

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 31st March 1998  
at 10.00 a.m.**

Present:

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

Secretary of the House.

*The Chaplain took the prayers.*

**Council Of Ministers Act 1990 - Question By Mr Cannan**

**The Speaker:** Hon. members, turning to our order paper, item 1, I call upon the hon. member for Michael, Mr Cannan.

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

*Have you exercised your powers under the Council of Ministers Act 1990 to assign a member as Minister for Health and Social Security?*

**The Speaker:** I call upon the member for Malew and Santon, the Chief Minister, to reply.

**Mr Gelling:** Mr Speaker, under the provisions of the Council of Ministers Act 1990 a minister shall, inter alia, remain in office until his or her successor is assigned. Now, as all members are aware, I am currently talking with members about their future roles in government and until that process is complete the hon. member of the Council, Mrs Christian, continues as Minister for Health and Social Security.

**Mr Cannan:** I thank the minister for his reply, and do I take it, therefore, that the present minister, who ceased to be a member of Tynwald on 28th February and was re-elected to the Legislative Council on 3rd March and is presently carrying on as minister during the interregnum, is currently a temporary appointment until such time, as is usual custom and practice, as the Chief Minister publicly announces that the minister will continue in office for the foreseeable future?

**Mr Gelling:** Mr Speaker, I know that the position cannot continue indefinitely, but having taken legal advice, obviously, on such an important matter, I am quite sure that there is justification for this period over which we are discussing with members their future roles and their positions within government. So therefore this is a position for which, if concern is being expressed by the hon. questioner and other members, well of course a reappointment could be made immediately.

## **Customs And Excise Agreement - Treasury Report - Question By Mr Braidwood**

**The Speaker:** Question number 2, hon. members, I call upon the hon. member for Douglas East, Mr Braidwood.

**Mr Braidwood:** Thank you, Mr Speaker. I beg leave to ask the Minister for the Treasury:

- (1) *Have you, since your appointment as Minister for the Treasury, received from within your department a report on the Customs and Excise Agreement; and*
- (2) *if so,*
  - (a) *has the report been submitted to the Council of Ministers; and*
  - (b) *will it be circulated to members?*

**The Speaker:** The Treasury Minister, the hon. member for Onchan, Mr Corkill.

**Mr Corkill:** Thank you, Mr Speaker. In respect of part (1) of the question, since my appointment as Minister for the Treasury I and my Treasury colleagues have considered the Customs and Excise Agreement on a number of occasions. As part of the ongoing monitoring of the agreement Treasury has considered and endorsed an internal Treasury-prepared document on the Customs and Excise Agreement which set out and updated the position since the report submitted and approved by Tynwald in 1994.

Subsequent to the consideration of the report the Island was caught up in the focus of attention of ECOFIN in its and the separate OECD harmful tax competition issue. This was later followed by the announcement by the Home Office of the Edwards review.

Treasury considers that it is not appropriate that the Customs and Excise Agreement be considered in isolation. The whole range of government taxation should be considered together. As announced in my budget earlier this month, the Treasury has set up a working party consisting of persons with expertise in both indirect and direct taxation. The terms of reference for the group is to consider the financing of public services for the new millennium which involves reviewing and considering taxation strategy for the future. It is Treasury's wish for the working party to submit a report by the end of this year.

With regard to the second part of the question, the internal report to the Treasury was submitted to the Council of Ministers and a presentation relating to the agreement was made by the Treasury and its staff. Following on from the submission the Council agreed to set up a sub-committee to consider how to progress the issue. The members of that sub-committee are the Chief Minister, the Minister for Local Government and the Environment, the Minister for Home Affairs and myself.

As to whether the report is circulated to members, that is for the Council to decide. However, as I have explained, there have been significant international developments since the report was submitted. It is the Treasury's view that it would be very imprudent to consider just one element of government taxation in isolation, even though of course it is a vitally important element.

**Mr Braidwood:** Mr Speaker, I thank the Treasury Minister for his reply but can he give me any indication when the sub-committee of the Council of Ministers are going to report?

**Mr Corkill:** I cannot give a date on this committee at the moment, Mr Speaker.

**Mr Braidwood:** Mr Speaker, would the minister not agree then that a review of the Customs and Excise Agreement is required by independent consultants who would examine and then advise Treasury on the implications of remaining in the Customs and Excise Agreement or allowing for flexibility or withdrawing from the same agreement?

**Mr Corkill:** Mr Speaker, the members of the committee that Treasury has appointed, I believe, are independent members of the private sector. They are well respected in their professions and I look forward to their comments with regard to the issue.

### **Small Businesses - Start-Up Schemes - Question By Mr Karran**

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

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for Trade and Industry:

- (1) *What start-up schemes for small businesses are operated by your department;*
- (2) *for what periods do these schemes provide assistance to individual businesses;*  
*and*
- (3) *what finance is available to support each of the schemes?*

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

**Mr North:** Mr Speaker, the discretionary financial assistance scheme which has been operated by my department for some 24 years can provide assistance to small start-up businesses, and records show that it has indeed done so on many occasions.

In 1996 the department introduced a start-up scheme specifically for small businesses which was approved by Tynwald and came into operation in January that year.

Assistance under the scheme is provided in a number of ways: first, through a period of training; then by the allocation of an individual counsellor or adviser to each business; and eventually by a weekly allowance of £50 per week for up to 30 weeks and a grant of up to £1500. The counsellor continues to monitor the progress of the business for 18 months.

Grants to industry are expected to amount to £3 million in the next financial year, while budgetary provision of £90,000 has been made in respect of the small business start-up scheme.

**Mr Karran:** Vainstyr Loayreyder, would the minister not agree with me that he must not confuse this House with what he gives out for large industrial developments that are coming to the Island and small businesses, and could he inform this hon. House, how long did the scheme actually last before it ran out of money last year?

**Mr North:** Mr Speaker, yes, the hon. member is quite right that last year, due to concerns that heavy subscriptions for the course would lead to an inability to keep within the allocated budget of £70,000, a decision was taken to suspend further courses and the awareness days and the training courses.

The problem was overcome by the allocation of funding from elsewhere in the department's training budget and both awareness days and training courses have resumed. Next year's budget, as I said, has been increased to avoid any occurrence of this problem.

**Mr Downie:** Mr Speaker, I would like to ask the minister, given that we have start-up schemes for small businesses, can the minister indicate to the House whether his department is still prepared to provide starter units or premises to enable these small businesses to become established?

**Mr North:** Yes, Mr Speaker, the two are totally separate schemes but, yes, my department is always reviewing the presence of starter units anywhere on the Island.

**Mr Karran:** Vainstyr Loayreyder, could the minister inform this hon. House is he going to review the grant that is available of £1500 to make it more realistic as far as trying to get people to start their own businesses, and could he just clarify that what happened last year was that after three months of operation the scheme ceased and there was no more money available or no money was given out to any firms wishing to try and get small businesses?

**Mr North:** Just to clarify that, Mr Speaker, the awareness days and the training courses were suspended between I think it was July and December and then restarted again in January, and we have, as I said, increased the budget for this next year so that hopefully there will not be a recurrence of that.

I think it is good to note that this scheme has been very successful, and the hon. member says will we consider the amount? Well, the scheme was developed after extensive consultation with organisations like the Prince's Trust and Enterprise in Mann, which is a local organisation, and in fact it is geared very much to be very careful not to over-grant moneys, so that people have to want to actually be very keen on starting these businesses, and they are monitored and in fact it is going extremely well.

#### **Film Industry - Question By Mr Downie**

**The Speaker:** Item 4, 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 Minister for Trade and Industry:

- (1) *What sum has your department spent to date on promoting the Island's film industry;*
- (2) *how many films have received financial assistance or been underwritten; and*
- (3) *what is the total amount of funding spent or underwritten on the production of films?*

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

**Mr North:** Thank you, Mr Speaker. Expenditure on promoting the film industry has been incurred by the department over a period covering three financial years. During 1995-96 the cost was approximately £3,000; in 1996-97 it was £13,300; and in the current financial year, 1997-98, the figure is £28,770.

Seven films were supported under the two transferable tax credit schemes approved by Tynwald in 1995 and 1996 which involved the granting of non-repayable tax credits totalling £2 million and loans amounting to £600,000. From 1997 to date a further nine films have been assisted through the amounts allocated in the department's capital budget and operated as the Isle of Man Film and Television Fund. Members will recall that under the new scheme our intention is to recoup the funding provided so that it can be reinvested rather than simply relying on the benefits to the economy which the industry generates, as was the case with the tax credit scheme.

The total amount of funding allocated to these nine film projects is £6.2 million and this is split into loans, production credits and gap finance fees paid out this year totalling £1.9 million, guarantees which fall due to be called next year of £900,000, and a further £3.3 million in respect of guarantees and fees due in the financial years 1999-2000.

All of the expenditure incurred and obligations entered into in respect of future guarantees can of course be met in full from the budgetary allocations approved by Tynwald, which are £3 million for 1997-98 and a similar amount for the next two years. Amounts paid out in loans under the fund are recoverable from the proceeds of the sale of the film, while the level of exposure under a guarantee will reduce as sales are achieved, so that any amount payable is expected to be considerably less than the original commitment.

**Mr Downie:** I would like to ask the minister, does his department have an accurate or independent method of assessing the financial success of a particular film or any other performance indicator available?

**Mr North:** Yes, Mr Speaker, the department not only uses our consultants at Ernst & Young on the financial aspects but in particular Mr Steven Christian who has become somewhat of an expert, recognised in the industry not just in the British Isles but elsewhere, but also when we look at a film we check with professionals in the industry, the sales agents, and we do not enter into the arrangement of a film unless we have a sales agent in place.

**Mr Downie:** Mr Speaker, I would like to ask the minister what checks are currently in place to ensure that all payments due are satisfactorily concluded following the completion of any film funded by your department or the Film Commission?

**Mr North:** Mr Speaker, basically for any film that starts on the Island we insist on a completion bond to ensure that the public funding is secure in that film, so that if the film is not completed we are not throwing any public money away.

As far as the other films that are completed are concerned, there has, as the hon. members are aware, been a recent incident of a film over Christmas where they left owing several bills and in fact there were many cheques that were presented and were not honoured by the bank and the department, at this particular time, is actively negotiating to try and ensure that the payment of local creditors is forthcoming.

**Mr Rodan:** Mr Speaker, can I ask the minister if he is aware of the incentives that are being put in place by the British Government to support the British film industry and indeed that many local authorities the length and breadth of England, Scotland and Wales are putting in place their own local authority incentives to attract the film industry to their areas? Does he see this as a challenge to the Manx film industry?

**Mr North:** Mr Speaker, the film industry is a highly complex one. It is extremely difficult to operate in on the financial side, as we have witnessed over the past two or three years, and certainly it is a highly competitive industry, and I do know that the UK Government is trying to encourage British films, and I should point out under this one that we are actually part of the British film industry and on the Island last year in our particular budget range of \$3 million to \$5 million worth of films the Island completed something over 10 per cent of the total films in the British Isles.

**Mr Duggan:** Mr Speaker, could I ask the minister could he enlighten the House regarding VAT receipts? Do we not do very well out of the VAT?

**Mr North:** Mr Speaker, the receipts from tax within the Island are very much to the benefit of the Island.

### **New Hospital - Expenditure - Question By Mr Cannan**

**The Speaker:** Question 5, hon. members, and I call upon the hon. member for Michael, Mr Cannan.

**Mr Cannan:** Mr Speaker, I ask the member for Health and Social Security:

- (1) *What is the total amount of expenditure to date, relating to all aspects of the new hospital;*
- (2) *what has been achieved to date by this expenditure in the development of the new hospital; and*
- (3) *will you provide members with*
  - (a) *an itemised account of this expenditure, itemising all items in excess of £10,000, and*
  - (b) *a quarterly revised account of such expenditure on the new hospital, itemised in the same manner?*

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

**Mr Karran:** Vainstyr Loayreyder, as far as the first part of the question is concerned, I can advise the hon. member that the total expenditure on the new hospital project at 27th March 1998 was £7,274,470.96.

In terms of what has been achieved to date, the hon. member will appreciate that a substantial amount of the expenditure has been taken up by the planning process, including, for example, design fees, client team costs, an environmental assessment study, and a public inquiry.

In relation to the site work, this is steadily progressing and there has been some movement as far as the enabling works are concerned, such as the drainage, the outfall, site access, service diversions, bulk excavation, stone carpet layer, soil mounding and tree planting.

Turning to the third part of the question, I am unable to provide any assurance with regard to what the hon. member is seeking. In principle the issue would need to be discussed with the Treasury in the context of the government financial regulations and capital

procedures, and also to give consideration to the question of commercial confidentiality as well.

**Mr Cannan:** A supplementary, Mr Speaker. I thank the hon. member for the answer to the first part, that almost £7.3 million has so far been spent on the hospital, and what has been achieved. In relation to the third part, is the member, together with other departmental members, advised at least on a monthly basis on the progress and cost of the new hospital and will the member give unequivocal confirmation that the new hospital is an item for discussion on the agenda at each and every full departmental meeting, so that at least departmental members know the monthly cost and progress of the hospital?

**Mr Karran:** Vainstyr Loayreyder, I think that that is a reasonable request and I will take that back to our department and I am sure that we will take on board that point. I think that if the hon. member wants a breakdown of the costs that have been achieved at the moment as far as the £7 million is concerned, I can circulate this hon. House or I can read out the breakdown if the hon. member wants it.

**Mr Cannan:** A supplementary to the member's reply. Is the member, in response to his reply, confirming what I asked, that up to date the new hospital has never appeared on a departmental meeting agenda, has never been discussed by departmental members, departmental members have no knowledge of the monthly expenditure or monthly progress? And I would advise caution in the reply because the agendas may have fallen off the back of a lorry.

**Mr Karran:** Vainstyr Loayreyder, the hon. member is quite within his rights and obviously his sources must be quite reasonable within the department as far as this is concerned. (**Mrs Crowe:** Yes!) The fact of the matter is it is not. I actually think that it is an important fact that it should be. But I can assure the hon. member that the issue has been raised, in fact it is not so many weeks ago that I requested a meeting with the Employers Federation because of my concerns, and that facility is there.

But I think the point of it being on the agenda of our department meetings is a very good one and a very worthwhile one, and I am sure my minister will take that on board to make sure that all department members are fully aware of what is going on.

### **Noble's Hospital - Night Emergency Centre - Question By Mr Downie**

**The Speaker:** Item 6, 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:

*Does your department intend to operate a night emergency centre at Noble's Hospital which will be staffed by a rota of general practitioners?*

**The Speaker:** Again I call upon the hon. member for Onchan, Mr Karran, to reply.

**Mr Karran:** Vainstyr Loayreyder, it is as a result of discussions with the GPs' groups and the Isle of Man Medical Society over the last 12 months and the response to their concerns about the out-of-hours provision that the department has agreed to pilot a night emergency treatment centre based at the day hospital at Noble's Hospital from 1st July for six months.

I should stress that this initiative was generated by the Isle of Man Medical Society and is aimed at streamlining the out-of-hours medical services in the interests of the general practitioners, the GPs. Having regard for the existing onerous on-call commitment, at the same time offering patients full general medical support in a unit specially resourced for this purpose should be an improvement.

The pilot will mirror the long-standing arrangements that have been in the north of the Island where patients registered with the Ramsey Group Practice are provided with emergency services through the contract of the on-call general practitioner based at the Cottage Hospital.

A co-operative of GPs on the Island will be established, involving 26 GPs from the Douglas, Peel, Ballasalla and Castletown areas, who will offer, by appointment, treatment for emergencies in the centre between 7 p.m. and midnight weekdays, and on the weekends, from 12 noon on Saturday all day and all day Sunday. The duty doctor will either see patients at the centre, if necessary, or offer telephone advice and arrange for a home visit based on clinical assessment.

The details of this proposal will be advertised in the near future.

**Mr Downie:** Mr Speaker, I would like to ask the member, is he aware that since the introduction of a general practitioner-operated out-of-hours service in the United Kingdom much cover has had to be provided by junior doctors employed at the hospitals and in some cases locum doctors have also had to be employed to bolster the service? Is the member satisfied that enough thought and consideration has been given to introducing this type of service into the Isle of Man?

**Mr Karran:** Vainstyr Loayreyder, the GPs wanted this service in months ago. We have done our best to hold back until we were fairly sure we were on reasonable ground.

It actually costs the department an extra £42,000 a year to provide this service.

We have reluctantly had to agree to the proposal at the present time. We have given it a six-month pilot scheme. If standards are not maintained, then obviously at the end of that six-month period the scheme will not get the support of the employer of the GPs, namely the department.

