

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 26th January 1999  
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon

R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba);

Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (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.*

**Apologies for Absence**

**The Speaker:** Hon. members, the hon. member for Middle, Mr North, will be joining us later. He returns to the Island this morning.

**Rushen Abbey Artefacts – Question by Mr Singer**

**The Speaker:** So we will move straight on with our order paper and we turn to item number 1 on the order paper and I call upon the hon. member for Ramsey.

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

*What action is your government taking to ensure that the Rushen Abbey artefacts presently retained by Mr Ferguson Lacey are acquired for the Manx nation?*

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

**Mr Gelling:** Mr Speaker, the acquisition of artefacts relating to the Rushen Abbey site is entirely a matter for Manx National Heritage. However, I understand that there has been contact between Manx National Heritage and Mr Ferguson Lacey about the artefacts in Mr Ferguson Lacey's possession. It would clearly be desirable if they could form part of the displayed collection and I certainly hope that that can be achieved.

**Mr Singer:** Chief Minister, whilst you say it is a matter for Manx National Heritage, is it not a fact that Manx National Heritage were excluded from any of the negotiations with Mr Ferguson Lacey and that the deal was agreed by yourself and the Chief Secretary and therefore this stalemate and the intention to get these artefacts back is for you and the Chief Secretary to sort out rather than Manx National Heritage?

**Mr Gelling:** Yes, Mr Speaker, at the time of the purchase of Rushen Abbey the exclusion of these items from the schedule was known to Manx National Heritage and it was known at that time and they agreed that the sale should go forward on that basis.

**The Speaker** A further supplementary, sir, the hon. member for Ramsey, Mr Singer.

**Mr Singer:** If I may, Mr Speaker, just refer to what actually happened, can I ask the Chief Minister is it not a fact, and as clearly stated by Mr Ferguson Lacey in the press, that as part of the sale all objects on loan would come as part of the property acquisition and that the list of these objects was forwarded to Mr Lacey's advocates, and, Chief Minister, is it not true that when the list was returned to the Attorney-General, immediately before the sale, the top five items on the list were tippexed out, and why did you, at that time, not insist on them being restored to the list, as those five items are historically extremely valuable and can you ensure that they will not be taken off the Island?

**Mr Gelling:** Mr Speaker, I think everyone in the House knows how difficult this particular purchase was and it is true to say that those five items were taken off the list, but as I have said, it was agreed with Manx National Heritage that the purchase go ahead with those five items off. However, I can confirm that it is in writing to the chairman of the National Trust, Mr Lacey has put it in writing that the items will not go off the Isle of Man and that at a time entirely at his discretion he will donate these items to the Manx National Heritage.

### **Constitutional Position of the Isle of Man – Question by Mr Singer**

**The Speaker:** Item 2, hon. members, we call again on the hon. member for Ramsey, Mr Singer.

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

- (1) *Are you satisfied that the Island's constitutional position is sufficiently clear and well planned to preclude any misunderstanding between the United Kingdom Government and the Isle of Man Government in relation to economic and fiscal matters now in issue; and*
- (2) *what authoritative and definitive document clearly embodies the Island's constitutional position and is there unqualified acceptance of this document by both governments?*

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

**Mr Gelling:** Mr Speaker, the Isle of Man has no written constitution as such, albeit there is of course a substantial volume of Manx statute law and some United Kingdom statute law which has been extended to the Island with the Island's agreement.

Much of the remainder of the relationship between the Island and the United Kingdom has developed on the basis of convention and probably the most authoritative statement of that relationship is to be found in the Kilbrandon report, but whilst both parties use Kilbrandon as a persuasive reference, I do not think either the United Kingdom or the Isle of Man Government have ever said formally that they regard Kilbrandon as definitive.

It may be said, therefore, rather like the United Kingdom itself, that our constitution is an unwritten one and an unwritten constitution is always open to interpretation and as indeed of course a written one is also. So therefore it is possible for there to be disagreement between the Isle of Man Government and the United Kingdom Government on matters of interpretation.

Historically, however, there have been few difficulties and the flexibility inherent within the unwritten constitution has facilitated the gradual extension of the competence of the Isle of Man Government and given us, indeed, the degree of autonomy that we have today.

**Mr Singer:** I thank the Chief Minister for his answer but would you not agree, Chief Minister, if the Isle of Man is to fight off the economic predators which are now, one might say, snapping at our heels, there must be no room for doubt as to the Island's constitutional position, and as you refer to the unwritten nature of the Island's constitution and the unclear statements in the Kilbrandon report, should we not be in a position which leaves no doubt as to our constitutional position?

**Mr Gelling:** Mr Speaker, as I have said, an unwritten constitution and one built up as it has been is often somewhat better than having it in black and white. It could very well be that one in black and white would not suit our purposes and therefore our negotiating position would be lost, and I think it is better that we take note of statements made, and I repeat the one that was most recently made which was submitted to the EU from the United Kingdom Government when they put in the submission on the code of conduct on business taxation and the note said, 'It would be unprecedented for the United Kingdom to legislate for the Isle of Man on taxation and other domestic matters without the agreement of the Manx authorities. Legislation on taxation matters has always taken the form of laws enacted by the Island legislature', and I believe that these are the areas where the United Kingdom themselves are making these statements, these are the areas around which we would certainly be using our persuasive powers to eliminate the predators, as the hon. member from Ramsey has perhaps explained.

#### **Civil Service Commission – Letter to Members of Tynwald – Question by Mr Cannan**

**The Speaker:** Item 3, hon. members, I call upon the hon. member for Michael, Mr Cannan.

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

*Was the letter from the Secretary of the Civil Service Commission, dated 12th January 1999 and addressed to the members of Tynwald, sent on the direct instruction of the Chairman of the Civil Service Commission?*

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

**Mr Gelling:** Mr Speaker, I understand that the issue of the letter and its terms were approved by the Civil Service Commission at a meeting on 11th January of this year.

**Mr Cannell:** Mr Speaker, would the hon. Chief Minister agree with me that members do not need reminding of their responsibilities in matters such as this (**Mr Houghton:** Hear, hear.) and where they feel necessary to speak regarding the Civil Service they should remain unfettered.

**Mr Gelling:** Mr Speaker, I have to say that I was only party to the letter the same as all other members and it has been sent, as I say, by the commission, and the chairman of the commission is rather like a minister of a department, so therefore the chairman himself authorised the sending of the letter, but I was not party to the reasons as to why they perhaps did so.

**Mr Houghton:** Mr Speaker, so following up from the last reply, may I ask if the Chief Minister will be penning some form of rebuke back to the appropriate commission?

**Mr Gelling:** No, sir.

**Mr Gilbey:** Hear, hear.

**Mr Cannan:** Would the Chief Minister confirm then that he supports all the comments in this letter or does he consider that there is some infringement in the members of this House's right to speak freely on any issue in this hon. House?

**Mr Gelling:** I believe, Mr Speaker, that members can speak freely within this House, but I also have to say that often those who are spoken about feel very frustrated and rejected that in fact they have no right of reply (**Several Members:** Hear, hear.) and therefore I would suggest that this is perhaps a letter just saying to members that civil servants do always try to do a good job for the Island and for the government and I suppose they, like others, get a little bit frustrated and stressed up at times when they hear remarks made to which they have no right of reply.

#### **Village Community for the Mentally Handicapped – Report – Question by Mrs Cannell**

**The Speaker:** Item 4, hon. members. 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:

- (1) *When does the working party, comprising members of CLINCH, MENCAP and the department, expect to report on the merits of a village community for the mentally handicapped; and*
- (2) *will such a report be made public?*

**The Speaker:** I call upon the hon. member for Douglas North, Mr Houghton, a member for Health and Social Security.

**Mr Houghton:** Thank you, Mr Speaker. The consultative group comprising of members of CLINCH, that is, Choice for Living in Community Homes, MENCAP and the department was established by the department in September 1997 with the following terms of reference: to seek the views of MENCAP and CLINCH regarding future services for people with learning disabilities, taking account of the needs of individual service users. The consultative group has met on a regular basis since that time and a draft report has been produced that will be considered at the group's next meeting on 27th January 1999. When finished, the report will be submitted to the department for consideration.

And part (2) of the question - the department has not yet made a decision as to whether or not the report should be made public. This issue will be addressed at the time the department considers the report. Thank you.

**Mrs Cannell:** Mr Speaker, I thank the hon. member for the department for his report to us today but can I ask him whether or not there is any political will within his department, and indeed officer will, to make the village community a reality in the future in order to give a choice to these people?

**Mr Houghton:** Mr Speaker, I can confirm that there is political will in the division. I am most interested in seeing that this actual concept comes to fruition as long as it all makes sense in the end, but before then we need to consult further with those appropriate organisations, and I will be taking an active part in that very soon.

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

**Mrs Cannell:** Thank you, Mr Speaker, a last supplementary on this question, sir. May I ask when, approximately, does the member expect the report to actually go to the department and at what stage then will the department be considering it? In other words when will we actually get a definitive answer on the village community concept?

**Mr Houghton:** Mr Speaker, I am unable to give an absolute definition as to when at this time. I do wish to meet with these appropriate organisations first, then forward the papers to the department for further discussion and then a decision will be made, I would say, shortly after that, bearing in mind we are coming into a review period which was at the end of the third year, which we are now approaching, where everything to do with community homes will be reviewed appropriately and then a right and proper decision will be given then.

#### **Noble's Hospital – Orthopaedic Bed Closures – Question by Mr Singer**

**The Speaker:** Item 5, hon. members. Again I call upon the hon. member for Ramsey, Mr Singer.

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

- (1) *Can you confirm that there is a significant reduction in the number of beds for orthopaedic patients at Noble's Hospital due to a shortage of staff; and*
- (2) *what effect will this have on the hospital's operating schedules and consequently its waiting-lists?*

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

**Mr Karran:** Vainstyr Loayreyder, as far as the first part of the question is concerned, I can confirm with effect from yesterday, 25th January 1999, it has been necessary to temporarily close seven beds in the hospital's orthopaedic ward.

The reasons for this closure, which is expected to be for a period of four to six weeks, are due to a combination of three staff taking maternity leave, two staff leaving to take up posts elsewhere, one member of staff being absent on long-term secondment training. Relatively high levels of sickness levels within the trauma unit have prevented redeployment from other areas.

I am advised there has been a good response to the advertisements for the vacant posts and the hospital is confident it will be able to appoint to the vacancies to cover the temporary absences in the short term.

Turning to the second part of the question, it is unfortunately the case that temporary closures will have some impact on patients waiting to come into hospital, particularly those planning on major surgical procedures. Every effort will, however, be made to treat as many of

the waiting-list cases as possible during the period, utilising the day care unit wherever possible. Always this will be subject to the unpredictable level of emergency cases which obviously have to take priority.

In addition, the department is in the process of planning a hip and knee replacement initiative in the very near future which I hope will recoup the situation and actually improve it.

**Mr Singer:** I thank the member for his reply and I note that he says that they are producing yet another initiative to reduce the backlog. They seem to have lots of initiatives but they do not seem to clear the backlogs. Could I ask him, therefore, is his department making any arrangements to send patients needing orthopaedic operations, some of whom have already been cancelled twice, to hospitals across the water in order to clear the backlog due to these cancellations?

**Mr Karran:** Vainstyr Loayreyder, as one of the members who fought to get the original initiatives to send people off the Island when I was last on the Department of Health and Social Security, I am very aware of these initiatives and very sympathetic. But I think it is important for the hon. member to appreciate that actually when you look at the in-patient day case activity it is up 5.7 per cent, when you look at the in-patient occupancy levels they are up 1.7 per cent, and the out-patients' attendances are up by 8.1 per cent, and so consequently I think it would be a wrong impression to give that somehow we are not addressing the issue as far as the hip and knee replacements are concerned within the Island.

I agree that the waiting-lists have gone up, but then the activity within the hospital has gone up greatly over the last year, and I think hon. members would support me in the fact that the staff have done more work this year than they did last year and the year before, and it is a matter of a growing problem which is a matter of having to resolve it, and resources do need to be looked at in this area, but I think it would be wrong that the staff should get some idea that we think they are not doing their job. They are doing their job and I am sure the hon. member would support that.

**Mr Singer:** I endorse entirely what you say about the staff, but I think is it not the problem that in fact you are not recruiting the nurses that you are setting out to recruit, whilst you are still losing them from the service, and is it not a fact that the staff are being made to run two wards, in fact whilst you are not closing wards, you are in fact closing beds?

**Mr Karran:** Vainstyr Loayreyder, there are beds being closed in other wards, if that is what the hon. member is saying, but that is an operational matter as far as the hospital is concerned.

