise to unnecessary costs being incurred by other parties. Consequently, the draft Town and Country Planning Bill includes a provision concerning the determination of planning applications which states, and I quote: 'A development order may make provision for the making of orders for the payment of costs in connection with such proceedings.' So it is proposed that an enabling power would now be provided.

Mr Houghton: I thank the hon. minister for his reply, sir. Thank you.

Villa Marina - Present Position Of Refurbishment - Question By Mr Cannell

The Speaker: Order paper item number 9, hon. members. I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Mr Speaker, I beg leave to ask the Minister for Local Government and the Environment:

What is the present position of your department with respect to the refurbishment of the Villa Marina?

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

Mr Quine: Thank you, Mr Speaker. Hon. members, I am sure, are aware that Tynwald Court approved a motion in December 1997 which identified three options for bringing about the desired refurbishment of the Villa Marina.

The first option was to progress the scheme for the refurbishment as agreed between government and the Douglas Corporation, including a joint board for the future management of the complex and, if that was unachievable, to look at two further options: government to unilaterally undertake the scheme, having acquired possession of the Villa Marina complex under a 50-year lease; or government to compulsorily acquire the Villa Marina complex and then proceed to refurbish the Villa Marina.

Since that time government and the corporation have met on some 10 occasions to seek to overcome the impasse. The corporation has now accepted that refurbishment should proceed on the basis of the agreed scheme and that a joint management board be set up under the Recreation and Leisure Act. We are now getting down to the details of the legal agreement which is necessary to underpin the management of the proposed complex. Although a provisional deadline of September 1998 has been set for the completion of the legal agreement, I cannot guarantee at this stage that this deadline will be achieved. What I can say is that there does appear to be a greater willingness to bring this about.

I am reluctant to go into further detail at this stage as I do not wish to jeopardise the progress which is currently being made.

Mr Cannell: A further supplementary, Mr Speaker. Would the hon. minister not agree with me that it is now time to, once and for all, end this sorry saga (**Mr Gilbey:** Hear, hear.) and get in and get the job done?

Messrs Houghton and Gilbey: Hear, hear.

Mr Quine: I believe it is past time, long past time when a solution should have been obtained for this very important project, but the situation remains that I have a remit from Tynwald, I am pursuing that remit, and if we arrive at a point where we have to look at the two alternatives, hon. members will be aware that they are not cheap alternatives. They will involve considerably more funds being found by government to progress the alternatives and secondly, of course, this hon. House and another place may have to confront legislation which could be described as quite draconian, and I believe that it is in the best interests of the public for us to seek, within reasonable bounds and a reasonable time frame, to achieve a negotiated agreement, as I have indicated.

TT Course - Scheduled Racing On 'Mad Sunday' - Question Withdrawn

The Speaker: Item 10, hon. members. Again, I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Yes, Mr Speaker, perhaps I may crave the indulgence of the House to withdraw this question in view of the time schedule you have indicated. I would be content that this could be embraced within the next question which seeks to have an evaluation of this year's TT events.

The Speaker: Hon. member, it is your right to withdraw the question if you so wish.

TT Events - Evaluation - Question By Mrs Cannell

The Speaker: Item 11, then, hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker, I beg leave to ask the Minister for Tourism and Leisure:

Do you intend to publish an evaluation of this year's TT events?

The Speaker: I call upon the Minister for Tourism and Leisure.

Mr Cretney: Thank you, Mr Speaker. I would like to take the opportunity provided by this question to again offer my sincere thanks to everyone who pulled together during the TT festival to ensure its success. The marshals, medical staff, St John's Ambulance, Red Cross, staff of the various government departments, including the Department of Transport, grandstand and course officials, the Scouts and so many more, including those who opened up their homes for campers when the weather was unfavourable - to you all a very big thank you. My evaluation of all these people is that they are wonderful.

Each year my department holds a debriefing session following the conclusion of the TT festival to review all activities during the period. Last year I also introduced the TT forum which comprises representatives of the private sector and government departments charged with the responsibility of ensuring that adequate off-course entertainment and activities are provided. The forum met for the first time on Monday, 23rd June 1997 and held 12 formal meetings, and a number of ad hoc meetings also were held. I would like to thank the representatives who helped ensure proper planning and consideration was given to this point.

This year I have decided to build further upon the initiatives already introduced by writing to the various individuals and organisations involved with the TT, including government departments, local authorities, employer and employee organisations, members of Tynwald and others. This is to seek their input and advice in order to ensure that the success achieved to date is further enhanced for the future. Furthermore, I would welcome views from any member of the public or group not specifically contacted by my office. These should be submitted to me at the Sea Terminal buildings, Douglas, not later than Friday, 10th July 1998.

Whilst it has not been standard procedure for my department to publish the results of the previous TT debriefing sessions, I am prepared to reconsider this stance once the appropriate responses have been received.

I have been waiting for the hon. member to contact the department to let us know whether her highly publicised advance comments regarding the street party were founded or otherwise. Until I obtained my copy of the *Isle of Man Examiner* last night I had heard nothing. I would like to thank certain residents of Strathallan Crescent who were gracious enough to

acknowledge immediately after the event that the street party operation was orderly and well run.

My department can always improve upon things for the future. However, I cannot allow some of the remarks attributed to the hon. member to go unchallenged. In particular, the hon. member states in the newspaper she was a member of the Department of Home Affairs until February and her department had no information on what was being proposed. However, of the 12 formal meetings held, the deputy chief constable was present at the October meeting, the chief fire officer attended in October and January and others since, the deputy chief fire officer attended three meetings, two police inspectors, one a chief inspector, attended eight meetings and seven meetings respectively. All of these were from the Department of Home Affairs. In addition, a health and safety officer from the Department of Local Government and the Environment attended eight meetings and officers from the Department of Transport attended six meetings.

Contrary to the hon. member's assertion that TT events do not receive proper planning, I am confident that this event has been properly organised because of the support and assistance of so many who are prepared to work so hard for the good of the Isle of Man.

Mr Cannell: Mr Speaker, if I may ask a supplementary, please, would the hon. minister agree with me that to send home 75 disgruntled sidecar crews was less than satisfactory (**Two Members:** Hear, hear.) and that everything should be done to ensure that races do not have to be completely cancelled in the future?

Mr Cretney: I agree with the hon. member. However, Mr Speaker, I would wish to say that I think the circumstances in terms of the weather this year were certainly unprecedented (**Mr Gilbey:** Hear, hear) in terms of my recognition of the event. Now, the hon. member is slightly older than me so he might remember another year which was worse. It was very unfortunate. I have a number of friends in the sidecar fraternity and so I did regret the fact that the race was curtailed to one event. Obviously we will be reviewing that situation and if there is anything we can do to improve that for the future we will do.

Mr Braidwood: Mr Speaker, would the minister consider after this year's debriefing and evaluation of off-course entertainment, approaching Douglas Corporation at an early stage to see if it would be possible to hold the so-called Mad Sunday events and festivities at Noble's Park when taking into account the past views of hoteliers and householders along the promenade which have been expressed not only this year but also in 1995 and 1996, and would he not agree that this would be a suitable venue, considering the number of people camping in the area?

Mr Cretney: Mr Speaker, when I was faced with the negative response from some hoteliers in the Loch Promenade area the department did consider Noble's Park as a possible location for the street party event. As it happens, there was a negative reaction from Douglas Corporation councillors to that suggestion.

Mr Rodan: Mr Speaker, can I ask the minister if he is aware whether the TT home stay scheme was over-subscribed by Island residents this year?

Mr Cretney: I have to say I am not completely *au fait*. My understanding is that there was a great demand, particularly in the later stages, in relation to the home stay and it is something

which over the past several years has grown, I think, and has shown increasing success. What has happened is that people have developed friendships and they come back year on year and so we are obviously pleased about that, but always we will be anxious, given the capacity constraints we have at this particular time, for anybody who is prepared to open up their homes to consider doing so.

Mrs Cannell: Mr Speaker, I would like to thank the hon. minister for his debriefing to hon. members here today, and could I ask him, when he is considering any submissions that he may receive by 10th July of this year, would he also consider conducting a MORI Poll to ascertain the views of the TT fans on the success or otherwise of this years TT events?

Mr Cretney: Mr Speaker, I think by my announcement today I have invited comment from TT fans. I have in the past extended a further invitation to TT fans via my introduction in the TT Programme. I am always open to anybody who has any views that they may wish to pass on to us. I, unlike some people, do not have all the best ideas and am always open to suggestions.

Mr Houghton: Mr Speaker, may I ask the minister for this department, did he employ consultants to undertake an evaluation of the street party? If so, what was the outcome of this evaluation and what was the cost of those consultants to the taxpayer?

Mr Cretney: Mr Speaker, the only consultants I am aware of were those who we are required to, under Health and Safety requirements, involve in the initial planning stage. As I have indicated already to the House, sir, we have gone into a great deal of work to ensure that the event is properly organised and meets all the various demands of the relevant authorities. One of these is clearly a health and safety issue and consultants were involved in that stage. I am afraid I am not able to say on this particular occasion, because I do not have the information to hand, how much that advice cost, but I will happily pass that on.

The Speaker: I think a final supplementary, hon. members, and I call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. In relation to the home stay scheme, can the minister confirm that it is an Island-wide scheme and not exclusive to Douglas, and specifically is he aware that two of my constituents in Maughold approached his department offering empty cottages for the use of TT visitors, but were informed 'Thank you very much', but they were too far from Douglas and specifically too far from Bray Hill and however they would be put on the emergency list? Would he agree that even for TT visitors Maughold is not exactly the far side of the moon?

Mr Cretney: Mr Speaker, as a person who is proud of all parts of the Island, whether the south or the north, and one who recognises their strengths and their beauties, I would encourage people if they wish to stay in the Maughold area and would thank the hon. member for passing on that his constituents did make this offer. I regret that the offer was not accepted and I will look into that matter. It may have been on the basis that, for whatever reason, a large majority of people who require home stay do like to stay in the hub, in the centre of activity. However, I would say equally there are lots of people who, apart from the events, would like to enjoy the peace and tranquillity of the countryside and I will ensure that those are taken fully into consideration in the future.

The Speaker: Hon. members, that draws to a conclusion the oral part of our order paper. For written answer we have items 12, 13 and 14 and I understand that those written answers have been circulated to hon. members.

**Drug Offences - Arrests, Charges And Convictions -
Question By Mr Karran For Written Answer**

Question 12

The hon. member for Onchan, Mr Karran, to ask the Minister for Home Affairs:

- (1) *In each of the last two years -*
- (a) *how many persons have been arrested for offences relating to controlled drugs;*
 - (b) *how many of those arrested were charged with such offences; and*
 - (c) *how many of those charged with the offences were convicted; and*
- (2) *how many of the -*
- (a) *arrests;*
 - (b) *charges; and*
 - (c) *convictions*
- related to offences of:*
- (i) *possession of controlled drugs; and*
 - (ii) *trafficking in controlled drugs?*

Answer

Question (1)(a)

	<u>1996</u>	<u>1997</u>
Number of persons arrested for offences relating to controlled drugs	123	188

Question (1)(b)

Number of those arrested who were charged (Cautions in brackets)	85 (22)	115 (28)
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The other 16 arrests in 1996 and 45 arrests in 1997 were cases where either no further action was taken or the prosecutions did not proceed with the charge.

Question (1)(c)

	<u>1996</u>	<u>1997</u>
Number of those charged who were convicted	145 *	142 *

* The figures given relate to the number of offences charged which resulted in conviction, not the number of persons convicted. Police records do not show the number of individuals convicted and there is no facility for converting the number of offences which resulted in convictions to the number of persons convicted in the time available.

Question (2)(a)

	<u>1996</u>	<u>1997</u>
Number of arrests relating to		
(i) possession of controlled drugs (includes with intent to supply)	71	112
(ii) trafficking	13	11

Question (2)(b)

Number of charges relating to

(i) possession of controlled drugs (includes with intent to supply)	123(14)	140 (27)
(ii) trafficking	16 (0)	16 (0)

(Cautions in brackets)

Question (2)(c)

Number of convictions for

(i) possession of controlled drugs (includes with intent to supply)	110	107
(ii) trafficking	14	10

**Parish Clerks - Remuneration - Question By Mr Karran
For Written Answer**

Question 13

The hon. member for Onchan, Mr Karran, to ask the Minister for Local Government and the Environment:

For the years 1994-95, 1995-96 and 1996-97, in each of the parish authorities -

- (i) what was the remuneration of the clerk; and*
- (ii) what allowances were paid to the clerk?*

Answer

Attached is a schedule detailing the remuneration of each of the Island's parish clerks and allowances paid in respect of each clerk for the financial years 1994-95, 1995-96 and 1996-97.

Individual authorities, electors and creditors of the authority have powers, under sections 34 and 45 of the Local Government Act 1985, to inspect the accounts or minutes of proceedings of the authority at all reasonable hours. The information that has been requested is, therefore, readily available to the electorate of the local authority area, and much of the information sought can be obtained from the annual accounts of each of the respective local authorities, which are matters of public record.

It should be noted that whilst the actual moneys paid to clerks has been identified the department has not inquired as to the terms and conditions of employment of the respective clerks, the hours which they worked during the years referred, the job descriptions within which each of the clerks must operate, the degree of responsibility in terms of the management of staff and resources, nor the span or level of service the clerk is expected to provide. Hon.

members should be aware, therefore, that the information presented cannot form the basis upon which comparisons between the remuneration of individual clerks could be made.

Parish Commissioners	Andreas	Arbory	Ballaugh	Braddan	Bride	German	Jurby	Lezayre	Lonan	Malew	Marown	Maughold	Patrick	Rushen	Santon
General Revenue Accounts/Ests for the year end 31 March 1997															
Payments															
Clerk's salary	2900	2575	1900	23250	1400	3500	2250	1800	4269	**	2000	1888	3540	3601	1300
Other Benefits	0	0	0	69.25	0	750	0	0	Mileage		Phone Rental	0		0	100
General Revenue Accounts for the year end 31 March 1996															
Payments															
Clerk's salary	1750	2500	1700	20377	1250	3025	1600	1750	3658	17972	2000	2000	3267	6000	1120
Other Benefits	0	0	0	57.48	0	750	0	0	Mileage	46	Phone Rental	0	0	100	
General Revenue Accounts for the year end 31 March 1995															
Payments															
Clerk's salary	1650	2000	1600	17673	1118	2750	1400	1489	3658	**	200	1950	3276	3600	1000
Other Benefits	0	0	0	0	0	750	0	0	Mileage		Phone Rental	0	0	100	100

** Figures not available at present - to follow.

Local Authorities - Borrowing - Population - Question By Mr Karran For Written Answer

Question 14

The hon. member for Onchan, Mr Karran, to ask the Minister for Local Government and the Environment:

- (1) *What is the borrowing of each local authority in the Island; and*
- (2) *what is the population of each local authority?*

Answer

In answer to the hon. member's question I have attached hereto a summary of the borrowings outstanding in respect of each of the Island's local authorities for the financial year ended 31st March 1997, this being the latest financial year for which audited accounts are presently available.

The level of borrowing may vary depending upon whether the individual authorities concerned undertake housing and/or sewage functions.

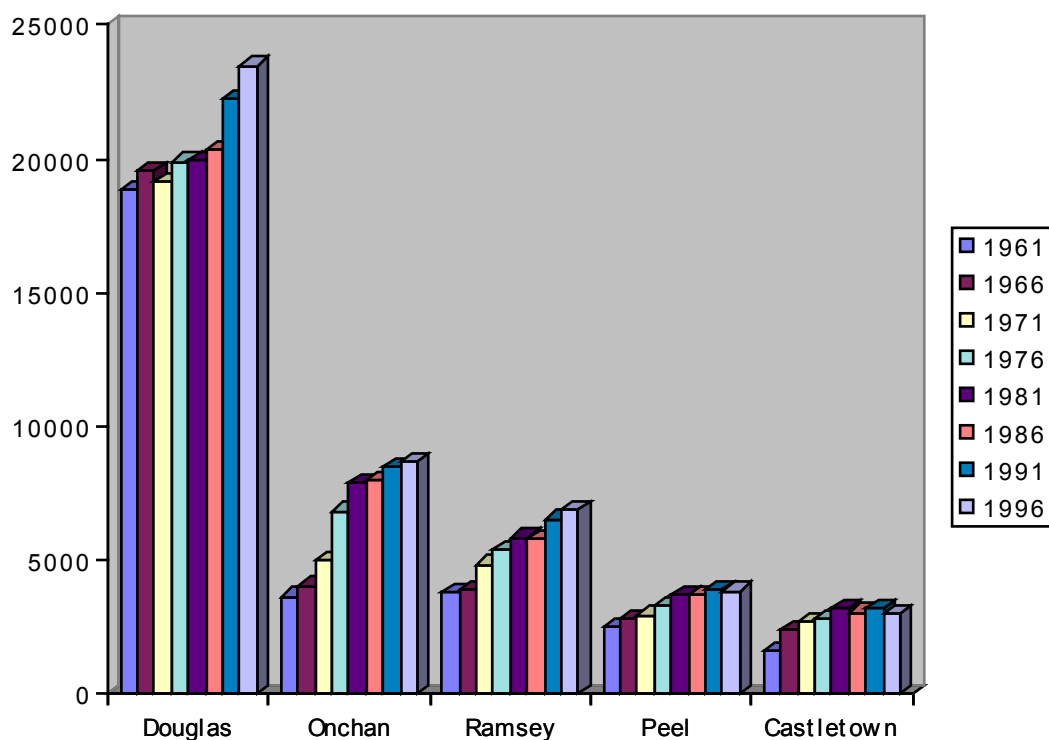
I also attach an extract from the Isle of Man Census Report of 1996 detailing Isle of Man resident population by area of residence at that time.