**Mr Singer:** Mr Speaker, in just saying that this is a pilot emergency scheme can the hon. member tell me what is going to happen after midnight, whether the doctor will then go to visit the patient at home, and under the scheme that is proposed, and he says that it will extend to Ballasalla, if necessary will the doctor go from Noble's Hospital to Ballasalla to visit the patient, and is it satisfactory in his view that a doctor from a practice other than from the patient's and therefore with little knowledge of the patient's history and with no direct access to the patient's records should be asked to treat that person?

**Mr Karran:** Vainstyr Loayreyder, the practice nurse will be on till 12 o'clock. There will be a relief GP on as well. There will be a GP and there will be a fall-back position of a second GP if there is excessive work to be done.

As far as the question of the hon. member goes about knowing your patient by your GP, there is still an 80 per cent chance in many practices that you will not get the GP that you deal with in the daytime if you specifically ask for the one GP anyways, to be fair. I admit that the opportunity will be even less under this scheme of actually being lucky enough to be sick at

the same time as your GP will be on, but the fact of the matter is that the present arrangements are not satisfactory at the present time, if the truth be told, because you have got to remember you have a lot of people out there that do not call the doctor because of them being very responsible and often leaving it, not too late but leaving it longer than they should do. With the opportunity of this centre it will mean that those who want to will feel more obliged to come into the centre and get their illness checked over quicker.

**Mr Downie:** Mr Speaker, could the member confirm then that if a person takes ill at home at night, or they have an accident in their home at night, or they have a bad cut, and they present themselves to Noble's Hospital, without this system being in place they will still be seen by a doctor and they will still be given medical advice about their particular condition?

**Mr Karran:** Vainstyr Loayreyder, the position at the present time is you ring up your doctor and your doctor will do an assessment over the phone of whether he feels that he should come out or he should not come out. The position is that I feel that you would more likely find that if this is resourced properly, and I hope it is resourced properly, it will mean that the people that genuinely need a home visit will get a home visit.

As far as any concerns over emergency go, obviously if it is an emergency you would get on to the emergency services first. If I had somebody who had a severe cut and was bleeding badly I would make sure I that I would get on to the emergency services, and I would hope that the image is not given outside this hon. House not to do so, because I think it is important, especially if people are having heart attacks, that they should get on as soon as possible.

**The Speaker:** Hon. members, the House clock has gone past half past ten, I call upon the hon. member for Douglas West, Mr Downie.

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

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

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

**The Speaker:** Agreed, hon. members?

**Members:** Agreed.

### **DHSS - Personnel - Question By Mrs Cannell**

**The Speaker:** We then turn to item 7 on our order paper and I call upon the hon. member for Douglas East, Mrs Cannell.

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

*Are you satisfied that you have the personnel to provide the services for which your department is to receive funding within the 1998-9 budget?*

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

**Mr Karran:** Vainstyr Loayreyder, if the hon. member is referring to the fact that my department has been allocated 44 fewer whole-time equivalents in the 1998-99 personnel budget control, then we would have to agree with the hon. member that we are not happy with

that proposal at the present time, but indeed my minister made reference to this very issue recently during her speech in the budget of March this year.

Having said that, there are other areas providing services, even core services, which are not employed by direct labour. Some more obvious examples within the health services would include the general practitioners, the dentists, the opticians, the pharmacists. Obviously one other area that is particularly well known in the hospital services is patients who are sent to the United Kingdom for specialist treatment not available on the Island. This work is done by UK doctors and nurses and not done as part of our personnel budget controls.

It is also important to realise that there are other areas where we have work done on an agency basis, such as in social services, by contractors such as the National Children's Home and Age Concern, and of course in social security the use of post offices as contractors for the payment of various benefits and allowances.

The challenge which the personnel control process presents to my department and to other departments and boards of government is reviewed within a balance between what we can do ourselves directly employing those by the department and by using contractors to use their experience that sometimes can be provided on a more efficient basis.

I would hate this question to be seen that there is some move or hidden agenda within my department that we are trying to privatise anything. Nothing could be further from the truth. Obviously different areas have to be reviewed to make sure that the taxpayers get value for money, but there is no hidden agenda from my department.

**Mrs Cannell:** Mr Speaker, I thank the hon. member for his reply, but can he advise this House what precisely the services are for which his department has received budgetary provision? Exactly what services is the department hoping to provide, irrespective of whether it is within the department or outwith, an agency?

**Mr Karran:** Vainstyr Loayreyder, most of this information would be in the budgetary books, but there is a permanent duty team childcare social worker, weekend cover; a social worker fostering pre-children's service plan; a senior house officer surgeon to do the orthopaedic surgery rota; an ambulance control assistant to ensure cover for peak times; a senior nurse, child protection nurse; community nursing health visitors, two of them; four full-time improved staffing levels in residential homes; one for the twilight nursing service; 1<sup>1</sup>/<sub>2</sub> personnel officer and complaints officer, half of that amount; one worker for disability to increase the service to match the increase in demand; there is a dietician; a social worker for old people; an occupational therapist; a physiotherapist for paediatrics, a physiotherapist to cover holidays; a cardiac rehabilitation specialist; a plastic surgeon, part-time that is; a visiting consultant for sexually transmitted diseases; a speech therapist; reception staff for holiday cover at the accident and emergency; an increase in outpatients staffing demand; a hospital risk manager and secretary, 1<sup>1</sup>/<sub>2</sub> posts. I am sure if the hon. member wants any more information I can circulate the hon. member and this hon. House if she would like any more information on this subject.

**Mr Singer:** Mr Speaker, could I ask the hon. member, is it possible to give me some idea of the anticipated number of agency nurses that your department are likely to employ at any one time during the year to make up for the shortfall of nursing personnel?

**Mr Karran:** Vainstyr Loayreyder, I do not have those figures in front of me at the present time. As the hon. member will be aware, one of the things that I have been battling to get in is the reintroduction of pre-registration of nurses. I do not see that as being the be-all and end-all, but I do believe that that will help the present shortage of nursing staff that we have. I think people should remember that this national shortage is not just a Manx national shortage, it is a United Kingdom national shortage as well.

So if the hon. member would like those details of how many nurses there are I am sure that I could get them and circulate hon. members at a later time.

**Mr Downie:** Mr Speaker, given that the member has indicated that he would be willing to indicate the number of key positions currently filled by agency staff, would the member also indicate if he would be prepared to give to the House the additional cost to the DHSS of employing agency staff so that we can assess ourselves where this additional revenue is having to be found, where, quite rightly in my opinion, money should be put into training nurses on a local level?

**Mr Karran:** Vainstyr Loayreyder, I think it would be wrong of this House to get the impression that, as soon as I get my training school going again, somehow I am going to resolve the problem of the shortage of trained staff. The problem will still be there for a number of years to come.

As the hon. member is aware, I have a lot of sympathy with the member for Douglas West over the costs that are involved in taking on agency staff. It is not something that is unique to staff. There are other major employers of work within government where they are charged out to something like £18 an hour and their staff are only getting £4 an hour. This is something that is actually being reviewed and looked into at the present time, but that has nothing to do with the hospital services in that particular case.

The hon. member will appreciate that if there is a clinical need for these staff we have got to employ them in order to maintain standards within the health service.

**Mr Brown:** Mr Speaker, I wonder if the hon. member for Health could confirm how many new posts were agreed in this year's budget for the DHSS out of the total of 120 new posts for the whole of government?

**Mr Karran:** Vainstyr Loayreyder, we were given an extra 32 whole-time equivalents. Admittedly this is 44 less than what we bid for, but at least it is a substantial amount and I would have to concede the fact that we more likely got more than any other department within government, but then we do spend something in the region of about 50 to 60 per cent of the government's resources anyway.

**Mr Cannan:** To the hon. member for Health, in view of the fact that the member has admitted that the progress and cost of the new hospital have never been discussed at departmental meetings, can the member inform me if this matter of personnel and funding has been discussed fully at departmental meetings and a proper policy agreed to be presented to this hon. House, in view of the answers he has given me this morning?

**Mr Karran:** Vainstyr Loayreyder, I can assure the hon. member that this issue has been in front of us on several occasions as far as this is concerned. It is a matter of priorities. There are issues that we are going to address this year that we have been concerned about for

several years, so the issue does come up on a regular basis as far as our personnel requirements are concerned, because the hon. member will appreciate that there are three divisions within the department vying for the staff allocation of these posts, so it comes up on a very regular basis and I can assure the hon. member that that is the case and the priorities have to be hit out amongst the members as far as who gets what.

**Mr Cretney:** Mr Speaker, I may have misheard the hon. member in his response. Did he indicate that the department has been or will be successful in obtaining a child psychiatrist as part of its personnel requirements, because I understand at least two reports have indicated a need for such?

**Mr Karran:** Vainstyr Loayreyder, I can assure the hon. member that we have got the personnel agreement for the posts concerned. The problem we have is getting a suitably qualified person to fill the post within the Island. This is one of the biggest problems that we have with many of our posts. It is a problem that if you are coming to the Island and you are wanting to go places, you would find that coming to the Island many of them view as a cul-de-sac, even though I think many, when they do come to the Island, would not go away again.

**The Speaker:** I think a final supplementary, hon. members, the hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Mr Speaker, I thank the hon. member for providing to this House a detailed list of those particular services for which budget provision has been given, but would he not agree with me that most of those positions, those personnel posts which his department cannot fill, would normally, under customer practice, have been fulfilled within the National Health Service on the Isle of Man and would not have normally, under normal circumstances, have been sought from the private sector, and is he satisfied that his department will be able to expend all of this budget in relation to the provision of these particular services in that does he believe that he will be able to engage private personnel in order to deliver such services?

**Mr Karran:** Vainstyr Loayreyder, as far as the hon. member is concerned, if she is saying that we are going to go out wholesale to get staff on a private basis, I can assure the hon. member that is not the case. It would be wrong of me, as much as I do not need any lessons from anybody in this hon. House to try and protect the standards of living of the working man. I have to be fair and there are occasions where issues are provided on a more productive basis from outside government resources. I have already told the hon. member that there are certain areas where this has happened, where I am appalled at the mark-up of the hourly rate to what the worker is getting, with no pension rights and nothing else, and that is being looked at at the present time.

If the hon. member has any more concerns as far as this issue in front of us at the present time, I am happy to have the hon. member come up to Crookall House and discuss it further.

**The Speaker:** Now, hon. members, that concludes the question part of our order paper.

### **Election To The Legislative Council**

**The Speaker:** Hon. members, as politicians we must all be very, very well aware that elections are all about making choices, and before we commence item 8 on our order paper this morning I would remind us all that there is a clear statutory duty, within 14 days from the

date on which the elected Members of the Legislative Council go out of office at the expiry of their terms, to elect members to fill those vacancies. This morning is our third attempt to try and successfully complete our statutory duty.

I was concerned at our first attempt when there was on one occasion nine spoiled papers. I acknowledge that it is the only procedure open to members who may be dissatisfied with the candidates or wish to indulge in tactical voting. However, as I have indicated, this is our third attempt and, members, you have had ample opportunity to propose such candidates as are considered suitable to make that choice.

Let us try to fill our responsibility and we turn then to item 8 on the order paper, which is the election of one person to serve as a Member of the Legislative Council for a period expiring on 28th February 2003. I call upon the hon. member for Ayre, Mr Quine.

**Mr Quine:** Thank you, Mr Speaker. I have the pleasure, sir, to propose Mr Adrian Carlos Duggan, the hon. member for South Douglas, to be a Member of the Legislative Council.

In a Member of the Legislative Council we should be seeking, I would suggest, a person with a sound knowledge of the legislative process and government affairs. We should also be seeking a person close to the man in the street, for such a person is surely better placed to offer a value judgement on legislative and government issues. Unquestionably Mr Duggan fills the bill in that regard.

Mr Duggan has been involved in politics for more than 20 years, initially in Douglas Town Council and latterly as a member of South Douglas. During the 17 years that Mr Duggan has served in this hon. House he has successfully contested four general elections. The public endorsement of Members of the Legislative Council and the broader issue of the elective process has been an issue in recent times, but surely public endorsement, public acceptability, is not an issue with Mr Duggan.

The hon. member for South Douglas has had considerable exposure to the legislative process, not only having taken Bills, but having served on committees of this hon. House.

Few in this hon. House have a longer and more expansive knowledge of government affairs than Mr Duggan. He has served on the Local Government Board, the Board of Education, and in the past and presently as a member of the Department of Home Affairs. In Mr Duggan we have a past Chairman of the Water Authority, chairman of the Assessment Board, chairman of the Building Trades Council, and Vice-Chairman of the Board of Consumer Affairs. Again, Mr Duggan has very considerable knowledge and experience and those would be invaluable in the scrutiny of government policies and activities: another function of the Legislative Council. There is acknowledgement of this fact, given that Mr Duggan currently serves on the Committee of Expenditure and Public Accounts.

I think that it is also relevant that consideration be given at this time to the fact that we have the future of the Council before us and Mr Duggan quite clearly has made his position clear in that regard and recognises the need for reform of the Council.

In Mr Duggan we have a long-serving member of this House, a candidate well suited to be a Member of the Legislative Council. Not only has he the experience and knowledge, but that all-important acceptance by the public, and that, I believe, is very important. Mr Speaker, I

am very pleased to commend Mr Duggan to the hon. members of this House for membership of the Legislative Council. Thank you, sir.

**Mr Houghton:** Mr Speaker and hon. members, it gives me great pleasure to second the nomination of the hon. member for South Douglas, Mr Duggan. I see no need to repeat the remarks of the nomination from the hon. member for Ayre. I would, however, wish to endorse all that he has said, with particular regard to the time-served experience and undoubted qualities this candidate will provide in another place. Indeed I have no doubt that the majority of the public will also endorse this elevation to the Council. He has the confidence of his public and I see no reason why he should not have the fullest support of this House. Thank you, sir.

**The Speaker:** The hon. member for Rushen, Sir Miles Walker.

**Sir Miles Walker:** Thank you Mr Speaker. I am once again privileged to nominate as a candidate for election to the Legislative Council, Mr Robert Brisco MacGregor Quayle.

I have to say, Mr Speaker, I agree with your remarks that elections are about choice, and so when Robert Quayle was approached to see if he would allow his name to be put forward, he readily agreed and I am deeply appreciative to him for that. That was my view when I first nominated Robert as a candidate and I repeat it today.

It is my belief that Robert Quayle has a background, has interests and his attitude make him an ideal candidate to fill the vacancy in the Legislative Council. Mr Speaker, for the record, I wish to repeat the words I used in his nomination on 16th March, sir.

Serving this House as its Secretary and as Clerk of Tynwald for a little more than 10 years in what I believe was a very acceptable way, Robert Quayle exercised a particular skill in building personal relationships with parliamentarians both here and throughout the world and he enjoyed a particular interest in the work of the CPA. The success of our millennium in 1979 was due in no small way to the energies and interests of Robert Quayle as Secretary to the Tynwald Committee.

Mr Quayle left behind his parliamentary responsibilities in 1987 to serve as the first resident partner of Travis Smith Braithwaite, a firm of English solicitors. Since resigning as resident partner Robert has involved himself in the commercial life of this Island and holds directorships in a number of our leading companies and which he has listed in his letter to hon. members. That letter he wrote on my suggestion and at the end of it invited any member who required further clarification or wished to speak to him on any matter to do with his candidature to give him a ring or otherwise get in touch.

Any attempt of mine to describe Robert Quayle's wish to serve the people of this Island would be bound to fall short and I can do no better than list once again some of the involvements that he mentioned in his letter to members dated 10th March 1998. At various times he has been involved with the Salvation Army Advisory Council, the Manx Foundation for the Physically disabled, the Life organisation, the Scripture Union in Schools. Until 1997 he was acting chief executive of the Manx Blind Welfare Society. He has been a Methodist local preacher and is now a lay reader in the parish of Patrick, St. Johns and Foxdale. He is clerk to the Patrick Parish Commissioners. He has served on two committees of inquiry into the Isle of Man prison and is currently chairman of the Work Permit Committee. And anybody that knows

Mr Quayle will know that he has taken part in all those organisations in a very full way and not half-heartedly, as that is not his approach to anything that he is asked to do.

From that long list of interests I am sure it is clear that Robert Quayle's interest in our local community is a very real one. He does enjoy the support of his wife Clare. He has five children and is a committed family man. Obviously a busy person, he is well organised and, to my mind, well equipped to serve as a Member of the Legislative Council if so elected.

Mr Speaker, I have the greatest of pleasure in nominating Mr Robert Brisco MacGregor Quayle as a candidate for election to the Legislative Council and just repeat that I am deeply appreciative to him for allowing his name to be put forward once again. I beg to move.

**Mr Gilbey:** Mr Speaker, I have very great pleasure in seconding the proposal that Mr Robert Quayle should be elected a member of the Legislative Council, for the following reasons.

Firstly, as I pointed out previously, it will mean that once again the west of the Island will be represented in the Legislative Council, which it used to be in the past.