If the hon. member has any complaints about the staff not getting what they are entitled to or not being supported, then I would like to hear, because the impression seems to be given all the time that the staff in the hospital are in a sorry state, and I think we need more than just shadows to box with as far as the health department is concerned.

### **Incinerator – Health of the Population – Question by Mrs Cannell**

**The Speaker:** Item 6, hon. members, and again I call upon the hon. member for Douglas East, Mrs Cannell.

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

*Do you regard the type of incinerator proposed at Richmond Hill to be the best solution to safeguard the health of the population of the Island?*

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

**Mr Karran:** Vainstyr Loayreyder, I am advised that the department's view, after consideration of all the relevant factors, that this type of incinerator is the only practical option at this time.

**Mrs Cannell:** Mr Speaker, in view of that statement can I ask the hon. member whether or not his minister consulted with her medical experts within her department before reaching that conclusion?

**Mr Karran:** Vainstyr Loayreyder, the minister had a meeting with the chief medical officer for health and I am led to believe that he is in agreement with the viewpoint from the minister as far as the department's policy is concerned.

**Mrs Cannell:** Mr Speaker, are the hon. member and his minister aware of a letter dated 2nd December 1998 from Dr Powell in relation to his concerns regarding the health of the population as far as incineration goes in that he does not regard it as the best solution with regard to the health of the population and so therefore what has he got to say on that?

**Mr Karran:** Vainstyr Loayreyder, the situation is that the deputy director of public health is not on the Island as far as I am aware, so I cannot consult with the deputy director of public health. I was furnished with the letter from the department yesterday afternoon. After great consultation over the contents of the letter I can concede the fact to the minister that there could be a distortion of what Dr Powell has said as far as the contents of the letter being taken out of context.

I think this is an issue which it would be wrong for me to argue over as I have not been able to talk to the deputy director of public health.

I would say, as the member for Health, I am concerned that we are seeing something like £800,000, or it will be more than likely by the end of this year, money spent on drugs for respiratory diseases and I do think that air pollution is a serious issue as far as government is concerned, but at the end of the day the issue of the incinerator has lead responsibility with the Department of Local Government and the Environment. Personally speaking, I see it as a priority that there should be a Clean Air Act brought forward as soon as possible.

So the hon. member would have to take this point up with the minister herself as far as whether she feels that there has been any gagging as far as this issue is concerned.

**Mr Downie:** Mr Speaker, I would like to ask the member for Health if he could advise this House today as to what representations his department made at the recent public inquiry into the siting of the incinerator at Richmond Hill and were any expressions with regard to the health and wellbeing of the Manx nation made by any of the officers of his department?

**Mr Karran:** Vainstyr Loayreyder, I am unaware of what representations were made by the director of public health or the deputy. In fact it would have been the deputy, I would imagine, that would have been in the position to do so. I am led to believe that he had made representation as far as it is concerned, but I would be wrong to mislead this House to give the

impression that I am au fait with the facts, and I am sure the hon. member will enlighten this House to what the facts are.

**Mrs Cannell:** Mr Speaker, my final supplementary to the member representing the department today. In view of his previous answer in relation to an argument over the letter to which I referred, am I to understand, then, that there is no communication within his department between the director of public health and his minister and himself, and would he not agree that it is incumbent upon any minister of any department to thoroughly investigate an issue such as this and have meetings with medical experts before making such a sweeping statement in Tynwald?

**Mr Karran:** Vainstyr Loayreyder, the letter was not from the director of public health, it was from the deputy director of public health and I think it is important to remember that if there was a breakdown in communications, then the communications breakdown was between the deputy director of public health and the director of public health.

As far as the issue is concerned, I would hate to see any member of my staff being put under pressure to make statements one way or the other simply for political expediency.

I am not totally convinced that the way that the letter from the deputy director of public health has been reported has been as bad as it has been made out to be.

I have to say that I have as much concern about the incinerator as most in this hon. House. I have made my position quite clear. I do hope that the members of the Council of Ministers will see, as the health department, that there should be some sensible clean air legislation brought in forthwith.

#### **Elderly – Treatment for Infections – Question by Mr Henderson**

**The Speaker:** Item 7, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

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

*What is the current policy of your department on the treatment of the elderly by general practitioners for severe colds, influenza and similar infections?*

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

**Mr Karran:** Vainstyr Loayreyder, the department's policy in this area is to make provision for both prevention and treatment for such conditions where clearly effective interventions are available. In particular, free flu vaccines are available to individuals most at risk of developing severe and complicated illnesses as a consequence of infection.

For the first time the at-risk group this year has been extended to include anyone over the age of 75. A publicity campaign drawing attention to this change was organised beginning in the winter period through the general practitioners, pharmacists and the media.

As regards the viral infections that may affect the elderly which are not covered by effective vaccine programmes, the department's policy remains to support and maintain good-

quality primary care services so that these services are able to respond to the patient's need as required.

**Mr Henderson:** Mr Speaker, could the hon. member for the department then explain why there appears to be an apparent shift in policy whereby in recent months certain elderly persons have been almost what would appear to be refused treatment and asked to go down to their local pharmacies and procure their own treatment? Could he explain why that should happen?

**Mr Karran:** Vainstyr Loayreyder, if the hon. member has specific cases with names, dates, where this happened, I am happy to take it back to the health division, but I must say to hon. members I cannot work on rumour. I am not arguing the sincerity or the honesty of the hon. member, but it is important that they do. If there is an abuse, then I want to hear why it is happening and then I can maybe stop it happening.

**Mr Henderson:** Mr Speaker, far be it from rumour and shadow-boxing, is it not actually his own department's prescribing policy and the computer monitoring system for prescriptions which is forcing our hard-pressed GPs into making these kinds of decisions and in fact it is a result of bureaucracy overlordship that is causing the problems?

**Mr Karran:** Vainstyr Loayreyder, I am glad to see that we have now the representative for the GPs union within this hon. House and I hope to see that he gets equality for the low-paid at GP level. But the fact of the matter is I have to be careful when I talk about the payments because there is another question on the question paper to answer as far as that is concerned.

I have said if there are cases where he comes up with Mrs Jones or Mr Kewley, or whatever, with where these cases are happening, I would be interested to know and I would be interested to know which GPs are doing that, who are not looking after the interests of their patients.

### **Procedural**

**The Speaker:** Now, hon. members, the clock is showing in fact that our half-hour allotted time has passed by. I call upon the hon. member for Onchan, Mr Cannell.

**Mr Cannell:** Yes, 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.*

**The Speaker:** The hon. member for Douglas South - seconder?

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

### **Influenza Vaccinations – Payments to GPs – Question by Mr Henderson**

**The Speaker:** Can I move on to item 8 then, hon. members, and again I call upon the hon. member for Douglas North, Mr Henderson.

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

*What is the current policy of your department on payments to general practitioners for influenza vaccinations given to the elderly?*

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

**Mr Karran:** Vainstyr Loayreyder, the current policy provides for the payment of an item of service to general practitioners for the administration of a flu vaccine to patients who fall within an at-risk group where it is important for them to be given the injection. In terms of the elderly the at-risk group includes all those over the age of 75.

**Mr Henderson:** Mr Speaker, is the hon. member for the department aware that on recent previous occasions there have been extreme difficulties in payment for these flu vaccinations where GPs have treated patients and there has been a problem of the retrospectivity of pay?

**Mr Karran:** Vainstyr Loayreyder, the hon. member brings up a legitimate complaint that has been given to my department. The payments are over and above the Pink Book agreement at the present time, which is a bonus. I do know that there was some grievance from GPs over the fact that we did not back-date it, but I have to say and say in this hon. House that I believe that the first rule as far as a GP and his patients is concerned is to make sure that they keep them as fit and as well as possible and I believe that it is a priority of GPs to do everything in their power to keep patients fit and healthy so that they are away from their practices, and I believe that this should have been administrated anyway as part of their general duties as good GPs who are people that we are supposed to respect in the community.

We decided at not the last health policy group but a previous health policy group that we would pay this on a trial basis as an act of goodwill. I am sorry that some GPs feel that they should have been back-dated. There was some mis-communications as far as that is concerned.

But I have to say that it does not get very much sympathy from myself or many in the health policy group from the fact that this should have been done anyway without a payment in my opinion because it was in their interest to keep these people fit and well and away from their surgeries.

**Mr Cannell:** Hear, hear.

**Mr Henderson:** Mr Speaker, given the hon. member's answers and the considerable onus he seems to be applying to our hard-pressed doctors and the health policies he seems to be promoting here today then, will he not agree that it is his department's problem to ensure the continuing health of the Isle of Man and to support these people in the care of the community and especially the care of the elderly in whatever way they can and if it so means payment of influenza vaccinations, then they should see that those payments are made and continue to be made.

**Mr Karran:** Vainstyr Loayreyder, I have no problems with the principle that we should look after our elderly and it is something which I am very happy to be associated with, but I do feel that the answer has gone over the heads of some members in this hon. House. We have now decided to give all persons over the age of 75 a right to this vaccine. That is an improvement in itself.

I have a great difficulty with the health department, as I said in a previous answer about the increasing demand that is put on the health services. I have to put priorities and I have to

be honest with you: it was after a long, hard discussion in the health policy group that we agreed that we would pay this item of service to GPs for the next couple of years as a gesture of goodwill.

So I do feel that whilst it is the responsibility of the department, I believe the GP's have a responsibility too to look after their patients wellbeing.

### **Noble's Hospital and Ramsey Cottage Hospital – Vacant Beds – Question by Mr Henderson**

**The Speaker:** We go on to item 9, hon. members, and again I call upon the hon. member for Douglas North, Mr Henderson.

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

- (1) *How many beds are vacant in -*
  - (a) *Noble's Hospital, and*
  - (b) *Ramsey Cottage Hospital as a consequence of medical and nursing staff shortages; and*
- (2) *what is your department doing to rectify the situation?*

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

**Mr Karran:** Vainstyr Loayreyder, in response to the first part of the hon. member's question I should perhaps clarify my understanding of the term 'vacant'. I have taken it to mean the beds that are not available to patients, in other words closed, rather than not occupied by patients. That being so, I can confirm that as from yesterday, 25th January 1999, there were 23 beds closed at Noble's Hospital. Seven of those were on ward 7, as mentioned earlier. Sixteen of those were on ward 10, the medical and elderly care ward where these temporary closures are. There are no temporary bed closures at Ramsey Cottage Hospital.

Now, I should make it clear that in any hospital the policy of temporary bed closures reflects a combination of factors, including operational requirements, staff illness, maternity leave, limited service demand and of course staff shortages. As indicated in my earlier answer in respect of the orthopaedic ward, the closures are not due to staff shortages, other factors are involved and that being so, it would not be possible to specify the number of bed closures in each ward that is directly a result of staff shortages.

Turning to the second part of the question and looking first at the orthopaedic ward, as stated earlier, we are looking towards appointing the two vacant posts in the near future, which should enable the ward to return to its full operational capacity towards the end of the month.

As far as ward 10 is concerned, the hospital has been able to absorb the acute admissions into the remaining medical beds with only the occasional need to overspill into surgical wards. The impact on patient services therefore has been minimal.

Again it is hoped that the reduction in the levels of absences because of sickness and the recruitment of additional staff in this area should enable the bed complement to be increased to its optimum capacity in the not-too-distant future.

Unfortunately these posts are more difficult to recruit to, although, as the hon. member has been made aware previously, my department is doing all that it can to remain competitive in the employment market and improve our recruitment and retention.

**Mr Henderson:** Mr Speaker, would the hon. member for the department not agree that the closed beds in whatever way he wants to call them is a direct result of his department's recruitment policy and the fact of the stresses that the staff are having to work under at the minute and that his department should be looking after the staff and improving conditions so that they will not leave the service?

**The Speaker:** I think that is an expression of opinion more than anything else, but the hon. member Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I am as concerned as the hon. member about losing staff. I had some members of staff that did come to me to express concerns about issues within the hospital. I have told them if they want to come back I will be happy to investigate any concerns as far as the management is concerned, I am happy to do so, but I cannot do it if I do not get people to come and talk to me and say what they believe is wrong with the management within the hospital, and I think it is wrong that members keep on putting out that somehow waiting-lists are growing, that everything is bad in the situation. The staff in the hospital work damn hard and I think it is important that people realise. With medical technology there will always be more and more people requiring the services of the hospital.

I think it is important to recognise that we do try to put our staffing levels up to what would be far better than the adjacent isle, and I agree that is no recommendation when I look at the state of the health services in the adjacent isle, but I am as keen as anybody to give a first-class service for the health of our people.

**Mr Braidwood:** Mr Speaker, would the member for the department agree with me that one option to reduce the nursing staff shortage is to encourage former staff to come back by introducing more flexibility and that includes abandonment of internal rotation?