LOCAL AUTHORITY ACCOUNTS

Audited Accounts for -

1996/97

Authority	BORROWINGS Amount			BONDS
	SINKING FUND	LOANS TOTAL		
PARISH				
Andreas	0			0
Arbory	25000	10000		35000
Ballaugh	0			0
Braddan	6366556			6366556
Bride	0			0
German	0			0
Jurby	0			0
Lezayre	61784			61784
Lonan	0			0
Malew	543082			543082
Marown	0			0
Maughold	0			0
Patrick	0			0
Rushen	218090			218090
Santon	0			0
	7214512	10000	0	7224512
VILLAGE				
Laxey	84422			84422
Port Erin	4123881	70312	595486	4789679
Port St May	805226	326675	34515	1166416
	5013529	396987	630001	6040517
DISTRICT				
Michael	0			0
Onchan	13752491		1497163	15249654
	137522491	0	1497163	15249654
TOWN				
Castletown	3689755			3689755
Douglas	18069528			18069528
Peel	40736	2311768		2352504
Ramsey	9460460			9460460
	31260479	2311768	0	33572247
ELD. PERSON				
C'town & Malew	325208	296224		621432
Cooil Roi	446171			446171
Marashen Cres	82606	1879407		1962013
Peel Western	78921	844871		923792
Ramsey & Northern	379575	470920		850495
Royal British Legion	523683			523683
	1836164	3491422	0	5327586
SWIMMING POOLS				
NLASP Board	310750			310750
SLASP Board	330600			330600
	641350	0	0	641350



Note: Figures collected in Censuses of the Isle of Man population.
Source: Treasury, Economic Affairs Division.

Note: (i) Figures collected in Censuses of the Isle of Man population.
(ii) Boundary changes have been made in some areas.
(iii) Statistics for 1961 and 1966 refer to Census Population. All other statistics refer to resident population.

Source: Treasury, Economic Affairs Division.

Bills For First Reading

The Speaker: We turn then onto the order paper, items 15 and 16, both for first reading and I call upon our learned Secretary.

The Secretary: European Communities (Amendment) Bill, Mr Gelling; the Town and Country Planning Bill, Mr Quine.

Road Traffic Bill Third Reading Approved

The Speaker: That takes us to item 17 on your order paper, hon. members, the Road Traffic Bill for third reading, and I call upon the hon. member, Mr Bell.

Mr Bell: Mr Speaker, the 1967 Road Safety Act of Parliament introduced into the United Kingdom a new system of driving-related legislation which, amongst other provisions, made driving or being in charge of a vehicle over a prescribed blood alcohol level in itself an offence without proof that the driver is unfit to drive. Additionally the police were given the power in certain circumstances to administer a roadside breath test with a breathalyser to indicate whether the driver was over that limit.

Debate as to whether the Isle of Man should follow suit has continued sporadically since that time. Until recently the consensus view has been that we should not follow the UK lead on this issue. However, it has become increasingly clear in recent times that drinking and driving are no longer socially acceptable by the great majority of the general public and, given the steady flow of drink-driving prosecutions, they wish to see the breathalyser introduced. In parallel with this change in public attitude, the police have complained frequently of their frustration at having to bring every suspected drink driver into Douglas police station for them to undertake a test on the intoximeter. Not only is this a time-wasting exercise for the police, especially if they have to travel from perhaps the north or the south of the Island, but it takes them away from their core responsibilities of policing the streets, sometimes for several hours at a time. Additionally, it is extremely inconvenient, not to say annoying, to those members of the public caught in this situation who later are shown to be below the blood alcohol limit and are subsequently freed.

It is with these concerns in mind that the Road Traffic Bill of 1998 was drafted. The basic proposals of the Bill are: (a) new offences of driving or being in charge of a vehicle while over the limit are created, and (b) the police are given the power to administer roadside breath tests in two situations: firstly, following an accident, and secondly, where the driver is believed to have committed a specified offence. Currently those offences will be dangerous, careless or inconsiderate driving, but additional offences may be added by order, subject to Tynwald approval. The Bill restricts a number of offences for which the breathalyser may be administered, specifically in response to concerns about indiscriminate random testing by the police.

I strongly believe that for policing in general to be successful in any small community such as the Isle of Man it is vitally important that the police have the full co-operation and support of that community and a mutual respect is maintained between the two parties. In effect, this legislation puts both the police and the public on probation. If the public do not respond positively to this legislation and we continue to experience an increase in drink-driving, then the Department of Transport can seek to extend the types of offence for which the roadside test can be administered and indeed give consideration to a reduction in the legal blood alcohol level, again by order with Tynwald approval.

My department has recognised the strong views which are held on all sides of this debate and we have sought to strike a fair balance between those views. I believe that this legislation will give a new and effective framework for the police to work within in our fight against drinking and driving, and it should also reassure those people who fear that those new powers may be abused by over-zealous police activity.

We have had an extensive debate at second reading and clauses stages with two major amendments having been proposed and subsequently rejected. I would urge all hon. members now to put our past disagreements behind us and recognise the benefits to our

community which are enshrined in this Bill and give this Bill its third reading today. I beg to move, Mr Speaker.

Mr Shimmin: Mr Speaker, I wish to second the motion and also to put on record my delight that at last the Isle of Man has taken a step forward with regard to introducing some form of legislation which will empower the police to remove from the roads those persons who drive in a dangerous and alcohol or drug-related manner. Thank you, Mr Speaker.

Mr Duggan: Mr Speaker, I too support the Bill before the House. I am pleased it is going through. It has had quite an easy passage compared to the last time, when even the minister at that time voted against it. I think there is a cause, though, for making the people aware. You take it for granted you can have a drink the night before until late, get up the following morning and drive the car - they might even get a taxi home the night before. . . *(Laughter)* Well, the thing is, if you have a road traffic accident, at present it is quite a trauma to drag the people up to the headquarters and put them 'on the Lion', as they call it, to be tested and generally at the discretion of the police officer and, when they have got this breathalyser, obviously I could run into the back of Mr Bell. Mr Bell could have had a few drinks and both of us could get tested. Though it was my fault for running into the back of him, he could actually lose his licence. So I think we really need to have an awareness campaign to warn people that if they do drink the night before till late they will still be drunk the following morning, because lots of people take it for granted - 'Oh, I will be okay.' In most cases they will not be.

Mr Houghton: Mr Speaker, I also rise to support this Bill, give it its third reading and wish it on its way, and congratulate the Department of Home Affairs and the minister for the hard work that they have done in their arguments at second reading and at the clauses stage - very well done; let us get it going and let us move on.

Mr Singer: Mr Speaker, I am also extremely pleased to support this third reading of the Bill. As the hon. minister said at the clauses stage, there was an opportunity to express concerns felt by hon. members and particularly those aired in the amendment of the hon. member for Douglas West, Mr Downie. Certainly when I listened to the minister's reply at that time, when he outlined within this proposed legislation the many reasons which would enable the police to stop and test a motorist suspected of being intoxicated, I found this extremely encouraging. It certainly appears that the motorists will know that whilst there is no roadside random breath testing, the risk of detection will be great and that the police will not be frustrated in their efforts as they will have the backing and the power to get these dangerous people off the road.

It is also I feel, very important that on the introduction of the roadside breathalyser a clear police presence is shown in areas outside Douglas to show that they mean business. If I can say to the hon. minister, it would be useful if hon. members were furnished at regular intervals with general information and statistics to demonstrate the effect of the roadside breathalyser, hopefully having a reduction in the incidence of drink driving. Perhaps that is something the minister could look at.

One item that this Bill does not tackle is driving under the influence of illegal drugs. I understand from UK statistics that the number of drivers involved in accidents who were under the influence of these drugs could be as high as one in five and that there are various pilot schemes that are being undertaken to test methods which can detect the problem at the

roadside. We are aware that the problem of the use of illegal substances is on the increase here on the Island and I would ask the minister, when it is possible to take positive action with proven and reliable equipment, can these tests be introduced by order under this Bill or will it mean new legislation? I am sure that the minister within his department will be looking at the re-education and the rehabilitation of habitual drink drivers, both within the prison system and outside, in tandem with the introduction of this Bill to reduce unnecessary injuries and deaths on the road.

I hope it came out in my contribution at the clauses stage, and I would like to stress the point to motorists, that 80 mg of alcohol per hundred ml of blood is not a magic figure above which they are incapable of driving safely and below which they are sober and fit to drive, but rather that they be aware of the effect on their driving performance of any quantity of alcohol in their system and that they do not take chances.

Finally, Mr Speaker, I hope this final reading will receive the overwhelming, in fact unanimous, support of this hon. House, thus sending out the message that the anti-social and dangerous habit of drinking and driving on the Isle of Man is unacceptable behaviour and will not be tolerated. Thank you, Mr Speaker.

Mr Karran: Well, Vainstyr Loayreyder, I am very disappointed because I cannot sing the praises as far as this piece of legislation is concerned. I think it is political fudge. I think there is a lot of double talking in this hon. House as far as this issue is concerned. The police should have been given the opportunity of random breath testing and it should have been done on that basis. This Bill has been severely affected, just like when we were talking in question time today about the drug problem: we cannot make the police force accountable for its actions, so consequently the legislation has to be watered down. There will still be a lot of people having to be dragged off to police stations to have breath tests because we have not bitten the bullet.

I believe prevention is better than cure, and prevention is when people think that they are not going to be the one who is going to be pulled at a weekend out of the hundreds that are more likely drinking every weekend over the limit at the present time, and I believe that what we want is detection. Instead of making futile gestures of throwing the key away after somebody has been killed or maimed for drinking and driving - it is too late then - we want detection, and what we have seen today is a political fudge of the issue. We should have brought in random breath tests, but once again the Council of Ministers have not addressed the issue of the mechanism that was the demise of myself in the home affairs department when I was a member of the home affairs department, and that is that there has to be a mechanism to make the hierarchy of the police force accountable but not controlled. That has not been done and that is why this Bill has been gerrymandered, or whatever you want to call it, so that it has been watered down against the sincere commitment that it is supposed to be doing for drinking and driving.

We hear members say that they are all against drinking and driving, but you cannot be like that; if it is wrong it is wrong, and that is the end of it. But what I do feel is wrong with this piece of legislation is, it should have brought in random breath tests, and I would have preferred to see more people stopped, pulled off the road, pulled off our streets and stopped from driving than having a great furore about putting people in gaol after they have been caught drinking and driving. We need to catch them before they commit the offence.
(Interjection)

The Bill is better than what was there so obviously I have got to support the Bill, but I feel that we have allowed ourselves to sell ourselves short simply because we have not addressed other issues that should have been addressed in order to make this Bill more effective if this House is sincere in trying to curtail the amount of drink driving on the roads.

Mr Brown: Mr Speaker, I have really got to my feet on this issue mainly because of a point made by the hon. member who seconded the Bill, Mr Shimmin, the member for West Douglas, where he said he was pleased to see powers now being given to the police to get dangerous people off the road. I think that whilst there are increased powers it gives a false impression which I do not believe should be allowed to go without it being put right. The police have always had powers to deal with drunken drivers way back to the beginning of the century and there is no doubt at all: whatever the level the law has been for drunken driving, a person has had the ability for the police to be able to deal with them, and I think it is just worth making that point because otherwise the impression is given that this is something we have not had before. Clearly the breathalyser is something we have not had before, but the rest of the law has been there and has been effective.

I would like to make the point, whilst I am happy to support the Bill on the basis that it has been drafted up, I think again it is worth making the point that all this Bill does basically is give the police the tool, the piece of equipment, which enables them to assess a person on the street there and then when they think that person has had a drink too many. The police still have to assess, due to the driving ability of that individual, that they may well have had a drink, and nothing has changed on that. In fact, there are other countries bigger than us in the world and, for example, America, where there are states of America that do not, as I understand it, have a breathalyser, but officers still assess at the roadside, as they used to in the Isle of Man, whether or not a person is likely to have had too much to drink, and there are very simple tests which they can endeavour to get a driver to do without this piece of equipment. It may not be as accurate, but it certainly goes a long way to do it and I think that where people have been inconvenienced in the past to be taken into Douglas for the breath machine, has been because, unfortunately, that type of test has not been done at the roadside or may well not have been done at the roadside. So I think it is just a matter of making the point, the police will still have to identify whether or not somebody driving a vehicle is likely to have had alcohol.

I think the other point I would like to say is, whilst I do not agree exactly with the terminology the hon. member for Onchan used, Mr Karran, I think it is worth making the point: if the House of Keys wishes to deal with drinking and driving properly and really wishes to deal with it - never mind all the rhetoric we are hearing about how wonderful - there is quite a simple way. We pass legislation that says it is illegal to drink and drive, or to drive whilst under the influence of drink, and you set the level so low that it will cover those who may have natural alcohol in their blood stream, but it gets those who may have had one drink, and either you are going to say, 'Yes, that is what we are going to do' or we should say to the public that the Isle of Man, like the rest of Europe, accepts that there is a level of drinking we will allow a person to have and still drive a vehicle, because we are satisfied it may - or may not, based on the information - cause a problem, but if you really want to deal with it you would pass the legislation and say to your chief constable, 'We want you to take this as a priority. We want you to deal with this and prioritise your staff' and that way you would stop drinking and driving.

Finally I would like to say that in my opinion, in the last 20 years the drivers of the Isle of Man have changed considerably in their drinking habits. The change now that has happened in the Isle of Man where people go out for a drink and consciously one person drives without having any drink - and especially many of the young people, who are the new generation of drivers, is far, far way ahead of the standards of driving and what used to go on back in the 1970s and even, I would suggest, up to the very early '80s. There has been a substantial change in attitude and we should recognise that as the House, because without us doing anything and with promotion for safety, people have themselves identified a change in attitude and I think that that is accepted. There will always be, unfortunately, an individual or a group of individuals who will not adhere to common sense, to be considerate of other road users and will have excessive alcohol. There will always be that even with the change in law, and if it was not the case we would not need legislation to deal with it. So I think we should welcome this move again to provide a piece of equipment for the police which will endeavour to assist both them and the potential driver they stop and also acknowledge that there has been a major change by the community of the Isle of Man to accept their responsibilities when we come to the point of drinking and driving.

Mr Gilbey: Mr Speaker, the hon. member for Onchan, who is not now with us, bemoans the fact that this Bill does not allow random testing. To my mind this is where it is better than the legislation in the adjacent isles, which quite definitely does permit a random testing and where, as we have heard in the earlier debates, random testing frequently takes place. I would have said that had the hon. member for Onchan, when he introduced his earlier legislation regarding breath testing, brought in a Bill such as the present one, it would have gone through as this one has, because the objection of many of us has not been to testing when there has been an accident or when people drive dangerously, but to the whole concept of random testing which I will not go into the arguments about, but I am certain that had a similar Bill to this one been brought forward in past years instead of what was brought forward, just aping the legislation in the adjacent isles, we might have got the present result earlier.

The Speaker: May I call upon the hon. minister, the hon. member for Ramsey, Mr Bell, to reply?

Mr Bell: Thank you, Mr Speaker. I first of all would like to thank all those hon. members, in fact everyone, I think, who have expressed their support for this Bill. As I did say at our previous sessions this is an honest attempt to strike a balance between two extreme views, and I am appreciative of the fact that hon. members have recognised that and are prepared to, in some cases perhaps, compromise their views and go along and give the support that the Bill requires.