Next, Robert Quayle is someone who really believes that to govern is to serve. This has been made clear from his biography, his letter to hon. members and the recent words of Sir Miles, the hon. member for Rushen. He has indeed served the community in one shape or another for the whole of his working life. I also personally believe that his wide business experience will be of the greatest value anywhere that he goes and would be of great value to the Legislature and the government. Also he is unique in having considerable parliamentary and legal experience, legal experience of which another place is certainly short.

Finally, I am certain that he is not a person to join any clique, but someone who would speak and vote regarding each issue according to his personal view of the merits of the case, and for all these reasons, Mr Speaker, I have the greatest pleasure in seconding his nomination.

**Mr Bell:** Mr Speaker, it gives me very great pleasure to nominate Mr Richard Radcliffe of 12 Park Road, Ramsey.

Mr Radcliffe is currently a leading member of Ramsey Town Commissioners, having been first elected in 1984. Although he has never stood for election to the House of Keys, Richard has been elected on five separate occasions to the Ramsey Town Commissioners and has a well-established electoral base in the town to support his nomination in this election.

During his time as a member of the commission he has proven to have a keen and enquiring mind, closely scrutinising all aspects of the commissioners' activities. He currently serves as chairman of the commissioners' Finance and General Purposes Committee, a position he has held since 1986, with the exception of the year 1994-95 when he was chairman of the board. Although his leadership qualities and financial abilities have kept the town's finances on a sound basis, he has also shown an independent spirit, which has added considerably to the quality of political debate.

Mr Radcliffe comes from a well-known Ramsey family and is married with one daughter. His career path led him into the Isle of Man Bank in 1971 and he is currently employed as investment manager for Mees Pierson (Isle of Man) Ltd and his experience with these companies has given him a sound knowledge of the workings and problems of the finance

sector. I believe that this experience is particularly important at the present time, bearing in mind the external pressures which are currently being exerted on our major revenue industry. Should he be successful in being elected today, it is his intention to reduce his involvement with Mees Pierson commensurately.

Mr Radcliffe is well known in sporting circles within the Island, having competed in the London marathon on several occasions and raising considerable sums of money for charity in the process. He is also an active member of the Northern Athletic Club and the Isle of Man Veterans Athletic Club and is currently a class 1 football referee. As a result of his enthusiasm for Manx sport he has been appointed a director of the Sports Aid Foundation and is also a member of the Mann 2000 Events Committee. Locally he is involved in charitable work through his membership of the Ramsey Endowments Committee and the Ramsey Charitable Trust.

I believe that Mr Radcliffe would make an excellent Member of the Legislative Council because of his wide experience in both business and in local government. Having won five elections to the Ramsey Town Commissioners, he has demonstrated a clear and consistent level of public endorsement for his policies and his abilities for nearly 14 years, never having lost an election.

Aged 43, Mr Radcliffe will bring a fresh perspective to both the proceedings of the Legislative Council and to Tynwald at a time when the future of the Council is undergoing a review and I believe that his commitment to reform will enhance the level of debate on that issue. I therefore, Mr Speaker, have no hesitation and great pleasure in proposing Mr Richard Radcliffe for the election to the Legislative Council.

**Mr Corkill:** Mr Speaker, it also gives me great pleasure to be able to second the nomination of Mr Richard Radcliffe whom I have known for many years.

In general I do believe that Members of the Legislative Council should come from the Keys, but not necessarily exclusively. This hon. House has so far failed in its duty to elect a person to the vacant seat, so I have concluded that the Keys has exhausted the options from within itself, albeit that there are many differing standpoints and reasons as to why hon. members have voted in the way they have done so, and I fully acknowledge your opening comments, Mr Speaker.

So I am pleased that Mr Radcliffe's name is before us today because I know him to be a sound individual with the interests of the people of the Isle of Man central to his thinking.

As a Manxman working within the financial services sector, he can bring to Tynwald Court a background which some might say to some extent is under-represented. But more importantly, added to that, he has been keenly involved in local authority politics and I believe, and in fact I know, he is close to the people. He is young and enthusiastic, yet diligent. One might also say that he is brave in that he has allowed his name to go forward despite the deadlock that has occurred in recent weeks, and I thank him for allowing his name to go forward.

As a fresh entrant to the election, I would commend Richard Radcliffe to this House and ask hon. members to be supportive with their vote. Hon. members, if Mr Radcliffe is elected,

you will not be disappointed with his open-minded, caring approach and dedication to serving people. Of this I can assure you.

**The Speaker:** Now, hon. members, we have had prepared ballot papers with just the three names on. Is that acceptable to this hon. House?

**Members:** Agreed.

**The Speaker:** In that case, hon. members, we will circulate the ballot papers. I would repeat, hon. members, that the election is of one person to serve as a Member of the Legislative Council for the period expiring on 28th February 2003. Has every member got their ballot papers? Those nominated are as printed on your order paper. May I again ask the hon. member for Malew and Santon and the hon. member for Middle, Mr North, to act as the tellers, please?

*A ballot took place.*

**The Speaker:** Hon. members, the result of the ballot is that Mr Duggan received 9 votes, Mr Quayle received 2 votes, and Mr Radcliffe received 8 votes. That being the result of the ballot, hon. members, in this instance Mr R B M Quayle's name will be dropped off the list and we will vote again on the two candidates, Mr A C Duggan and Mr R Radcliffe. Distribute the ballot papers, please. On that occasion, hon. members, there were four spoiled papers. The ballot, hon. members, is between Mr Duggan and Mr Radcliffe. Can I ask the same two tellers to continue with the counting, please?

*A second ballot took place.*

**The Speaker:** Hon. members, the result of that ballot was that Mr Duggan received 9 and Mr Radcliffe received 10. There were again four spoiled papers. Hon. members, I think we will ballot yet once more on Mr Duggan and Mr Radcliffe. Two names, hon. members, Mr Duggan and Mr Radcliffe: a final ballot. Has every member got their ballot paper? The same tellers then, please.

*A third ballot took place.*

**The Speaker:** Hon. members, the result of the ballot is that Mr Duggan received 10 votes and Mr Radcliffe received 9 votes. In that case, hon. members, we have again failed to fill the position. I will call for new nominations by Friday, 17th April, 5 p.m. and the House will sit at 9 a.m. on 28th April. The single item on the order paper will be the ballot for election to the Legislative Council.

**Mr Cretney:** What was the date, Mr Speaker?

**The Speaker:** In advance of Tynwald: we will sit at 9 o'clock on 28th April.

### **Street Traders (Amendment) Bill - Second Reading Approved**

**The Speaker:** Hon. members, we then turn to item 9 on our order paper, the Street Traders (Amendment) Bill for second reading, and I call upon the hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Mr Speaker, hon. members, the Street Traders (Amendment) Bill 1998, the principle of which is before hon. members for consideration today, is aimed towards providing

improved and enhanced powers for a local authority to better regulate the carrying-on of trades by itinerant traders who operate on open spaces.

The Bill has been brought about due to a deficiency in the Pedlars and Street Traders Act 1906 which provides for regulation only when such traders seek to operate on a public highway or thoroughfare. The Act does not provide for those traders who, after making a transaction with a private landowner, then set off and operate from such private land, there being no requirement to seek a trader's licence nor a licence issued by the Board of Consumer Affairs when such a trader sets up an Isle of Man company. The amendment Bill seeks to address this deficiency in catching those who would use the loophole in the present system to the detriment of Island bona fide traders.

The Bill requires for persons trading on open spaces to obtain a local authority licence, the application of which will be subject to the following provisions. The local authority shall consult with those persons who it appears may be substantially affected by such trading, and there will be kept by the local authority a register of street traders' licences issued, which register will be open to inspection at any time during ordinary office hours.

The Bill extends the street trading controls from town and country village districts to include all local authority districts.

The Bill also provides for exemptions in respect of trading for the benefit of charities and non-commercial trading and other cases which are prescribed by the Department of Trade and Industry.

Under the Bill local authorities can prescribe fees by means of byelaws which can vary from a licence which may run for one month or exceeding one month. This provision was felt to be important in order to facilitate those traders who wish to operate for a short period of time.

Enforcement officers are also given the right of entry onto open space in order to make an inspection of such licences, and the local authority have had their byelaw-making powers extended.

The Bill, and the proceeding draft Bill, has been out for comment to all local authorities, including the parishes, and has met with approval, and the Bill has been adjusted following comments made by the local authorities. All trading associations and the Isle of Man Chamber of Commerce have also been consulted. The Bill has found much support. The Department of Local Government and the Environment and the Department of Trade and Industry have given the Bill their blessing, as have the Board of Consumer Affairs.

The Bill is not expected to increase government expenditure, nor to reduce the income of government.

I wish to place on record my thanks to all the local authorities and traders' associations for their support and helpful contributions, and the two government departments, the trade and industry department and the local government and environment, and the Board of Consumer Affairs and in particular to Mr Ken Kinrade from the Board of Consumer Affairs for his valuable assistance and advice in the preparation of this Bill.

I beg to move, Mr Speaker.

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

**Mr Duggan:** Mr Speaker, I fully support this Bill because you get people, for instance coming over TT week, and they get a clean sweep, hardly paying any taxes, meeting little in the way of hygiene regulations, they set up overnight in the countryside and they are here today and gone tomorrow, and, as I say, it is not fair on the local people who are paying rates and taxes. I fully commend this Bill to the House.

**Mr Downie:** Mr Speaker, I rise to speak in support of the Bill. It is quite obvious that anyone who knows how the town of Douglas operates at the moment will be aware that for over two years now there have been certain sites in Douglas occupied by hot dog vendors and people selling hamburgers and other things, not just at TT time, but on a 52-week-a-year basis, and unfortunately there has not been the proper legislation in place in the past to deal with them in a proper manner. I think this Bill will address this particular issue and it will allow the local authority to take some action and bring this unfortunate occurrence which is in the town now to some satisfactory conclusion. I fully support the Bill.

**Mrs Crowe:** Mr Speaker, whilst supporting the principles of the proposed legislation, I do feel that there must be some facility for appeal in all legislation of this type and I shall be bringing forward an amendment at the clauses stage.

**Mr Singer:** Mr Speaker, I am pleased to support this Bill because it will protect both the genuine retailer and the consumer. The fly-by-night traders who know how to work the system use the large gap in the present legislation to make major profits for themselves, with little regard for the public's rights or with any conscience or care of the harm that they are doing to the retailers of this Island who trade in the good times and the bad to provide a genuine service to the general public.

It is a responsibility of government to encourage our retail trade, and this Bill will help that support to be positive because it will make it difficult for an itinerant trader to cream off the profits in the busy trading periods and then disappear off the Island with those profits, and any move to halt their vampiric activities must be welcomed.

Many of us in this hon. House have been or are in the retail trade and we know how the turnover has to increase at certain times of the year in order to make the business viable, and if the counter takings do not increase at Christmas, in the summer holiday period or particularly at TT, then the business viability and the jobs of employees are put at risk. So how could anyone condone the situation where an itinerant trader can set up on private land with the agreement of the owner of that land, pay no licence fee, possibly be right next to or opposite a genuine trader and basically create the possibility of closing a business which the general public rely on for all the remainder of the year? At last the local authorities - and not only Douglas is involved but anywhere on the Island where special events are held - will no longer be powerless to protect the rights of their ratepayers.

I would have been extremely surprised if any of the Island's business associations had not been 100 per cent behind the spirit of this Bill's intentions, which are to protect the members' rights and livelihoods. I believe it is extremely important to remember that this Bill will protect the genuine licensed street trader who would obviously wish to be distanced a long way from the predatory intentions of the unlicensed opportunistic traders.

I suppose I can sum up my support of this Bill with a story about the dodgy trader trying to convince a customer that he was totally genuine and that there was no risk to the purchaser. 'Madam,' he said, 'I am not here today and gone tomorrow', muttering under his breath, 'No, I am here today and gone tonight.'

This Bill has extremely important principles and will strengthen the trading rights for both the vendor and the consumer, and I congratulate the member for East Douglas, Mrs Cannell, for promoting this legislation and I hope that hon. members will support this second reading.

**Mr Houghton:** Mr Speaker, I also rise to support this Bill. The hon. member for East Douglas has made a sterling effort in the production of this Bill before the House today and I note all the comments made presently by other members of the hon. House in support.

If it is implemented, and indeed I certainly hope it is, it will address a rather unfair abuse with regard to mobile traders who are currently able to cream off business whilst operating from private land without having to apply for a licence.

This legislation is to be welcomed and I congratulate the hon. member for her hard work and tenacity in bringing it forward. Thank you.

**Mr Brown:** Mr Speaker, well, I am one who does not welcome this Bill. As a trader in my own right and, I have to say, based on the points that have been made by members, it is clear they have not really considered the detail of what is in this legislation. I wonder how many members, when they have looked at the green Bill have actually taken the time to dig out the actual Act from 1906 and actually compared what it does. This Bill will change the Island's rights quite substantially, a right that people have enjoyed for centuries, and it is quite interesting hearing hon. members standing up to speak and make the points they have, because we are actually going down the road that this House went down many years ago with regard to work permit legislation.

The aim of the hon. members is to get at the itinerant trader, those from off the Island. Every member who has spoken has said, 'They come here and they cream us off. They come to the Island and it is unfair competition.' This legislation has the potential - and that is our job, to look at it - to affect everybody whether they are an Isle of Man resident or whether they are a person from off the Island. This Bill has the potential, if a local authority wishes under a clause 1, to stop events happening in the Isle of Man where people wish to trade. At the moment people have the right to enjoy the freedom off a street to trade in anywhere - a field, a garden or whatever - and if we go along the road with this Bill, this Bill could, because it gives the powers to the local authority to bring an order in without the approval of Tynwald Court. So once you give it, they can do what they like. They have to consult but they have the total power to bring an order in and say, 'No trading from that field, no trading from that garden.'

Now, members may say, 'But it won't happen.' Our job here is to say, 'Are we willing to give such power to a local authority, knowing that once we have passed it, they will have that authority.' There are no safeguards in here. The hon. member for Rushen, Mrs Crowe, has already mentioned about the lack of an appeal. That shows how draconian this legislation is.

I would ask hon. members to be very, very careful with this Bill. It is a two-clause Bill. It seems very innocent. But you are changing a lot. For example, you have got Riley's who do garden stuff and every year they hold an event out in Port e Chee and every year they sell

gardening equipment. Now, if that local authority in that area decided they did not want that to happen, they could bring an order in and say, 'It's not to happen.' Is that really what we want? Because I will tell you one thing. Under this legislation as it is written, not one member of this House will be able to do anything about it unless they have another Act to change the law. So I think we need to think very, very carefully about this legislation.

My recollection of why the hon. member for East Douglas brought this forward was because somebody was selling hamburgers and a competitor who had an established business objected because up the road this person rolled up, and if that was not the case I think it would be helpful to know exactly what was the concern that was raised.

But what is it going to do? We are going to be able to, if we allow an order to be brought in, because the local authority can do it. The Department of Trade and Industry of course can say to them, 'You must do it in this way', but the ultimate decision is the local authority's. But what is it going to do? It will say to that person, 'You are not allowed to sell', let us say on a vacant site by the Rendezvous, that is a nice site, 'You can't sell on that site because that is a public open space and the local authority has brought an order in to stop it.' So that same fellow goes down the road and he finds either a shop, a hut, a warehouse, a hotel, and he can just open up, and for 28 days, I think it is, he can carry on trading until he is then required to get planning permission.

So what are we trying to do? Why are we wanting to change a situation that has not caused a problem? If the town of Douglas has a problem, then maybe the members for Douglas would like to bring a special restriction in for the town of Douglas and leave the rest of the Island free to carry on as it has done for centuries, if that is what they want to do.

The implications are what I am talking about of this legislation. It could affect every area of the Island if the local authority decides to bring an order in, and the powers we are giving in this legislation are to allow a local authority to bring in an order after consultation with whom they think appear to be likely to be substantially affected. Well, that has got to be competition. It has got to be the competitor. We are supposedly in a free trade market. The next step will be it is time we licensed retailers in the Isle of Man and let us go down the road of making the retailers very rich because they will sell a licence for a great amount of money, because that is where this is going. This is one step. The next step will be we have got people coming in to sell in retail premises from off the Island, so let us control that as well. The retailers of the Isle of Man, I am sure, are always happy to fight in a relatively fair market.

Now, one of the members said - I think more than one - about the itinerant traders coming into the Island, creaming off the people and going away, not paying any taxes. We have brought in legislation where they pay £1500 for a licence for up to three days' trading and then every day after that they pay £500 a day.

**Mr Duggan:** If they apply for it.

**Mr Brown:** Well, if they do not apply for it, they are breaking the law.

**Mr Duggan:** They are here today and gone tomorrow.

**Mrs Crowe:** No.

**Mr Cretney:** Which Manx companies?

**Mr Brown:** If they do not apply for it, they are breaking the law. If they happen to set up under a Manx company, as we saw with Manx Ices, then all we can say is that that has to say a lot about the company that allowed that to happen. But that does not mean we inflict controls on everybody else. Members need to be very, very careful about this Bill.