**Mr Karran:** Vainstyr Loayreyder, I think the hon. member has got a very valid point. That issue is being addressed at the present time and I feel that you will maybe see some movement, a bit more flexibility as far as the issue is concerned. I hope that is the case.

If the hon. member has staff that are wanting to come back to the hospital, that have got problems as far as not being able to work on specific duties, then I am happy to meet with them and discuss the issues and have it out with the management at the hospital at the present time.

I believe there has been a move to be more flexible as far as internal rotation is concerned. If that is not the case, then I am sure hon. members and people outside this hon. House will make me aware if that is not the case.

**Mr Singer:** Mr Speaker, accepting that staff are overworked because of the lack of recruitment, can the hon. member tell me whether closures of either beds or the ward have affected the children's ward in recent times and are efforts made to ensure that this is a ward to be affected least by staff shortages?

**The Speaker:** Hon. member, I think the hon. member said it only affected two wards, the closure of beds, but nevertheless, the hon. member Mr Karran to reply.

**Mr Karran:** Vainstyr Loayreyder, I will enquire whether there is a problem as far as the children's ward is concerned. I am unaware that there is a problem at the children's ward at the present time, but I will make a point of asking my administrator to find out today.

**Mr Duggan:** Mr Speaker, could I ask the member in charge, is it not a fact due to staff shortages that patients are being sent home far too early before they are really well?

**Mr Karran:** Vainstyr Loayreyder, the techniques as far as hospital care is concerned have changed somewhat over the years and people are pushed out a lot earlier than they would do. (**Mr Duggan:** Hear, hear.) I believe that at one time you were confined for a fortnight after the birth of a child. I believe now it is a matter of a couple of days and that is recognised medical procedure.

I would hope, to the hon. member, that no patients are being forced out of bed before they are safe to go home. I hope that that is the case. If it is not the case I will be interested to know of facts and figures on that.

**Mr Cannell:** Mr Speaker, would not my hon. colleague on the health and social security department not agree that one of the factors which has not so far been mentioned in all of this is the increasing population of the Island and that recruitment difficulties are not merely confined to the Isle of Man, (**Mrs Hannan:** Hear, hear.) that there are problems recruiting throughout the service, such as that the United Kingdom is having to bring people in from the Philippines, and would he not further agree with me that regardless of some small difficulties which have been pointed to this morning, the health service of the Isle of Man remains infinitely superior to many other countries?

**The Speaker:** Hon. member, whether or not the hon. member for Onchan would agree with that matter of opinion I know not and in fact I am not asking him to respond. The final supplementary, the hon. member for Douglas North, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Could the hon. member for the department give this hon. House further assurances and not just with bland statements of 'We're doing everything we can'? We would like assurances of specific actions that are being taken by his department to improve the recruitment and retention problems that the DHSS are experiencing. Could he either do that or give an undertaking to report back to this hon. House?

**Mr Karran:** Vainstyr Loayreyder, we are doing things as far as recruitment is concerned. I really do think that what I do need from the hon. member is, where he has legitimate concerns, to raise them at Crookall House with myself. The door is always open. This hon. member fought through the black times when I took the albatross of the Department of Health and Social Security on at the last general election, and one of the things that was non-negotiable as far as my remaining member for Health was the issue of the reintroduction of nurse training on the Island. On this issue, the issue of a crèche, I want to try and get a crèche built up in the grounds of the new hospital as one of the issues.

I am always open to suggestions from the hon. member or any other hon. member in this hon. House on incentives as far as looking after our staff is concerned. Our nursing staff do receive a greater pay award than the adjacent island this year. They are on more money than the adjacent island. Whether that is enough is an issue that has to be debated within the health services and within the priorities within government, but I think it is wrong to try and

make out that we have no initiatives, we are doing nothing to try and help encourage the recruitment of new staff to the hospital.

### **New Hospital – Construction Costs – Question by Mr Downie**

**The Speaker:** Item 10, 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:

*What effect will the significant pay increases awarded to workers in the construction industry have on the final construction costs of the new hospital?*

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

**Mr Cannan:** Again.

**Mr Karran:** Yes, I am afraid so. Vainstyr Loayreyder, the approved estimated construction element of the approved estimated total out-turn capital cost of the new hospital project is £81,800,000. Within this there is an inflation market forces allowance of £28,700,000.

I am advised that there are currently no reasons to suppose that the allowances will not be sufficient to meet the known anticipated wage and other inflation factors as far as over the construction period.

**Mr Downie:** I thank the member for that technical answer, but could he broaden that out and perhaps explain to the House this morning what percentage allowances have been made for increases in labour costs over the life of the hospital construction package and do we now have a final estimated figure for the completed hospital, and can he confirm that the figure he gave us of £81,800,000 is the figure that we are actually going to pay?

**Mr Karran:** Vainstyr Loayreyder, the figure that we will be paying will be over £100 million for the new hospital. That is something that has been made public. I have not got the exact figure in front of me here today.

But the problem I have, as you know, is one inherited the hospital after the ground work as far as how the contracts would be drawn up was sorted out, so it is important that I try and put in what controls I can to try and protect the taxpayer as I can in order to make sure that the taxpayer gets as good value as possible under the arrangements that were arranged by the previous department.

I think there is a great danger that if I go into too much commercial detail as far as this issue is concerned the whole tendering system will become a complete and utter farce as far as getting the work done within the new hospital. I would hate the hon. member to feel that I am trying to use that as an excuse for trying to not answer the hon. member's question, but if they know what we anticipate, then they know what to charge.

I believe that if the hon. member has got legitimate concerns over the hospital I will be happy to arrange a meeting with the hospital directorate and myself to go through the issues that he has on a confidential basis.

**Mr Downie:** Mr Speaker, would the member with responsibility for Health not agree that since the hospital project got under way most of the labour charges for trades have actually doubled and can he give this House an assurance today that the doubling of the labour costs for certain trades are adequately covered in the figure that is available for the completed hospital project?

**Mr Karran:** Vainstyr Loayreyder, I have not got a crystal ball to say what will be the charges and costs as far as the construction industry is concerned until the new hospital is built and opened in the year 2003. What I can say is I would hope that we would try and do everything in our power to work within the present inflationary market forces allowing us at the present time. That is my priority as far as this is concerned.

I do raise, as I have raised in another place, my concerns over government contracts where we do not encourage people to save money on government contracts and the way that they are set out, but I believe that if the hon. member has legitimate concerns over the hospital I am happy to arrange a meeting with the hospital director and himself and me, and hopefully the minister if he wants, to discuss the issue.

**Mrs Cannell:** Mr Speaker, the hon. member before, earlier on, said that his department was concerned with the protecting of the Isle of Man taxpayer's money. How can he assure us that this will actually be the case, bearing in mind that we are expecting approximately 600 work permit applications to be applied for by construction workers towards the construction of the new hospital? How can he ratify that then when given the track record of this government and previous governments, when people are employed from off-Island on a temporary basis, on a government contract, a construction contract, given the track record that they are unable to meet their employer's expectations in terms of staying on the Island doing the Island's work and finishing the Island's work and that invariably the main contractor has to turn to the local companies and subcontract? Does he not agree that that has proved in previous areas to be extremely expensive in terms of the capital cost of anything to be constructed by this government? So how can he say that he is protecting the taxpayers of the Isle of Man?

**The Speaker:** Hon. member, they may very well be good debating points. I fail to find within that a supplementary question of any order.

### **Pig Industry – Viability – Question by Mr Singer**

**The Speaker:** We turn to item 11 on the order paper and I call upon the hon. member for Ramsey, Mr Singer.

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

*What immediate action are you prepared to take to ensure the viability of the Island's pig industry?*

**The Speaker:** I call upon the Minister for Agriculture, Fisheries and Forestry.

**Mrs Hannan:** Vainstyr Loayreyder, my department currently provides some support amounting to £270,000 per annum to some 30 producers, who are the Island's pig industry. A proposal was put to the industry recently to restructure this support. This would have enhanced the individual pig subsidy element by up to 50 per cent, but these proposals were

not acceptable to all of the representatives of the industry. No further action has been taken or is intended, although the existing support continues.

The pig industry is notorious for operating in dramatic production cycles. Because of the relatively short time in farming terms to become established, producers move into pigs in times of profit. This inevitably leads to levels of production which are over market requirements. A lower producer price results and eventually the industry is operating at a loss.

Very good market prices for two consecutive years, 1996 and 1997, have led to a major expansion by pig producers both in the UK and in the Isle of Man. The numbers of sows increased from 462 as at 4th June 1996 to 678 in June 1998: an increase of nearly 47 per cent. This has reflected itself in the number of pigs being processed through the meat plant, rising from 10,105 in 1996 to 12,383 in 1997 and 13,057 in 1998.

Nineteen ninety-eight has seen a decrease in producer price because of market over-supply, the strong pound and the collapse of the Russian economy. The average producer price in the UK fell to around 60 pence per kilo dead weight at the end of September as against an accepted break-even price for a good producer of 95 pence per kilo.

My department currently supports the pig industry by the provision of a pig feed subsidy which links the price received by the producer from the Fatstock Marketing Association with the cost of pig feed. It provides for a subsidy up to 40 pence per kilo or, on an average weight of pig, £20. There is no support measure in the United Kingdom. Whilst therefore the UK price fell to 60 pence per kilo the Isle of Man price, as supported by my department, fell to 99.6 pence per kilo, a price 65 per cent higher than the United Kingdom.

My department met with representatives of the Pig Producers Association on four occasions after it was recognised that the industry was suffering. Not only were pork prices down but weaner and cull sow prices had fallen proportionately more. My department agreed, therefore, to provide immediate help to the industry by increasing the pig feed subsidy level from 40 pence to 60 pence per kilo with effect from 17th August, so increasing the subsidy from £20 to £30 per pig. However, in return my department proposed a restructuring of its support based on a smaller number of eligible pigs more in line with Manx domestic consumption.

My department was aware from discussions with the Fatstock Marketing Association that the number of pigs being produced per year, 13,000, was not in the producers' best interest. It was also costing my department £270,000 per annum in support of pigs, for which there was no commercial advantage to the Fatstock Marketing Association. The greatest return for Manx pork is from the local market. Pigs exported into a saturated UK market produce a loss which pig producers collectively have to bear by way of a lower price paid to them by the FMA.

My department therefore believe that there was a strong case for our pig industry to tailor its total production more closely to market demands. After discussion with the FMA this was agreed to be 10,000 pigs per annum as against the 13,000 currently being produced. Such a figure would ensure local demand was met and provide a regular quantity for which export markets could profitably be found. We asked the pig industry to de-stock, to produce 10,000 pigs per annum, starting from 1st April this year to allow for a phased and planned reduction. We would pay a subsidy on the 10,000 pigs in the financial year from 1st April but not on the numbers in excess of this level. Producers would have been given an entitlement to subsidy

based on their track record of pigs produced over the two years 1997, 1998 but scaled back by the percentage necessary to produce 10,000 pigs per annum.

We also indicated that if the FMA advised that more than 10,000 pigs was the optimum number as a result of more supermarkets buying Manx pork it would review the 10,000 maximum figure and individual producer entitlements.

The pig producers were unable to accept the necessary de-stocking proposals, though it will be observed that paying a higher subsidy on a lower number of pigs would have resulted in the producer being no worse off. If the FMA was able to export more profitably, then the de-stocking proposal would have the added advantage that the producer price paid by the FMA would also increase. As stated, the industry rejected these proposals, preferring the status quo of unlimited production and price penalties from the FMA for non-commercial exports.

Prices within the industry, we are assured, will recover. This is inevitable with the supply and demand situation. It might, however be some time before the upturn starts. Thank you, Vainstyr Loayreyder.

**Mr Singer:** I thank the minister for her detailed reply. Can I ask the hon. minister, is not your aim to reduce pig production by 3,000 animals per year an incorrect assumption that excess pigs reduce the price that farmers get when in fact the price is totally controlled by the price in the UK where it is artificially reduced by the dumping of pig meat from foreign producers, and is not also your offer to increase the subsidy from 40 pence, which has been 40 pence for the last 15 years, to 60 pence a kilo a false figure as it reduces once the price for pig meat reaches £1.20 per kilo?

**Mrs Hannan:** There is a saturated market in the United Kingdom and therefore if we are going to trade with the United Kingdom with our surplus we are going to get a reduced return.

There has to be some sort of cut-off for the protection of taxpayer's money.

The pig producers stressed to us that 120 pence per kilo was the figure that they would require to get a return and to be able to reinvest. As I said in my reply, Vainstyr Loayreyder, in the United Kingdom they have been receiving as little as some 60 pence per kilo. With our support the lowest they have received is 99.6 pence per kilo. It is interesting too to note that in the two years prior to 1998 and up to April of this year the price return to producers was 138 pence per kilo. This included the 40 pence support by my department.