There were one or two points raised which I think I should just quickly touch on. The hon. member for South Douglas, Mr Duggan, refers to the need to educate the public on alcohol limits and how far people can drink. I think that is essential, frankly, to go along with the introduction of this and I will arrange for my department to have discussions with the Department of Transport's Road Safety Officers to see what we can do to push that message abroad over the next few weeks. It will be some little time now, given the legislative programme, before the breathalyser will actually be on the streets. I had hoped that it would be available before Christmas but, given the time constraints now on the legislative process, it may not be possible, so that does give us several months to put together an education

programme to make sure that the public are fully aware of the impact of drink and how far they can go without actually breaching the law as it stands at the moment, so I will certainly give the hon. member that undertaking that we will have a look at that stage further.

Mr Singer, the hon. member for Ramsey, has raised a couple of other points. Obviously, when the breathalyser is brought in it will be operating all round the Island; I have never given any indication at all that it will only be in Douglas. It is an Island facility for the Island police force and it will be operated in that manner and, as far as the statistics are concerned, there is an annual publication of statistics anyway in the chief constable's report. The results most certainly will be included in that. If there is any need for any other statistics then we will consider that at the time, but there will be an annual report on the progress of this particular action.

The legislation itself refers to driving under the influence of alcohol or drugs, so drugs are included in the general legislation which we are hopefully voting on in support of today. The only point to his question which I cannot specifically answer at the moment is whether new legislation would be required should a new testing mechanism be identified as a result of the tests which are going on in the UK at the moment for testing for drugs in the bloodstream. It is still in the very early stages. I think it will be quite some time before the authorities in the UK or elsewhere have actually refined a mechanism to identify drugs in the bloodstream, and at this stage I have no idea what that mechanism may be so I really cannot give an answer one way or another at this moment as to whether or not the legislation we have before us would allow for that particular mechanism to be used, but obviously driving under the influence of drugs is becoming, certainly in the United Kingdom, a growing problem as well and we would want to introduce as quickly as possible on the back of any research which is carried out elsewhere a facility to prevent that sort of thing happening in the Isle of Man too, so if that needs further legislation then we will certainly be looking at it very favourably and bring it in as quickly as required.

The hon. member for Onchan really becomes more predictable by the week: 'a political fudge, the Bill is worth nothing without an accountable police force.' We hear this week after week after week (*Mr Karran interjecting*) and no matter how many times we tell the hon. member he will not listen, so it really is pointless going on about this accountable police force. Perhaps if he came and sat down and talked through the situation with the department he might understand more clearly exactly what the operation methods of the police are.

Mr Houghton: Are you inviting him on the department?

Mr Bell: Not at this stage! (*Laughter*)

Mr Karran: Give us a minister's job, I will sort them out.

Members: Oh!

Mr Bell: Mr Speaker, the hon. member referred several times to this Bill the fact that is a political fudge and we have watered it down. That is not the case at all. We have tried to strike a balance between a number of varying views which have been long held around the floor of this hon. House, and I believe we have come up with a fair compromise which may not keep everybody entirely happy, but it is a workable solution now to what has been a long going concern of a great many people, both in the public and in government and I hope, if not the

hon. member for Onchan, that all other members will recognise the honest attempt we have made to strike that balance and will recognise it as such. The concern that I do have again, Mr Speaker, is in the comments made by Mr Karran, who gung-ho says we should go out and pull more people off the streets. I did mention again in my introduction, and I have done on a number of occasions before -

Mr Downie: Prohibition? *(Laughter)*

Mr Bell: - that if policing is to work in a small community like the Isle of Man it is essential that you have a good working and trusting relationship between the community and that police force. The moment one side or the other oversteps that mark, that trust and confidence breaks down and the Island will become increasingly difficult to police. We are trying very carefully here to maintain that balance to keep both the police and the public on board, to keep them working together and to keep the mutual respect which I believe, by and large, still exists on the Isle of Man. I cannot and will never support legislation coming in here which is of such a draconian nature as the hon. member refers to, where the police will be setting up ambushes for members of the public around the Island, to pull them off the streets in the name of trying to track down people who may be drinking or driving. There needs to be mutual respect, and I would hope that the hon. member himself will recognise that. The effectiveness of the police is entirely dependent on the co-operation and the level of co-operation it gets from the general public and, once that co-operation ceases, once the two parties see themselves in an adversarial role, which the hon. member is in effect advocating, then policing on the Island will break down very, very quickly and I hope hon. members will recognise that and work with me to ensure that that deterioration in the relationship does not happen.

Finally, I thank the hon. member for Castletown for his support. He again has touched on the point that social attitudes have changed a great deal in the last 20 or 30 years. I think it is now generally accepted that drinking and driving is socially unacceptable whereas, not all that many years ago, people perhaps had an ambiguous attitude towards whether in fact it was law-breaking or not. But I do think that situation has changed now and that it is recognised for the danger and hazard to the public that it actually is, and that is why the level of support for our legislation, I think, has changed dramatically in favour of bringing in further controls. Zero tolerance, as the hon. member suggests, might be again a way of stopping any thought of drinking and driving, but I would simply refer back to what I have just said, that it is essential to maintain that trust between the police and the public and that we need to treat the public as adults as well, and I think zero tolerance would very quickly, alongside random testing, lead to a rapid deterioration in the relationship between the community and the police, and therefore, while recognising what the hon. member is saying I would find it very difficult to go along that line at this particular stage. I do not believe we have got to the situation where such authoritarian actions are demanded of this particular government.

So I hope I have answered all the points. I do thank hon. members for their support for this Bill. I know members, perhaps like myself even, have had some way to move from previous positions held on this matter but I thank them for their support today and I urge hon. members to give the third reading their unanimous support.

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

Sewerage Bill - Consideration Of Clauses Commenced

The Speaker: Now, hon. members, we then turn to our final item on our order paper, the Sewerage Bill, for consideration of clauses and I call upon the hon. member for Castletown. Perhaps we could take part 1, sir?

Mr Brown: Thank you, Mr Speaker. Clause 1 imposes a new general duty on the Department of Transport to provide a proper system of public sewers and sewage disposal works. The duty will apply to trade effluent.

Sub-clause (1) imposes a general obligation on the department to provide adequate public sewers and sewage disposal works. At present neither the department nor local authorities are under any general duty to provide sewers.

Sub-clause (2) provides that the duty under sub-clause (1) applies to trade effluent as well as domestic sewage.

Clause 2 deals and enables the department, by agreement with a local authority, to delegate its sewerage functions except those relating to discharges of trade effluent, and they can be delegated, all the other sewage, to the authority.

Sub-clause (1) enables the department and a local authority to enter into an agreement for the exercise by the local authority of the department's sewerage functions with a specified area. The agreement can relate to all or any of the department's functions under the Bill, except those under part 3 - that is, the control of discharges of trade effluent.

Sub-clause (2) provides that the area within which a local authority can exercise delegated functions must include at least part of the authority's district, but need not cover the whole of the district and can include all or part of another authority's district. The object is to enable the delegation to cover the catchment areas of sewers and sewage works, rather than being tied to local government boundaries.

Sub-clause (3) enables an agreement under sub-clause (1) to include any provisions that the parties may wish to cover including financial provisions. An agreement would normally provide for the local authority's expenses to be paid by the department up to an agreed limit.

Sub-clause (4) makes it clear that an agreement under sub-clause (1) does not constitute the local authority a sewerage authority. It will be acting as agents for the department and must comply with the terms of the agreement.

Sub-clause (5) imposes time limits on the termination of an agreement under sub-clause (1) to enable the local authority and the department to make alternative arrangements to redeploy their staff et cetera. If the agreement does not itself make agreed provisions for termination, either party can give the other notice to terminate the agreement before 30th September in any year to take effect on 1st April in the next year, but for example, a notice might be given on 1st September 2003 to take effect on 1st April 2005.

Sub-clause (6) requires the department to consult the Department of Local Government and the Environment before exercising any powers under this clause.

Sub-clause (7) makes it clear that a joint board can be established by order of the Department of Local Government and the Environment under the Local Government Act of

1985, section 7, for the purposes of entering into and acting under a delegation agreement with the department. Mr Speaker, I beg to move that clauses 1 and 2 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second and reserve my rights.

Mrs Cannell: Mr Speaker, in relation to clause 2, sub-clause (3), where it refers to an agreement which can be made between the department and the local authority including terms of a financial nature, can I just ask the minister whether or not this is an opening to determine at some time in the future a sewerage rate for the local authorities to impose upon the people? Is that the idea behind this particular sub-clause or is it in relation to perhaps an agreement on buying in advance equipment that the department thinks they may need? The reason for my asking that is that I understand the Department of Transport has actually purchased something like 22 pumps for future use to pump effluent around the Island and that these so-called pumps are at this moment so red-rusty that they will not be able to be used when the time is called upon them to be used. So I am just wondering what exactly the feeling, the idea, is behind sub-clause (3). Is it to provide a mechanism for a future sewerage rate to be imposed or is it in terms of being able to purchase equipment that the department feels would be more lucrative if purchased at an earlier date?

Mr Karran: Vainstyr Loayreyder, there are a couple of points I am concerned about, but I would just like to say to the hon. member who has just taken her seat that there is the principle of a sewerage rate there at the present time and there is no change in the law. It is just that it is levied at nothing at the present time.

I would like the hon. mover to clarify: I am a bit concerned about this whole piece of legislation, but the transfer of functions from the Department of Transport at a future date to any other body - will it come under the Government Departments Act and, if it does come under the Government Departments Act, will it have to have Tynwald approval?

The second part that I am concerned about is that we whinge on on a regular basis about local authorities not doing their job, and I just feel a little bit concerned that we are basically making the local authorities impotent if they want to do the function of sewage disposal within their area by the fact that we are taking that away from them being able to say, 'No, we want to keep it.' I know that very few local authorities at the present time would want to keep it because obviously they have a fixation in keeping their rates as low as possible. But does he feel that it is rather draconian that his department should be able to force a local authority to give up their responsibilities for sewerage?

Mr Rodan: Mr Speaker, my comments also are concerned with the delegation by the Department of Transport to local authorities, and specifically what will be in the actual agreement that is drawn up by the department with the local authorities. Will, for example, the agreement specify certain minimum standards or terms relating to maintenance and cleaning of sewers? Will it specify equipment that the local authority should possess, the resources in terms of manpower to carry out the statutory duty? The reason I ask is that, of course, in recent years the reason a lot of local authorities have given up their drainage responsibilities and passed them back to central government because they do not have, at local level, the resources necessary to carry out their duties. So my question really relates to the standards that the department will be laying down for local authorities to follow.

The Speaker: I call upon the minister to reply.

Mr Brown: Yes, thank you, Mr Speaker. Can I just first clarify the matter of sewerage rate? As rightly said by the member for Onchan, Mr Karran, the law says there can be a sewerage rate now. It is only - and I emphasise, only - Tynwald policy that there is no sewerage rate set and, because of Tynwald policy, the costs for dealing with sewerage are met by central government. But the law says there is the ability to set a sewerage rate. Now, as far as the point made by Mrs Cannell about clause 2(3) - is this a way of getting a sewerage rate? - well, the clear answer is that if the hon. member, as we get to it, will see clause 11, clause 11 allows a sewerage rate to be set, but it cannot be introduced without the approval of Tynwald. In other words, it is echoing the law as it is now. In fact, I would say it actually helps strengthen whether or not you introduce a sewerage rate because it takes away the uncertainty, because clearly then you have primary legislation saying to set a sewerage rate you have to apply an order. So in that way it would actually, I think, strengthen it.

As far as the financial arrangements are concerned, it would be for the department, and I think I can tie up this with the views from the hon. member for Garff, Mr Rodan, where he talks about his concern about delegation, and also what would be in an agreement; well, I think the answer to that has to be that certainly my department would be looking for a professional agreement. I think it is fair to say that over the years, because of how the Isle of Man system has developed, which has been pressure to reduce the burden on the rates, which in itself has weakened local authorities, in my view if we had brought a rate rebate scheme in, many of the functions would have been retained by local authorities because then the pressure would have altered instead of just saying government will fund it 100 per cent. Once you fund something 100 per cent, you call the tune, you want the responsibility. In fact, you get to a stage where those who have the responsibility say, 'I want to deal with that' and a gradual change has happened over 30 years now, really, which has caused the problem or may be perceived to have caused the problem. There have been improvements because of it but, from my point of view, the department would be looking for the best practice, a professional agreement, proper standards and laid-down agreements for equipment et cetera and if then, under delegation, the local authority does not perform, as is allowed for under the legislation, we would then wish to be in a position to give notice to terminate that agreement. I think that is right in the best interests of the public. Certainly where delegation can work we would like to do that, but there has to be a proper formal agreement in place and that is something that we are, in fact, presently undertaking with Douglas Corporation on gully cleaning, for example, and road cleaning in their area where it is delegated, and I have to say I think it is unfortunate that these things have developed without proper agreements in place. We have got to manage our resources properly and local authorities, like government, have to be under a commitment through an agreement to deal with that. So I think that would, I hope, answer both members' concerns about what sort of agreement.

Certainly, the 22 pumps that are red-rusty - I have not got a clue about that. I will certainly make enquiries, Mr Speaker, and I will respond to that, if necessary, at the third reading. I have to say, however, that whoever advised the hon. member can know absolutely nothing, I would suspect, about pumps, because whilst the outside on a pump could be red-rusty, that does not necessarily affect the internal side which is well greased and well oiled et cetera, and I know that from experience as somebody who has worked on many pumps and engines through my life as an electrician. (*Mrs Cannell interjecting*) So, again, whether or not the department owns 22 rusty pumps, I have not got a clue, but I will certainly find out. I am

sure if there is a reason, there will be a good reason for it and I have to say it would not only be my department that does that, if that is the case; local authorities have done it plenty in the past. So, Mr Speaker, as far as that is concerned I hope that the financing I have been able to deal with.

As far as transfer of functions - the hon. member for Onchan, Mr Karran, mentioned that - if there is transfer of functions from the DoT to another body - and the hon. member is talking about the potential of putting together a water/sewerage authority, and I have to say my views have somewhat changed a bit on this as I am not yet convinced it is in the Island's best interest - if it is seen to be in the Island's best interest, clearly as far as I am concerned there might well be a need for there to be additional primary legislation because you will change the basis of what goes on. As far as transferring the functions, yes, we can do that by a transfer of functions order. That is straightforward; that can happen. That has to go to Tynwald, it is Tynwald that have to approve a transfer of functions, but I have to say that if the transfer of any function, whether it be the Sewerage Bill or anything else, goes to another body, if in fact there is a need to improve the primary legislation to safeguard the public, then my view would be that should be done prior to a transfer of functions and that is the only answer I can give the hon. member. Yes, there is some merit in potentially a future body being developed, but that is still being investigated, as the hon. member is aware. So I beg to move that clauses 1 and 2 stand part of the Bill.

The Speaker: So, hon. members, the motion is that clauses 1 and 2, which make up part 1 of the Bill, be approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 2, clause 3, sir.

Mr Brown: Mr Speaker, clause 3 gives the department power to lay sewers in streets and in private land with ancillary powers to inspect and repair them. A sewerage authority does not need to obtain a way leave or to acquire land or rights compulsorily in order to lay sewers. It need only serve notice on the owner and occupier of the land, but it is required to pay compensation for depreciation and disturbance. The sewerage authorities and the water authority are an exception to the general rule that a statutory undertaking must either obtain the landowner's consent or go through a special compulsory acquisition or wayleave procedure before exercising powers over private land. It is a principle going back to the 19th century that the provision of sewers and water mains is so important in the interest of public health that private rights cannot be allowed to prevent or hold them up.

Sub-clause (1) of clause 3 enables the department to lay sewers in streets and to carry out related works for inspecting, repairing or altering them, including power to break open a street, bore under it, et cetera. The powers to break open streets are subject to the Roadworks Code - that is, schedule 4 to the Highways Act of 1986, which sets out the procedures that the highway authority and statutory undertakers must follow when carrying out road works.

Sub-clause (2) enables the department to lay sewers in private land and to carry out related works for inspecting, repairing or altering them.

Sub-clause (3) requires the department to give reasonable advance notice to the owner and occupier of land before exercising any of the powers under sub-clause (2). This does not apply in an emergency - for example, where a sewer is broken or is leaking.