Also in the Bill there is a provision here where the fee of £5 is suddenly out of the door and a local authority may, by the way, grant a licence, they do not have to. So they might decide they are not going to give one - 'Don't like him: not having one.' Is that what we want? Because we know it happens. We know it happens in people trying to get houses. So it is going to happen where they are trying to trade against people that they want to support. But the licence fee in the present legislation is laid down by order of the Board of Consumer Affairs. It is wiped out under this Bill and suddenly it is a fee that the authority wants to prescribe. Okay, under byelaws which will have to be approved, but suddenly it could be anything. What are we trying to achieve?

I have to say, I am extremely concerned about this piece of legislation. It sounds straightforward, it is only a number of small changes, and I would say I honestly do not believe hon. members have looked at the real implications of this legislation. Based on the Bill before us, if we approve it, we will have a position where a local authority could stop any event where selling is going on on a commercial or business basis. I even tried to find out in legislation what is a business or commercial basis. Firstly, there is no definition. I spoke to the Attorney-General's office. Well, it depends. Every case would have to be taken on its merits, basically, because there are so many ifs and buts that it would have to be considered based on a complaint. So therefore effectively if a local authority brings in the order, as we are, if we pass this legislation, going to permit under this Bill, the local authority could determine for whatever reason, 'We don't want that fair to go on because they have got them in there selling goods, and there is a local fella down the road.' The point he does not want to be bothered is irrelevant, and if members do not think it is a problem, we have had plenty of examples in Castletown where we have had events on and we have had people who are in business complaining because of somebody else coming in, a local trader from the Isle of Man coming from out of Castletown coming in to sell hamburgers and hot dogs, and the local trader saying, 'Hang on, he is taking my business away. I want it stopped.' And we have had to turn round and say, 'No, no. You come and sell the hamburgers.' 'I haven't got time for that, but I do not want him doing it.' And that is the danger of the legislation that is before us.

Members may well get up and say, 'It won't be like that. The member for Castletown is bound to say all that. It is rubbish. He is exaggerating.' All I would say to hon. members is, read the Bill. It gives total authority to a local authority. The Department of Trade and Industry cannot stop them. The Department of Trade and Industry can only tell them how to do it and can direct them to do certain things, but it cannot stop them bringing an order in and neither can Tynwald Court. If a local authority wants to bring an order in and we pass this legislation, the local authority can bring the order in.

I am opposed to this Bill. I think it is totally unnecessary. It is a sledgehammer to crack a nut. It does not resolve a problem, if there is a big problem out there, and the next thing is the House will start to move on to the next stage: the hotels, the warehouses, licensed traders all round the Island, close the shop. Is that what you want? Because that is what you are talking about. We have already had mention today about TT week. It is the busiest time in the Isle of

Man in Douglas. Most of the places cannot cope with the business for food. So what are you going to do, pick and choose? 'Don't like him: he's not having it.' 'He's okay.' Because that is what you are giving, that is what you are giving in the Bill. The local authority will have total say. The local authority can be pestered by a member of this House to stop it because that member does not like it going on and the local authority decides, 'Okay, we'll do something about it.' And nobody else can shout because only those who are consulted have the right to have a say, and even when they are consulted and if they all say, 'We don't think it's necessary', if the local authority wants to implement it, it can implement it. It is more authority than even we have got.

I hope members will not be persuaded to support this legislation. It is unnecessary, it is unwarranted and it is too heavy-handed.

**Mrs Hannan:** Vainstyr Loayreyder, I wonder if I could ask the mover of the legislation on the first clause, the definition of 'open space', because it says, 'means any open or uncovered place (whether enclosed or not) to which there is access from a street designated for the purposes'. I wonder if we could have clarification of that because by this order 'for the purposes of Part III of this Act by an order made by the local authority for the district in which it is situated' and, I mean, that obviously comes down to a decision of the local authority. First of all the local authority may give a licence but then the local authority is going to also decide what an open space is. So if the mover could clarify that position.

If the mover could also clarify the position of selling, trade. We know what trade is, we know that you could compare it with what was on the street and now in an open place, and the definition, but I wonder if the member could clarify what she sees as being involved in the chattels, the provision, definition of any food or drink. Is there anything else within that area?

The other area that concerns me is the opinion of the local authority, the local authority in its opinion, and it does consult, it decides. But I think it is really coming back to the point made by the member for Rushen that within a decision, within an area of a decision-making process, is there a right of appeal? I know in my area, and it probably does not relate very specifically to this, the local authority has decided that something will happen and it will happen, and while local people are concerned that maybe they should get planning approval for whatever they are doing, they have to date resisted it and they have also decided that it will continue for next year, not because it is interfering with anybody else's business, but because it is offensive to the people living close by and bordering on, only from the point of view of noise and nuisance, but the people have nowhere to turn: the local authority says, 'That is going to happen', and that is the end of it. It is this sort of area that concerns me, that there is not an appeal, it is very difficult for ordinary people to meet with their local authorities to discuss something unless they are actively called in to a meeting. So it is extremely difficult when you are giving a local authority the authority which this legislation appears to give, or be suggesting it is giving to a local authority, when there are experiences of local authorities who really fly in the face of local people and local concerns, and it is this area that I think we ought to be aware of when we are looking at legislation and what we hope to do with legislation.

I also wonder what the fee is likely to be. Will that be decided by the Department of Trade and Industry or is the fee going to be decided by each local authority in turn? And does the landowner have to give permission to the local authority first before the local authority would grant a licence? Because it obviously depends on what the licence and the order say,

but I would hope that we would not get to the position where somebody has managed to get a licence from a local authority and then brandishes this by going along to the landowner and saying, 'Well, I've got this now: I can operate on this land for two or three weeks or whatever.' And there is the area, if you do take away competition. It is all right getting the opinion of and consulting with traders, who are obviously the interested parties, but if you are going to get that, all local authorities in an area might decide, 'Well, we're not going to do something' and because they are not going to do something or the people in the local chamber of commerce or whatever decide they are not going to do something it may mean that you would not get people coming and staying in an area or you would not get people visiting an area because whatever it is is not being provided in that area, and I think we have to also be aware that because there is the thought that somebody can come along and do this at very short notice, or at least it was in the past, there was then the incentive for local companies to actually organise themselves and do it themselves.

Could I also ask for clarification of charities? The member moving the legislation is giving the impression that charities are outside, it does not affect them. But I can say from meetings which I have been to and expressions that have been expressed concerning charities, especially in towns and city areas where charities are taking over; basically because of planning, it is difficult for some shops to operate, so they move out or close down and charities, because the rents are less now, can take over the shops and operate. In the interests of these charities, I am talking about shops, but it could be that they would trade for a short time in an area, and I wonder if there was something like this going to happen, would also the local authorities, not necessarily go out to consultation with the concern of objecting to or not granting a licence or not working with the charity, but give people the choice really of maybe allowing a charity to operate in an area? I know most charities are responsible and if they are going to operate in an area they tell a local authority they are doing that, they tell the police they are doing it, but when everybody else is being restricted and a charity then is being allowed to operate wherever, I think there might be some concern from traders, existing traders now, where they feel that their income is being affected by charities.

I was a bit concerned at the beginning when everybody was getting up saying how wonderful legislation is. I do think our position here is to query some of the legislation and what it is going to do to actually restrict people in what they have been able to do in the past and so I would hope that this legislation is given proper consideration before it passes through the House.

**Mr Cannan:** Mr Speaker, having listened to the hon. members for Castletown and Peel, having looked at the legislation, it seems to be slightly ambiguous in that the open space, and I repeat, 'means any open or uncovered place (whether enclosed or not) to which there is access from a street designated for the purposes of Part III of this Act by an order made by the local authority for the district in which it is situated.' Well, I believe that that only has then to be further confirmed by the Department of Trade and Industry before it can so happen, because if we read further on, 'any such order shall be made after consultation with such persons as appear to the local authority to be likely to be substantially affected and with the consent of the Department of Trade and Industry, and the local authority shall give public notice of the making of any such order in such manner as that Department may direct'. So it would appear that before anything can happen this House has access to the Minister for the

Department of Trade and Industry - and I hope it will continue that the minister will always be accessible in this House - and the order can only be made with the consent of the department. So if there are any queries, if there are any appeals, it is the department that has the ultimate responsibility.

Then on clause 24(2)(b): 'and in prescribing such fees, the local authority shall not exceed an amount which, in its opinion, will be sufficient to cover the expenses incurred by it in discharging its functions under this Act.' So there cannot be exorbitant fees because it would have to justify the cost of administering this Act, which would appear to be very small indeed.

So the only thing that concerns me, and the chairman of the consumer affairs has stated, is that if a local authority refuses Joe Bloggs a licence because they do not happen to like Joe Bloggs, he must have the right of appeal to somebody and the chairman of the consumer affairs indicated that an amendment to that end was coming forward at the clauses stage. So on that basis I am quite happy to support this Bill. It seems to me there are reasonable safeguards and there will most certainly be if the amendment is approved at the clauses stage.

**Mr Gilbey:** Mr Speaker, I am rather concerned about the remarks that have been made by the hon. member for Castletown and the hon. member for Peel. I support strongly the proposal that we should stop cowboys and others coming from the adjacent isles and creaming off our trade, but at the same time I do believe we have got to be very careful to absolutely secure the position of many further small firms in the Isle of Man who have travelling caravans and go round to many events in the countryside - they go to horse shows, they may go to ploughing matches, they go to local fetes, local sports, and I think Cronk y Voddy sports they could turn up there, and I do not think they should be in any possible position where they would be subject to licensing and could have it refused. Now, I would be grateful if the Chairman of the Board of Consumer Affairs could have her board circulate hon. members with what the position of such people would be under this Bill before we get to the clauses stage because certainly I would be deeply concerned if there was anything that could affect these very local people, and many hon. members in this House will know who they are, and the thought that they could suddenly be stopped attending equestrian events, summer fairs et cetera would be quite appalling, and I would like a clear statement from the board, as this is a private member's bill and the board has officers available to it, about this situation, so we can all be sure that such small firms, who do play a very valuable part in supporting local events and indeed are part of them, will not be in danger of the slightest possibility that their presence could be stopped.

**Mr Quine:** Mr Speaker, I really do not see why there should be any real concern about this provision. I think if we just follow it through hon. members will see that in fact it is little different from what we have in terms of certain powers exercised by local authorities in respect of other matters and it follows the same pattern. But there are just one or two points which I would point out.

If we look at the proposed 24(1) we will see that it relates to trade in a street or open space. So first of all there is the issue of trade in a street, and that trade requires a licence, and the provisions that are called for there in relation to a licence are very similar, as one would expect, in relation to other licences of a similar nature. The department will consider the circumstances and they will decide whether or not that licence should be issued and it says

quite clearly here that they have the ability to attach conditions. So they can include or exclude matters in accordance with the conditions which they will attach to a licence.

Now, the second part of that relates to open space, and this is where I feel the hon. member for Glenfaba is anticipating a problem that is not there because, as I understand this, open space, as it applies in 24(1), is an open space as defined by the definition which is in clause 1(2)(a), and hon. members will see that for an open space to be an open space it has to be covered, it has to be brought into effect through an order and that order has to be, if you wish, also approved by the Department of Trade and Industry. So the fact that you may have a horse show or something going on somewhere in the countryside, it is not automatically brought into the provisions of this at all. It is an open space as and when, as I read this, an order is made saying that that area shall be an open space and not only is that order one for the local authority, it is also one for the Department of Trade and Industry to say so. So I think there are adequate safeguards for the situation that is envisaged or the concerns which have been expressed by the hon. member for Glenfaba, and the events that I am sure he had in mind can be adequately covered by virtue of that definition.

So I am quite pleased to support this Bill. It has the support of our department. If there are any refinements to it, the hon. member for Rushen and the chairman of the consumer affairs has raised the issue of an appeal perhaps and that is something which we can consider at the clauses stage.

**Mr Braidwood:** Mr Speaker, I do believe this amendment to the Pedlars and Street Traders Act 1906 is long overdue, not just for the traders in Douglas, but all the traders and shopkeepers around the Island who have invested money in their premises, paid rent, rates and employed staff all the year round.

Now, I do understand the views expressed by Mr Brown. I do believe he has taken some to the nth degree, and I was a little bit surprised by one of his comments, and we have to remember, although he is a retailer himself, I do not think he would be very happy if there was an open space next to his shop and, say, at Christmas time, when he did probably the majority of his trade, somebody set up shop next door to take a lot of the Christmas business when he probably maximises his profits at that time, and nobody minds competition, but fair competition, such as TT week when we are talking about people coming over who have resident companies. Mr Brown has mentioned about non-resident traders. That is fine. They pay their fee to the Board of Consumer Affairs and he has mentioned the fees they pay. We are talking about people who set up a Manx company and come over for two weeks of the year and set up on an open space and basically take the majority of the business which is there for those people who trade for 52 weeks of the year and look forward to the two weeks of TT to try to gain some profits for that time, and those profits probably subsidise some of the other weeks of the year when trade is not too good.

Now, it has been mentioned, again by Mr Brown, and Mr Gilbey mentioned, and I think that has been covered by the hon. member for Ayre, Mr Quine, there has been concern about people who have market stalls, but they normally trade 52 weeks of the year. We are not stopping those people. Mr Brown mentioned about Riley's when they have their show. I do not think anybody is denying that they would be given a licence. They are already in business. *(Interjections)* No, they are already in business.

**Mr Brown:** Read the Bill.

**Mr Braidwood:** I have read the Bill, Mr Brown.

**Mrs Crowe:** Well, not thoroughly.

**Mr Braidwood:** Mrs Hannan mentioned about shops, and Mr Brown mentioned. People can come over if there is an empty shop, they can go in. Really they are supposed to apply for planning permission, but as Mr Brown said, for 28 days they could get away without applying for permission.

Mrs Hannan mentioned about shops and the charity shops. We were not talking about that. This is open spaces. That is what we are talking about, not shops, the licence of open spaces.

At least this amendment will hopefully stop a lot of the itinerant traders who have Manx resident companies coming over, setting up shop and cleaning the business. As far as I am concerned, this amendment is good for the traders, not only in Douglas, but in many areas around the Island. Thank you, Mr Speaker.

**Mr Rodan:** Mr Speaker, I do not have a particular problem with the principle of this Bill. It seems to me that it is merely extending the restrictions that apply to itinerant traders who are street trading under the 1906 Act to the open spaces, gap sites, for example, that may adjoin those very same streets and therefore arguably it could be simply rectifying an original anomaly in the 1906 Act. Trading activity on such an open space may well constitute a change of use of the site, especially if the site had been used previously, had a house that was used for a different purpose. Now, if it were a permanent change of use, of course there would be planning controls brought to bear and any planning approval would depend on all the material considerations, for example unneighbourliness, adverse effect on the environment, nuisance to neighbours, whether the area itself was zoned for commercial activity or perhaps only for residential use. Therefore it seems to me that this Bill deals with the situation where there is a temporary change of use over which there is at the moment no control via a licence whatsoever. Is it right, we could ask ourselves, that every open space, every demolition site, every temporary gap between houses should be exempt from any controls when there clearly would be controls if the activity took place on the street itself and there certainly would be controls if the activity was done on that particular site on a permanent basis? So the principle I see is perfectly reasonable.

But I would agree that there is perhaps cause for concern over the lack of an appeals procedure and perhaps, as the hon. member for Castletown referred to, the arbitrary nature of the control that can be exercised by a local authority. I would share those concerns in the particular, if not on the principle of the Bill, and it seems to me that there is some clarification needed in the Bill in respect of how it ties up with the 1906 Act. Clause 1, for example, (2)(a) says, ‘“Open space” means any open or uncovered place (whether enclosed or not) to which there is access from a street designated for the purposes of Part III of this Act by an order made by the local authority’. Now, the 1906 Act which is being referred to here, when you look at part III, refers to the need for licences and the procedures for the issue of licences but it does not define a street designated for the purpose; it refers to streets in the general, but there is no definition of street designated for the purpose. So I feel that requires some clarification. Thank you, Mr Speaker.

**Mr Corkill:** Just briefly, Mr Speaker, I have been listening carefully to the comments so far and some of those issues do cause me not great concern but I am in need of clarification, and it would seem that that process is occurring. But there are two points I would wish to raise additional to what has been said so far and that is the basis for the real need for the legislation. I think it would be useful to me if it was clarified as to whether we are just talking about burger outlets and TT trade that this is trying to target, because it appears to me that this is the target for this legislation, because I am aware that certainly in the TT period a number of specialist retailers come over, albeit they are temporary traders, selling goods to fans and there is not any other outlet that would be able to provide those goods. So there is a matter here of consumer satisfaction as well and I would wish to see some confidence in the fact that the consumer is not going to be disadvantaged. But like all members in this House, I think, I support all legitimate measures whereby we can maximise our local business and local trade to the maximum benefit of the Manx people.