**Mr Cannan:** Mr Speaker, will the minister agree that the past policy, indeed the culture of the Department of Agriculture over many, many years, has been to support any section of the agricultural industry when it hits a rough passage to ensure that it is able to remain economically viable? Can I give an example, that only recently we have supported the dairy industry to maintain its economic viability. In previous years I remember debates in Tynwald to increase the variable premium for lambs and sheep meat, hill cow subsidies and so on. Why is the minister so opposed in this case for the pig farmers not to make exceptional provision in exceptional circumstances as they now find themselves in?

**Mrs Hannan:** We have been supporting pigs over very many years, Vainstyr Loayreyder. We could continue supporting pigs but it would mean that if it was open-ended the producers would not get an increased return.

I have explained in my reply that there has been an increase in pigs over the last three years, an increase in production. The pig producers suggested that we increase the support and we have offered the pig producers a package and it is a package. They suggested that it was 120 pence to break even, and this is the action that my department has taken. We have supported the industry through rough passages and we have offered a package to the pig industry.

**Mr Henderson:** Mr Speaker, given the hon. minister's reply, why is it that certain other quarters receive far more support than the actual people who are in genuine hardship at the moment?

**The Speaker:** Minister, you may reply if you wish.

**Mrs Hannan:** I have very little to add, Vainstyr Loayreyder. If you look at the support that we are giving, there is no support in the United Kingdom for pig production but pig production increased because the price was good. The market became saturated along with the other areas of a strong pound which actually sucked pork in from Europe and therefore the price was reduced even further because the market in Russia and Eastern Europe, where pork is probably the main meat, was reduced due to the economic circumstances of those countries. We do give support to the pig industry and we have offered a package to the pig industry.

**Mrs Cannell:** Mr Speaker, would the minister not agree with me in terms of the feed for the pigs which she spoke of earlier it represents approximately 60 per cent, that is to say that the pig farmer is purchasing approximately 60 per cent of the barley which is produced on the Island at a cost of around £20 per tonne, and that that in itself is actually a saving to the department because it is saving it being shipped out of the Island at some considerable cost and so therefore has she calculated the savings or is she only looking at what she sees as the losses and is she being somewhat economical with the truth here?

**Members:** Ooh!

**Mrs Hannan:** The response that I have given to the question, Vainstyr Loayreyder, is factual. I am not being economical with the truth. I am not lying to the House. (**Several Members:** Hear, hear.) I am being honest with the House over what we have offered, which I consider to be a reasonable package to the pig industry.

I accept that there are a number of pig farmers out there who are receiving quite substantial sums of money from the taxpayer, and if you look at each pig, it is getting £20 support, the offer that we were giving was going to be in the area of £30 per pig, and if you look at a farmer who has got 10 sows, that is a possibility, with good rearing facilities, of sending 200 pigs to the meat plant per year. Two hundred pigs equals a £4,000 subsidy. And there are 15 producers with more than 10 sows, so obviously some have got many more than that and so their returns are greater. Whether they use barley feed and are supporting the industry in the Isle of Man or whether they are buying food from other places, that is obviously up to them, and barley is certainly available to be used by pig producers and is used by pig producers, and the department makes barley available for any producers should they wish to take up that option. But I am not being economical with the truth.

**Mr Singer:** Is it not a fact, minister, that your department followed the UK in introducing on 1st January this year more stringent control to prevent sows in stalls or being tethered, thus

placing large costs on many pig farmers' finances, and whilst there cannot be any argument in ensuring the welfare of farm animals, why are you not taking any action against the import of pig products from countries such as Holland and Denmark where there are no such restrictions and the animals are fed on cheap foodstuffs banned in the British Isles but which ensure the cheapness of the products and, minister, do you not think if you do not quickly revise your policy to the pig farmers of 'Take it or leave it,' by midsummer you may well be known as the Minister for Agriculture who ensured the demise of the Manx pig industry?

**The Speaker:** Hon. member, again we are having a statement of opinion. We are not getting down to asking a supplementary question.

#### **Battery Egg Production – Grant and Loan Support – Question by Mrs Cannell**

**The Speaker:** We turn to item 12 on the order paper. The hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Mr Speaker, I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

*Will your department be supporting the continuation of the battery system of egg production by grant and loan?*

**The Speaker:** Again I call upon the Minister for Agriculture, Fisheries and Forestry.

**Mrs Hannan:** Vainstyr Loayreyder, my department has in draft a new farm and horticultural improvement scheme for introduction later in the year. It will differ from the present grant scheme in that it makes no provision for the pound-per-bird subsidy currently available for birds intended for battery systems. The scheme is currently with the industry for consultation.

The four battery egg producers presently operating have been individually notified of the intention to withdraw this support. The revised scheme will be introduced as early as possible.

Loans are only available under the Agricultural Credit Act for capital works, not for actual production of eggs as such. Battery cage buildings would in theory be eligible for loan assistance, but not the cages themselves. My department has discretion in considering such applications for assistance in that it may or may not give approval. It is probable that my department would not be sympathetic to such applications.

However, there is a select committee of Tynwald considering the production of eggs by the battery system and it may be presumptuous to change a scheme prior to Tynwald receiving the select committee's report.

Thank you, Vainstyr Loayreyder.

#### **Genetically Altered Crops – DAFF Policy – Question by Mr Karran**

**The Speaker:** Item 13, hon. members, I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for Agriculture, Fisheries and Forestry:

*What is the policy of your department on genetically altered crops?*

**The Speaker:** The Minister for Agriculture, Fisheries and Forestry.

**Mrs Hannan:** My department's policy on genetically altered crops is to discourage their propagation in the Isle of Man.

The primary concern with the release of genetically modified plants to the environment is (a) human health and (b) environmental risks. Genetically modified plants are released to the environment for one of two reasons: either for experimental purposes such as field trials, or for marketing and commercial cropping.

Release of genetically modified plants is regulated by the European Union and the United Kingdom. The Department of the Environment, Transport and Regions is the licensing authority for releases of genetically modified plants and other organisms to the environment. The relevant legislation is the Environmental Protection Act 1990, part IV, and the Genetically Modified Organisms (Deliberate Release) Regulations 1992, amended in 1995 and 97. Together these implement European directive 90/220/EEC on the deliberate release of genetically modified organisms to the environment.

I have asked my officers in my department to seek advice on this legislation, consult other departments and advise me on future policy in the light of the outcome of the United Kingdom House of Lords report on this matter.

Thank you, Vainstyr Loayreyder.

**Mr Karran:** Vainstyr Loayreyder, I would like to thank the minister for her reply but would she consider the setting up of a working party of a cross-section representation to develop our own national agricultural policy as far as whether we want to follow the adjacent island as far as whether we want this type of innovation into our foodstuffs in the Island? If she would consider setting up a working party I would appreciate it.

**Mrs Hannan:** I am seeking advice, Vainstyr Loayreyder, from my officers and of course in receiving that advice I will be looking at the future policy and I will certainly bear the member's comments in mind.

#### **Willaston Police Station – Question by Mr Houghton**

**The Speaker:** Item 14, hon. members, I call upon the hon. member for Douglas North, Mr Houghton.

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

*Does the Isle of Man Constabulary plan to re-establish the appointment of a police officer based at Willaston police station?*

**The Speaker:** The Minister for Home Affairs, the hon. member Mr Bell to reply.

**Mr Bell:** Thank you, Mr Speaker. The short answer to the question is no. Willaston is patrolled by officers who report for duty at Onchan police station. It is patrolled on every shift, usually exclusively, by an officer specifically posted there both on foot and with a vehicle. On evenings and at night Willaston is regularly patrolled by local officers and also by vehicles from the traffic department.

For the police office at Willaston to be manned, it would take an officer off the street, and this is clearly undesirable in the present circumstances.

**Mr Houghton:** Mr Speaker, to clear up the minister's reply there, I do not require one standing in the police station doing nothing, I require a police officer to be based from there, working out of that station. But is the minister aware of a growing and serious potential problem of criminal damage to motor vehicles on Willaston estate and that the only effective way to combat this is the return of a police officer based and working from the police station on the estate?

**The Speaker:** A matter of opinion, sir. The minister may reply if he wishes.

**Mr Bell:** Yes, thank you, Mr Speaker. I am aware of criminal damage to vehicles which is taking place in a number of areas on the Isle of Man, it is not exclusive to Willaston, and the police service are doing their very best at the moment to develop a patrolling system which will combat that particular problem not only in Willaston but in other areas of the Island as well which are, as I say, equally affected by this problem.

### **Sewage Sludge – Disposal – Question by Mr Downie**

**The Speaker:** Item 15, hon. members, again 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 Transport:

*As the European Union ban on sea dumping of sewage sludge came into effect on 1st January 1999, what provisions are your department currently making for disposal of sludge to sea or to land?*

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

**Mr Brown:** Thank you, Mr Speaker. The European Union ban on the disposal of sludge to surface waters which came into effect on 1st January 1999 only applies to member states of the European Union. As the Isle of Man is not a member state the directive does not have any legal status within the Island.

However, as the House is aware, the Manx Government's policy, which is endorsed by Tynwald, is that we should cease discharging our sewage into our coastal waters and treat all waste on land. This policy, commonly known as the IRIS master plan, is being progressed within the financial resources being made available to my department by Tynwald as part of the overall budget allocation. To date we have expended £18,680,000 in progressing the master plan.

Within the Douglas and Onchan area we have completed contracts 1, 2 and 3 which consist of a transmission main from Port Jack through to the Bottleneck car park, with storage tanks and pumping stations located along Loch Promenade and the Queen's Promenade. As part of the IRIS master plan we have completed storage tanks and pumping stations at Port Erin, and the Foxdale to St John's transmission main and the upgrading of the Union Mills sewage system. Works currently being progressed as part of the IRIS master plan include the storage tanks and pumping station at Ramsey, which are almost completed, storage tanks and pumping stations at Castletown, with construction to commence in February 1999, and storage tanks and pumping stations at Port St Mary which have been submitted for planning permission and are programmed to commence work in the summer of 1999. The feasibility study for storage tanks and pumping station at Peel has been undertaken. Design work is being undertaken on the transmission mains from Union Mills to Quarterbridge and on the

sewage treatment works at Santon and the transmission main from Douglas to Santon where it is envisaged that a planning application will be made in April 1999.

I am advised that the practice within the Island of discharging sewage sludge through some of the Island's sea outfalls ceased during the early 1980s. Furthermore I can assure the House that my department and the government are committed to progressing the IRIS master plan which will bring about the cessation of discharging untreated sewage to sea. The benefits of this policy for the Island are considerable in that it will stop the pollution by sewage of our beaches and foreshores.

With reference to the disposal of sewage sludge to land, presently my department only applies treated sewage sludge to agricultural land. However, if it is determined that the practice of applying treated sewage sludge to agricultural land is not an acceptable practice, then, as stated in my department's comprehensive report entitled 'IRIS Master Plan Second Review and Update', which was presented to and approved by Tynwald on 29th April 1998, and I quote from section 3.6 of the report, 'It is the Department's policy that sewage sludge processed to form biosolids is recycled for use in agriculture, with the fall-back of disposal at the Island's incinerator.' The section then continued, and I quote, 'It is therefore important that we are able to dispose of biosolids by other means, for example, by using the planned incinerator, in the event of the agricultural route not being available.'

My department will continue to study and assess relevant reports into this subject and will, if appropriate, determine a change to our present policy. Thank you.

**Mr Downie:** Mr Speaker, I would like to thank the minister for his comprehensive reply. I would just like to ask him is he aware that to pre-empt retailer demands in the United Kingdom the water industry and British Retail Consortium, to which all big retailers belong, have agreed that sludge can no longer be applied to grass or silage ground and that any sludge disposed of to agricultural land in the future will now require to have a special certificate and in fact that a farmer could be liable to any disease which emanates from sludge being disposed of on his land, and is his department actively giving this matter, which exists in the UK, some consideration in any application which may be made to the food or agricultural industry in the Isle of Man?

**Mr Brown:** Mr Speaker, my understanding is that the difference in the United Kingdom is that they are applying untreated sewage to land. In the Isle of Man we have treated our sewage now for a number of years and it is only treated sewage which is put to land. What that means is that the sewage waste is collected from our plant, it is then stored for a minimum of three months, it is tested to ensure that it is safe to apply to land, it is then applied to only agricultural land, not to grassland, and it is ploughed into the land for use. Therefore the difference in the Isle of Man is that we are only dealing with treated sewage, whereas the UK is dealing with untreated sewage.