Sub-clause (4) prescribes certain minimum periods of notice for the purpose of sub-clause (3). At least three months' notice is required to lay a new sewer and at least seven days' notice for works of inspection or repair which do not involve entry to premises or digging up the ground, otherwise 21 days' notice is the minimum that is required. The department may have to give longer notice if the minimum period is unreasonable in any particular case. I beg to move that clause 3 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second and reserve my rights.

Mrs Cannell: Mr Speaker, in relation to clause 3, sub-clause (1)(b) where it states the department 'may inspect, maintain, adjust, repair or alter any sewer which is in, under or over any street', can I ask the minister in relation to this, is he aware that recent works which were completed along that part of Douglas promenade in relation to where the Conister sea outfall is, that area towards the end of Broadway, when pipes were laid there have been allegations that the pipes were put in the wrong way round - that is to say that they join, and they join okay, but on the inside of the pipe there is a ridge which could, in future, cause tremendous blockage in that particular area if there is a build-up? If he is aware of that, will the provisions under this Bill then force his department to have to go back and look at that possibly and rectify the problem? Or will the department be enabled to get the contractor back in to be able to do that work? Is he aware of the problem in relation to the pipes and the laying of the pipes the wrong way round?

Mr Rodan: Mr Speaker, notwithstanding that private rights, as the minister said, cannot be allowed to prevent or hold up provision of essential utilities' services such as sewerage and water, would the minister care to acknowledge that those rights can still be exercised under planning legislation and that in fact the planning system is still of paramount importance? Clearly, when we are talking about sewers over or under a street, that is less important from a private landowner's point of view than over or under his property. Nonetheless, since laying a sewer under private land could affect the development potential of that land just by the sheer route that that sewer would take, it is very important that the planning system does come into this process and in doing so there is provision for the private landowner to exercise statutory rights there. Having said that, of course, it is up to the planning legislation to ensure such things as permitted development where the circumstances would warrant that. Certainly it would be a very clear case for that laying sewers under a public road. However, there could well be circumstances where a sewer, certainly over private land, is going to have a potential impact and could affect the development of that land so that the provisions of planning must come into this, and I would just like the minister to confirm and acknowledge that that is the case.

The Speaker: May I call upon the minister to reply? The hon. minister for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. Can I just first answer Mr Rodan by saying that, as far as the planning system is concerned, my department is not exempt from planning, and that includes the laying of sewers et cetera. He knows the point I made at second reading where I said quite clearly, in my opinion - and the sooner we get it the better - we need an IDO, which is a development order, to enable us in certain circumstances not to require planning permission, and the basis I gave for that was clearly where we dug a hole in a road, we put a pipe in it, we filled the hole back up and we tarmacked it exactly as it was; it seems an

absolute nonsense to require an undertaking to require planning permission, and I have indicated to the chairman of planning, the hon. member for Garff, Mr Rodan, that I wish to now have a meeting on this issue to try and get it sorted out because my department has been extremely patient in waiting something like three to four years for some decision to be made by planning on this issue. What I would say is that where there may well be problems on private land which may well affect potentially what is an issue for potential development on that land, then that view will have to be considered when we consider whether or not an IDO is given, and I would say that if the local plans are worth their salt, we have a good idea of what land is potentially available for development and what land has no chance at all of being available for development in the long-term future, and therefore I would hope that that would be a recognition that would be put into any IDO that we are able to obtain. Again, that is a matter clearly on which I hope to be able to get a way forward with the Planning Committee and the department. Again, I would just emphasise, yes, we are not exempt from planning. Planning applies.

As for Mrs Cannell and the comments that she made, well, again we have a story and all I can say is I am not aware of it and, as far as clause 3(1)(b) is concerned, that has nothing to do with that sort of basis. Clause 3(1)(b) is with regard to inspecting, maintaining, adjusting, repairing sewers et cetera. What the hon. member is raising, if there is any truth in the allegations - and I would look forward, if she really wishes to pursue this, for that to be put in writing to me, if possible identifying the person who said it because I think that would be helpful to interview them to save us digging up the road - we would be happy to take that matter up with our contractor. Clearly we have a contractual agreement with the person who was responsible to provide us with the service we paid for and, if that is not the case, then my department will deal with it. I have to say that I hope the allegation has some foundation, because wild statements from members do government no merit at all. We have contracts, we have commitments with contractors. They are there to provide the service. If they fail in providing that service, with all the checks we have, it is not government at fault, it is the person that is at fault, and it is my commitment as the minister of that department, if necessary, to pursue that and pursue that through the courts, and my record is I do not have any hesitation in doing that where the government, the public of the Isle of Man, have been dealt with shabbily by a contractor. I beg to move, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 3 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Can we then turn, hon. member for Castletown, possibly to 4, 5 and 6?

Mr Brown: Yes, Mr Speaker, thank you. Clause 4 continues the right of anyone to connect his building or private sewer to a public sewer subject to giving notice to the department and paying a prescribed connection fee.

Sub-clause (1) gives the occupier of a building and the owner of a private sewer draining a building the right to communicate with a public sewer and drain foul and surface water, including water from roofs, into the sewer.

Sub-clause (2) makes it clear that the right to communicate does not give any right to discharge liquid from manufacturing premises or a manufacturing process, except domestic sewage or surface water, or trade effluent, consent for discharge of which can be given under

part 3 of this Bill. It also makes it clear that it does not give any right to discharge foul water into a surface water sewer or vice versa where separate sewers are provided.

Sub-clause (3) requires the person wishing to make the connection to give at least 21 days' notice to the department. Non-compliance is an offence under sub-clause (10).

Sub-clause (4) enables the department to give a counter-notice requiring the drain or sewer to be opened up for inspection before allowing the connection. If the department requires this, then the connection cannot be made without its consent until 21 days after the inspection, within which time it can serve a further notice under sub-clause (5).

Sub-clause (5) enables the department to take one of three courses of action when giving notice under sub-clause (3) or after an inspection under sub-clause (4): (a) it can refuse to allow the communication if the drain or sewer is unsatisfactory - for example, if it is leaking or might allow prohibited effluent into the system; (b) it can give instructions as to how the communication is to be made; and (c) it can say that it will do the job itself.

Sub-clause (6) gives a right of appeal against a refusal to allow a connection, sub-clause (5)(a), or an instruction as to how the connection is to be made under sub-clause (5)(b).

Sub-clause (7) requires a person who makes a connection himself to comply with an instruction under sub-clause (5)(b) to give 7 days' notice to the department's inspector and to allow him to superintend the making of the connection. Failure to do so is an offence under sub-clause (10).

Sub-clause (8) gives a person who makes a connection himself the same rights as a statutory undertaker has to open a street for the purposes subject to compliance with the Road Works Code in the Highway Act of 1986, schedule 4.

Sub-clause (9) of clause 4 provides that where the department decides to make the connection itself it has all the powers which the owner of the building or sewer would have for that purpose. For example, if he has the right to go onto another's land to lay a connecting drain the department has the same right.

Sub-clause (10) makes it an offence to make a connection to a public sewer without the department's consent: (a) if there is no right to do so under sub-clause (1); (b) without complying with the requirements under this clause; or (c) where the department has chosen to make the connection itself. The department is also given the right to close off the connection at the offender's expense even if he has not been prosecuted.

Sub-clause (11) of clause 4 makes it clear that the right to connect a building to a public sewer includes any premises within the same curtailage - for example, a yard. Mr Speaker, I beg to move clause 4 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second and reserve my rights.

The Speaker: Hon. members, the motion is that clause 4 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 5 and 6, sir.

Mr Brown: Yes, we have an amendment for clause 5, Mr Speaker, or a proposed amendment which may be put.

The Speaker: Right, take clause 5 separately, sir.

Mr Brown: Thank you, Mr Speaker. Clause 5. This clause provides for connection fees to be payable on making of communications with public sewers under clause 4.

Sub-clause (1) of clause 5 enables the department to fix the amount of a connection fee by order. The fee is not a contribution towards the cost of the sewer but towards the cost of checking drains and connections. Provision is made for different fees for different areas, depending on whether development is to be encouraged or discouraged in such areas. The order will require Tynwald approval and, if different fees for different areas are fixed, the consent of the Department of Local Government and the Environment is required. If sewerage functions are delegated to a local authority under clause 2 the agreement between the department and the authority may make agreed provisions for the collection of connection fees.

Sub-clause (2) imposes a legal obligation on the person making a communication to pay the connection fee to the department. The obligation arises on a demand in writing so that the time within which legal action can be taken runs from the date of demand and not from the date of connection.

Sub-clause (3) enables the department to recover the fee with interest from the date of demand from the owner for the time being of the property served and provides that it will be a charge on the property with priority over all mortgages et cetera. The rate of interest will be that chargeable on local authority expenses, which is currently 8 $\frac{1}{2}$ per cent.

Sub-clause (4) enables the department, where it has opted to make the connection itself, to require payment of the estimated costs of the connection in advance.

And sub-clause (5) of clause 5 provides that, where the estimated cost of connection is paid in advance under sub-clause (4), the difference between the estimate and the actual cost must be paid or refunded as may be the case. Mr Speaker, I beg to move that clause 5 stand part of the Bill.

Mr Gelling: I beg to second, Mr Speaker.

The Speaker: I call upon the hon. member for Garff.

Mr Rodan: Thank you, Mr Speaker. I have an amendment to clause 5, and can I first of all apologise for the fact that this amendment only arrived on the desks of hon. members this morning? I had intended it to be circulated last week but I did not give clear enough instructions to do that before I went off the Island.

The amendment to clause 5 has consequential effects in the Bill, which is why there is also an amendment to clause 10 and clause 43, but the issue concerned is all the same issue and it relates to a concern that I raised at the second reading stage in that the Bill as drafted appears to put the onus on the Department of Transport to determine whether development in the Island should be encouraged or should be discouraged. There is nothing wrong with the department determining what scale of fees differential would have this particular effect, but I would say that it is not the function of the Department of Transport to say where development should actually be; that determination lies with the planning authority of the Island, which is the DLGE. It is important to recognise that distinction because it is the DLGE, of course, which proposes the Island Development Plan and drives the local plans which govern development

and it is the DoT which has the statutory function of providing essential services in response to those plans. I appreciate that clause 43 in the Bill does require the Department of Transport to seek the consent of the Department of Local Government before making an order under this clause 5 but, as drafted, the clause does imply that the Department of Transport will only go and consult the Department of Local Government once the Department of Transport has decided where development should or should not take place. This is clearly a back-to-front way of doing things and my amendment merely clarifies what I believe was actually intended for the Bill. It does not effect the Bill or the operation or implementation in any major way by the Department of Transport, but it does take away from the Department of Transport a grant of powers which I do not really believe it was intended to have in the way that has been printed in this Bill, and it puts those powers where they clearly belong which is the Department of Local Government. I would add I have consulted the Department of Transport on this matter. I beg to move:

Page 7, line 5; omit the words from "if," to "discouraged".

Mr Downie: I rise to second, Mr Speaker.

Mr Corkill: Mr Speaker, whilst recognising the responsibilities of the government departments involved regarding planning and with regard to sewerage provision it seems to me that the clause as written does give government - and bearing in mind that planning is a function of government - the ability to determine and to promote development in particular ways which may well be a development which is in response to public opinion as at present, which is very concerned about some of the recent developments into greenfield areas in particular which have now in retrospect, perhaps, not been seen to be as appropriate as they may have done perhaps on the plan at the outset. The ability to prescribe different fees, to have that flexibility, may or may not actually be the case, but having it in primary legislation would give that flexibility to allow government to perhaps promote certain areas of development on the Island in preference to other areas and this may be one tool in that armoury, and so I would ask hon. members to consider carefully the hon. member for Garff's amendment so that we are not reducing that flexibility that is in the Bill as written, and certainly I think, as the Island develops into the future, certainly from Treasury's perspective we see the ability to set different fees as an important factor. It is not the whole story because obviously planning is a very important process and the way that the hon. member has alluded to that there is a set process, but I do not believe it is the Department of Transport taking over that planning function but recognising that there are areas within the Island that are already zoned for development which are not sewered and there have been calls from the Department of Local Government that there are areas possible for development but there is no sewerage there at the moment. It could be that prescribing different fees could interest developers in different areas at different times, and that may be to government's advantage.

Mr Gilbey: Mr Speaker, I was thinking just the same as the hon. member for Onchan, Mr Corkill, has said: I can see absolutely no reason to alter it. If hon. members look carefully, on page 7(5)(1)(b) it says 'may prescribe different fees as respects sewers in different areas if, having regard to the provisions of the development plan and to all other material considerations, it appears to the Department that development in any area ought to be encouraged or discouraged.' Now, the argument of the hon. Chairman of the Planning Committee is that this somehow usurps his rights and those of the Planning Committee.

However, if hon. members will be kind enough to turn to page 33 and look at clause 43(2) it says quite clearly, 'The Department shall not make: (a) an order which makes such provision as is mentioned in section 5(1)(b)' - and that is the very one we have been looking at - 'or (b) an order under paragraph 3(5) of Schedule 1, without the consent of the Environment Department; and before giving such consent that Department' - that is the Environment Department - 'shall consult every local authority whose district appears to it to be affected by the proposed order.' So it is quite clear that, as drafted, the Department of Transport has to consult the Environment Department. Now, it seems to me the only possible reason for altering this round is to argue which department has primacy over the other in this matter, which seems to me to be a matter which is like children playing in the nursery and saying 'Whose toy is it?' The public, frankly, do not care two hoots which department of government is primarily responsible for matters. All they care about is government under the Council of Ministers producing a comprehensive and sensible policy on everything that is done, and therefore I can see absolutely no justification for altering this whatsoever.

Mrs Cannell: Mr Speaker, I rise in support of the amendment, and the reason I support the amendment is that I believe that what has been stated to members this morning by the chairman of planning is very valid, and I believe that that particular division of the local government and the environment department is an important division in that they uphold a democratic right to the people of this Island in terms of anything which may impact upon them and their lives and their businesses. And so therefore it is an extremely important division of any government department, and I would suggest that it has a more important public role to play than perhaps the Department of Transport or the Department of Local Government and the Environment, each department in its own right, and so therefore I believe that the input that we have had from that direction this morning is an important one.

I also, in looking at page 33, lines 23, 24, to which a previous speaker referred, where it says with the consent of one government department and to consult every local authority whose district appears to it to be affected I feel a little uncomfortable with, because it is the district which appears to it, being the Department of Transport, that might or may not be affected, which will warrant then a contact or a consultation being undergone with that particular local authority for that area. There is no real onus here on the Department of Transport to consult if, for instance, they consider it does not appear to be affecting that particular area over which the local authority has jurisdiction and so I would not look at that particular section to which the previous member referred as some kind of reassurance because, if anything, my reading of that really does not provide the necessary assurance that perhaps the amendment is seeking. So I will be supporting the amendment and I hope hon. members will also consider doing the same. Thank you.

Mrs Hannan: Vainstyr Loayreyder, I think we have to remember that clause 5(1)(b) actually refers to fees. It is not to do with planning; it refers to a variation of the fees that the Department of Transport, who are responsible for sewers, may prescribe different fees as respect sewers in different areas. That is the principle and I do not anybody is arguing against that principle, and I concur with the comments made by the member for Onchan, Mr Corkill, when he referred to the concerns that people have with regard to greenfield development. The greenfield development made by government, local government or central government, may

be more expensive to drain than an area within a built-up area, and therefore I think the ability to prescribe different fees is right and proper. (**Mr Gilbey:** Hear, hear.)

The member for Douglas East mentioned these rusty pumps. Some sewerage systems have to have pumps and therefore the actual expense of running a pumped sewerage system is more expensive, and therefore 5(1)(b) I would interpret as relating to different fees for different aspects of developing an area, and therefore I think the Bill as written is right and proper; the actual cost of developing of such a site is down to the cost of the sewer and the operating of the sewer system, not whether an area should or should not be developed as decided by the Department of the Environment under their Planning Committee or indeed a local authority if they are not operating the drainage system. If they are operating the drainage system then I believe that is the responsibility of a local authority to decide whether there should be different fees or not.

So I think the Bill as written is right and proper in regard to sewerage and the operation of a sewerage drainage system and therefore I will be supporting the Bill as written.