But there is another more important issue which I would wish to raise and that is in the way that licences are given. I wonder whether it could provoke a challenge with regard to our protocol 3 arrangements whereby we do not put a restriction on the movement of goods, the freedom of movement of goods to the Island, and likewise we do not have a restriction on goods going off the Island, but whether it could be seen that this could in fact restrict trade and be challenged. I think it would be most unfortunate if we did something that was challenged and therefore I would wish to see some clarification with regard to our protocol 3.

But I am happy to support the second reading of this Bill because I think it is targeting an area of concern, but having said that, I have not had a great deal of constituency complaint about this myself and I wonder whether it is peculiar perhaps just to the centre of Douglas.

So I am interested to hear what the mover of the Bill has to say in these respects, but I think that this freedom of movement of goods is quite important.

**Mr Crowe:** Mr Speaker, I have listened to the debate with interest and I think my view on this was that it was a particular amendment to a Bill to tighten up a very specific situation which was itinerant traders at TT time using private land or a waste site to compete unfairly against local traders.

Now, I was very interested in Mr Brown's comments and other comments that what we have to be very careful about is that we make sure that the local trader is not disadvantaged by legislation, and I think maybe at the clauses stage it will be tightened up, and I was also interested in the appeals point which seems to have gained acceptance from various people, and I would be interested, at the clauses stage if the mover of the Bill could just talk about the various categories of how this will affect local traders or the non-resident traders who pay a licence or the traders from off the Island who own a Manx company. There are various degrees and classifications of traders and I think it has to be clear as to who in fact we are targeting and can we focus that legislation clearly on targeting, otherwise I think we might set a hare running which would be difficult to enforce by whoever is going to enforce this legislation.

So I think that clarification would help us all and I think there is broad support for the Bill but possibly focused more on the actual target that we are seeking to attack. Thank you, Mr Speaker.

**The Speaker:** I call upon the hon. member for Douglas East, Mrs Cannell, to reply to the debate.

**Mrs Cannell:** Thank you, Mr Speaker. First of all I would like to thank every hon. member who has got to his or her feet and contributed to the debate so far. I am very pleased with the response from members. I am also very pleased that it seems that the majority of members are actually willing to support the principle of the Bill.

Can I just now thank those members who have actually got up in support of the Bill and I am pleased that they have actually at first hand grasped the true principle of the Bill and that is to provide a mechanism for dealing with the itinerant traders. That was the prime objective of this Bill, and can I remind the hon. House that this has gone out to a wide consultation. The first draft Bill and this Bill that is before members today have gone out to all local authorities, including the parishes, and they have gone out to all the retail associations Island-wide including the Isle of Man Chamber of Commerce, Ramsey Chamber of Commerce and so on, and there is but one person who was not in support of the Bill. Everybody else has welcomed the Bill, particularly the Isle of Man Chamber of Commerce and the Ramsey Chamber of Commerce and they have gone into the implications of it in some detail. They welcome it.

It is not intended to damage those very valuable events for which we seek additional people trading in terms of food or drink or anything else, and I want to reassure the hon. member for Glenfaba that that is not the intention of the Bill and the very idea of including a section in here where an exemption can be used in respect of those businesses which are defined under the Charities Act and also are of a non-profit and non-commercial making, if they are there to provide a service, an essential service, then they will fall under this category.

The member for Peel had some interesting comments to make and I thank her for those. In particular she talked about charities, but this Bill has no intention of addressing the issue of charitable organisations that set up in shops. That is not within the context of this particular Bill.

There was also mention as regards the definition of 'place'. Well, I can advise hon. members that there actually is a spelling mistake on page 2 which will be clearly rectified at clauses stage. In 2(ii) it says, 'after "street", wherever occurring, insert "or open place" '. Well, 'place' in fact is incorrect and that was a printing error. So there will be an amendment moved to actually change 'place' to 'space', which may help to clarify the point, hopefully, for the hon. member for Peel.

I do take on board the comment about the appeal mechanism, and this was something which I myself took up with the Attorney-General's office during one of our many meetings when putting the provisions of this Bill together. Now, he at that time said to me that he felt that because the matter was so small an appeal mechanism was not needed and he spoke about the fact that one can go for a petition of dolence if there was an unfair refusal for a licence. But I would agree with hon. members. I would far sooner see and I would be happy to consider at clauses stage such an amendment incorporating the right of appeal. I have no problem with that at all.

Just looking down the list here there was quite a bit said. Protocol 3 was mentioned. I have had everything thrown at me this morning but what I did not expect was protocol 3, I have to admit. What I can advise the hon. member for Onchan on is that the Bill has been

away to the Home Office just to test, to see whether or not they would have a problem with it, and they kept it for some little time and then reported back that they have absolutely no problem with it and are quite happy with it, so whether that goes any way towards answering the query from the hon. member.

I can reassure the hon. member for North Douglas, Mr Crowe, that it is the itinerant traders, and he was correct in his interpretation, who we are targeting here and we have no desire whatsoever to catch anybody else up in this net, and in fact to reassure again that the traders are in support of this.

I thank Mr Cannan for his remarks. He was quite right in terms of it is the DTI, the Department of Trade and Industry, who have a power, and the local authority can not bring forward any kind of order or even byelaws, well byelaws in particular, without the support of Tynwald, and I hope that reassures the hon. member for Castletown, that they cannot just bring in byelaws and get them in through the back door, it is subject to Tynwald, and if members are not happy at that time of course, then they can make their voice heard.

With regard to the order, now I think there might be a little bit of confusion here. The idea of the register and the mechanism for the register is to enable it to operate similar to that under planning, whereby an application is advertised. That is to say that it is published by the local authority, it is put up for public inspection, and anybody who feels that they would be affected has got a right to write in and make an appeal and explain their reasons why they feel that they would object to that particular application. It by no means is encouraging other people in similar businesses to say, 'Well, I want some protectionism here.' That is not the intent, nor has it anything to do with the spirit of this amendment Bill at all. It is to give the public the right to actually say whether or not they agree that such a fish and chip van is operating next to them six months out of the year or through a summer season or anything else. It is to give them the right. Now, if it is not reading to the member's satisfaction, then all I can offer by way of suggestion is that if he feels that he could come up with a clause perhaps which would more clearly define what it is that he is trying to achieve, then he is most welcome to do that at the next reading.

Now, again fortunately it was not commonplace with members but again there was one particular member who felt that the local authority might be pestered. Then again the local authority perhaps were being given too much power. The local authority of each area on the Isle of Man represents the people and the ratepayers of that particular area. If a local authority, after due consideration of an application, decide that it would be inappropriate for their own area and they have received objections from their ratepayers, then I see no wrong in that decision. That is democracy, that is local democracy at work, and I believe we should be entrusting to our local authorities a lot more responsibility when it comes to local matters. That surely is one of the main functions, or should be the main function, of any local authority who is accountable for its own area and its own ratepayers, and we as members of the Keys together with Tynwald should be considering the national issues and putting together those things which will enable the local authorities to better take care and look after and nurture their area, and so I am a little disappointed that perhaps there is a little bit of mistrust. I would like to see the local authorities, personally, taking on a lot more responsibility for local things than they presently do.

**Mr Cretney:** Lighting.

**Mrs Cannell:** The primary objective of the Bill is to catch the itinerant traders. It is to provide a more equitable trading situation.

As I reminded hon. members this morning, it is not expected to cost anything, nor is it expected to reduce the income of the government, of Treasury or anybody else.

I am quite open to receiving amendments at the next stage if members feel so to actually move, and also I am quite prepared to accept some form of clause with regard to an appeal mechanism. If that is supported by members I see no harm in it. But I beg to move, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the Street Traders (Amendment) Bill of 1998 be read for a second time. Will those in favour please say aye; against, no. The ayes have it.

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

*For: Messrs Cannan, Quine, Rodan, North, Sir Miles Walker, Messrs Houghton, Crowe, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Karran, Corkill, Gelling and the Speaker - 19*

*Against: Messrs Gilbey, Brown and Mrs Hannan - 3*

**The Speaker:** Hon. members, the motion carries in the House, 19 votes being cast for, 3 votes cast against.

### **Public Order Bill - Second Reading - Debate Commenced**

**The Speaker:** We therefore turn to item 10 on our order paper, hon. members, which is the Public Order Bill for second reading, and on this occasion I call upon the hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker, sir. Mr Speaker and hon. members, I rise to move my Bill which, if it becomes law, will effectively address potential issues of concern regarding public order on our streets and in other places. Hon. members will note that there are three clauses creating new substantive offences, beginning with an offence of affray, then going on to a lesser substantive offence to deal with fear or provocation of violence and then tackling a more minor but rather annoying issue of harassment, alarm or distress.

I firmly believe that these new offences will help to improve the quality of life on our Island for two main reasons. Firstly, it will deal with persons who choose to threaten or abuse police officers and members of the public, but secondly, when the police are dealing with a gang of defiant youths et cetera, whereas they currently have to allow a situation to become overheated before the present law allows them to act in what in many instances can lead to very great danger. With this proposed legislation they will be able to nip these situations in the bud, thus diffusing a potentially dangerous situation from escalating.

One element which I mentioned in my speech at the time I sought leave to introduce this Bill was that of a new sentencing option of home detention curfew. Due to certain issues identified whilst this Bill was out for consultation I have decided not to include this element in my present Bill. However, I do intend to bring this subject forward as a separate Bill when more research and consultation has been undertaken in the future.

Returning to my Public Order Bill, I am sure it will be a welcome tool for the constabulary in their fight to uphold law and order for members of the public, and in particular the elderly and the vulnerable, who on many occasions are intimidated and frightened by the growing number of hooligans who have no regard for anyone. I believe that my Bill has the ingredients to effectively reduce unruly behaviour on our streets. Hon. members will recall that the public called for such a stronger stance on law and order at the time of the general election. By supporting my Bill through this House, hon. members, you will be playing your part in reducing this unwelcome social disease. Mr Speaker, I beg to move.

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

**Mrs Hannan:** Vainstyr Loayreyder, I wonder could I ask the mover of this legislation about clause 1 where he says a person is guilty of an affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety. Who is deemed to be a person of reasonable firmness? And sub-clause (4) says, 'No person of reasonable firmness need actually be, or be likely to be, present at the scene.' I wonder if the mover could clarify that.

Then sub-clause (5) of clause 1 states that an affray may be committed in private as well as in public places. So I can only assume that this person of reasonable firmness does not have to be there and the affray can happen and somebody, as in another part of the legislation, says where anybody can arrest somebody where they are under the influence of. . . Yes, and it is clause 5, powers of arrest. This is a constable may arrest without a warrant and any person may arrest without a warrant. Presumably that brings into account, but does that person have to be there at the scene of this affray?

I am concerned that we are talking about unruly young people, that we are talking about areas that obviously are not covered by the law at the moment, otherwise the member would not be introducing this legislation. He is saying that various people want this legislation, but I think we have got to be aware that we are affecting people in general. It might be that somebody has been provoked and that is why there is an affray, and I know of people that have been involved in affrays or involved in criminal acts simply because action has not been taken in the first place when somebody else has committed an act on that other person and it could be that an affray happens simply because the police have not taken action on a previous criminal offence and it then has a relationship with this particular affray. This particular person could end up with a criminal record, but the person that was involved in the actual what you might call criminal activities in the first place goes free, is not affected at all, and these are the issues that concern me.

I would be much happier if our police officers were trained to deal with unruly young people so that they did not get themselves pushed into a corner, so that they were able to deal with situations such as this where they did not go in heavy-handed, and I do not know whether they always go in heavy-handed or not, but go in from an area where they can actually extricate themselves from trying to solve it, so that people are not immediately pushed into a corner, become terribly aggressive, whether they are under the influence of drugs or drink or whatever, and I think before we get into this sort of situation whereby we have got more legislation for which we need more police officers on the street to apply the legislation I would prefer to see us having police officers in a situation whereby the areas can be policed. Members might say, 'Oh, you've got to have more policemen to do that', but we have got more

policemen here than most areas in the United Kingdom, and I would like to know why we have this inability, it would seem, to police this very unruly community in which we live. There are places in inner cities that are policed extremely successfully by community police officers and I think if we think we have got a problem here, then I think that we ought to go to some areas where they do have difficulties, where they do community policing to deal with the problems that I think Mr Houghton is seeing, Toxteth and places like that, and people might laugh, but there are policemen in Toxteth that have received awards for the community policing and the way they have policed and they have been there for 28, 30 years. I would hope that we would not need legislation. Kids have always been kids, youngsters have always played pranks, people in Peel, high upstanding members of the community in Peel and in other areas of the Island, and I know when my father was young some of the things that he got up to, and I am sure everybody else can detail some of the things which they used to get up to, but they were not criminalised because of it and I would not want to see us get into the situation of criminalising everybody because they go through a phase when they mess about on the street for want of better play areas or facilities being put in place for these people, simply because of bad planning and not just bad planning in town centres but extremely bad planning when we develop on the outskirts of towns and the like when we do not provide anywhere for these young people and kids to be, and I think before we in here start legislating against people in some of these situations, instead of doing that we should look at ourselves and what we are doing and what we should be doing in the future to provide for our young so that they have a better quality of life. In actual fact all we do is place more and more restrictions on them, because they live in estates where the people next door do not want them playing in the street, somebody else down the road does not want them kicking a ball against their side of their house, and so it goes on. They then get pushed out somewhere else and because they cannot play anywhere else they go to places where people do not live. They end up in the street in the evening, Saturday night, Saturday during the day, Saturday morning and people complain about them. We all do that. You consider how you have matured when you start complaining about kids, and I would hope that we can do something for them. In the past people did. They built young men's clubs out in the countryside and provided facilities where they could go and play pool or snooker or whatever. We seem to be actually restricting them more now. We do not seem to prize them for what they are, the up-and-coming generation. We have always, I think, got to try and put them in their place and keep them down, and this is what I see this legislation is doing. It is not getting to the root of the problem, it is saying, 'We've got a problem, let's criminalise it.'

If we have got children playing about, as I said before when the mover was moving this, let us get youth workers on the streets and organise them that way, organise the open places that there are, promenades or whatever, to actually facilitate these youngsters. This is what happens in other areas and I think we should be learning from that, not creating more legislation and then we get the chief constable saying we want more police officers and it then goes on, and because we have got this legislation before us, as the mover has already said, we want more legislation because we want curfews. Let us provide something for the children instead of just police officers and more policing, more courts, more court time, more prisons. Let us do something to value our children.

**Mr Karran:** Vainstyr Loayreyder, I find myself in a difficult position with this Bill. I think that for the hon. mover there is a lot of good sentiment and general concern about this Bill and I will be giving it a second reading anyway.

I have some concerns and I would like him to just clarify clause 7 and the penalties that he is proposing and what clauses they would actually affect.

I think also I would like the hon. member to clarify that at the present time if somebody spits at an officer, that is not classed as a criminal offence -

**Mr Cretney:** It is assault.

**Mr Karran:** It is. Then obviously I was led to the opinion that it was not anything at the present time and if that was to change anything, that would be one of the reasons why I would have supported this Bill because I find that to be unacceptable.

I had a lot of sympathy with what the hon. member for Peel was saying about the fact that we should be providing better facilities for our youth. I find it quite appalling, the situation that I am hearing about on the radio in my own constituency, and the fact that we are the second biggest conurbation and we do not have a full-time youth leader. That is something that I have written to the department on recently because I am gravely concerned that Onchan should have a full-time youth leader and so I have a lot of sympathy in what the hon. member for Peel is saying as far as the facilities are concerned. I understand the hon. member and I despair at times by my commissioners over the fact that they are so out of touch with the young people of the district and the way that they refuse to provide the facilities, and I understand where the hon. member is coming from. I find it crazy that the Department of Education runs a youth service for eight-year-olds when that should be in the sphere of the Cubs and Beavers and the Brownies and the fact of the matter is that because they start at such a young age, by the time they get to 13 or 14 their street cred is in ruins if they go to then the Department of Education youth club, and I believe that there are many faults that the hon. member for Peel has raised as far as delinquency on our streets is concerned and I think she has got some very important points there.

But she cannot blame it all on the hon. member, the hon. mover, or on the fact of the lack of facilities when the fact of the matter is one of the concerns that I have with this Bill is the fact that we need a police force that is accountable, not controlled, and this is one of the things that concerns me about this piece of legislation, giving more powers to the police force when the complaints procedure is less than desirable, when the situation is that the police force is not accountable, and no others in this hon. House, I would hope, would want them to be controlled, but the way that resources are placed leaves a lot to be desired. I believe that it has improved greatly from the times when I was on the home affairs department but it still is not run properly, and I think that the hon. member for Peel has sat in the Council of Ministers for several years now and this issue has still yet to be addressed, and I believe that partly why I have some sympathy in supporting the hon. member, even though I am concerned about the contents of this Bill, is that the fact of the matter is that we have a police force that is not accountable. We have a police force that, if it was accountable, maybe we would have policemen that have to live in the areas they police. These are fundamental issues that, when we talk about community policing, have to be addressed and I am afraid if you are in a job such as that, then you should have to accept there are certain restraints as far as having to

live in the area that you police, and I believe this is all to do with the core problem that we are seeing with law and order which is the fact that we have not got the sort of accountability within the police force that we need, and I think that the hon. member for Peel cannot go round blaming everybody else for the demise of law and order on this Island when the Council of Ministers refuse to address this most important issue, because I do not think we will ever get the law and order on this Island how we want it until there is some mechanism to make the head of the police force accountable, and I could go into more detail but I will not at this stage.