#### **Postal Deliveries – Question by Mr Cannell**

**The Speaker:** Item 16, hon. members, and I call upon the hon. member for Onchan, Mr Cannell.

**Mr Cannell:** Thank you, Mr Speaker. I beg leave to ask the Chairman of the Isle of Man Post Office Authority:

*Will you consider restoring two postal deliveries to urban premises on weekdays?*

**The Speaker:** I call upon the Chairman of the Isle of Man Post Office Authority.

**Mr Downie:** Thank you, Mr Speaker, hon. members. The prime consideration in determining the pattern of postal deliveries is the provision of a service which, as far as is possible, meets all our customer requirements and is also efficient and cost-effective.

Under the present system it is possible to deliver once per day to every business and household from 9.45 a.m. in urban areas of Douglas and Onchan, with completion by 12.15 p.m. The delivery consists of first-class mail arriving from the United Kingdom that day, second-class mail, local mail posted the previous day, and more importantly, local mail posted in principal letterboxes in town centres and on major routes before 6 o'clock that morning. So for local letters, if it is in the post box before six in the morning, it is delivered on that same day.

If the two-delivery system were to be restored for urban areas throughout the Island the delivery of first-class United Kingdom mail would be delayed by some 1<sup>1</sup>/<sub>2</sub> to two hours and could not commence until at least 11.15 a.m. in Douglas and Onchan. Approximately 60 postal deliveries would be affected Island-wide and would require an additional 28 full-time staff at an overall cost of £560,000 per annum, excluding overtime, and would be subject to new negotiations with the post office unions.

The idea of travelling twice over the same delivery route in any one day is quite clearly neither efficient nor cost-effective. It provides only limited service improvements for local mail at the expense of a significant delay in the delivery of incoming mail from the United Kingdom which is vital to the expanding business sector.

In conclusion, the Post Office executive and board can see no obvious advantage or reason for reintroducing a two-delivery system at this time.

**Mr Cannell:** Mr Speaker, I thank the Chairman of the Isle of Man Post Office Authority for his comprehensive reply and for pointing us to a possible half-million pounds cost of re-implementing this service, but nevertheless would he not agree with me that to take a service back to a level which was considerably inferior than that before is not the way a modern communications set-up should go, and also could he enlighten me, please, on whether the difficulties which were posed by recent circumstances at Christmas did prove to be very detrimental to those who were seeking to avail themselves of this service?

**Mr Downie:** I am afraid I do not know what the hon. member is referring to by 'difficulties at Christmas'. The member will be aware that the mail comes in by aircraft. We are not affected by shipping schedules. I am not aware of any problem which arose. If the member has a specific problem he would like to discuss with me I would only be too pleased to make time available, and could I also put on record this morning that if the hon. member for Onchan, Mr Cannell, or any other member of this House wants to come and meet the people working in the Post Office and have an in-depth look at the network and how the system operates, I would only be too pleased to make that available at any time.

**Mr Cretney:** Mr Speaker, could the Chairman of the Post Office confirm that any businesses in the central Douglas area, for example, who have concerns over the time when

their mail is delivered, can make arrangements for it to be collected either at the Cooil Road sorting office or in Circular Road which may be more convenient for them?

**Mr Downie:** Mr Speaker, our service now gives priority to our big customers in the business sector and in fact to ease the situation along we are very pleased to make available bulk mail for deliveries which can either be collected by some of these companies and indeed we are continually looking at ways to make the system much more user-friendly to our bigger customers.

Just to give an idea, hon. members, of the volumes of mail we are talking about, each day the post office deals with 36,000 letters from local sources and 53,000 from the UK. The overall weight of daily inward air mail is approximately 4.8 tonnes. To have that arriving in the Isle of Man at about quarter past six in the morning and have it out on the streets in Douglas for about quarter past, half past eight, I think is a mammoth achievement. (**Mr Cretney:** Hear, hear.) We are very flexible in our approach to business and we are always looking at ways to make our system more efficient and user-friendly.

**Mr Brown:** Could I ask the Chairman of the Post Office, Mr Speaker, as he is aware of the difficulties being experienced in some of the outer towns with the business sector, for example Castletown, where the mail is some two hours reaching the offices after they have reached the Douglas ones, is he proposing to make any changes to improve that situation, one of which may well be not taking mail, as I understand it, into Douglas to go back to the southern district to then be distributed?

**Mr Downie:** With the improvements in technology in the United Kingdom ways are being examined at the moment to perhaps pre-sort some of the mail coming into the Isle of Man and in fact if we can link ourselves to a large distribution centre in the UK before the mail actually comes here there may be an opportunity to pre-sort some of the mail, and indeed Castletown could well form part of that pre-sort.

There is a lot of investment in new technology going on in the Post Office in the United Kingdom and throughout Europe and in years to come I have no doubt that lots of the mail arriving in the Isle of Man will come in such a way as it is pre-sorted and in fact in some cases may even be walk-sorted, so the postman only has to pick his particular delivery up and get on and deliver it. Thank you.

**Mr Cretney:** I am interested in the final point the hon. member referred to and could I ask him, if there is to be a move towards mail coming to the Island pre-sorted or even sorted into walks, which is even further, that that will not have any implications in terms of job opportunities within the Post Office on the Island?

**Mr Downie:** Yes, for the first time for many years the Post Office are actively seeking new additions to their staff. I am very pleased to say that the business is doing well but we have to keep up to date with technology, and technology is the key to the postal industry right across the world and we cannot afford to lag behind.

If new systems are introduced in the Isle of Man where mail coming in or going out can be faced up and then pre-sorted by machines obviously negotiations will have to take place with the representatives of the different unions and an agreement in place for that to happen.

**Manx Agricultural Produce – Manx Consumer – Question by Mr Karran**

**The Speaker:** Item 17, hon. members, I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Chairman of the Office of Fair Trading:

*Will your office investigate why Manx consumers cannot take advantage of the Manx agricultural produce which is being sold in the United Kingdom at a lower price than it is in the Isle of Man?*

**The Speaker:** I call upon the Chairman of the Office of Fair Trading, the hon. member for Rushen, Mrs Crowe, to reply.

**Mrs Crowe:** Thank you, Mr Speaker. It would be a simple matter for me to respond positively to the question asked by the hon. member for Onchan but I am unaware of concerns within this hon. House or indeed to consumers on the Island.

To answer the question, detailed consideration would have to be given to both wholesale and retail patterns of purchasing and to the specific commodities in question. For example, if we were to consider meat we would have to look at all types of quality of animal, we would have to be looking at steers, heifers, new lamb, hogget, ewes, to name but a few, and there are up to eight grades of meat quality.

Now, what I can tell you is that the Manx butchers use the best quality meat and it is generally the poorer quality that is exported. The difference in price to the butcher is substantial. In fact the best quality lamb is more than twice the price of Q3 lamb which is a poorer quality lamb. Top quality pork is exactly twice the price to the butcher of Q3 pork.

We are advised that exported meat, as is the case with cheese, is not sold as Manx. It is exported to a broker. In the case of cheese the broker sells it on and it could appear as an own-name brand cheese in a local supermarket. Now, personally I find the price of Manx cheese on the Island very competitively priced.

My message to the hon. member for Onchan and indeed to all consumers on the Island would be support your local retailer who is supporting the local producer and you will be getting the best quality product at a fair price.

I would also like to remind the member for Onchan that some years ago all aspects of meat prices were subject to a very costly investigation by the Office of Fair Trading and the results only served to support the prices charged by retailers.

**Mr Karran:** Vainstyr Loayreyder, a supplementary. Would the Chairman of the Office of Fair Trading be prepared to make her office open to representations from any butchers and other members of the general public who may be able to inform her of what is actually going on in the real world at the present time, and would the hon. chairman consider making representation to different interested groups to see whether there is a situation where the taxpayers in the Isle of Man lose twice in the fact that they lose firstly because they are subsidising the produce that is being produced in the Island and then they are paying more than what they would be paying in the adjacent island through policies of dumping, and if that is the case, can she then maybe discuss the issue with the Department of Agriculture and Fisheries over making sure that the stuff, if it is going to be dumped, should be dumped in the Isle of Man, so the taxpayers and the consumers in the Isle of Man get the best deal for it?

**The Speaker:** Somewhere in there there may be a supplementary question. *(Laughter)*  
Does the chairman wish to reply?

**Mrs Crowe:** Thank you, Mr Speaker. Indeed my office is open at all times to all consumers on the Island. It is also open and we have recently been dealing with butchers on the Island. We are represented at the Fatstock Committee. At any time we wish to attend we can do so and we frequently have conversations with the agricultural department and the marketing associations of the agricultural produce on the Island.

As for dumping of Manx meat, I am not sure that local butchers on the Island would be pleased to say that the quality of the product they are selling to the Manx consumer was not of the best quality. It is what they choose to sell and what we choose to buy. Thank you, Mr Speaker.

**Mr Karran:** A further supplementary, Vainstyr Loayreyder.

**The Speaker:** As long as it is a supplementary, sir. *(Laughter)*

**Mr Karran:** I thank the chairman for her reply but would she investigate independently the quality of this so-called first-class meat that is coming to Manx consumers and the meat that is supposed to be dumped in the adjacent island? I think she might have a revelation as far as that is concerned.

**Mr Cretney:** And a revolution if you want.

**Mrs Crowe:** Whilst I have many functions, one of them is not to be a meat inspector, and I do believe that the quality assurance is determined by the inspection of meat. That would be outside my control. These are professional people that are appointed to do a job in quality control.

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

**Mr Downie:** Thank you, Mr Speaker. Would the Chairman of the Office of Fair Trading not agree that it is particularly galling when Manx people are away in the United Kingdom and they go around places like St John's Market in Liverpool and see Manx top-quality produce exported from this Island in the way mainly mostly of meat which has been advertised for sale at prices greatly lower than those for which the same cut of meat is available in the Isle of Man, and would she be prepared to investigate this differential to see if there is anything that can be done to promote more Manx meat being available on the Isle of Man and to support our local industry and our retailers?

**Mr Cannell:** Hear, hear.

**Mrs Crowe:** I thought that by my answer I was supporting the Manx retail industry and the Manx producer and that would continue to be the case.

What I would say is that I have been advised that Manx meat is no longer sold in St John's Market which used to be in the old days a ready market for Manx produce, and what I would say is that the meat that is exported at the moment is sold on to wholesale markets and could be prepackaged and would not be identified as Manx, so I would have no control over where that meat went.

**Mr Downie:** It is Manx meat.

**Mrs Crowe:** At any rate what I would say is if we have any concerns, please if people contact us at the office we will be pleased to investigate.

**The Speaker:** Item 18, hon. members, is for written answer and I understand that the answer has been circulated to each individual member.

### **Non-resident Income Tax – Question by Mr Rodan for Written Answer**

#### **Question 18**

The hon. member for Garff, Mr Rodan, to ask the Minister for the Treasury:

(1) *For each of the last three years, what was the total non-resident income tax collected in respect of Manx source income*

- (a) *from all non-resident individuals,*
- (b) *from persons resident outside the Isle of Man*
  - (i) *in receipt of government public service pensions,*
  - (ii) *who have previously resided and been employed in the Isle of Man, and*
  - (iii) *who have previously resided and been employed in the Isle of Man for 10 years or more; and*

(2) *in each case, what revenue would have been lost if tax had been applied at a rate of 15 per cent instead of 20 per cent?*

#### **Answer**

(a) Non-resident income tax collected from all non-resident individuals -

Income Tax Year	20%	15%	Loss
1995-96	£850,000	£637,500	£212,500
1996-97	£1,100,000	£825,000	£275,000
1997-98	£1,200,000	£900,000	£300,000

(b) Non-resident income tax from persons resident outside the Isle of Man -

(i) in receipt of government public service pensions

Income Tax Year	20%	15%	Loss
1995-96	£123,403	£92,552	£30,851
1996-97	£145,976	£109,482	£36,494
1997-98	£150,730	£113,047	£37,683

(ii) and (iii) Information is not available, as files are not retained for individuals having 20 per cent income tax deducted at source.

### **Statistics Bill – Consideration of Clauses Commenced**

**The Speaker:** So we turn then to item 19 on our order paper, the Statistics Bill, and we move then to consideration of the clauses. I call upon the hon. member for Rushen, Sir Miles Walker, to move clause 1 and schedule 1.

**Mr Walker:** Thank you, Mr Speaker. I do not think there are any issues outstanding from the second reading debate which will not be clarified during this stage of consideration of the Bill.

So clause 1 confers on the Treasury the power to require information to be given to the Treasury by persons carrying on an undertaking on receipt of notice in writing from the Treasury. The information which may be required is given in schedule 1.