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

Mr Rodan: Thank you, Mr Speaker. If I could start perhaps with the hon. member for Peel who has just resumed her seat, she was quite right to say that this clause is concerned with fees. It is a clause concerned with fees and the ability of the Department of Transport to prescribe different levels of fees as one vehicle to affect the pace of development. Now, clearly it could be one of several vehicles, but it is one financial vehicle that could be brought to bear on development taking place in a particular area, and I would emphasise that my amendment in no way reduces government's ability to encourage or discourage development. That was the concern of the hon. member Mr Corkill. But again this clause is just concerned with the vehicle that has been identified to promote or not promote development, but the primacy for the decision as to whether development should or should not take place surely should lie with the department that has been vested with the power of the planning authority for forward planning, for identifying the areas of the Island appropriate for development. Why do we spend years on our forward planning process working up local plans in different areas if we as a department of local government and planning are not allowed to have the initiative as to whether development should or should not take place?

Mr Gilbey, hon. member for Glenfaba, is also right when he said that the Department of Transport must consult under clause 43, the planning division and have regard to the Island's development plan, and not only consult but, yes, get the consent of the Department of Local Government. But if you are putting with the Department of Local Government the responsibility for identifying land for development, you should also give it responsibility for determining whether that land is still appropriate for development or not, and it is that government's job to make that determination. It is not, I suggest, the function of another department of government who has the main role in this situation of being the service provider, the provider of sewerage, to make that determination. It can certainly identify and consult with the department, but to use a differential fee structure in order to encourage or discourage development, clearly the onus must be on the planning department for that determination and not for the Department of Transport or any other service provider.

So all I am saying with this particular amendment is, yes, it is government that has the power and to the public who fail, perhaps, to understand and could not care less about the subtleties of which department it is, nonetheless it is important if we have a system that we stick to the system and, as I say, I do not believe that this amendment radically affects how the Department of Transport from a practical point of view would handle the matter in any case, because clearly if it in the course of its own work sees problems with sewerage - and one of the other speakers referred to that - certainly it has the right to say, yes, in our opinion development should be discouraged in this area, and will want to consult anyway and that will still happen, Mr Speaker. I thank the hon. member Mrs Cannell for her support also.

Mr Brown: Mr Speaker, clearly the debate has really been about the amendment as against the clause, and I think that it is fair to say that there is a clear view which has come out from both. I would say - and the hon. member has consulted with me on this issue - that clearly either way will work. What has to be determined is whether or not you want to have any confusion, and I think it is fair to say that it is hard to argue that it is tidier to have it with one department. What you have to do is look at clause 4, because we are talking here about fees as may be prescribed with regard to clause 4, and clause 4 is about the right to communicate with the public sewer. The big change in this legislation is that it gives rights to the department and it actually means that if a person does not provide an adequate connection to the public sewer the department can refuse to connect up to that sewer, and I think there is a slight confusion to think that by prescribing fees you would have a developer not providing adequate sewerage through his development. That is not the case because we are talking about connection to the public sewer, and if he does not do it right up to the public sewer, the department can refuse to connect it.

So I think there are a number of issues there. I certainly believe that, after discussing with the member, that the changes that are suggested clearly leave it with the planning authority, and I think that we must ensure where possible there is no confusion and of course, from my department's point of view, it will take away, if the next part of his amendment is successful in terms of clause 43, the responsibility to consult with the local authorities from my department and put it with the Department of the Environment. So I do not really have a major problem in that happening. What needs to be considered is whether or not you feel that it is the planners who should be determining what land can or cannot be developed or whether or not, even if somebody has got planning, the Department of Transport - because it talks about a department - is in a position then to put on charges that could withhold the development, and I think that the change of emphasis that has been suggested by the member does tidy that aspect up and I do not believe, with respect to my colleagues who have spoken about this, it is going to cause the problems that they envisage simply because we are talking about the connection to the public sewer and not the laying of the sewer as such, and therefore I have to say I have no problem in supporting the amendment that is before us but I think it is a matter members have to determine themselves. Therefore I beg to move the clause standing in my name.

The Speaker: Hon. members, the motion is that clause 5 do stand part of the Bill. To that I have the amendment as moved by the hon. member for Garff, Mr Rodan, and circulated to you. The amendment reads that in clause 5, page 7, line 5, we omit the words from 'if' to

'discouraged'. Will those in favour of the amendment please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, Sir Miles Walker, Messrs Brown, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Cannell and Gelling - 14

Against: Messrs Gilbey, Cannan, North, Mrs Hannan, Mr Corkill and the Speaker - 6

The Speaker: Hon. members, the amendment carries with 14 votes cast for and 6 votes cast against.

I will then put clause 5, hon. members, as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 6, hon. member.

Mr Brown: Thank you, Mr Speaker. This clause makes it an offence to discharge polluting or harmful matter into a public sewer.

Clause 6(1) prohibits the discharge into a public sewer of: (a) anything likely to damage or block the sewer or to interfere with the treatment works; (b) anything prescribed under sub-clause (2).

Sub-clause (2) enables the department to make an order prescribing particular matters which must not be discharged into sewers. The order will require Tynwald approval. Until an order is made, certain matters are deemed to be prescribed for this purpose and are listed in schedule 3, paragraph 4.

Sub-clause (3) makes contravention of sub-clause (1) a serious offence. Therefore a person who contravenes sub-clause (1) is guilty of an offence and liable: (a) on summary conviction to a fine not exceeding £5,000 and to a further fine not exceeding £50 for each day on which the offence continues after the conviction; and (b) on conviction on information to custody for a term not exceeding two years or to a fine which is unlimited and can be set by the courts or to both. I therefore beg to move clause 6 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 6 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Will we take clauses 7, 8 and 9, hon. member for Castletown?

Mr Brown: Yes, thank you, Mr Speaker. Clause 7 sets out a new code for the adoption of sewers and sewage works under which a privately constructed sewer or works will not become the responsibility of the department unless the department adopts it, which it will not do unless it has been properly constructed.

Sub-clause (1) gives the department power to adopt a sewer or sewage works - that is, to declare that the sewer is or the works are vested in itself. This can be done either on the owner's application or of its own volition. The owner of the sewer or works can appeal against either the making of a declaration or the department's refusal to make a declaration, and that is covered in clause 9.

Sub-clause (2) of clause 7 requires the department to give at least two months' notice to the owner before making a declaration under sub-clause (1) and sub-clause (3) sets out the

matters to be considered before the department adopts a sewer or sewage works: (a) whether it is needed for and will fit in with the existing or proposed sewerage system; (b) whether it is under a highway; and (c) the premises it will serve, having regard to the likely future development; (d) its construction and state of repair; (e) whether the owner, if he objects, will be harmed by the adoption; and (f) any guidance, guidelines or code of practice approved under sub-clause (4).

Sub-clause (4) enables the department to approve a document which may be issued by it or by an outside body, setting out standards and codes of practice for sewer construction to be taken into account when deciding whether to adopt under sub-clause (1). The order approving a document requires Tynwald approval.

Sub-clause (5) makes it clear that the adoption of a sewer does not affect the rights of any person, for example under a conveyance or lease, to use that sewer.

Clause 8 confers a new power on the department to enter into an agreement with a developer under which it will adopt a sewer or sewage works constructed by him in accordance with the agreement.

Sub-clause (1) of clause (8) enables the department to agree with a person to adopt under clause 7 a sewer or sewage works which he is to construct. The agreement may provide for the adoption on completion on a given date or on the happening of a future event.

Clause 9 gives a right of appeal against a refusal by the department to enter into such an agreement or against the proposed term of such an agreement.

Sub-clause (2) of clause 8 provides that the agreement will be enforceable against the department not only by the developer but also by the owner or occupier of premises served by the sewer or works. This is an exception to the ordinary rule that a contract is only enforceable by the parties to it.

Sub-clause (3) enables an agreement to apply to a drain - that is, one currently serving only one property; but it can only be adopted under the agreement once it has become a sewer - that is, for example, when it serves more than one property.

Clause 9 provides for an appeal to the High Bailiff against a decision under clause 7 by the department to adopt or not to adopt a sewer or against a refusal to enter into an agreement under clause 8 or against the terms of such an agreement proposed by the department.

Sub-clause (1) of clause 9 gives the owner of a sewer or sewage works a right of appeal against a decision under clause 7 by the department either to adopt it where he objects to the adoption or not to adopt it where he has requested its adoption. An appeal against a proposal to adopt must be brought within two months of the notice under clause 7(2). An appeal against a refusal to adopt may be brought at any time after notice of the refusal is given or, if no notice is given, two months or more after the request for the adoption was made.

Sub-clause (2) of clause 9 gives the owner of a sewer or sewage works a right of appeal against: (a) the refusal by the department to enter into an agreement under clause 7; or (b) the proposed terms of such an agreement; or (c) a deemed refusal where the department has failed within two months to respond to a request for an agreement.

Sub-clause (3) provides that where the department has responded to a request for an agreement under clause 7 by requesting further information the two months in sub-clause (2)(c) run from the time the information is supplied.

Sub-clause (4) of clause 9 sets out the High Bailiff's powers on an appeal under sub-clauses (1) and (2): (a) on an appeal under sub-clause (1) he can give or refuse permission for the department to adopt the sewer or order the department to adopt it; and under (b) on an appeal under sub-clause (2) he can agree with the department's refusal or order it to enter into an agreement.

Sub-clause (5) enables the High Bailiff to impose terms and conditions on any decision made which he makes under sub-clause (4).

Sub-clause (6) requires the High Bailiff to take into account all the circumstances, and in particular the matters to be considered by the department under clause 7(3) when deciding whether to adopt a sewer or works. I beg to move that clauses 7, 8 and 9 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 7, 8 and 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 and schedule 1, sir.

Mr Brown: Yes, thank you, Mr Speaker. Clause 10 introduces schedule 1, which sets out a new code under which a developer can require the department to provide a new sewer for his development subject to payment of the net costs.

Paragraph 1 enables the owner or occupier of the premises to serve a requisition on the department requiring it to provide a sewer. Subject to paragraph 2, the department is then legally obliged to lay a sewer to serve the premises in a suitable position agreed or determined by arbitration.

Paragraph 2 sets out the financial conditions to be satisfied before the department's obligation under paragraph 1 arises. The applicant must have agreed to pay and, except in the case of a public authority, given security for the relevant deficit on the sewer over 12 years. Interest at a rate fixed by the Treasury is payable on any deposit by way of security.

Paragraph 3 defines the relevant deficit which the applicant must agree to pay. It is the loan charges for the year in question on money borrowed to finance the sewer repayable over 12 years at a rate of interest fixed by the Treasury, less any sewerage rates that may be applicable on the property served by the sewer. The cost for this purpose includes any necessary additional sewers, pumping stations and sewage-disposal works and any additional capacity in another sewer provided pursuant to a requisition under paragraph 1, but the amount of the relevant deficit can be either increased or decreased in any area by order, according to whether development ought to be discouraged or encouraged in that area. The order will require both the consent of the Department of Local Government and the Environment and Tynwald for that approval.

Paragraph 4 enables the department to dispute the completion date specified in the requisition. It is to serve a counter-notice within three months extending the time within which the sewer is to be completed. If the applicant does not agree, the question is then settled by arbitration.

Paragraph 5 enables a decision by the Treasury fixing a rate of interest to be made ad hoc or generally, and such a decision can be revoked at any time but not so as to affect the applicant's liability under paragraph 3 in respect of a sewer already laid.

Paragraph 6 provides that where the department and the developer enter into an agreement under clause 8, under which the developer will construct a sewer to serve premises and the department will adopt it, any requisition under paragraph 1 for a similar sewer is cancelled. I beg to move that clause 10 and schedule 1 stand part of the Bill.

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

Mr Rodan: Mr Speaker, this proposed amendment to clause 10, schedule 1, page 37 merely carries forward the same principle on the decision that was made over clause 5 as amended, and in this case it makes the Department of Transport responsible only for the necessary financial arrangements over the calculation of the relevant deficit, and those financial arrangements are consequent on the decision as to whether development should or should not be encouraged and again, the appropriate place for that decision rests with the planning authority for the Island. I beg to move:

Page 37, in paragraph 3(5) -

(a) for the words from "If" to "order)," substitute "The Department may by order provide that, as respects any sewer wholly or partly serving any area specified in the order,";

(b) omit the words "as the case may be,".

Mr Downie: I beg to second, Mr Speaker.

The Speaker: Does any hon. member wish to speak to the clause or amendment? In that case, hon. members, the motion is that clause 10 and schedule 1 stand part of the Bill, and to that we have the amendment as moved by the hon. member for Garff, who tells me it carries forward the same principle as we carried previously. Will those in favour of the amendment please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Mr Rodan, Sir Miles Walker, Messrs Brown, Cretney, Duggan, Shimmin, Downie, Singer, Bell, Cannell and Gelling - 11

Against: Messrs Gilbey, Cannan, North, Mrs Hannan, Mr Corkill and the Speaker - 6

The Speaker: The amendment carries, hon. members, with 11 votes cast for and 6 against. I will put clause 10 and schedule 1 as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 11, sir.

Mr Brown: Mr Speaker, clause 11 restates the power to levy a sewerage rate. This clause cannot be brought into force without Tynwald approval, as required by clause 43(1)(b).

Sub-clause (1) of clause 11 enables the department to levy a sewerage rate on premises in accordance with the Rating and Valuation Acts.

Sub-clause (2) provides for the rate to be due and payable on 1st April, and sub-clause (3) enables the department to give a discount of up to 5 per cent for prompt payment.

Sub-clause (4) defines 'exempt premises' for the purposes of sub-clause (1) of this clause - that is, premises which do not communicate either directly or indirectly with a public sewer as defined in the Bill. I beg to move that clause 11 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

Mr Gilbey: Mr Speaker, I think that a great opportunity is being missed here. As one reads this it is quite clear that the provision for raising the necessary revenue in the future is still bound totally to a rating system. Now, we know that in IRIS we are going to have a major development for drainage which is going to cost probably over £100 million when it is completed and I believe that we should have complete flexibility as to how that money might be raised, because it is going to have to be raised somehow and we cannot assume that the majority of the cost can be met from central government finances. Now, as this Bill is drafted it just ties us down to raising money through rates or having the money provided by central government, and it stops the department or any new authority which there may be from raising money in other forms. There could be very many other forms in which we would wish to raise the money; for instance, there might be annual standing charges, there might be separate foul and surface water drainage system charges, and the thing that certainly seems to me a very fair way of doing it is to have sewerage charges in relation to the amount of water consumed, and the logic for this is that most premises that consume water actually return that water through the sewerage system. It does not disappear; it has to go through the sewerage system. So I think that an enormous opportunity to give ourselves the flexibility to raise money in other ways is being entirely lost and that this is most unfortunate.

Mr Cannell: Mr Speaker, if I could, please, speak to clause 11(1) and ask the hon. Minister for Transport if he could enlighten me as to the distinction between the clause which says 'The Department may levy and charge in every rating year. . . (a "sewerage rate") for the expenses of sewerage on all . . .' et cetera and the advisory notes given to the Bill by his department say the Bill includes power to levy a sewerage rate but this cannot be activated without express approval by Tynwald. Could he assure me that we have the distinction between a rate being levied and an individual rate being approved by Tynwald? In other words, that it is not just the principle of a rate but rather that the consultation period, which is contained further down, as has already been outlined in clause 43 where 'None of the following shall have effect. . . without the consent of the Environment Department; and before giving such consent that Department shall consult every local authority whose district appears to it to be affected by the proposed order.' In other words, will that consultation purpose include the individual rate for that department rather than just the principle of a rate which covers all possible eventualities?

Mr Downie: I just want to clarify a point that the hon. member Mr Gilbey brought up about levying additional charges. Now, even though we might have an all-Island integrated sewerage scheme at some stage, there will be many households who will not be connected to it, people living in distant areas, people who currently are on septic tanks. There will probably be, by the end of this century or the early part of the next century, regulations brought in to deal with merchant vessels where either sewage will be treated on the vessel itself to an acceptable standard before being discharged or there will be provisions to off-load effluent to be treated on land, and I want to know, following the adoption of this Sewerage Bill, should it go its full course, will a whole new schedule of charges then be introduced by the department

which relate to all these different areas which fall outside what would be a normal sewerage connection?

Mr Gilbey: How do you rate a ship?