But I will give this Bill a second reading but I am not happy as far as the contents of this Bill are concerned and I will be interested to see whether it should go to some committee in order to look at the aspects of the contents of this Bill.

I also feel that there should be some investigation done into this Bill, whether we should be looking at some sort of fixed penalties like parking restrictions on youths that are picked up off the street for affrays. I think the time has come and I find myself in a very dodgy position, being a bachelor with no kids to own up to, and I still think that it is important that we do look at the issue of making parents more responsible for their children, and I feel that there should be something. Instead of having the child dragged in front of a court, I sometimes think that parents should be more often dragged in front of courts, as they have a responsibility to bring up that child right and proper.

I do think in this Public Order Bill that there are desperate gaps within this Bill and I personally feel that maybe a committee should be set up, and I think the issue that maybe has been left out of curfews for younger children should be addressed because at the present time I find it an absolute scandal when I see children that look young enough to be still at primary school wandering the streets of Onchan at 11 and 12 o'clock at night.

**Mr Cretney:** Give the local authorities some powers!

**Mr Karran:** The parents should be made to be more responsible, and I just think in this Bill that maybe it has got the wrong emphasis, that there should be some sort of way of putting a fine onto the parents and then maybe they will take some responsibility for what is a precious gift, and that is a child, and I think that this Bill really more likely needs to go to a committee after the second reading stage.

**Mr Quine:** Mr Speaker, I would like to start from a point that was made by the hon. member for Onchan and that is in trying to assess the need for this Bill I think it is quite wrong for us to take the view that it is unnecessary and if we lived in utopia and we had all the facilities under the sun we would not have a certain number of unruly people or people that were prone to commit crime. I am afraid that is not the real world. Indeed I am supportive of providing our young people with all the facilities which can be reasonably expected and which would be good for their upbringing, I have no problem with that at all, but I do take exception to remarks where we try to use a situation where a small number go astray and say that with these people, if they had been handled properly, the situation would have been different. The truth of the matter is that no matter how we seek to service and provide facilities for certain young people we are going to have problems with them, and indeed some people who are not so young because this is a general-purpose Bill in a way.

So I would ask members to look at it from a different point of view and that is there are situations which are occurring on our streets at this time and they have been identified by the

hon. member in consultation with the police force and others and these situations are not embraced at the moment by criminal law, not adequately embraced by criminal law, and what the hon. member is seeking to do is to provide provision for those situations. That, I think, is the angle from which we should be approaching and seeking to judge the need for this Bill and not seeking to cast it out on some excuse which is of little general application.

Now, I am satisfied myself that the situations which are portrayed here, three different situations in particular, are situations which we are confronted with, they are a problem which has to be dealt with on the street, and no matter how we would perhaps wish to think otherwise, there has to be some criminal law provision to deal with those situations. So I am supportive of this Bill and certainly I have no difficulty in supporting the second reading.

Now, it has also been suggested that if we make provision in our criminal law for these situations we are criminalising situations and that the police somehow are going to be arbitrary in their application of that law. In truth that is not the situation at all. The fact is that police dealing with a whole range of minor offences work by a series of warnings, a series of advice, and then we go into formal and informal cautioning procedures. If you have regard to those matters, in point of fact the police are not rushing into situations and making young people subject to the criminal law. They are exercising in the vast majority of cases a great deal of restraint and common sense. But at the end of the day there will be a number of situations left and they do require the criminal law to deal with those particular cases, and that, I am afraid, is a matter which we really should recognise and through our recognition support this particular Bill.

There has been comment about what is meant in clause 1 by 'no person of a reasonable firmness'. This is not a novel concept at all. Those of us who have worked in law in relation to riots, for example, will appreciate that this is, as I say, a term which we have previously come forward with and the object is quite clear. The object of the exercise is to rule out of the equation a measurement against a person who is inordinately timid. In other words it is setting a standard against an ordinary standard and not a person who would be inordinately timid. That is the object of putting this phrase in and there is little difficulty in applying it. There is adequate case law going back many years which can cover what this term is intended to provide for.

So I believe that the hon. member for North Douglas is to be congratulated for bringing this Bill forward. It does address the real situation on the street, that need is there, and I believe that if we can pass this into law we will be taking a further step or steps which will enable the police to enforce a better standard of law and order on our streets. That is what the public are looking for and I think that is worthy of our support. I thank you very much, sir.

**Mr Singer:** Mr Speaker, I believe that this Bill will have the support of the great majority of the general public who have the right to access to all areas. Many areas at the moment have become no-go areas at certain times of the week.

Of course the police have to be seen to be even-handed and not overreacting to the situation, but I am sure that this will be the case.

We are entitled to expect reasonable public behaviour on the streets and it is wrong to blame the kind of offences described in this Public Order Bill on the lack of facilities, and I agree with the member for Ayre: the majority of young people do not commit offences because

of the lack of a snooker club, and it is a slur on those young people in our society to suggest that that sort of thing happens.

The hon. member for Peel spoke with her rose-tinted glasses on, (**Members:** Hear, hear.) talking about pranks that happened 40 years ago. I believe she should take those glasses off, because we are living in a totally different world. The hon. member - and I am sorry she is not here - implied that revenge on the street to previous provocation might be acceptable. That is what I read into what she said, and that cannot be allowed at any time. That cannot be allowed as any excuse for violence at all on the streets.

We are not just talking about children. Some of this debate seems to have been aimed at young people and children. We are talking about adults, people who should know better, and they are using abuse and threatening behaviour and in many cases deliberately baiting the police. Now, I believe that this Bill gives the ability to the police to act at an early stage, thus preventing matters getting out of hand, and that is why I will support this second reading.

**Mr Brown:** Mr Speaker, with regard to this Bill and the principle contained within the Bill, I am quite content to support that, as I believe certainly part of what is in there is something that has merit to it, and I do believe that the House has to be extremely careful and be absolutely satisfied on legislation which has quite major inroads into how people act in our society. We need to be careful that we are doing the right thing on that.

Whilst I am happy to support the Bill for second reading, I have to say, though, to the hon. member the clause that causes me the greatest concern is clause 3. Now, it is all very well ensuring that there is provision where a person is threatened with violence, but I have a concern where we are looking to pass legislation that says a person is guilty of an offence if he uses abusive or insulting words within the hearing or sight of a person likely to be caused harassment, annoyance, alarm or distress, and I have to say I have often been to many public meetings where somebody has used abusive words or used insulting words and I am sure that there are occasions where, depending on the nature of the individual that is said about, they might certainly feel distress, and I find it difficult that we are looking then to say that if that happens and that individual then reports that person to the police, then that individual has to defend himself through the courts and prove what he said was not there to cause distress. So I do have a great concern about that clause 3 and I hope the House, if it passes this legislation for second reading, will actually give that clause a lot of concern and consideration.

Based on the provision of clause 3, as I see it, if somebody was to put up a poster in their window facing their neighbour across the road and that poster was abusive, then they could be taken to court. Sorry, if they put it in their dwelling and the sign was abusive and it was within their house on the window, then the neighbour across the road could not do anything about it. But if the individual was to put a sign out on the public highway in front of their property which faced the neighbour's property, then they are committing an offence, and I do think it is that sort of difference of what you can do that causes me some concern.

I have no problem in supporting provisions to ensure that the police are able to be as effective as we would like to see them in terms of on the odd occasions where in fact there are situations which we all are aware of when there are disturbances. They are usually outside nightclubs. And I have to say whatever laws we pass, unless there is a will by the chief constable to deploy adequate officers to a situation, then the laws we pass will be irrelevant.

Clearly we know what time some of these problems arise. They might be 1 o'clock in the morning or 2 o'clock in the morning, depending on the nightclub when it finishes. It is not therefore hard to ensure that there are adequate officers available if a venue has a problem that is ongoing, and I have to say my understanding has been that there have been too few officers deployed when a situation has happened on a regular basis, and I have to say I find that totally unacceptable, that we should put police officers in such a vulnerable position.

It has already been said that we have, within the Isle of Man, in numbers terms, a large police force per head of population, one of the highest in the British Isles, never mind the UK. So therefore it is a matter that I think we need to be careful on. Whatever we pass, without the adequate resources in the right place, then we are in a position where still nothing can be done.

The accountability of the chief constable has been mentioned. Well, that matter is being presently looked at because that is a matter that many of us have a concern about and have had for some time. So we should not confuse that with the issue here which is about the public and where a person threatens somebody with a threat of violence or whatever.

But I would say to the hon. member, the mover of the legislation, that my biggest concern is with clause 3. I am concerned that if somebody was to be abusive, and we all know people can get heated in an argument or whatever it may be or can be wound up by somebody, for that matter, to say something and that person says, 'He was abusive to me in a public place: I have the right to report him', I think that is a very delicate line and it is a very important area we should be very careful with because you could have relatively innocent people having to go to court to actually defend themselves to clear their name because in fact what they said was not that abusive.

So I would ask the hon. mover - and certainly at the clauses stage, if we get that far - to try and cover that. We are talking only about certain protection within a dwelling. A dwelling is clearly determined in the definition/interpretation in clause 8. So it is clearly laid out there what that is and that does not cover public halls, youth clubs, schools, whatever it may be, and I just wonder, do we really want to make it an offence if a person uses insulting words within the hearing or sight of a person likely to be caused distress? I think that is a very, very important issue we have to look at and we have to be absolutely satisfied that that is necessary in our society.

**The Speaker:** In that case, hon. members, I think, looking at the House clock, it is appropriate that at this stage we should adjourn and the House will now adjourn and recommence its sitting at 2.30 and the first to speak will be the hon. member for Douglas West, Mr Shimmin.

*The House adjourned at 12.55 p.m.*

### **Public Order Bill - Debate Concluded - Second Reading Approved**

**The Speaker:** We continue, then, with our debate on the second reading of the Public Order Bill and the first member to speak is the hon. member for Douglas West, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. Firstly I would like to congratulate the hon. mover of this Bill. Some time ago, as members will be aware, we were moving a Police Powers and

Procedures Bill through the Department of Home Affairs, and at that time the hon. member was invited to take the opportunity to move this part of the Bill as an amendment to the Police Powers and Procedures Bill. I was very encouraged by his immediate response. He did not want any particular personal glory of putting this Bill through the House, he was just wanting it to be enacted as soon as possible. That showed to me the commitment he has towards this Bill and I share it, and some of the things that have been said so far this morning, I believe, need just a little bit of clarification.

The comments that have been used this morning which I think are potentially disturbing - were a member of the public to be hearing things such as 'no-go areas' and 'riots' they would get it totally out of context. This Bill is designed for the extreme cases of behaviour that at present are not covered under legislation. It is an extreme area of our population which is small but has a tremendously damaging effect on those around it who are witnesses to it. It is not just children, as has already been said by Mr Singer, but it is one which would give the ability to the police to act; at present they are powerless, and that very fact is one of the ones which most frequently comes back from the eyes of the public and the police as being an inability to act when any decent-minded person would realise it was appropriate to act.

I am concerned when members in this House refer to the sort of areas discussed in this Bill as being a response to normal behaviour of children. 'Kids have always been kids,' was said this morning, 'children playing about.' That is fundamentally missing the purpose of this legislation. The legislation is for the extreme behaviours which at present go unchecked and, if they continue to go unchecked, give an example to others who then get dragged into the similar behaviours. It is not a catch-all for any young person out on the streets of a night time; it is only those who will exceed any normal standard of decency and behaviour, and it is these very people who are continually leading the public to express criticism about the society in which we live, the police force which is serving us. And we have to give the powers to the police to take reasonable steps without empowering them to become part of a police state.

A short while ago I attended with some others a meeting and a meal which was attended by Mr Ronnie Flanagan, the Chief Constable of the RUC, and in discussions at the table, when talking about how the morale is maintained within the police force of the RUC, the most damaging impact on their morale was the comments made flippantly by politicians which were then picked up by the newspapers and undermined the very purpose of the job that those professional people were attempting to do. I fear that once again this House hears people making comments, said in good faith for genuine principles that they hold, which give the message out to the police and to the public that we are prepared to tolerate the extreme behaviour.

This Public Order Bill is not a solution. There is no piece of legislation that comes through this House which is a solution to the problem. It is another cog, it is another step towards improving the situation. It is not making a nanny state, it is not giving overly superfluous powers to the police. It is a genuine response, in my view some years belatedly, to give the police the power to act rather than face the demoralisation of once again the same offenders putting proverbially two fingers up to them and getting away with it. I for one would like to be associated with this Bill, the mover of this Bill, and to send out the message to the public and to the police that we will support them in their efforts to calm the most extreme elements of our society. Only yesterday I gave a lift to a young man who was talking on a Monday evening at 6

o'clock about how he and others had been arrested for a fight down on the promenade, and I picked this young man up at no later than 6.30, 7 o'clock. During the Monday afternoon there was a fight, a disturbance, caused once again by alcohol in this case, where the police were brought at a fairly neutral time in the week, and it is these areas of extreme behaviour normally fuelled by alcohol which we need to address.

Hon. members are probably aware that nowadays we have groups of young people, and not-so-young, who have open access to alcohol seven days a week for most hours of each day. Yes, in a society we want the freedom to choose, but that does not take away the rights of decent people and the freedom to move about unaffected by the extremists. We are not talking about riots, we are talking about those people who do not care about other people's safety or normal quality of life.

I will support this and I look forward to it moving smoothly through the House. Thank you, Mr Speaker.

**Mrs Cannell:** Mr Speaker, I rise in support of the Bill and I wish to place on record my congratulations to the hon. member for North Douglas for his patience in pursuing this particular piece of legislation. I have to concur with all the comments made by the previous speaker, who has stolen a little bit of my thunder also, so I will not go over and be repetitive, merely to say that I support this Bill. I regard clause 3, which has been subject to some criticism from one area, as an important clause, and each clause that is in this Bill is actually important. I think it sends out a very clear message to the public, one which will, I feel, be received with some reassurance, that we do not tolerate such bad public order, that we do want to nip it in the bud with regard to our young people. Failure to do so, of course, will just perpetuate the existing problem, albeit isolated in some instances, and I feel it is very positive legislation. It is obviously needed, otherwise the hon. mover would not have presented it to us today for consideration, and it will give the police just that little bit more power to be able to curb this type of behaviour in the future. I do hope that hon. members will support the Bill. Thank you, Mr Speaker.

**Mr Downie:** Mr Speaker, I rise really to support the Bill and having read it once and read it again, I realise that the implications contained in the Bill are quite severe. In my opinion we have to be severe because we are dealing with a minority of people on this Island at the moment who, rightly or wrongly and for whatever social reason - you can bring that into the argument as well - totally and utterly out of control, and at times they are absolutely terrorising the neighbourhood.

Now, it is no good doing what we have done in the past and saying to these people, 'You've come before the courts for the sixth or seventh time and the social worker recommends a report to be carried out or you get a gentle slap over the wrist.' These people are really, in my opinion, riding roughshod over the law and, having talked to one or two police constables about the progression of this Bill, there is definitely an opinion out there, amongst the people who are trying to deliver, on our behalf and the behalf of the community, law and order and provide proper safeguards within the system, that there is a void.

If we cast our minds back to the last general election, lots of us stood in this House on the grounds that we were going to support a tightening-up of law and order and this

disgraceful behaviour, which has crept into the Isle of Man, albeit by a minority and quite a small minority at that, was not to be tolerated.

Now, it is 10 years ago since the Public Order Act 1996 came in in the UK, and that has proved to be quite effective against anti-social behaviour and I think that lots of the offences are not just committed by our own local people; there are certain times of the year when offences such as those indicated in the Bill are committed by people from the adjacent island who know full well what is enshrined in the legal system in the UK.

I have no problem in supporting the Bill and I would like to congratulate the member on taking the initiative in bringing it before the House. I am happy with it. It does deal, as I say, with problems that are caused generally by minorities but, in all fairness, it is the minorities really that are causing a lot of problems throughout society in general, and I think that if we start to pander to them and we start to look for excuses for our own inadequacy to address some of these problems, the Isle of Man will lose its quality of life and in a few years from now it will be like Toxteth or parts of Merseyside or anywhere else. It is up to us to get a grip in this particular area and bring in some legislation which is effective and is going to help the police out there to do their job in a much more efficient and effective manner. Thank you.