At present the Treasury has powers under the Revenue Returns Act of 1894 to require persons importing dutiable items such as spirits and tobacco to give details of these items during decennial test year. This information is used to calculate the Island's share of revenue to be allocated in respect of visitors under the Customs and Excise Agreement. The allocation to the Isle of Man in respect of this is presently around £6 million pounds a year. Being over 100 years old, though, the 1894 Act looks decidedly dated and does not really meet modern-day requirements. Hence the first purpose of the Bill is to repeal and replace the Revenue Returns Act of 1894.

Schedule 1 includes various classes of information which is required for the annual earnings survey.

Clause 1(2) makes it clear that powers under this Act can only be exercised in relation to matters that are set out in schedule 1.

Clause 1(3) allows schedule 1 to be amended by order of the Treasury to add or delete classes of information, and Clause 1(4) specifies that an order shall not come into operation unless it is approved by Tynwald.

So, Mr Speaker, I beg to move clause 1 and schedule 1 of this Bill.

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

**The Speaker:** I call upon, then, the hon. member for Garff, Mr Rodan.

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

*Page 2, after line 3, after subsection (2) insert -*

- (3) When serving notices under subsection (1) to a class of persons, the Treasury shall use its best endeavours to serve the notices on the least number of persons of that class as it thinks necessary for the purposes set out in paragraphs (a) and (b) of that subsection.*
- (4) The Treasury may pay compensation to any person furnishing such information, estimates and returns as are specified in a notice under subsection (1) if that person satisfies the Treasury that he incurred exceptional expense in complying with the notice.*
- (5) Compensation under subsection (4) shall be of such amount as the Treasury considers reasonable in all the circumstances of the case.*
- (6) The payment of compensation under subsection (4) is in the discretion of the Treasury and that subsection does not oblige the Treasury to pay compensation in any case or circumstances or at all.'*

*and re-number the subsequent subsections.*

In supporting this Bill I would nevertheless wish to table an amendment which basically reflects a couple of concerns that were raised at the second reading stage. The first related to the extent of the compulsion under the new powers given to Treasury and the second related to the costs of meeting these new obligations on the part of employers and businesses.

The amendment firstly acknowledges the fact that, in seeking to overcome the present problem of inaccurate sampling findings from surveys because sampling is incomplete, which has been a problem particularly with the earnings survey, we are now obliged to make the gathering of the information compulsory. Therefore it is necessary in my view to ensure that in putting any new compulsory obligations on businesses we do not go overboard with this (**Mr Houghton:** Hear, hear.) and make the required sample the minimum necessary to achieve the statistically useful information. Now, if in the view of Treasury it is necessary to have a 2 per cent sample or a 10 per cent or a 50 or indeed if it has to be a 100 per cent sample, then Treasury require to have thought this through and to justify the size of the sample. What the amendment seeks to do is require the serving of notices to be on the least number of persons thought necessary for the purposes of getting the proper information.

Secondly the amendment, in parts (4), (5) and (6), acknowledges that we are asking businesses, in many instances already hard-pressed small businesses, to bear an additional burden in providing the necessary information, albeit that this information is for the common good and is to assist in the development of public policy. Now, these burdens may take the form of additional cost in time, and any businessman will tell you that time is money. (**Mr Houghton:** Hear, hear.) It may be in the form of additional costs of purchasing the necessary accountancy advice in order to supply the information. Therefore in my view it would be reasonable that this additional cost of being in business that is being imposed is recognised.

I think we are already well aware that burdens are placed on businesses for perfectly proper reasons. For example, the collecting of value added tax is a burden that is imposed and has been for many years where the business acts as an unpaid tax collector for government (**Mr Houghton:** Hear, hear.) So be it.

It would have been very easy in this amendment to ask for a blanket payment of a fee to everyone being asked to supply the information. Now, I have not done that. Some people may have thought that one should go as far as that. I believe that would be wrong. What I believe is that any extraordinary costs as a result of this new obligation on business and employer should be met. Hon. members will notice that while an extraordinary cost may be claimed from Treasury, there is not even in this amendment any compulsion on Treasury to pay it. It is merely putting the onus on Treasury to consider this claim and if it sees fit to pay compensation, something that I would have thought would be entirely reasonable.

**Mr Houghton:** Hear, hear. Mr Speaker, I rise to second the amendment in Mr Rodan's name.

Members will recall my comments during the second reading of this Bill whereby I gave clear reasons why the Treasury had a cavalier disregard for the ethics and principles of businesses on the Island, these businesses, of course, being reasonable for generating the wealth of this government. So to bring a Bill into this House with a purpose of adding more weight onto the overburdened shoulders of business people is in my opinion an unfair and inconsiderate approach. However, this House has given its support for the Bill in principle. May

I therefore ask hon. members of this House to think again with particular regard to those smaller employers who most sincerely are far too busy trying to run their businesses to be overburdened with more bureaucratic form-filling.

However, having seen the proposed amendment in the name of Mr Rodan, I believe his amendment would give a broader form of protection than the proposed amendment in my name, sir. I am therefore very happy to second Mr Rodan's amendment and shall not be moving mine. Thank you.

**Mrs Cannell:** Mr Speaker, I rise in support of the amendment which has been moved by the hon. member for Garff. I think it is a reasonable request to make that the Treasury department should have regard to any unforeseen or exorbitant costs which might be experienced by someone who falls under this particular remit or new remit of the department.

I am also particularly concerned that contained within this Bill there is not actually any redress in the form of an appeal, that is to say that if somebody, a businessperson, feels that the requests made by the department are unreasonable there is nobody to go to at the end of the day to say, 'Well what can I do about this?' But having said that I did consider moving an amendment to the effect of bringing in some kind of appeal mechanism, but I feel satisfied, however, that the amendment proposed by Mr Rodan will satisfy a need there because there is a form of redress, or as he has said during his moving of this particular amendment, there is no compulsion upon Treasury to comply with any request coming from a business person, but nevertheless they will, if supported by the House today, have regard, and I think that is an important principle I believe that we should all support and I am happy to support the amendment.

**Mr Houghton:** Hear, hear.

**Mrs Hannan:** Vainstyr Loayreyder, I would like to actually caution members with regard to this because it is not everybody that has to fill out these forms, it is a statistical percentage, and if we are going to say on this piece of legislation that there could be compensation in the future for filling out this sort of information where is that going to stop? Once we have introduced payment for gathering this sort of information, next people are going to say, 'Well, to return my income tax form it takes me an awful lot, therefore I need a payment.' To return agricultural returns which we expect agriculturalists to return, the June 4th statistics that I can quote to you, that are collected every year, that are collected from every landowner as to what they are doing, what they are producing at that particular time, is quite an onus on the actual landowner to do that. Every time my department introduces something which is introduced for a number of reasons, whether it is in the best interests of the agricultural industry or looking after consumer concerns or giving us a market, I am asked on a regular occasion, 'Are you going to pay us for it? Are you going to provide us with secretarial assistance to provide this?' I just wonder where this sort of approach is going to stop.

The collecting of this sort of information under this legislation will assist us in the future, not just government but the whole of society, in having this information that we can then base management, projections and our future on. It concerns me that in the future government is going to be paying for this information from our people and therefore I think there needs to be a great deal of thought with regard to introducing payment for any collection of statistics.

Not everyone is going to be asked to supply this within this legislation, it is going to be a statistical selection of people to supply this information, but I think we really have to be aware that it is not only small businesses, and I think the two members that have spoken on this have got an interest in this.

**Mr Houghton:** Oh, nonsense.

**Mrs Hannan:** I am sorry, I cannot agree with you there. They have got an interest, Vainstyr Loayreyder. They might be asked for supplying this sort of information. Certainly in this part of the legislation my understanding is that it deals with the actual collection, which is something that has happened in the past, but we need better information available to put together projections and looking at the way forward, and I would caution members into supporting that payment of information should be able to be gathered fairly easily, because I just wonder where that is going to stop. We could get June 4th returns having to be paid for, everything else that we are doing we would have to then start paying for that, and I just wonder where it is going to end.

**Mr Corkill:** Mr Speaker, the hon. member for Peel who has just resumed her seat has actually mentioned one or two of the points that I wish to make, but I really rose to my feet because I do believe that in one or two members' eyes the culture and the attitude that the Treasury has built into it seems to have been, perhaps deliberately, I do not know, but appears to be misunderstood. To use expressions such as 'cavalier disregard' I think is unfortunate because -

**Mr Houghton:** But it is accurate, isn't it?

**Mrs Crowe:** No. (*Interjections*)

**Mr Houghton:** It is accurate.

**Mrs Crowe:** If you can't deal with that, well.

**Mr Corkill:** - the Treasury spent a great deal of time, Mr Speaker, at the delicate interface with the private sector businesses trying to help and encourage and ascertain information which will be of benefit to all, of benefit to the Island.

As a person who in years gone by has filled in many, many dozens of VAT return forms I can sympathise with the tedious nature that paperwork produces, particularly for small businesses.

**Mr Houghton:** And now you want us to do more.

**Mrs Hannan:** No.

**Mr Houghton:** Yes.

**Mr Corkill:** But the hon. member for Peel has said, where does it stop: does Treasury then pay for information from all these other sources, including the filling in of perhaps income tax forms? So I think it would be an unfortunate precedent to set.

But what I would like to point out is that Treasury is not going to send out forms unnecessarily to people, to traders. What would be the point? It would be a costly exercise which would be unnecessary. All this Bill seeks really is that the economic affairs division of

Treasury will be in a position to produce statistically accurate, professionally statistically accurate, information, and that of course is part of the culture of Treasury.

There is no intent, I believe, to burden small businesses in particular unnecessarily, and can I say that the type of information that Treasury will be excepting is similar to what is already done on a voluntary basis by a number of people and will be the sort of information that any reasonably well-run small business will have available to it anyway. It is not a question of having to research internally extra detail and extra accountancy. So I think it is unfortunate that that has been suggested because it is certainly not the intent.

Now, with regard to the actual suggestion of this amendment I suppose in a way Treasury could live either way with this because it is a fairly vaguely written amendment: Treasury may pay compensation. That is not particularly helpful, I can say, because it is far easier in terms of dealing with legislation to have proper directions and so I am not sure that the amendment would actually deliver what the hon. member is trying to suggest.

What I would like to finish on is the point of good governance. I do feel that on a day-to-day basis there is a good working relationship between government and the private sector in ascertaining information to help government actually govern properly and that is done already. This Bill seeks to put more confidence into that scenario and therefore that is why Treasury supports the Bill.

The hon. member for Douglas East, Mrs Cannell, has suggested an appeal mechanism, but then she has decided not to actually promote any amendment, but I was curious and I could not understand why that would be necessary when Tynwald is asked to approve the type of information that would be sought for businesses anyway, and once Tynwald decided, then that would be fair for all.

I do hope hon. members do not get the wrong idea about Treasury's motives in producing this Bill. There is no desire to load extra administration onto small businesses and I sincerely believe that I do not think that will happen.

**Mr Cannan:** Mr Speaker, I think that this amendment is worthy of serious consideration and I think it is even more worthy of serious consideration when the Treasury minister who has just sat down has said that he - and I think I heard him correctly - can live with this amendment. In other words he is not terribly fussed whether it is passed or whether it is not passed, and I believe that this is yet more bureaucracy, more form-filling, and the people who are in the front line of that, in this case two members in the retail trade representing people in the retail trade, are really asking is with all these continual statistics that seem to get more and more the whole time, (**Mr Houghton:** Hear, hear.) what happens to them, who looks at them? We get a lot of statistics ourselves. We perhaps glance at them. Do we feed them all into our minds? I sometimes wonder whether we do.

The other thing that I can say to the House is why do we need these statistics now when I have had experience of the Treasury running for at least three years, just over, when we did not need these statistics but we seemed to do all right (**Mr Houghton:** Hear, hear.) because there have not been any changes in the policy since then anyway.

So these statistics - who are they really going to benefit, and secondly, are they really necessary? And if they are so necessary, well then at least support the amendment.

**Mr Houghton:** Hear, hear.

**Mrs Crowe:** Mr Speaker, I rise to disagree with the previous speaker.

**Mr Cannan:** Jolly good.

**Mrs Crowe:** I too have had many years experience in the retail trade.

**Mr Cannan:** So have these gentlemen.

**Mrs Crowe:** I have found at all times that Treasury was most helpful. There was discussion about VAT returns. *(Mr Downie interjecting)* VAT returns are onerous to do but Treasury and the customs officers that work at that -

**Mr Houghton:** All I got was a threat of gaol if I did not fill the form in. *(Mr Brown interjecting)* Yes. *(Laughter)* What I would say is there is a help line for that. You only have to ask that officer for help and they will be there to help you if you are doing the job correctly. If you are running your business properly the figures that are going to be asked for in this Statistics Bill will be readily available at the turn of a page. **(Mr Cretney:** Hear, hear.) It is a nonsense to suggest that the well-run businesses on this Island would have to turn to accountants to help them fill out these basic statistics. It is a nonsense.