Mr Downie: Well, you will find out. If you are talking about raising money I think that people who operate ships will have to make a contribution, as they should be doing now when they put all their refuse and their litter ashore and it has to be hauled somewhere and disposed of. They are areas that need looking at as well. So as far as I am concerned, if we are having a polluter-pays principle and we are applying it to a form of a sewerage rate, let us have it across the board and let us make sure that everybody who produces sewage, whether it is through cesspits, clargesters, visiting vessels and so on, makes a contribution. *(Laughter)*

Mr Corkill: I was just about to say, Mr Speaker, 'This is my contribution', but I take those words back now! I think the previous speaker who has just resumed his seat has raised the aspect that there are a number of issues relating to how sewerage can or may not be paid for, that as time goes by new issues will arrive that we will have to deal with as to whether they are charged for, taxed for, whatever the expression is, and therefore I am aware that during the consultation period of this Bill, particularly on clause 11, there was discussion between various departments as to making sure that flexibility was left in there so that policy can be set in terms of how sewerage is paid for in the future, policy set forward by departments and then approved by Tynwald in due course. I think it would be unfortunate if it is too tightly drafted at this stage. I am also aware that the Attorney-General's Chambers, principally Mr Gumbley, I believe, regarded it from a drafting point of view as a difficult process in terms of allowing for a rating system and other charges all to be available and drafted into the one clause. So I just make that comment in order to put it on record because, maybe as the Bill progresses further, through this aspect of flexibility with regard to raising revenues to pay for new sewerage schemes, sewerage schemes which the Island generally wants but perhaps the issue of how to pay for it is not being politically addressed at this stage, we keep those options open and I would be interested in comments from the mover of the Bill with regard to his discussions that have taken place with the Attorney-General's Chambers with regard to the way this clause has been drafted and how it could have been drafted and what the issues are surrounding that debate.

Mr Gilbey: Hear, hear.

The Speaker: Does any other hon. member wish to speak to the clause? Hon. member for Castletown, do you wish to reply if I impose a five-minute guillotine?

Mr Brown: Mr Speaker, I think it is important to reply and it would be helpful, I think, now, just to say that with regard to the point Mr Gilbey made and the Treasury minister made about flexibility and missing an opportunity and only sticking with the rate system, I have to say that certainly the provision within the Bill was after consultations with Treasury in terms of a rate provision being retained within the legislation, and I think we have to be straightforward on this issue. I think it is a fundamental matter of principle that if we, the representatives of the people, are determined we wish to put charges on them, whether they be income tax, whether they be rates or whatever it may be, then that is a matter of going to the parliament, to Tynwald, and making our case there. One of the problems we have is people trying to anticipate what might or might not happen; if we determine we are going to put a charge on

sewerage operations or refuse incineration or whatever, then clearly we have got to determine what it is we want, how we wish that to be formulated and how it is going to be charged against the people of the Island and we are not in a position on this issue to do that. It has been looked at over a number of years whether or not there should be a form of charge for IRIS and whether there should be one for incineration, and at this stage that has not been progressed to a stage where we can comfortably put in legislation our requirements. So I hope that responds to that in terms that that would deal with that. If we are going to make a charge outside rates, then we need to determine how we are going to do it.

If I go, then, to Mr Downie, he raised the point about ships and septic tanks and things. Well, already for septic tanks we make a charge. There is a charge imposed on people for that. I think the first emptying is free within a year and after that they have to pay. As far as ships are concerned - and I am going a little bit from memory - my understanding of that is that when a ship pays harbour dues that includes all the facilities which are available to it via the harbour and therefore, if there is a problem of dealing with sewage, then, as I understand it, that would be covered in that area. Now, whether or not you get down to putting a sewer pipe to the harbour for them to discharge into, then that would be an extra facility and may well be charged through the harbour dues or whatever charges we wished to make and again really not covered by rates. I think rates, you have to determine, are for properties, not for a ship which is moving about.

Mr Cannell raised the point about clause 11(1) and individual rates and I think, whilst he did read out regarding clause 43(2), if I can just take him to that clause 43(2) on page 33, what he will actually see there - I understand it is quite difficult to follow this in terms of how it is all mixed up - if he looks at clause 43(2), the point that there is a need for consultation with the environmental department, that is DLGE, only applies to clause 43(2)(a) and (b). It does not apply to clause 43(1)(b), which is of course bringing in the sewerage rate. The sewerage rate is covered on a different part of that clause. So where we are talking about bringing in a sewerage rate under clause 11, if it is ever felt that that is necessary, what will happen is that a special order will have to go to Tynwald, whether it is a rate for one property or whether it is a rate for all of the Island. That will require Tynwald approval, totally separate, and there is no need to consult with the Department of Local Government and the Environment. Now, whether or not government decides to consult with everybody is again a different issue. At the moment the policy of government is, endorsed by Tynwald, not to charge for a rate. If that policy is to change, then of course I suspect there will be a debate in Tynwald first and clearly there would be a debate when the order went to Tynwald which said 'Let's set a rate'. Now, I do not know if that answers the member. That is the best I can do, but the bit he did mention really relates to the part where we are making orders under clause 43(2) and not 43(1).

Mr Cannell: Individual consultation.

Mr Brown: Yes, the individual consultation, really local-authority-wise, is only under clause 43(2), but again I think it depends on how the matter would be dealt with and I take the point he is making. Just to bring it in without telling anyone would be unacceptable and I think the political scene would see that. I beg to move that clause 11 stand part of the Bill.

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

Hon. members, we will resume our deliberations of the Sewerage Bill at clause 12 at 2.30.

The House adjourned at 1.06 p.m.

Sewerage Bill - Consideration Of Clauses Concluded

The Speaker: Hon. members, we resume our deliberations on the Sewerage Bill and we are at clause 12 and I call upon the hon. member for Castletown. Perhaps we could take clauses 12, 13, 14, 15 and 16, sir, and complete part 2.

Mr Brown: Yes, thank you, Mr Speaker. Clause 12 gives the department a new power to require a drain or sewer to be constructed in a particular way in order to fit in with its plans, subject to payment of the extra cost of the construction and maintenance.

Sub-clause (1) enables the department, where a new drain or sewer is to be constructed privately, to require it to be constructed in a particular way, for example, in a different place or to a larger capacity, in order to fit in with its own plans for the sewerage of the area, on the assumption that it will be adopted as a public sewer in due course under clause 7. This is in addition to the department's powers to prescribe standards for adoption under clause 7(4).

Sub-clause (2) gives a right of appeal to the High Bailiff against a requirement under sub-clause (1) by applying the Local Government Act 1985, section 58, which makes general provision for notices by local authorities requiring works to be carried out and giving a right of appeal against such notices.

Sub-clause (3) requires the department to pay the person constructing the drain or sewer the extra capital cost incurred in complying with the requirements and any additional maintenance costs incurred as a result.

Clause 13 gives the department new powers, corresponding to those in clause 12, to alter existing drains and sewers and close cesspools at its expense in order to fit in with its sewerage system.

Sub-clause (1) enables the department to carry out work to close an existing drain or sewer or to fill in a cesspool if it does not fit in with the sewerage system of the area, for example, the system is based on separate foul and surface water sewers but a combined drain carrying foul and surface water connects with it or it is otherwise objectionable, for example again the policy is not to allow a cesspool in a residential area, but the department has to give the owner of the premises at least two months' notice.

Sub-clause (2) requires the department, before it can carry out any work under sub-clause (1), to provide a suitable replacement drain or sewer connecting with a public sewer. Sub-clause (3) requires disputes about the stability of a replacement drain or sewer to be decided by arbitration.

Clause 14 - this gives the department new powers to prohibit the use of a public sewer, subject to the provision of an alternative sewer for anyone using it.

Sub-clause (1) enables the department to prohibit the use of a public sewer either generally or as a foul water sewer or as a surface water sewer. For example, if it has been superseded by a new sewer, it is to be restricted to use as a foul water sewer.

Sub-clause (2) requires the department to provide an alternative sewer for anyone using the old sewer and to make any necessary connections.

Sub-clause (3) requires disputes about the suitability of the alternative sewer to be decided by arbitration.

Clause 15 provides that all existing sewers and sewage works and all adopted sewers and works and all sewers and works laid or constructed by the department will vest in the department.

Sub-clause (1) vests in the department (a) all existing sewers and sewage works, including those belonging to local authorities; (b) all sewers laid by the department; and (c) all sewage works constructed by the department; and (d) all sewers and works adopted by the department under clause 7.

Sub-clause (2) makes it clear that, for the purposes, anything done by a local authority under a delegation agreement under clause 2 is treated as done by the department. So any sewer laid by the local authority will vest in the department as a public sewer.

Mr Speaker, I beg to move clauses 12, 13, 14, 15, and I forgot 16. If you want me to carry on I will.

The Speaker: Yes, carry on with 16 and we will complete part 2, sir.

Mr Brown: Yes, if I go on then to clause 16, this clause lays on the department a new duty to keep proper records, maps, of its sewers.

Sub-clause (1) requires the department to keep records of public sewers, sewers which will be adopted from a future date under clause 7, and drains and sewers the subject of an agreement under clause 8.

Sub-clause (2) requires the records to include particulars of the location, nature, purpose and vesting of each drain or sewer.

Sub-clause (3) requires the information to be entered on a map which is to be available for public inspection.

Sub-clause (4) provides that the information can be kept on computer but must be made available for public inspection in visible and legible form.

Sub-clause (5) of clause 16 requires the records kept under sub-clause (1) to be kept up to date and the date of any alteration is to be noted as part of the records.

Sub-clause (6) excludes the duty to keep records of existing sewers and drains where the department does not know of or suspect their existence, or does not know and cannot reasonably ascertain their position.

Therefore, Mr Speaker, I beg to move that clauses 12, 13, 14, 15 and 16 stand part of the Bill.

Mr Singer: Mr Speaker, I take the greatest of pleasure in seconding all those clauses and reserve my remarks.

Mrs Cannell: Mr Speaker, just to say I am very pleased with the requirements laid down in clause 16 in relation to sewer maps, very pleased, and I wish to congratulate the hon. minister. Thank you.

The Speaker: Does the minister wish to reply?

Mr Brown: Just to thank the hon. member for East Douglas for her comments, Mr Speaker.

The Speaker: Hon. members, the motion then is that clauses 12, 13, 14, 15 and 16, completing part 2, stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Turning to part 3, sir, can we take clause 17.

Mr Brown: Mr Speaker, clause 17 enables the department to give consent to the discharge of trade effluent into a public sewer in accordance with the code in part 3 of the Bill.

Sub-clause (1) gives the occupier of trade premises power to discharge trade effluent into a public sewer provided it has the department's consent. Trade effluent and trade premises are defined in clause 28 of the Bill.

Sub-clause (2) makes it clear that discharges must be made via a drain or sewer, not, for example, from a tanker.

Sub-clause (3) provides that so far as a discharge is permitted by a trade effluent consent, the prohibition in clauses 4(2) and 6 do not apply.

Sub-clause (4) enables the department to exercise the same control over communications with public sewers in connection with discharges of trade effluent as it can in connection with drainage of domestic sewerage under clause 4. For example, it can refuse a communication, lay down conditions or decide to make the connection itself.

Sub-clause (5) makes it a serious offence to discharge trade effluent without consent, and sub-clause (5)(a) says on summary conviction, to a fine not exceeding £5,000, and on conviction on indictment, to a fine, which of course can be unlimited.

I beg to move that clause 17 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 17 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 18 and schedule 2, sir.

Mr Brown: Clause 18 sets out the procedure for applying for trade effluent consent.

Sub-clause (1) enables the owner or occupier of trade premises, defined under clause 28, to apply in writing to the department for trade effluent consent.

Sub-clause (2) sets out the particulars which the application must contain: (a) the nature or composition of the effluent; (b) the maximum quantity of the trade effluent which it is proposed to discharge on any one day; and (c) the highest rate at which it is proposed to discharge the trade effluent.

Sub-clause (3) provides that the department may either refuse consent or grant it and it is subject to conditions which may relate to any of the matters in schedule 2. These may

include charges for the discharge to be determined with regard to the nature et cetera of the effluent, the cost of disposing of it and any revenue which may derive from it, for example the sale of heat.

Sub-clause (4) enables the department to consent to discharge only with effect from a stated future date.

Sub-clause (5) requires the department to consult the Department of Local Government about any discharge of hazardous effluent.

Sub-clause (6) makes it a serious offence to contravene a condition of trade effluent: (a) on summary conviction, to a fine not exceeding £5,000; and (b) on conviction on indictment, to a fine, which of course can be unlimited.

I therefore beg to move that clause 18 and schedule 2 stand part of the Bill.

Mr Singer: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 18 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 19, sir.

Mr Brown: Mr Speaker, clause 19 gives a right of appeal to the High Bailiff against a refusal of trade effluent consent, the conditions attached to such a consent et cetera except in relation to hazardous effluent.

Sub-clause (1) gives a right of appeal to the High Bailiff against (a) a refusal of trade effluent consent; (b) a deemed refusal where it fails to respond to an application within two months; (c) a condition imposed under clause 18; or (d) a direction postponing the discharge to a future date.

Sub-clause (2) excludes any right of appeal against refusal of consent or conditions of a consent except a condition requiring payment of charges in relation to discharge of hazardous effluent.

Sub-clause (3) sets out the powers of the High Bailiff on an appeal against refusal or deemed refusal of consent. He can direct the department to grant consent with or without any conditions the department could have imposed.

Sub-clause (4) sets out the powers of the High Bailiff on an appeal against conditions. He can review all the conditions and can substitute, vary or annul any conditions.

Sub-clause (5) sets out the powers of the High Bailiff on an appeal against a direction postponing a discharge. He can vary it or annul it.

Sub-clause (6) enables the High Bailiff to backdate any decision so far as it relates to charges.

Therefore I beg to move that clause 19 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clause 19 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We will take clauses 20 and 21, sir.

Mr Brown: Thank you, Mr Speaker. Clause 20 - this clause gives the department power to vary the conditions attached to a trade effluent consent. A condition cannot normally be varied under two years from the date it is imposed and this is in order to give the trader a reasonable basis on which to invest in a process. This period is the same as for the variation of consent to discharges into inland or coastal waters under the Water Pollution Act 1993, section 6.

Sub-clause (1) provides that the department may give a direction varying a condition attached to a trade effluent consent. For the meaning of 'variation', that is covered in sub-clause (6).

Sub-clause (2) provides that generally a condition cannot be varied within two years of the grant of the consent or of a previous variation, but there are exceptions and these are covered in sub-clause (3) and clause 21.

Sub-clause (3) enables a condition to be varied within two years provided that the owner and occupier of the trade premises consent but it cannot be further varied within two years of the variation.

Sub-clause (4) requires notice of a direction varying a consent to be given to the owner and occupier of the trade premises. The notice has to give (a) details of the right of appeal under clause 22; (b) specify the date on which the variation takes effect; and (c) if the direction is given under two years from the consent or previous variation by virtue of clause 21, the reason why it is being given within that time. The variation cannot take effect less than two months from the date of the notice.

Sub-clause (5) requires the department to consult the owner and occupier of the trade premises before it gives notice of a variation, that is, if it is practical.

Sub-clause (6) makes it clear that variation includes adding a new condition and cancelling a condition and also adding a condition where no condition was imposed before.

Clause 21 gives the department limited power to vary the condition of a consent within two years from the grant of the consent or a previous variation, subject to payment of compensation in certain circumstances.

Sub-clause (1) enables the department to vary the condition of a consent under clause 20 within two years from the grant of the consent or a previous variation and without the agreement of the owner and occupier of the trade premises, provided that it is for the protection of third parties.

Sub-clause (2) requires the department to pay compensation for a variation made within two years unless it thinks that the variation is necessary due to a change of circumstances which could not have been foreseen when the conditions were imposed or last varied, but compensation is still payable if the need for the change is the result of other trade effluent consents granted within that period. The department's statement of its opinion is not conclusive. There is a right of appeal against it.

Sub-clause (3) makes it clear that change of circumstances in sub-clause (2)(a) includes new information about the nature or effect of a discharge, including its reaction with other substances.

Sub-clause (4) provides that disputes about compensation are to be determined by arbitration.

Mr Speaker, I beg to move that clauses 20 and 21 stand part of the Bill.

Mr Bell: I beg to second.

The Speaker: Hon. members, the motion is that clauses 20 and 21 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member, can we take clauses 22 and 23, please?

Mr Brown: Yes, thank you, Mr Speaker. Clause 22 gives a right of appeal to the High Bailiff against the variation of the conditions of a trade effluent consent corresponding to the right of appeal against initial conditions under clause 19, sub-clause (1)(c). It also gives a right of appeal against a statement by the department that the need for variation could not have been foreseen.

Sub-clause (1) enables the owner or occupier of trade premises to appeal against a direction under clause 20, varying the conditions of a consent. The appeal must normally be made within two months of the notice under clause 20, sub-clause (4), but can be made later with leave.