**Mr Bell:** Mr Speaker, coinciding with the announcement by the hon. member for North Douglas that he was going to bring in a private member's Public Order Bill, my department had just started work on producing a very similar piece of legislation, and there are other areas in relation to the Public Order Bill which we will still be looking at which have not been covered by this and that will come before this House in due course. But both my department and the hon. member were thinking along the same lines and to that end I did approach him, as my colleague for West Douglas has said, at the time of the introduction of the Police Powers and Procedures Bill with the intention of encouraging him to bring forward this particular Bill in the form of an amendment to that original Bill to try and speed up its process through this House, and for various reasons that did not ultimately come about. But nevertheless that does not alter the fact that myself and my department still in principle strongly support the general thrust of this Bill and will be supporting it through its process through this House.

There is no doubt, certainly from the police's point of view, that they have been looking for quite some time for legislation of this nature to give them some protection and some ability to respond to the abuse which is frequently hurled at them by, as has been said, the more raucous minority that they come across out on the streets. I have spoken to the police on this Bill and they feel that by and large the contents of this Bill will provide them with just that protection and it is something which they welcome and feel will be of some considerable benefit to them. So from that point of view I welcome the Bill and I would urge hon. members to support it.

The only additional two points, perhaps, I would like to raise: first of all, on the Bill itself the only thing I am still not sure of, and I would be grateful if the hon. member could perhaps clarify it, is in part II, clause 4, sub-clauses (1), (2) and (3), there is reference to intent, and I just wonder how effective he believes intent is when it comes to actually proving that the action taken was intended. It is a very difficult thing, I understand, to prove in law and it may well lead to very difficult situations whereby the police feel that they have been able to utilise this particular legislation but the courts will not accept that a particular action was intended. Intent is a very subjective word, I think, and I would hope that the hon. member has an answer which

can specifically clarify that word to make sure there is no confusion when the legislation is actually applied, should it be passed by this hon. House.

My other point is just a plea to members, very much following on the comments from my colleague for West Douglas who is also a member of the department, and that is, when we have these debates, to keep a sense of perspective. There is no denial, we do on occasions have problems on the street. There is no question about that, and it is something which over the years has probably worsened and it is something which is regrettable. But for members to get up and claim that we have no-go areas on the Isle of Man and some of the other wild rhetoric which has gone with it, I think, does not do the integrity of this House any good and it simply stokes up fears amongst elderly people in particular outside that law and order is breaking down on the Island. We do have problems but we are not facing the collapse of civilisation as is suggested in some of the populist rhetoric we hear from time to time in this particular chamber. We have a responsibility to be more moderate in some of our language when we are debating these issues.

I would like to comment on one point that the hon. member for Castletown has made, where he believes too few officers are deployed on the promenade, particularly in the region of nightclubs, and I would simply say that there are frequently large numbers of police deployed on the promenade but, as the night goes on, as arrests take place, those men then are taken off the promenade because they obviously have to take the suspects back to the police headquarters, they have to be processed in the normal way, and on a busy night many of the men who would otherwise be on the promenade will be tied up in that particular activity. So it is not a fact that they are not there; they are diverted into other areas. The argument can always be put out that we need more police in that case and that may well be the situation, but that is a different argument altogether.

The other point which was raised by Mr Karran which once again he repeats at every opportunity is the accountability of the police and particularly that the complaints procedure is less than desirable. Now, the complaints procedure is well known, it is frequently used and it is available for any member of the public who feel that they have a legitimate complaint against the police to utilise at any particular time. Now, if the constituents are coming back to members and saying that this procedure is not adequate, it is not working, it is not giving them the representation that they are looking for, then it is up to members to come to the department or to come straight to Tynwald, if needs be, with a recommendation to alter or improve that system. But it is fatuous to constantly criticise both the accountability and the complaints procedure of the police unless people are prepared to come forward and give specific evidence as to where the shortcomings in these particular areas may be. It does not help to take the argument forward one jot.

The Bill, though, I in general have no qualms with. I hope, as has been suggested, it will be aimed to calm the more extreme elements of our society. There is no doubt that there is a crying need for an improvement in that area, but I would just once again urge a final caution, and that is that for policing to be effective in any community, but particularly in a small community like the Isle of Man, it is heavily dependent on mutual respect and mutual co-operation between both parties and it is, in this particular instance, I would suspect, going to be incumbent on the police not to be heavy-handed in the pursuit of perhaps some of the more trivial complaints which might be made to them and under which perhaps this legislation

could be brought into play. I think we need to maintain the trust and respect of the public if we are going to have an effective police force on the Isle of Man, and it will be important in future for the operation of this to maintain a fair balance and to strive to achieve an element of fairness and common sense, I suppose, when this legislation is actually in operation. But I would support the Bill and I urge members to do the same thing.

**The Speaker:** Hon. members, I call upon the hon. member for Douglas North, Mr Houghton, to reply to the debate.

**Mr Houghton:** Thank you, Mr Speaker. I have been very inspired today by what I have heard from the contributions of members. They have clearly shown to me today that they have an outstanding knowledge of what I am trying to get across to them in the House and bring forward into legislation. I will, however, go through a number of points to clarify matters, if I may.

Dealing with Mrs Hannan's comments, she asked in one of her questions about the situation of a person who has reasonable firmness. What they are referring to there - and it was indeed answered by Mr Quine - is a person who is an orderly person; that is a person of reasonable firmness. She went on about police training. Police training is developing at all times, as other members have stated. Their training is to a much greater extent now, I understand, than even when I was in the police force two years ago. I do come to full agreement with Mrs Hannan, though, with community policing and the community policing initiatives that are currently under way within the Isle of Man Constabulary. That is a way of dealing with, when I say . . . and I think the hon. lady was referring on most occasions to loutish behaviour, children or very, very young people who were just messing about, fooling about in the street, and that is not what this legislation here in any way was intended. The hooligan element is the area that I wish to address and the hooligan element can be those of an age between 10 and over 18, but the hon. lady goes on to say, 'What are we doing for the youth and the young?'

**Mrs Hannan:** A point of order, Vainstyr Loayreyder. I am a member of this hon. House.

**The Speaker:** Hon. member for North Douglas, the hon. member for Peel is concerned that you referred to her as a lady; she is in fact an hon. member.

**Several Members:** Oh!

**Mr Houghton:** And I do apologise for that, sir. Referring to the hon. member's point, and it is a valid point, on what we are doing for the young, I did tell this hon. House what I was doing for the young in my position in the Department of Education: I have delegated responsibilities and I am working very hard on that, so that is something that is very firmly in my mind.

Moving on to Mr Karran who is not present at this time, he was talking about putting the Bill to a committee. I waited for an answer as to why or for a mention as to why he did and he did not come forward with that, so I could not answer that any further.

I thank also Mr Quine for his comments. They were very helpful and his definitions in the provisions of the legislation I am quite sure helped hon. members to understand much more greatly the circumstances of the Bill.

I also would like to thank Mr Singer for all his support and very well balanced comments.  
**(Mr Cretney: Hear, hear.)**

Mr Brown - I thank him, the hon. member for Castletown, for his very supportive comments. He raised a caveat in clause 3 which I am more than pleased to explain partly now and then partly, if he so wishes, if I have not covered it now, at the clauses stage. Where he made reference to an incident which would take place in a meeting hall, church hall or what have you, that is already catered for in law now under provoking behaviour tending to a breach of the peace in so far as, if somebody comes out with abusive and foul language among a number of people in a meeting, they could be arrested for that already. That is quite clearly catered for at this time.

I thank also Mr Shimmin for his endearing support. I do appreciate that he is in full agreement, in situations such as this, to nip the matter in the bud before matters get worse and go on to occasions that may lead to riot and so on. So I do appreciate everything that the hon. member for West Douglas referred to there. He did also say, as indeed others did, that it was rather belated legislation and I am quite sure, as he is, that it will be very much welcomed if and when it becomes law over here.

I would also like to thank Mrs Cannell for her support and the fact that she reiterated that clause 3 is very important and I will go into some detail, as I say, at the clauses stage, with clause 3.

Mr Downie, the hon. member for West Douglas - I appreciate his support again. He made reference, again, to very severe exceptional circumstances and where these youths, or adults, are riding roughshod over the law at this point in time, and he is quite correct; there is currently a void which this legislation will fill.

I also thank the hon. minister for his support. I am very grateful for what he had to say. He made one rather important point that is laid out in three paragraphs on page 3 of my Bill, where he goes on to ask for an explanation of intent. Intent, hon. members, is clearly what this Bill needs to do. If people are jovially messing around - because this is dealing more with the first section, which is affray, which is a very serious offence - and perhaps swearing a little bit but not intending to bring provocation or violence or anything else or harass people, let us say on a building site or on the corner of a school play yard or what have you, they are not intending to bring that harm or provocation on another. So where the intent has to be shown - a clear example would be - and especially in the case of affray which works its way into severe violent disorder - say, in an instance if a number of these hooligans had pieces of wood in their hands and they were banging on the side of a door or wanting to get in to assault somebody, which comes under another area of the criminal law, they could be clearly construed as intending to injure someone and so on. That is the area of intent that is set out in this area here. Similarly, within criminal law, somebody could be arrested for going equipped, meaning they are going equipped intending to steal, and it is up to the police to prove, as going back in with this Bill here, that these people were working themselves up into a state where they intended to cause harm eventually but, as far as this Bill is concerned, to cause fear or provocation of violence. Thank you, Mr Speaker, I beg to move.

**The Speaker:** Hon. members, the motion is that the Public Order Bill be now read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Apologies For Absence**

**The Speaker:** Before we turn to item 11, hon. members, in case there is any concern, the hon. member for Glenfaba, Mr Gilbey, has absence this afternoon attending a funeral. The hon. member for Onchan, Mr Karran, had a hospital appointment and will be back shortly, I understand, and, as the hon. member for Garff is chairing a planning appeal at the present time, he similarly will be back as soon as possible.

### **Council Of Ministers Summary Of Proceedings - Discussion In Private Sitting - Motion Lost**

**The Speaker:** We are then onto item 11 on our order paper and I call upon the hon. member for Michael, Mr Cannan.

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

*That the Summary of Proceedings in the Council of Ministers be for discussion in the House of Keys, sitting in private.*

In putting forward this motion I am entirely relaxed; it is to give members the opportunity to reflect on whether they wish to return to the previous system where the minutes of the Council of Ministers were held in a parliamentary setting and discussed in private in this, the parliamentary setting, or whether they wish to carry on with the present arrangement where they are held in private outside the parliamentary setting at a time of choosing of the Council of Ministers.

Just to give the background, from the time I entered, and much longer before that, until June 1992 the summary of the Council of Ministers was taken in this hon. House. It would be taken, for an example, this afternoon. After our normal business had proceeded the Speaker would say, 'The House will now sit in private,' and in the context of this parliamentary setting, with all members present, all ministers except those in the Legislative Council and the Chief Minister present, of course, the matter of the Council of Ministers' minutes would be run through with ministers being able to answer and all members being appreciative of the answers given on matters, even those which they did not raise.

Now, for some reason, and I have never really found out why, after June 1992 it was stopped here in the House of Keys but it was not stopped in the Legislative Council, and all members get a copy of the agenda of the Legislative Council and indeed, just to give an example, that of last week's Legislative Council sitting, Tuesday, 24th March, had the main public agenda and then it said, 'In Committee of the Whole Council (In Private) Summary of Proceedings in the Council of Ministers (February 1998)'. So that that was the February minutes and they had had the previous January and so on. So it has always continued in the Legislative Council sitting in private where all members are there and a representative of the Council of Ministers takes them through the minutes.

All I am doing this afternoon is to give members the opportunity of whether, by having them here, all members, as I have just said, present - ministers are present, the Chief Minister is present - and it is in a formal setting, or alternatively to continue with the present

arrangement, informal at various times, convenient to some members, inconvenient to others, or whereas here members are expected to attend and therefore all will be able to appreciate what is going on.

So, hon. members, I am entirely relaxed. It is just the opportunity to give you the opportunity, bearing in mind that the buzz word is 'consensus government', so that all would be here to go through it or, in this setting, the minutes of the Council of Ministers. And so, Mr Speaker, without any further expression I move the motion in my name.

**Mr Quine:** I beg to second.

**The Speaker:** Does any hon. member wish to speak to the motion? The hon. member for Rushen, Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. I was pleased to hear that the mover of this resolution is entirely relaxed about the resolution and is just placing it in front of members to give them the opportunity of expressing a view. I have to say, sir, that my view is that a parliament, or a branch of a parliament, should sit in private as little as is possible (**Mr Cretney:** Hear, hear.) and I believe, going back to a situation where we would sit in private formally, to use the hon. mover's words, at least once a month on a regular basis is a backward step (**Several Members:** Hear, hear.) and certainly not one that I would be party to. The way the Chief Minister goes through his summary of proceedings at the moment is in a way that is led by him at a meeting called by him at a time that is hopefully opportune to all members. I think it would be difficult formally in this setting for that to happen here, and again we will probably go back to the old situation where it was the Speaker of the House of Keys that used to lead us through that summary of proceedings and pause where he felt that that was necessary, even if that was not generally supported by other hon. members.

I have to say I believe that the situation that has developed since June 1992 - and it was on this particular principle that the situation was changed - is an enhanced procedure and I would be very reluctant to see us go back to what happened before.

**Mr Singer:** Mr Speaker, I think that the present system is working fine, the informal situation where we are invited by the Chief Minister to go to a meeting to discuss the particular minutes of the Council of Ministers. The only thing I would ask the Chief Minister to consider would be that, knowing what is on that agenda and what has been discussed within the Council of Ministers, he would make efforts to ensure that any minister who we might want to ask a question on those minutes would be there at that meeting, and I think that would be a great help.

**Mrs Cannell:** Mr Speaker, whilst not ordinarily and normally supporting any particular government, whether it be national or local, sitting in private deliberating, I have to say I have some reservations about the present situation. Now, I can honestly say that due to other commitments I have been unable to date to be able to attend such a meeting which has been called for by the Chief Minister. Very often such meetings are called for during the lunch-break, at a parliamentary session perhaps or on another occasion, but they are during a lunch-time, which gives very little time in order to be able to properly examine and question any particular decision or deliberation reached by the Council of Ministers. So on the one hand it might be more appropriate to some members to have the informal consideration of such minutes; on the other hand I feel there is insufficient time, perhaps, to properly consider and,

as I said, I have been unable to attend due to other commitments, other department work or constituency work. If it was, however, an extension of the normal sitting when all members are expected to be present, then I for one would be here and so it would be advantageous for me.

I have to say, though irrespective of whether the House supports moving back to the old system or continuing with the status quo, members of the public are not privy to what is discussed at these meetings anyway because they are all conducted behind closed doors, whether they are the informal one or returning to the formal one. So there is no prospect anyway for 'Joe Public' to participate, so I do not want the press picking up the wrong message here, because I am all for open government whenever possible.

On the one hand I support the hon. mover in his suggestion that perhaps we should extend the sitting of the Keys in order to properly consider, and I can see much merit in that. However, I understand why, perhaps, it has been moved to one of the offices at the back of the Millennium Room and made on an informal basis, but I think, in order to properly assess what takes place within the Council of Ministers - and, after all, we would not be given a copy of the minutes if we were not expected to perhaps cross-examine and question or if we had any doubts or if we needed reassurance, so they are there for consideration - what we have to decide is whether or not they should be properly considered here as we are sitting as a parliament or on an informal ad hoc basis as and when members can afford the time to be able to pop in.

The one thing that does disturb me about going back to the old system is: I remember well, when that system was in force previously, as a member of the public who would sit in the public gallery one would sit there and follow question time, follow the debates, and then there would come a point in time when the Speaker would say, 'Members we have now concluded the business to be conducted in public. We will now sit in private.' And of course all eyes would fall on members of the public in the gallery including the press, where we were given the nod - 'There is the door and out you go.' And as a member of the public I used to feel a little bit offended when it got to this stage, because I used to think, 'Now, what are they going to discuss now? We are being booted out, it must be something to hide,' and that is unfortunately the perception that is picked up when a parliament sits in private and that is to be regretted.

I am undecided which way to go and I will be very interested to hear what comments other members have to make and in particular what the mover has to say in summing up. Thank you, Mr Speaker.

**Mr Cretney:** Mr Speaker, I would like to associate myself in the first instance with the remarks of the former Chief Minister, the hon. member for Rushen, Sir Miles Walker, in as much as I do not think we should be considering going back to the system which formerly existed. I think, if anything, we should be looking to the future to perhaps see if there were a mechanism whereby the Chief Minister has an opportunity in some parliamentary forum in order to disclose to the wider public how things are going, what matters were discussed, because there is so little which appears on the Council of Ministers' minutes for discussion in private which need be private that, really, it seems to me the logical next stage that could be considered - and I have not discussed this with anybody - could be that the Chief Minister takes the opportunity in open forum to promote matters which have been discussed within the Council of Ministers, and I look forward also to the time when the Council of Ministers' minutes, such as they are, are properly published in due course.