I would also like to say that as chairman of the minimum wage select committee the statistics which could have been gathered by this kind of information would have been most helpful. We are always saying we require accurate statistics on which to base further projects, on which to base minimum wages, on which to base this, that and the other. Without this kind of information we have no accurate statistics.

We are not asking every business person on the Island to fill in this form, it will be a selected number to fill it in, and I would suggest to the majority of well-run businesses it would take a matter of perhaps an hour to fill in this form.

**Mr Houghton:** On top of the other 20 hours.

**Mrs Crowe:** Thank you, Mr Speaker.

**Mr Duggan:** Mr Speaker, I do not agree with Mrs Crowe whatsoever. I feel there is too much red tape already with filling in forms. **(Mr Houghton:** Hear, hear.)

As I said, the main employers on the Island are the small companies. It is okay for the big firms. They can crack on. They have got accountants and all that. But you get the farmer, as Mrs Hannan says, he gets all these forms sent through and it puts a lot of stress on him, and the point that Mr Houghton mentioned - you are going to be forced to fill in these forms. There are no ifs or buts about it.

**Mrs Crowe:** Quite right: like your VAT return.

**Mr Duggan:** It is okay Mr Corkill going on. They are going to be forced or they get fined. **(Mr Houghton:** Hear, hear.) And it is a load of red tape.

I would like to ask the mover, Sir Miles Walker, do they have similar legislation in the UK to this? Are they in the same boat?

**Mr Houghton:** A good question.

**Mr Cretney:** Mr Speaker, the only reason I think it is important that members do support the Statistics Bill today is one which consistently comes up year after year after year and that is when we get the economics division of the Treasury which reports publicly what the average wage is in the Isle of Man. (**Mrs Hannan:** Hear, hear.) And the average wage which is reported in the Isle of Man bears no resemblance in fact whatsoever to the ordinary working people who I have the privilege to serve, and I am sure, I hope, my colleagues in South Douglas and Willaston, North Douglas, also have. It is a farce and the sooner we can get some accurate figures, and this is what this Bill will provide, the better.

**Several Members:** Hear, hear.

**Mr Gilbey:** Mr Speaker, could I support what the last hon. member said. In fact the fact the unions have asked very strongly for the filling in of the earnings survey to be compulsory because, as he has intimated, it is felt that the people who do not fill it in are those who pay the lowest wages. It is not a cross-section of everyone who gets it that does not fill it in, it is thought to be deliberately ignored by those who pay the lowest wages. Now, whether that is true or not no-one knows, but if it was sent out on a basis that it had to be filled in by those who receive it, which would be done on a statistical basis to get a fair coverage of employers, that accusation would be finished once and for all.

Now, there is a further point about this. The hon. member for Michael, Mr Cannan, said it would result in more form filling. In this he is mistaken because in fact when it is not compulsory many more forms have to be sent out to get a worthwhile average sample than if it is compulsory and therefore, by making it compulsory, less forms will have to be sent out and so less employers will be affected, but we will be certain that we get a proper spread of returns from the statistically chosen employers to whom the forms are sent.

So I hope that members will realise that there is no intention of making more work. In fact what is proposed will mean less work.

**Mr Brown:** Mr Speaker, my view at second reading, which has not changed, is that I support the Statistics Bill, based on partly what the hon. member for South Douglas says which is in relation to the earnings survey which at the moment is easy to question because it does not have enough of a foundation for the information to be of real validity.

But also I think the important thing is that we need to ensure, as it states to some degree in the Bill, where the future of the retailing industry in the Isle of Man is going, and we are talking about the retail industry throughout the Island, not just in one part of it, and also the point that one of the parts of the information is for the purposes of obtaining the information necessary for the appreciation of economic trends and there is no doubt there is a misunderstanding in government of how the retail sector works and because of the lack of information, the lack of statistics, they cannot even identify what is happening in the retail sector in the Isle of Man, and I have to say that works throughout government in many areas, Treasury, planning, different areas where there is a lack of appreciation of what is going on.

When I look at the amendment that is before us from the hon. member Mr Rodan I have to say it is a real gobbledegook amendment if you read it. If you look at sub-clause (4), and I quote, it states, '(4) The Treasury may pay compensation to any person furnishing such information, estimates and returns as are specified in a notice under subsection (1) if that person satisfies the Treasury that he incurred exceptional expense in complying with the

notice.' But then it goes on, further on, down in sub-clause (6), 'The payment of compensation under subsection (4) is in the discretion of the Treasury and that subsection does not oblige the Treasury to pay compensation in any case or circumstances or at all.' It is absolute gobbledegook. It means Treasury still do not have to do anything -

**Mr Houghton:** But isn't that the fact with any legislation: it is gobbledegook?

**Mr Brown:** - and all you will end up with is a situation where we are going to put something on the statute that is totally meaningless and really is worth nothing.

I think the other important thing is we should not forget that we are talking about there are other industries that have to provide statistics. There are no provisions in that legislation for compensation and clearly if you did it in one area you would have to do it in another, and if we are not going to have it clear, what we mean, then the answer is we should leave it out, and my view is I echo very much the views of the hon. member for Rushen, Mrs Crowe, when she says any business that has its books in good order and has got everything ready because of the work you have to do for VAT, because of the work you have to do regularly so you can present the accounts to the accountant -

**Mrs Crowe:** Questions to be answered.

**Mr Brown:** - it will take them a minimum of time.

**Mrs Crowe:** True.

**Mr Brown:** And the other important thing about this legislation which is further on in the Bill is the point that there are also confidentiality clauses which will give comfort to businesses in providing information. I therefore support clause 1 as printed and I would urge members not to support the amendment in the name of the hon. member Mr Rodan, as it really does not achieve anything.

**Mr Henderson:** Mr Speaker, I rise to support the amendment. I think it is valid and far be it from gobbledegook, I think it makes clear and rational sense -

**A Member:** Discretion.

**Mr Henderson:** - to something that is going to be imposed on retailers, and taking into consideration what the hon. member for Treasury did say about creating less work, it might create less work for Treasury but it is going to create more work for the retailers who are going to be made to actually fill it in. An hour, we hear, on top of a busy schedule is a lot of time.

Then we hear about the requirement for accurate information and the unions require accurate information. Yes, that is really good, we would all like reams of accurate information and I have got no problem with that, and I think you will find that certainly unions would love accurate information, but not at the expense of the small businesses that are going to suffer (**Mr Houghton:** Hear, hear.) from this kind of legislation that is before us today, and certainly the lack of appreciation in government departments of information was another aspect thrown into the debate. Well, I think that is a sad indictment of the situation that we are in at the minute because if we are having to move compulsory legislation to elicit accurate information, then it is a sad indictment of the management systems that this bureaucracy is using at the minute because, if used correctly, the information systems that we are already using should be

spitting out the very information that we are seeking as a consequence of management actions anyway.

**Mrs Crowe:** You cannot get it unless you get the answers.

**Mrs Hannan:** That is why this is okay then: to get that information.

**Mr Henderson:** We should not have to be increasing the whole thing tenfold so we have six pieces of paper instead of one piece of paper -

**Mrs Crowe:** Well, add it to the VAT form.

**Mr Henderson:** - and if departments had their acts together and things working properly in the computer network systems, then we would not be here having this debate.

**Mr Houghton:** Hear, hear. Well said.

**Mr Henderson:** Consequently I think what we are doing here is just piling up and piling up the papers and the red tape.

**Mr Houghton:** Hear, hear.

**Mr Downie:** Mr Speaker, hon. members, I can either live without this particular amendment or support it and I think members are veering away from the main point of the situation. I think what is required is somewhere in this Bill there needs to be a safeguard and I think the hon. member's amendment does provide this safeguard. It quite clearly says that Treasury shall use its best endeavours to serve the notices on the least number of persons of that class that it thinks necessary and, further on down the line, if someone feels that they are being asked to provide information which goes above and beyond the bounds, there is a vehicle which they can use to come back at Treasury and say, 'Well, look, this is costing me X, there is a safeguard in the system: let's have some sort of compensation or recompense for the additional work that's been required.' All of this has to be proven of course and I think some members are tending to perhaps see too far down the line.

I support the collation of all this information, I think it is very, very valuable, and there is a definite lack of understanding between government departments and how the commercial sector operates. (*Interjection*) The minister says, 'Not in Treasury.' I would say perhaps Treasury fail on a regular basis to understand what goes on in the commercial world, and I think that you have to bring people with you. If you are seeking information, you have to do it in a way in which you will draw the information in, otherwise people will just either throw the form in the dustbin or they will give you wrong information anyway. So there has to be a quid pro quo, there has to be a little bit of give and take on both parts. Now, I think this clause actually does provide that and if, down the line when the Statistics Bill becomes law and the system starts to work, a constituent gets on to a member and says, 'I am being hassled by the Treasury: can you do anything?', at least if this is part of the statute we are able to do something. At the moment, with respect, Treasury would just have a free hand really to ask for what they wanted -

**Mr Houghton:** Yes.

**Mr Downie:** - and that is the other side of the equation, but I do not want to cloud that. We are already providing all sorts of hands-on shoulders and holding hands exercises. You have only got to see what has happened recently with the agricultural industry with the

introduction of animal passports, prepaid envelopes, there is no post required or anything else, and in fairness if the department want the statistics they have got to make it easy for farmers and user-friendly, and I have got no problem with that.

**Mrs Hannan:** That is not payment for it. You have prepaid envelopes for income tax.

**Mr Downie:** Mr Speaker, please.

**The Speaker:** You have the floor, sir.

**Mr Downie:** Thank you. I do not think this particular amendment says anything about payment. The payment of compensation under subsection (4) is in the discretion of the Treasury and that subsection does not oblige the Treasury to pay compensation in any case or circumstances at all. We are crossing our bridges before we come to them. I think what the clause does is it provides the safeguard, as I said, for the system and at the end of the day it will be down to Treasury, if they want to go in depth into a particular business, to say, 'Yes, we require a lot of information, a lot of it will be technical, if you want to provide us with that we can make some sort of payment available.' I am happy with that and I am sure the person providing the information would, so it is double-edged really: there are pluses and minuses.

I am prepared to support the amendment because I think it gives that safeguard, and with a common-sense sort of approach I think other members should be glad to accept it and give people outside something to fall back on if they think that Treasury is being totally unreasonable in seeking some of this information that they may or may not require.

**A Member:** Hear, hear.

**Mrs Cannell:** Mr Speaker, speaking to the clause, it would be remiss of me not to get up on my feet when so much has been said about the Isle of Man earnings survey and also the future of the retailing industry.

**Mrs Hannan:** A point of order.

**The Speaker:** Hon. member, please, a point of order.

**Mrs Hannan:** A point of order under 89: can a member speak twice on an issue?

**Mrs Cannell:** I spoke on the amendment first, sir.

**The Speaker:** You are correct, hon. member for Peel. Mrs Cannell has spoken and we are dealing with the amendment. The hon. member for Douglas West, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. Speaking to the amendment, there has been much discussed about it from different lobby groups, whether they are personal small retailers themselves, whether they represent the Labour vote, whether they represent the Treasury. I find that the argument in order to support this amendment does not stand up and I would support the comments made by the member for Castletown, Mr Brown, when he looks at the items in subsection (4) regarding 'that person satisfies the Treasury that he incurred exceptional expense in complying with the notice.' Yet the whole thrust of the argument from those people supporting this amendment appears to be the increased workload. You then have a situation where, based between differing people, they say one hour or 21 hours of work to substantiate the information required by Treasury. Not only is that workload going to be required, they then have to evidence how many hours and how much cost has been incurred

which would then have to go to Treasury. Treasury would then have to involve time in order to satisfy themselves that that was not an erroneous claim and to justify that those moneys then should be legitimately paid out, taxpayer's money, taxpayer's money also for the Treasury time in order to get the officers to go through something which, by the admission of other small retailers who have said, does not cause a problem. The information of a well-organised business will be there already.

So we have the demons once again from one half of the House coming forward almost with a block vote in order to try and substantiate an amendment which does not stack up. (**A Member:** Hear, hear.) The case has been made and I find it marvellous to hear on the one hand an argument supported by my friend Mr Cretney for South Douglas and the next speaker is the member for Glenfaba, Mr Gilbey, supporting each other on the grounds for which this should be supported. You then have trade union representation saying that this is going to be unfair on the small retailer. This is the information for government to govern and the sooner we get down to doing that, instead of playing the politics, the better. (**Mrs Hannan:** Hear, hear.)

This has got unanimous support across the whole range of the political spectrum in this chamber, so let us look at it for what it is. The benefit is there: support the clause as written.