Sub-clause (2) provides that no appeal lies against a condition relating to hazardous effluent except in relation to charges.

Sub-clause (3) provides that if the appeal is made within the time during which the variation is not to take effect under clause 20, sub-clause (4)(b), it is suspended pending the appeal, except so far as it relates to charges.

Sub-clause (4) sets out the powers of the High Bailiff on an appeal. He can cancel the variation and substitute different conditions. Where he substitutes a condition relating to charges, the change can be back-dated.

Sub-clause (5) gives a right of appeal against a statement by the department under clause 21, sub-clause (2), that the need for the variation could not have been foreseen so that compensation is not payable. If the High Bailiff disagrees, he can direct that the statement is to be ignored.

Sub-clause (6) provides that the direction given on appeal has the same effect as a direction given by the department.

Clause 23 enables the department, in certain circumstances, to postpone further the time at which a discharge of trade effluent can begin.

Sub-clause (1) provides that where the department has directed that a discharge of trade effluent cannot begin until a stated future time, it can give a direction further postponing the discharge if delay is required to complete any necessary treatment works or in other exceptional circumstances.

Sub-clause (2) requires the notice of any postponement under sub-clause (1) to be given to the owner and occupier of the trade premises in question.

Sub-clause (3) gives a right of appeal against a postponement under sub-clause (1) in the same way as an appeal lies under clause 22 against a variation of conditions, that is,

within two months of the giving to the owner or occupier the notice or with the leave at any later time of the High Bailiff.

I beg to move that clauses 22 and 23 stand part of the Bill.

Mr Bell: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clauses 22 and 23 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 Castletown, perhaps we could take clauses 24 to 28 inclusive, thus completing part 3.

Mr Brown: Yes, thank you, Mr Speaker. Clause 24 enables the department to enter into agreements for the disposal of trade effluent or the products of treatment of trade effluent.

Sub-clause (1) enables the department, under (1)(a), to enter into an agreement with the owner or occupier of trade premises under which the department will receive and dispose of trade effluent. It also enables the department, under (1)(b), to agree to take the residue of trade effluent which the trader has himself treated.

Sub-clause (2) makes further provision for an agreement under sub-clause (1)(a) for the disposal by the department of trade effluent. It can cover the provision by the department of a new or extended treatment works and provide for the payment by the trader of the department's expenses.

Sub-clause (3) requires the department to consult the Department of Local Government and the Environment about any agreement relating to a discharge of hazardous effluent, that is, special category effluent as covered by clause 26.

Clause 25 - this provides that in any proceedings where a meter reading is evidence of the amount or nature of any discharge of trade effluent, the reliability of the meter does not have to be proved. It is presumed to be accurate unless it is shown not to be so.

Clause 26 enables categories of hazardous effluent to be prescribed by the Department of Local Government and the Environment by order as special category effluent which is subject to special controls. The Department of Transport has to consult with the Department of Local Government and the Environment about any consent or agreement relating to special category effluent and there is no appeal against a refusal of consent or a condition of consent relating to such effluent.

Sub-clause (1) defines 'special category effluent' as an effluent containing substances of a kind or in a quantity prescribed by order, or effluent from a process prescribed by order, or from a process using substances of a kind or in a quantity prescribed by order.

Sub-clause (2) enables the Department of Local Government and the Environment to prescribe substances et cetera by order for the purpose of sub-clause (1). An order will require Tynwald approval.

Sub-clause (3) provides that a description of effluent can not be prescribed as a special category effluent where it is only trade effluent because it is deemed to be such by an order under clause 27.

Clause 27 enables the controls of trade effluent to be applied by order to other classes of effluent.

Sub-clause (1) enables the department to make an order applying any of the controls in part 3 to effluent which is not strictly trade effluent, as defined in clause 28(1). For example, discharges from a process carried on at a hospital premises might require measures of control. Though the hospital service is not a trade or industry, the order can modify this part appropriately, in particular in relation to the meaning of 'trade premises'. An order will require Tynwald approval.

Sub-clause (2) enables an order under sub-clause (1) to modify any other enactment relating to sewage, for example part 1 or part 2 of this Bill, in relation to effluent designated by the order.

Clause 28 defines terms, in particular 'trade effluent' and 'trade premises' used in this part. Sub-clause (1) defines 'special category effluent', 'trade effluent' and 'trade premises'.

Sub-clause (2) provides that trade or industry includes agriculture, horticulture, fish farming and research so that trade effluent and trade premises are to be construed in that wide sense.

Sub-clause (3) requires a trade effluent consent to be in writing.

Sub-clause (4) makes it clear that the system of control under this part does not affect any private or riparian rights, for example to take water from a stream or discharge a drain into a watercourse, except in relation to hazardous, that is, special category, effluent.

Mr Speaker, I beg to move that clauses 24, 25, 26, 27 and 28 stand part of the Bill.

Mr Bell: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion then is that we complete part 3 of the Bill, 24 to 28 inclusive. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member for Castletown, we move on to part 4. Perhaps we could take clauses 29 and 30, sir.

Mr Brown: Thank you, Mr Speaker. Clause 29 enables a local authority to require action to be taken to provide proper drainage of a building or to put faulty sanitation right. The Local Government Act 1985, section 58, applies to a notice under this provision. It provides for appeals against notices and for their enforcement by criminal proceedings and by enabling the local authority to do the work in default at the owner's or occupier's expense, with any necessary powers of entry.

Sub-clause (1) enables the local authority to require proper drainage for a building to be put in where it is necessary. A notice under this provision may be served on the owner of the building.

Sub-clause (2) enables the local authority to require defective sanitation, including a disused cesspool or sewer or drain, to be put right. A notice under this provision can be served either on the owner or the occupier of the building. Any dispute as to which of them ought to do the work can be decided on an appeal under the Local Government Act 1985, section 58.

Sub-clause (3) provides that a drain can not be required to be provided unless it is connected either to a sewer or to discharge into a cesspool et cetera. A drain cannot be required to connect to a sewer unless it is within 100 feet, except as allowed for in clause 29(4), and it is at a suitable level and the owner or occupier has the right to connect to it, including a right to run the drain through any intervening land.

Sub-clause (4) provides that the hundred-foot limit in sub-clause (3) does not apply if the local authority agrees to pay the cost of laying the drain the extra distance, that is, the owner or occupier can only be made to pay the cost of the drain up to 100 feet long.

Mr Speaker, I beg to move that clauses 29 and 30 stand part of the Bill.

Mr Bell: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clauses 29 and 30 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 31, sir.

Mr Brown: I am sorry, Mr Speaker, I might have missed clause 30, I think.

The Speaker: I do not know that you spoke about it but you definitely moved it.

Mr Brown: I moved it but I did not explain it.

The Speaker: As far as I am concerned, sir, the House has accepted clause 30. I did note that you had not spoken to it but clause 31 we now reach.

Mr Brown: Yes, thank you, Mr Speaker. It would certainly make life easier if I just referred to it without saying anything, wouldn't it? Right, clause 31. My apologies for that, Mr Speaker. Clause 31 - this clause requires a person to disconnect and seal off a drain which becomes redundant or disused.

Sub-clause (1) requires a person who re-lays a drain which connects to a sewer or another drain or discontinues the use of such a drain to disconnect it and seal it off in accordance with the Department of Local Government and the Environment's requirements.

Sub-clause (2) provides for an appeal to the High Bailiff against any requirement under sub-clause (1). The High Bailiff may vary any such requirement.

Sub-clause (3) provides that a requirement under sub-clause (1) can not oblige a person to carry out work on land which he does not own and has no right of access over but he is given power to dig up a street for the purpose, subject to the procedure requirements in the roadworks code in the Highway Act 1986, schedule 4.

Sub-clause (4) makes it an offence to fail to comply with requirements under sub-clause (1) and that is a person who knowingly fails to comply is guilty of an offence and liable on summary conviction to a fine not exceeding £500 and to a further fine not exceeding £5 for each day on which the default continues after he is convicted.

Sub-clause (5) is to prevent duplication and excludes demolition from the scope of sub-clause (1) and this is because the Department of Local Government and the Environment have the necessary powers to require drains to be closed off under the Building Control Act 1991, section 27, subsection (5)(f).

I beg to move clause 31 stand part of the Bill.

Mr Bell: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 31 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Now, hon. member Mr Brown, perhaps we could take 32, 33 and 34.

Mr Brown: Thank you, Mr Speaker. Clause 32 requires a local authority to require proper toilets to be installed in a building if it has no toilets or insufficient or insanitary toilets.

Sub-clause (1) requires a local authority to serve notice on the owner of a building requiring proper toilets to be installed if it has no toilet or insufficient or insanitary toilets. There is a right of appeal to the High Bailiff under the Local Government Act 1985, section 58.

Sub-clause (2) provides that the notice cannot require a WC to be installed if there is no water supply. However, the local authority can require a mains water supply to be installed and this is covered by the Water Act 1991, section 20.

Sub-clause (3) enables the owner of a building to appeal against a notice requiring toilets to be provided in their building, part of which is occupied as a dwelling place, on the additional ground that the occupier is using the building in breach of a covenant, for example a lease or tenancy agreement.

Sub-clause (4) provides that where the owner appeals on the grounds in sub-clause (3) and serves a copy of his notice of appeal on the tenant, the court can order the tenant to contribute to the cost of the works carried out by the owner or, if the local authority carries out the works in default, to share the expenses to be borne by the tenant.

Sub-clause (5) excludes the powers of this clause in the case of a workplace as defined in clause 42, sub-clause (4). Provision for toilets in workplaces is made in clause 33.

Clause 33 imposes an obligation on the owner or occupier of a building used as workplace to provide sufficient toilets.

Sub-clause (1) requires the owner or occupier of a building used as a workplace to provide proper and sufficient toilets. If there are both male and female staff, separate toilets must be provided for them unless the Department of Local Government and the Environment consider this unnecessary, for example, if so few staff are employed that one toilet is enough for all.

Sub-clause (2) requires the Department of Local Government and the Environment, if it finds that sub-clause (1) is not complied with, to serve a notice requiring compliance as may be deemed necessary.

Sub-clause (3) gives a right of appeal against a notice under sub-clause (2) by applying the Local Government Act 1985, section 58.

Sub-clause (4) defines 'sanitary convenience' in sub-clause (1), that is, a closet or a urinal. Clause 34 enables a local authority to require earth closets to be replaced by WCs if a water supply and sewer are available.

Sub-clause (1) of clause 34 enables a local authority to require earth closets to be replaced by WCs if a water supply and sewer are available, even if the existing closets are

sufficient and safe. There is a right of appeal to the High Bailiff under the Local Government Act 1985, section 58.

Sub-clause (2) provides that a notice under sub-clause (1) can either require the owner to carry out the work or require him to allow the authority to do so at its option.

Sub-clause (3) provides that no appeal lies under the Local Government Act 1985, section 58, on the grounds that the work is unnecessary.

Mr Speaker, I beg to move that clauses 32, 33 and 34 stand part of the Bill.

Mr Bell: I beg to second, Mr Speaker.

Mr Cannan: Mr Speaker, perhaps the minister could define the word 'closet' and what it actually means in clause 32.

Mr Cannell: Mr Speaker, I would like to ask the hon. minister with reference to clause 33, please, returning to a point I made at an earlier hearing of this Bill. A building that is used as a workplace shall be provided with '(1)(a) sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in,' - and this is the emphasis - 'or in attendance at, the building,'. So I would like to enquire from the hon. minister if he views that as being the ordinary public attending at the said premises as a workplace by being customers or by retail consumers because it seems to me that at the moment there are a very large number of premises that do not offer that facility as intended in the Bill here. As I mentioned earlier on, does it include individual shops and establishments, does it cover employees only, because there are many premises which do not have this facility and even in the capital of the Isle of Man a walk through Strand Street will tell you that there is very little provision for public toilets? So if he could clear that for me I would be grateful.

I am alarmed to find that my enquiries since that previous sitting have shown that there are still some establishments which do not have toilets and they are places which are serving food, albeit not for consumption on the premises.

Mr Cretney: It is just for a matter of clarification really if I could, Mr Speaker, in relation to clause 33. In the past it has been drawn to my attention that some employers would say they cannot take on female staff because the only toilet accommodation they have available is suitable for males. We are not going to continue with that, given that we are building in flexibility for the environmental department, are we? It seems to me that in this day and age we should be making sure that there is ample accommodation for both sexes to be employed and to have sufficient convenience also.

Mr Cannell: Hear, hear.

The Speaker: I call upon the hon. member for Castletown, Mr Brown, to reply.

Mr Brown: Yes, thank you, Mr Speaker. Just to define a 'closet', well, a closet, as I understand it, is a dry toilet and I think that that is the definition of that, to answer Mr Cannan.

As far as the toilet facilities in workplaces, again I would refer to the definition which is that a workplace includes any place in which persons are employed otherwise than in domestic service, and I think the hon. member Mr Cannell, the member for Onchan, is quite right when he says that he is in a position where there are places where there are no toilet facilities where the public go into, cafes for example. I have to say that is a matter even under

this Bill and existing law, as I understand it, for the Department of Local Government and the Environment and what we are doing is we are giving them the powers to inspect a premises and make a judgement and if they require a cafe to provide toilet facilities, whether it be one for the staff or two for the staff or more so the staff and the public have the provision of WCs, that will be a matter for them as officers in there and clearly they are going to be in a position where they have to make a judgement. That is not going to be my department. This Bill will give the powers, as I explained, for the department to require toilet facilities.

Now, if I go on to the point made by Mr Cretney, the hon. member for South Douglas, I suspect that it is more an excuse by an employer, not a real reason, that they say, 'We don't employ female staff because we need another toilet facility.' (1) They should seek advice from the Department of Local Government and the Environment on that in terms of the number of staff they are employing because clearly there is provision in this legislation, and I think it is already echoed elsewhere, that if they judge that there is no requirement for two toilet facilities, one for male, one for female because of the number of staff employed and it does not cause a problem, then that is a determination they can make, but if they do require it, then, yes, they will have to comply with that and I suspect that we all do not disagree with that, but we do hope that the officers who are going to deal with this issue would use common sense and discretion because they must also take into account, I presume, the physical nature of the building, the possibility of extending, the possibility of providing facilities, whether it be a cafe or elsewhere, and I do know over the years that there have been decisions made, using that discretion, where the Department of Local Government and the Environment has not required a toilet facility to be extended because it is impractical so to do and it would mean the closure of those premises and I think it is almost important that of course you can have a number of toilet facilities but what is very important is the hygiene and cleanliness of those toilet facilities. So you might have somebody with the right number but they could be in a poor condition and I think that is where the balance comes in from there.

So I think the main point is that as government we are actually making the law saying they need more but there is a discretion if it needs to be exercised and that is a discretion to be used.

Just really to refer to the hon. member Mr Cannell again on his water closets and earth closets, in fact they are dealt with in clause 32 where it is termed there 'water closets and earth closets', and I think that answers the point the hon. member was making.

I beg to move, Mr Speaker.

The Speaker: Hon. members, the motion is that clauses 32, 33 and 34 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 35, sir.

Mr Brown: Yes, Mr Speaker. Clause 35 gives a local authority power to drain or clean out any pond or ditch which is a health hazard and carry out works or contribute to the cost of works for this purpose but it is not permitted to interfere with private rights of drainage, for example by blocking up a ditch carrying surface water. I beg to move clause 35 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second the motion.

The Speaker: Hon. members, the motion is that clause 35 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 36, sir.

Mr Brown: Clause 36, Mr Speaker, gives local authorities power to provide public toilets and to make byelaws regulating them.

Sub-clause (1) enables a local authority to provide public toilets, and sub-clause (2) enables the authority to make byelaws regulating the use of public toilets provided under sub-clause (1).

I beg to move clause 36 stand part of the Bill.

Mr Singer: I am pleased to second the motion and reserve my remarks.

Mr Cannell: Again, Mr Speaker, if I might make the same point, the hon. minister may well reply similarly to the previous enquiry but does this obligate local authorities to provide sufficient toilets for the number of people within their authority or is this just the power to allow them to do so should they require?

The Speaker: I call upon the hon. member for Castletown, Mr Brown, to reply.

Mr Brown: Yes, thank you, Mr Speaker, just to answer the hon. member, the important word is 'may' and it says, 'A local authority may provide public lavatories within its district, and may make charges for their use.' I would just say to the hon. member we have to rely on the responsibility of the local authority who is governed by elected representatives to do the best in their area for their area and if we want it any different we would have to say 'shall' and our problem then would be to define how many that would be. So it gives the power to the local authority to provide public lavatories within their area. I beg to move.