**Mr Rodan:** Mr Speaker, I suppose the question being asked is, is it right to have these meetings in a non-parliamentary setting? Now, perhaps a parliamentary setting would be more appropriate, but I think myself that the nature of the discussion and the confidentiality that comes into the discussion and the relative informality of the briefing in less formal surroundings actually has much to commend it, and I feel therefore on balance that to have a private sitting in a parliamentary setting is not much of an improvement on a confidential briefing in less formal surroundings where there is perhaps an easier exchange of views and perhaps less constraint on the part of members in exchanging those views. So I remain to be convinced that it would be an advance.

**Mr Downie:** Mr Speaker, as someone who has worked under both systems - and when I first became a member I know that this House met in private - I felt that to some extent when we met in here in private the whole procedures were somewhat subdued, and I must say that since we have discussed what I believe are more affairs to do with the government's running of the Isle of Man, not the parliamentary process, the items which are discussed in the Chief Minister's minutes are mainly concerned with Isle of Man Government plc, not necessarily what we are doing with regard to our parliamentary matters. I feel that the atmosphere at the moment at the Chief Minister's questions-and-answer session is very valuable, and I think that you have got the opportunity there to delve a little deeper; you do not get a feeling that there is anything being withheld from you. It is a very good opportunity, I think, to glean additional information.

Now, whilst I accept that over the last few months numbers have dwindled and on some occasions there is as little as half a dozen of us on occasions turning up to the Chief Minister's minutes, I think that when there are major issues appearing on the minutes where a minister has had a lot of input and there is a lot of money involved there should be a footnote put on the bottom to say that that particular minister will be there to provide additional information or to answer particular questions and I think that that may be a way of ironing out the solution, as it were.

All in all I think that we have to keep some of the things that we do in government under wraps. I am saying that as far as the people we represent are concerned I agree in having a substantial amount of openness as far as they are concerned for lots of the ministers, and the legislation and the processes that take place within the Council of Ministers - lots of that information is invaluable to our competitors and we may be looking to get another niche in the market or to bring some legislation which is beneficial to the Isle of Man and its economy and, in fairness, you cannot be discussing that sort of a thing in an open forum. It is difficult enough at times to, I suppose, assess what you should allow out because, let us face it, even on the back benches here the place looks like a sieve. Most of us have a good idea of what is going on and the information provided by the Chief Minister at his briefing generally only confirms what you know already.

So I think this is an opportunity to bring the House together a bit more and perhaps keep with the present system but try and give more members the opportunity of taking part, and I know it is difficult when some members go home for lunch and so on if they have got commitments at home and children; we have got to accept that. The only downside to the situation at the moment is at least when this House meets there is every likelihood that there is a good number of us here, so that if a session is to take place right after the House met you

would know that most people were here. To come in on another day or to have a day when Tynwald meets or something like that, I think, is wrong; we are moving away from it. So by and large I think we should stay with the status quo. I think it works well and that the approach that the Chief Minister takes is beneficial. As far as getting the information out, as sanitised as it may be, it is beneficial, I think, in the long term. Thank you.

**Mrs Hannan:** Vainstyr Loayreyder, my feeling is that it would be a mistake to go back to sitting in private, and it is not just to look at the Council of Ministers' summary of events; it is other things which happened at that particular time, when we looked at remuneration of members in private, and I concur absolutely with the member for Douglas East when talking about being in the public gallery and it was then announced that the House would sit in private. I find it absolutely offensive that we should deem to sit in private. We are a parliament, and I believe parliament is representative of the people and therefore, while we sit, I believe that we should be open to the public. There are many things that have happened in private before my time where decisions were taken in this House in private and they were not conveyed to the people but they had an effect on the people. That was completely wrong and therefore I think it absolutely right that we should move away from sitting in private.

When I think back to how things used to be, we used to have the budget presented to us before this House, we had just the Treasurer coming along with the Treasury minister to give an overview of the budget. There was not the free and easy discussion and exchange of views as we have now, and I think we have got to at times appreciate the move that has happened over my 11<sup>1</sup>/<sub>2</sub> years in the House the openness of government and departments to speak to members can only be appreciated when you have been there. Maybe people find government is not as open as it should be, but the movement that has happened during that time has been immense, and I think members should be very protective of that movement. It is not to say, member for South Douglas, that that should not continue to happen, but I think to go back to the situation where we did actually close doors and we continued in a parliamentary way - after a long day discussing legislation, which we used to have in those times where we would possibly be at 5 o'clock finishing legislation and then settling down to discuss Council of Minister summaries, the public and the press being asked to go - I would hate to go back to that.

Concern has been expressed about time of meeting but I think, because we are such a small assembly, we do find it difficult. We fit meetings in at lunch-times; we fit meetings in mornings, especially of Tynwald sittings - these are committee meetings. We are extremely busy, and lunch-time is an opportunity with plenty of warning being given, and I would not concur with the member for Douglas West when he says only half a dozen members recently. The last number of Council of Ministers summaries that I have attended - and I attend most - have been, I think, in the region of teens. And it is not just the Keys that go, it is also Council members who also go, so there is a mixture. Ministers go as well as members, and I think, if members are finding it difficult to get to meetings at a particular time and need more notice, then if they would raise this with the Chief Minister I am sure he will try to accommodate us all, but I do feel that because we are such a small assembly, because there are such a number of committees going on at any one time, it is difficult sometimes for members to fit everything in, but certainly I try to reserve Council of Ministers proceedings so that I can be there and I can answer anything that comes up within my purview.

So I would not support the resolution as it appears on the order paper. I think it would be a retrograde step.

**Mr Brown:** Mr Speaker, just as one of those who had the good fortune, if I use that term, to be involved in the old system of where we did go into private, I concur with much that has been said by those who experienced that in terms that they say, 'It was really something that we felt was wrong.' Certainly I can remember in here, when we used to go into private it did not just stop at the summary proceedings; matters that were of interest to members were naturally raised while they had the attention of the Chief Minister, or then Chairman of Executive Council in some cases, to try and get the issue raised in this setting, but I think, whilst we all felt uncomfortable and we felt it was wrong and that feeling, I think, got stronger as time evolved, especially with the new system of the Council of Ministers and the ministers, clearly it is a fundamental principle that really is at the heart of this issue, and that fundamental principle is: should the legislature go into private to consider government business? And my answer to that is straightforward: no, it should not. The legislature should question government business in the open forum of that legislature, and about the only time that a legislature should go into private is if it was a period of war, and that is a precedent that has been set in the UK where during the Second World War and the First World War they went into private, and even after those wars were finished they then made public what they had discussed in private during that period. So clearly there is a major principle there. This is the House of Keys, this is the legislature, it is not the government as such.

The hon. member for Michael, who is relaxed about this issue, which I am pleased about - can I say I smiled a little bit when he said that he did not know why the procedure stopped. So maybe to refresh the hon. member's memory can I just be helpful by saying I remember very well what caused it: one is that there was considerable unease by many members in here that we were going into private. We felt it was wrong in principle. We felt it was giving the wrong basis of what was acceptable by the public, but I think even more interesting was, I remember very much on one occasion a subject was raised in here from those minutes, and the hon. member for Michael strongly objected to the matter even being raised in here, and the Speaker, who of course was in charge of the House, said to the member to sit down, it was a matter that was on there to be discussed, and with that the hon. member for Michael, as I am sure he recollects, walked out. So clearly, as he felt very uneasy at that time, as many of us felt uneasy at that time, I am sure none of us want to go back to that old procedure. And can I say that, as members of this House, clearly we are required to sit in the House whilst the House is in session, and the person who determines whether or not the House is in session is the Speaker, and therefore it is clear that to put members into that position is not an unacceptable practice for today.

I hope members reject this motion before the House. I think the major changes that the hon. member for Peel has mentioned of what has evolved over the years has to be recognised, and clearly, whilst there may still be a problem sometimes from a member's point of view of a lack of information, I think all I would say is that I am not aware of ministers refusing to provide the best information possible to members on issues that concern them, and clearly, whilst there may well be a problem perceived when the summary is considered in private in another place where it is under the control of the Chief Minister and therefore nobody is obliged to be there, that is the freedom of the member whether or not he wishes to

be there and, if there is a problem because ministers may not be there, then I am sure the Chief Minister and ministers, myself included, will have taken that on board and, as the member for East Douglas said, one of the difficulties is we all have a lot of pressures at times and it is not always easy to be available at those meetings, but clearly that does not stop a response being given to members.

So there is a major principle at stake on this one whether we like it or not, and sometimes we have to be clear on where the line is drawn. As far as I am concerned, we would not serve the public's best interests by allowing the House to go into private to consider public business. It is the responsibility of the House and Tynwald Court, if it wishes to discuss government business, to do that in the open forum of our parliamentary system.

**Mr Quine:** Mr Speaker, I am even more relaxed than the mover! *(Laughter)*

**Mr Cannan:** And I am not going to walk out. *(Laughter and interjections)*

**Mr Quine:** Mr Speaker, I can take the point that there is a difference between us discussing legislative matters and discussing governmental matters, and we could question whether it is appropriate for us to discuss governmental matters in a parliamentary setting. I can take that point, but I think it is somewhat academic when we start drawing a line between discussing an agenda in private here or in private up there. The public are no further advanced and no further forward whether we discuss it in private down here or in private up there, and the point that I got up to really underline is the one that was made, I think, by the hon. member for South Douglas, and that is that I think what we should be concentrating on perhaps is looking at the minutes, the summary of government business, and deciding how much of that can be, and indeed should be, discussed in open forum with only a very few items indeed, perhaps, which because of their particularly sensitive nature need to be discussed in a closed forum. That, I think, is really the area, perhaps, that we should be focussing on now, but to try to advance a case by saying that if we take an agenda, whatever that agenda is, and say that there is a difference between discussing that in private sitting here as opposed to discussing it in private up there, I am afraid, is academic. The real issue, to me, is how much of that information should be open to the public, and that is where we should be concentrating our attention.

But, as I say, I am perfectly relaxed. I think the only administrative point I would make: it is more difficult to get individual members and ministers together for an additional occasion, which is what we are now discussing. If you are not going to continue after, say, a sitting of the Keys when we are altogether and when there is no problem in mustering people because we are here but we are going to set another date, then there is an added difficulty in getting everybody, or as many people as possible, to attend that additional sitting because we all have other commitments and, even if you give good notice, there will always be an order of priorities and it is difficult to get everybody there. So I can see that, given good notice, perhaps most of us could and would make ourselves available, but it is not going to have the same attendance as if we move from the public to the private sitting here when we are all available. But I am perfectly relaxed about the whole issue. *(Laughter)*

**Mr Gelling:** I am afraid, Mr Speaker, if we get any more relaxed we will all be falling over! But basically I rise purely and simply to suggest to members that first of all I am listening to what they are saying. I appreciate what some members have said with regard to the meetings

and certainly, going back to the more formal procedure that we had in the past where Mr Speaker actually chaired the meeting it was without doubt very formal, questions were asked, ministers would answer and it was in that way. We now have a much more a cross-the-table discussion, and I think members do find perhaps that that is a better way of discussing the problem.

However, there is a problem, and that is I think the point raised by the hon. member for Ayre, which is getting a time. We have just had a meeting now in the lunch-break today where we were trying to fit in another meeting and of course next Tynwald sittings, both the Tuesday lunch-time and the Wednesday lunch-time, are already booked, and of course that made me immediately think, 'Well, there goes the next summary of proceedings when we usually have it on a Wednesday lunch-time. We had to move the Wednesday lunch-time of last Tynwald because of a LG and E presentation and we had it at half past nine in the morning prior to Tynwald, and I must say I was surprised to find we had 16 or 17 actual members in at that particular summary. So that was good, but I think it is quite right again what the hon. member for West Douglas, Mr Downie, said: it depends on what is on the summary and how old that summary is. Much of it perhaps has already been either on the floor of Tynwald or it is already out anyway, so that is dependent upon what is on there that is of interest to members.

What I would perhaps like to throw in would be the fact that if we knew of a time when the summary was going to be presented every month, i.e. if it was possible to look to you, sir, and say that at one particular Keys Tuesday we would know that we would definitely conclude our business at half past four and members knew that that would be when it was, that is something perhaps that we could consider because, at the end of the day, we want members to feel that they are getting satisfaction out of the information that they receive. So this is something, I think certainly, that we can talk about but I think today we are looking very, very clearly at a formal sitting where Mr Speaker is in the chair, back to where we were and, without doubt, I well recall at that time the objection was that parliament was going into private whereas the summary of proceedings, as again has been said, is the workings of the executive government and members finding out what actually is happening. So I think it is different and there could be somewhere a halfway house between the two, but certainly I would be quite content to have the summary at a time where we knew exactly each month when it was; it certainly would be much easier.

**Mrs Crowe:** Correct.

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

**Members:** Hear, hear.

**Mr Quine:** In a relaxed fashion.

**Mr Cannan:** In a relaxed fashion. Thank you, Mr Speaker. I think this debate has served a useful purpose. It must have done because of the number of contributions. I am also pleased that the Chief Minister has made a contribution and, having listened to the comments, I think it is very important that we know where we are going and to have, in my view, proceedings on a more regular and perhaps semi-formalised basis so that the Chief Minister has just said - and I concur with that - that there is somewhere a compromise in the middle where members will be more likely to be attending; at the request of some members a minister

will be there so that the minister can be asked about matters that are relevant and that people are concerned about.

Returning to the main comments, members said, 'Sitting in a parliamentary setting it was all wrong to go into private session.' That I believe is debatable. Is it any more wrong for members of the Keys as far as the public is concerned, whether they are in private session in this hon. House or in a room at the back of the building? Some members said, 'But then the public would say, "What are they going to say?" ' Well, what are they going to say here or what are they going to say? What difference does it make? It makes absolutely no difference at all. The public know that the members assemble to have a private setting. And it could be said that we are all MHKs and so whether we sit here to discuss it or in a room really is academic.

The other matter is that if you have it when most members are present and most members are able to contribute to the debate, and in reply to the hon. member for Castletown - I am glad he has refreshed my memory - I think on that occasion a minister or the Chief Minister declined to answer a question on which I was pressing an answer, and I was so cross that I walked out, but that is absolutely no difference because I have seen members walk in and walk out in the present Chief Minister's holding it in his room, as he does; members walk in during the time and members walk out half-way through anyway, so it goes on all the time. There is no great difference (*Interjection*) but, as I have said, it is important, I believe, that when we are discussing serious items on these minutes, a minister responsible for that department should be present and that these minutes should be held regularly. To give an example, we could have done the March minutes this afternoon while we were debating whether we have them here or whether they do not, if they had been printed - I believe they are just about being printed, Chief Minister. So what is so onerous about having them here or alternatively, as the Chief Minister has suggested, we can have them after the House of Keys sittings and moving out of here into another room in another place?

I really put this motion down, as I said in the beginning, in a relaxed attitude so to give an exchange of views and a discussion paper on the way forward or whether members found it entirely acceptable as it was. My personal view is that the matters are serious and, in the more formal setting of this House, it is appropriate but I have no great concern in the matter. On that basis I leave it to members to express their views and, I am sure, the Chief Minister in the vote, and I leave the Chief Minister to take on board the views expressed. Thank you, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the summary of proceedings in the Council of Ministers be for discussion in the House of Keys sitting in private. Will those in favour please say aye; against, no. The noes have it.

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

*For: Messrs Cannan, Quine, Houghton and Mrs Cannell - 4*

*Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Cretney, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Gelling and the Speaker - 16*

**The Speaker:** Hon. members, the motion fails to carry with 16 votes being cast against and 4 for.

Hon. members, whilst the House may be in a fairly relaxed form of mind this afternoon I tell the House that I am not particularly relaxed in relation to the good running order of the House and the order of the House in respect of starting times and closing times is effectively within standing orders. Now, I can equally remember, and other members have commented, that I remember when the Keys used to start their sittings at 10.30 a.m. and finish at 4.30 p.m. The time has been extended over the period by the Standing Orders Committee. The suggestion has been made this afternoon in your debate, and in particular by the Chief Minister, that maybe it might be possible to meet at the completion of the sitting of the House to sit to discuss these summaries of proceedings. In that regard I am perfectly relaxed and I am quite prepared to put it to the Standing Orders Committee that we should consider an alteration to closing down maybe an hour earlier on one of those days or whatever, but currently we operate according to our standing orders. So with a little bit of co-operation I think we may be able to overcome. . . Well, hon. members, that will be entirely up to you, but ultimately it will come via the Standing Orders Committee. That being all, hon. members, with the completion of our order paper for today the House will now stand adjourned until Tuesday next, 7th April, at 10 o'clock.

*The House adjourned at 3.45 p.m.*