The Speaker: Hon. members, the motion is that clause 36 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member, perhaps we could now take 37, 38 and 39 to complete part 4.

Mr Brown: Thank you, Mr Speaker. Clause 38 makes an amendment to the Building Control Act 1991 to require the building authority to consult the Department of Transport where plans are deposited for building regulations approved and the building works involved in connection with a public sewer. The building authority is the Department of Local Government and the Environment except in districts where the functions are exercisable by the local authorities.

Clause 39. This clause provides that clauses 29 to 32 can be repealed by the building regulations and clause 33 can be repealed by the health and safety regulations.

Sub-clause (1) enables the building regulations made by the Department of Local Government and the Environment under the Building Control Act of 1991, section 1, to repeal clauses 29 to 32 inclusive. The regulations require Tynwald approval.

Sub-clause (2) provides that health and safety regulations made by the Department of Local Government and the Environment under the UK Health and Safety at Work Act 1974, section 15, can repeal clause 33 as if it had been in force when the 1974 Act was first applied to the Isle of Man under the Health and Safety at Work Act. This restates the position with regard to the provisions replaced by clause 33. The regulations require Tynwald approval.

I therefore beg to move clauses 37, 38 and 39 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clauses 37, 38 and 39 be approved as part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 40, hon. member.

Mr Brown: Mr Speaker, clause 40 imposes a new civil liability in addition to criminal liability under clauses 6, 17 or 18 for damage caused by a prohibited discharge into a sewer or breach of a condition of a trade effluent consent.

Sub-clause (1) imposes civil liability for damage caused by a breach of clause 6, prohibited discharges into sewers. This covers, inter alia, damage to sewers or sewage works of the department.

Sub-clause (2) imposes civil liability for damage caused by an unauthorised discharge of trade effluent or breach of condition attached to a trade effluent consent under clause 18.

Sub-clause (3) makes it clear that a claim for damages under sub-clause (1) or sub-clause (2) can be brought whether or not the defendant is prosecuted for a criminal offence under clause 6 which is restriction on the use of public sewers, or clause 17 which is consent required for a discharge of trade effluent into a public sewer, or clause 18 which deals with application for consent to discharge trade effluent into a public sewer and is in addition to any other civil remedy which may exist.

Sub-clause (4) makes it clear that damage covers death and personal injury as well as damage to property and financial loss. I beg to move that clause 40 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clause 40 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 41, Mr Brown.

Mr Brown: Clause 41, Mr Speaker, incorporates a standard form provision of the Local Government Act 1985 extended where necessary to confer similar powers on the Department of Transport in connection with the exercise of its functions under this Bill.

Sub-clause (1) incorporates the Local Government Act 1985, section 35, which gives local authorities powers of entry on land for the purposes of their functions, in particular for the purpose of carrying out works.

Sub-clause (2) incorporates standard form provisions of the Local Government Act 1985 which confer powers on local authorities or lay down procedures in connection with the exercise of their functions, modified so as to apply to the department in the exercise of its functions under this Bill.

Sub-clause (3) gives express power to officers of the department, when exercising powers of entry on land, to take other staff, vehicles and equipment with them.

Sub-clause (4) makes it clear that the powers listed in sub-clause (2) are still exercisable by a local authority where it is exercising powers under a delegation agreement under clause 2.

I beg to move that clause 41 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

Mr Gilbey: Mr Speaker, I think it is worth pointing out the importance of the inclusion of these sections of the 1985 Local Government Act and in particular section 62, compensation for works, because as, Mr Speaker, you may have been aware, the National Farmers Union were very concerned about the question of compensation for the provision of sewers on private land which is specifically permitted under clause 3 and of course under clause 3 there is no provision for any kind of compensation but compensation for such work is covered by the reference to clause 63 of the Local Government Act in this clause 41. So there is an important aspect there.

The Speaker: Section 62.

Mr Gilbey: Sixty-two, yes.

The Speaker: Does any other hon. member wish to speak? In that case can I call upon the minister to reply?

Mr Brown: Just to really confirm the point made by the hon. member for Glenfaba, Mr Gilbey, that section 62 of the Local Government Act 1985 provides an important safeguard and I am sure is welcomed by him and others. I beg to move.

The Speaker: Hon. members, the motion is that clause 41 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. And clause 42, sir.

Mr Brown: Mr Speaker, clause 42 contains general provisions for the interpretation of the Bill in addition to the specific interpretation provisions in, for example, clause 28.

Sub-clause (1) incorporates the standard form interpretation provisions in the Local Government Act 1985, section 73, which provides the definitions as incorporated in other Acts.

Sub-clause (2) makes it clear that references to drains and sewers include references to ancillary manholes, pumps et cetera, with 'laying' having a corresponding meaning.

Sub-clause (3) makes it clear that references to a sewage works includes reference to its machinery et cetera and any associated pumps and outfalls.

Sub-clause (4) defines various terms used in the Act.

Sub-clause (5) enables the department to designate a sewer as a transmission sewer, that is, a trunk or main sewer to which there is no automatic right to make a connection under. That is clause 4, sub-clause (1). The order will require Tynwald approval.

I beg to move that clause 42 stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clause 42 be approved as part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 43, hon. member Mr Brown.

Mr Brown: Mr Speaker, clause 43 provides for Tynwald approval for certain orders and requires the consent of the Department of Local Government and the Environment to orders fixing different fees or charges for different areas.

Sub-clause (1) provides that orders under the provisions listed in clause 43, sub-clause (1)(a) will require Tynwald approval, as also will a commencement order under clause 45, sub-clause (2) which brings clause 11, sewerage rate, into force.

Sub-clause (2) requires the consent of the Department of Local Government and the Environment as the planning authority to an order under clause 5(1) which fixes different connection fees for different areas which, as we know, has now been amended, an order under schedule 1, paragraph 3(5), which varies the amount a developer must pay towards the cost of a requisition sewer according to whether development in an area is to be encouraged or discouraged. The Department of Local Government and the Environment is required to consult local authorities in the area concerned.

I beg to move clause 43 stand part of the Bill.

Mr Singer: I beg to second, Mr Speaker.

Mr Rodan: Mr Speaker, my amendment is the bottom one of course on the page that has been circulated and this is the amendment which takes the wording removed from clause 5 and schedule 1 as amended and puts it back into the Bill in clause 43, thereby giving to the planning authority, which has the responsibility for development matters, such issues as encouraging or discouraging development.

I would invite members who have so far voted against my amendments to clauses 5 or 10 to think carefully before voting against this one, otherwise government will find itself with no power to determine whether or not a development should be encouraged or discouraged within this Bill and therefore the use of differential connection fees or deficits would thus have no statutory reasoning or basis behind them on the part of the Department of Transport. I beg to move:

Page 33, line 23; for the words from 'and before' onwards substitute -

'(3) Before it gives or refuses its consent under subsection (2) the Environment Department -

- (a) shall consider whether, having regard to the development plan and to all other material considerations, development in the area in question ought to be encouraged or discouraged; and*
- (b) shall consult every local authority whose district appears to it to be affected by the proposed order.'*

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

Mrs Hannan: I think that the member for Garff has got it slightly round the wrong way when he says it is up to the Department of Local Government and the Environment under the planning division to decide whether planning should be discouraged or not. It is not the planning that is to be discouraged or encouraged, it is mainly the fee. I do not think members quite understand it. If there is a greenfield site it is cheaper for a developer to develop a greenfield site than it is a brownfield site, and I think what the Planning Committee is saying is

that if we want planning somewhere 'Consult us, we will consult local authorities.' The local authorities are not necessarily going to be the authorities which are going to put in the sewage works, it is going to be the Department of Transport, and the encouragement or the discouragement is merely the fee that these developers would be charged, and I think the way that we have now changed this legislation round is that we have said that planning should be either encouraged or discouraged by the Planning Committee. It is not that, it is the fee that would be charged, whether it would be a difficult connection because of where it is, or even somewhere where government as a whole did not want planning necessarily to be because the feeling, not necessarily just in parliament but in the country as a whole, should be that greenfield sites should no longer be developed, that Onchan or Douglas or Peel or Ramsey or Castletown should not extend its boundaries or build outside its boundaries and take over sewerage at a cheaper rate, and therefore I am disappointed today that this has in actual fact happened.

I think it is the fee that was being considered and it is the encouragement and the discouragement which has been misunderstood, and if plans are drawn up by the Department of Local Government and the Environment, that is fine and they are saying planning can go there, but it is the actual fee, it is the actual cost of operating sewerage works.

I know in my own area - this is years ago now - we had to put in pumps and that had to be then managed, and the additional cost of doing that was over and above and who is supposed to pick that up, the ratepayer as a whole, government as a whole or the developer who is developing this piece of land? It is an easy piece of land to develop, they are going to make a big profit on it and why should they not pay a higher fee, whether you call that encouragement or discouragement? I believe it should not be up to the Planning Committee, the Department of Local Government and the Environment, but should be up to the sewerage authority and in this instance because it is this legislation it is the Department of Transport.

The Speaker: The hon. member for Garff, Mr Rodan, to reply.

Mr Rodan: Thank you, Mr Speaker. Well, the hon. member for Peel, Mrs Hannan, has got it quite wrong. First of all it is not the Planning Committee which determines whether development should or should not take place. It is Tynwald in fact that decides through its approval of local plans and local plans which have been worked up and put forward by the planning division of the Department of Local Government, and it is the department's statutory function in planning to produce local plans and zone areas for development and indicate how those areas should be developed.

Now, within the life of a local plan there may well be issues that have arisen, in fact it is inevitable that issues will arise of an economic nature which say that development within particular land, for example, should be encouraged in response to economic pressure on the Island or that it should be discouraged because of other economic pressures on the Island of a perhaps less desirable nature or indeed the nature of the land as it is being developed will determine whether the infrastructure is capable of absorbing development. What we are talking about here on the issue of sewerage fees is but one vehicle open to government to promote or not to promote the development of land.

Now, it is not the sewerage authority which should have the power to determine whether development should or should not take place. It goes beyond one particular authority. Surely it

is a matter for government as a whole and it is the Department of Local Government which is being charged with the responsibility of planning in the best interests of the Island as a whole.

An authority like a sewerage authority is a service provider and it is quite in order if it is thought appropriate that various mechanisms that they have, for example differentials in fees, could be brought into play in determining whether development should be encouraged or discouraged, and I would further remind the hon. member that if this amendment is turned down there will be no facility for government to, within this Bill, encourage or discourage development, so I would ask her just to reflect on that.

The Speaker: The hon. member in charge, the hon. member for Castletown, Mr Brown.

Mr Brown: Not really anything except to make the point that the mover of the amendment has covered, that if this is not accepted now of course the rest of the clauses that refer to it would be useless, so I think it is quite obvious what the decision should be and I hope members will support it.

The Speaker: Hon. members, the motion is that clause 43 be approved to stand part of the Bill and to that we have the amendment, the third amendment on your white sheet, page 33, line 23, and that follows on from that, an amendment moved by the hon. member for Garff. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Clause 43 as amended, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. member for Castletown perhaps we could take clause 44, schedules 3, 4 and 5 and clause 45 too possibly.

Mr Brown: Yes, Mr Speaker, that is fine Clause 44 - this clause introduces schedules 3, 4 and 5 which contain transitional provisions and consequential amendments and repeals.

Sub-clause (1) introduces schedule 3 which contains the transitional provisions under the Bill.

Sub-clause (2) introduces schedule 4 which makes amendments which are mainly consequential on the transfer of sewerage functions from local authorities to the department by the Bill, but the new section 20(3) in the Water Act 1991 gives the Department of Local Government and the Environment concurrent powers with local authorities to require a water supply to be installed.

Sub-clause (3) introduces schedule 5 which repeals enactments superseded by this Bill.

Clause 45 gives the Bill its short title and provides for its commencement on an appointed day or days.

Sub-clause (1) provides the short title of the Act for when the Bill is passed.

Sub-clause (2) provides for commencement of the Bill on an appointed day or days to be fixed by the department after consultation with the Department of Local Government and the Environment and any local authorities concerned. An appointed day order will require Tynwald approval so far as it brings in clause 11, that is, to deal with the sewerage rates.

Sub-clause (3) enables an appointed day order to make transitional provision et cetera, including temporary modifications of the Act and other legislation if only part of the Bill is brought into force at any one time.

Mr Speaker, I beg to move that clause 44, schedules 3, 4 and 5 and clause 45 stand part of the Bill.

Mr Singer: Mr Speaker, I am pleased to second the motion. Thank you.

The Speaker: Hon. members, the motion is that clause 44, schedules 3, 4 and 5 and clause 45 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Tabling Of New Clauses - Drafting Assistance To Members - Statement By The Speaker

The Speaker: Now, hon. members, before concluding, at the sitting of the House on 10th March the hon. member for Onchan, Mr Karran, moved a motion to suspend standing order 155 in order to seek an amendment of the long title of the Agriculture and Fisheries (Miscellaneous Provisions) Bill, to allow him subsequently to move tabled amendments and new clauses to that Bill. I wish to comment on two issues which were raised by members in the course of that debate.

The hon. member for Castletown expressed concern over the period of notice required under standing order 154 when tabling new clauses and indicated that he intended to refer the matter to the Standing Orders Committee. He has done this and it will be considered by that committee which will then report to the House. The hon. member has recently been elected to the Standing Orders Committee and happily will therefore be in a position to contribute to its deliberations.

Secondly, the hon. member for Onchan, Mr Karran, expressed concern that members who wish to instruct amendments to Bills before the House must rely on the services of the legislative draftsmen employed in Her Majesty's Attorney-General's Chambers who are available to discuss and draft proposed amendments, but they equally have many other duties.

He indicated that it would be his preference that a parliamentary draftsman be employed in the office of the Clerk of Tynwald to provide drafting assistance to members and that he would be writing to me on these matters. Subsequently the hon. member wrote to me reiterating the views which he had previously expressed in the chamber.

During that debate I undertook to consider the availability of the legislative draftsmen in Her Majesty's Attorney-General's Chambers to draft amendments on the instructions of members of the House. I therefore asked the Secretary of the House to write to the Attorney-General to seek his comments on both Mr Karran's difficulty and the service which is provided to members.

The Attorney-General indicated that on either Wednesday, 4th March or Thursday, 5th March the hon. member Mr Karran telephoned the legislative draftsman to make an appointment to discuss amendments to the Bill. The draftsman indicated that he was heavily involved with other work but made an appointment to see Mr Karran at 9.15 on Friday, 6th March. The hon. member was a little late for this appointment, by which time the draftsman

was in a meeting with another person who had made a prior appointment to see him. The hon. member was informed that the draftsman would be able to see him on the next working day which was Monday, 9th April and this was confirmed in a chance meeting between the hon. member and the draftsman on that Friday. The hon. member came to the draftsman's office on the Monday morning and the proposed amendments to the Bill were discussed. After the meeting the draftsman drafted the amendments which were then sent to the Clerk of Tynwald's Office.

There appears to be no substantial dispute between the hon. member and Her Majesty's Attorney-General's Chambers over this account of the events. I can say that the hon. member Mr Karran has had the opportunity to see the reply which was received from the Attorney-General's Office.

In his letter to the Secretary of the House Her Majesty's Attorney-General concludes that the legislative draftsman had, and I quote, 'done his very best to provide drafting assistance to the hon. Member at the earliest possible opportunity, taking into account the existing workload. I do not believe that anything further could be asked of a legal draftsman in these Chambers, or elsewhere.'

Now, hon. members, I have no doubt that the House will be inclined to accept this analysis and indeed in his letter to me the hon. member for Onchan, Mr Karran, did recognise the heavy workload of the legislative draftsmen in the Attorney-General's Chambers.

However, there does remain the issue of whether drafting assistance is sufficiently and readily available to members, given the pace at which legislation may be considered in the House and whether this should be addressed by parliamentary counsel being directly employed within the Office of the Clerk of Tynwald. Members will appreciate that this raises a somewhat wider issue and I intend to put that matter before the Keys Consultative Committee and also ask the Secretary of the House and Counsel to the Speaker for his views for the consideration of that committee.

Now, hon. members, the House will now stand adjourned until Tuesday next the 30th June at 10.00 a.m.

I would like to remind members that it is my intention to leave the lobby at 12.40 to attend the funeral of our chaplain on Thursday.

The House adjourned at 3.37 p.m.