**Mrs Crowe:** Hear, hear.

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

**Mr Rodan:** Thank you, Mr Speaker. Quite an interesting debate ensued from what was set out to be a reasonable amendment, what is by universal acclaim a Bill that is absolutely necessary and absolutely necessary for the very good reason -

*A mobile telephone rang.*

**Mr Houghton:** Is my telephone going? (*Interjections and laughter*)

**The Speaker:** Hon. member, can I ask you, please?

**Mr Singer:** I will leave it outside. Sorry, I apologise.

**The Speaker:** The hon. member for Garff.

**Mr Rodan:** Thank you, Mr Speaker. A number of hon. members reinforced the need for this Bill and with particular reference to the earnings survey and the fact that that survey is not accurate. One hon. member called it a farce, and he is quite right to do so because the information is not collected compulsorily, the sampling becomes a nonsense, and we do not get the accurate figures that we wish.

Now, I would first of all thank Mr Houghton for seconding the amendment, and Mrs Cannell for her support. Mrs Hannan, the hon. member for Peel, raised a note of caution and the caution was one of concern about precedence in making a payment for obtaining statistical information, and as an example of this precedent she pointed out the statistics that are already collected through agricultural returns and have been for many years, and no-one is disputing that.

I would perhaps raise, in reply, an equal note of caution that those statistics are in pursuance, of course, of better enabling the department, her department, to make subsidy and support to the agricultural interest and to the producers who are asked for the information.

There is a quite direct correlation between the need to impose obligations on agricultural producers when they are in receipt of a taxpayer's subsidy. I would therefore draw a distinction between that and the gathering of statistical information which is outlined in subsection (1) for the broader use of government, the obtaining of information necessary for the appreciation of economic trends, for the provision of statistics for government and others, presumably in a broader sense, to appreciate economic and social trends. This is information for government to assist government to govern effectively and there is an obligation on those asked to provide it.

But I would say to the hon. member the Treasury minister, Mr Corkill, regarding his complaint really that the amendment in effect was not strong enough because it did not give sufficient direction to Treasury, I would say in response to that that the amendment is framed quite deliberately to give discretion to avoid this question of precedent and the payment automatically to cover costs in providing the information. This is having regard to the fact that this is broad-based information for government as a whole. It was deliberately to give Treasury the discretion to avoid the difficulties of each time information is required payment should automatically be made.

Now, Mr Brown, the hon. member for Castletown, supported as well by Mr Shimmin, the hon. member for Douglas West, concludes that the amendment, I think they said, was gobbledegook. Well, I thought the Attorney-General's department had framed it rather well (*Laughter*) and subsections (4) and (6) - nothing at all inconsistent in them. Subsection (4) says that Treasury may pay compensation if the person satisfies Treasury as to the exceptional natures of the costs, and then subsection (6) goes on to make the payment in the discretion of Treasury. Subsection (6) reinforces the discretion allowed for in subsection (4), so there is nothing inconsistent in that.

Now, the hon. member for Rushen, Mrs Crowe, I think must have a crystal ball because, as another speaker pointed out, the information being required is such that a businessman should have it at hand in any case. Well, I do not know that -

**Mr Houghton:** And neither do I!

**Mr Rodan:** - and the hon. member for Rushen does not know that. Nobody knows the nature of the statistical information that Treasury is going to require.

**Mr Houghton:** That's right.

**Mr Rodan:** It is somewhat presumptuous -

**Mr Houghton:** That's right.

**Mr Rodan:** - to assume that we know that the information will be simple and readily collectable. It may well be that there is extremely good reason for Treasury to require detailed information, particularly now that it has this power to require it, more detailed information such as can only be provided by purchasing financial assistance to provide it, and in those circumstances, if there are exceptional costs arising out of that, and I suggest it is more likely to be the case more often than not, then it becomes even more reasonable that those exceptional costs should be, in the discretion of Treasury, considered and reimbursed.

The hon. member for Douglas West, Mr Downie, was quite right in summing up that what this amendment does, this discretionary provision of payment, is to provide a safeguard, a

safeguard to those on whom we are imposing an additional obligation to provide statistical information, not necessarily in their own direct interest but for the broader interest, and as responsible citizens it is right that they should do so, but it is right for us, in requiring them to provide it, that we put in the safeguard of exceptional costs to be met.

**The Speaker:** I call upon the hon. member for Rushen, Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. It has been quite a long debate under the moving of this clause but I have to say I could find no questions or queries regarding actually clause 1 as is written. So I do not think there is anything to respond to about that particular clause. The debate has been, and perhaps not surprisingly, about the amendment that has been moved in the name of Mr Rodan.

Now, it is probably worthwhile me once again reiterating the purposes of this Bill and they are three.

Firstly, it replaces the legislation under which the decennial test is carried out which is a test, it is not a sampling exercise, but it is an exercise that happens once every 10 years where importers of dutiable goods are required to submit to Customs and Excise their returns. So that is not a sampling exercise, it is a requirement on people to fill in returns.

The second purpose for this piece of legislation is to make the employment survey, the earnings survey, mandatory rather than voluntary. I have been very clear about that from the beginning. The earnings survey has been in place, I think, for eight years and we have got statistical information which leads us to believe that the trend as far as earnings are concerned is going in one way. That information has been questioned by a large number of people, particularly the trades unions and I would make it clear that the trades unions, have been consistent in their view that more accuracy is required in the earnings survey and that it should be mandatory, and there is, certainly in my mind, no doubt at all about that, which was not, I think, the view that was given by the hon. member Mr Henderson when he was speaking.

The third purpose for this piece of legislation is that orders can be approved by Tynwald, submitted by Treasury, which can extend the sort of information that is required for particular purposes and there is absolutely no suggestion, there is no idea within Treasury that that will happen, but it is a permissive piece of legislation and thought sensible to introduce it, and this Bill is not to do with VAT forms, it is not to do with the returns to Customs and Excise, it is not to do with information required by the DHSS or information given to the DHSS and other bodies about employment or June returns or whatever. It is very simple.

Now, the concern that has been expressed is that there will be an extra burden imposed on business because of this Bill. Now, I would refute that and I think the point has been made during the debate, particularly by Mr Gilbey, that if these provisions are accepted and it becomes mandatory for people to fill in forms, fewer forms need to be sent out, which says to me that a lesser number of people need to be burdened with filling them in. Now, I accept it is a burden, but the information is not difficult to get, the information, that is, that is being required under the earnings survey: number of employees, hours they work, and remuneration they receive.

Now, I cannot believe that any business in operation in the Isle of Man, businesses which are required to keep books, not under this legislation, under other legislation and for other

purposes, will find it a burden to produce that sort of information and so I find it difficult to accept that compensation should be written into this Bill so that it may be paid.

Now, again I accept that, as far as provisions in the amendment are concerned, they are permissive. Treasury is not required to do anything except, I suppose, to consider the claim, and I think that is the reason why my minister Mr Corkill made it clear that if this amendment was carried, then it would not really affect the terms of the Bill. That was the point he made and he made it very clearly, and I can confirm that. Had an amendment come forward, and I am glad it did not, which removed all employers of small numbers of people, that would have fundamentally affected the Bill and it would not have been worthwhile carrying on with it. So there is a difference and I think it only fair to make that point.

The amendment, though, does two things. It is suggesting to the officers or to the department which will carry out these surveys that they should use their best endeavours to serve the notice on the least number of persons and then it does the compensation thing. Now, the people employed by Treasury, the economic affairs officers, are experienced statistical researchers, and there is a balance and it is a balance that they have to bear in mind. They have to consider what is the least number of forms, and questions that need to be sent out to be addressed and they do not want to send out more than is required, but the least number of forms which will give them the best statistical information. Now, that is a balance that they have to consider and have been so doing since the science was introduced. This amendment will not change that and it is superfluous, it is not required. It is a matter of good practice and good practice is followed by the economic affairs division. I do not believe that they require the sort of guidance that is in this amendment. So I do not believe the first part of the amendment is needed.

Now, as far as compensation is concerned, I do not think that that is required either.

Now, concern has been raised during the debate about precedence and this amendment would set a precedent. I do not believe that that is the case and I think it only fair to inform hon. members of that. I understand that there is a household survey where respondents are paid for their co-operation in what is a time-consuming survey, so there is not in the strict meaning of the word a precedent being set by this amendment.

But I think the point that was being made by Mrs Hannan when she spoke in support of the clause and against the amendment, and I thank her for that, is that if this amendment is accepted it may become a matter of practice that people require some sort of payment to fill in forms, and again I think that that would be unfortunate, for the very reasons explained by Mr Rodan when he was summing up his amendment. So I do not think the amendment is necessary.

I would just like to thank everybody who contributed to the debate on clause 1. It was an interesting debate and I think some valid points were made. I of course appreciate those members who spoke in support of the clause as printed without the amendment and I would ask hon. members to vote in that way, against the amendment and in support of the clause.

**The Speaker:** Right, hon. members, the motion therefore is that clause 1 and schedule 1 do stand part of the Bill and to that we have the amendment circulated to hon. members in the name of the hon. member for Garff, Mr Rodan. Will those in favour of the amendment please say aye; against, no. The noes have it.

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

*For: Messrs Cannan, Rodan, Houghton, Henderson, Duggan, Mrs Cannell, Mr Downie - 7*

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

**The Speaker:** Hon. members, the amendment fails to carry, 16 votes cast against and 7 votes cast for. I therefore put the clause and schedule as printed. Will those in favour please say aye; against, no. The ayes have it.

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

*For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling, and the Speaker - 18*

*Against: Messrs Cannan, Houghton, Henderson, Duggan and Mrs Cannell - 5*

**The Speaker:** Hon. members, the motion carries with 18 votes cast for, 5 votes cast against.

We therefore turn to clause 2 and again I call upon the hon. member for Rushen, Sir Miles.

**Sir Miles Walker:** Thank you, Mr Speaker. Clause 2 makes it an offence, subject to the defence of due diligence, to refuse to give information when required. Clause 2 also makes it an offence to supply false information, and the penalty for this offence is custody for a term of six months or a fine not exceeding £5,000 or both.

The scale of penalties both here and in clause 3 match those in the Livestock (Import and Export Statistics) Act of 1996. I believe that that was the last Act which contained the sort of provision that was considered by this House.

Mr Speaker, I beg to move clause 2.

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

**Mr Houghton:** Mr Speaker, members will see an amendment in my name as set out in respect of clause 2. The purpose of my amendment is to reduce the draconian penalties as set out in the Bill.

With respect to page 2, line 11 of clause 2 I propose to reduce the maximum fine stated in the Bill from £5,000 to only £500.

On line 27 hon. members will see that I propose to exclude the provision of custody for a term not exceeding six months.

It is of course acknowledged that this part of clause 2 deals with persons who are guilty of false declaration. However, the offender would not gain financially from his wrongdoing. The purpose of the Bill is to gain details purely for government planning, so why do the Treasury wish to threaten offenders under this section with gaol for up to six months? I have, however, left the level of the fine set by the promoters of the Bill in respect of the gravity of the offence of this section set at £5,000.

Mr Speaker, I beg to move an amendment to clause 2, as set out to hon. members, standing in my name:

*Page 2, line 11; for '£5,000' substitute '£500'.*

*Page 2, line 27; for 'custody for a term not exceeding 6 months or a fine not exceeding £5,000, or to both' substitute 'a fine exceeding £5,000'.*

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

**Mrs Cannell:** Mr Speaker, as I was about to say earlier, I feel it remiss not to actually say something on this with regard to the retailing industry in particular, that I am aware that these particular provisions within this particular Bill will have an effect or could have an effect on each and every business within the Isle of Man and not just the retailing industry. But I feel it incumbent upon me to actually clarify some points which were made in the last debate on the previous clause in relation to this particular industry and I feel it is remarkable that the observations, or so-called, were made by the Minister for Transport as opposed to, possibly, the Minister for Industry. It seems the Minister for Transport has more knowledge on this subject than the Department of Trade and Industry -

**Mr Brown:** Absolute rubbish.

**Mrs Cannell:** - and so I feel that I have to put a correction in here.

At second reading I got up on my feet and I spoke to this hon. House about the merits of the DTI's voluntary Island survey of the retail sector and we at that time had had, obviously, one or two minor problems with it, but I am pleased to report to the House today that the response to that survey has been exceptionally good, and I mean exceptionally good, despite the fact that one particular minister in this House was not supportive of it and has purported to speak against it in public, which I find quite disappointing. We are supposed to be all pulling in the one ship, in the one direction in terms of industry.

**Mr Brown:** What a joke!

**Mrs Cannell:** This survey was conducted, it sought statistical information in relation to all sorts of things affecting the retail industry, for which members have said this morning there is very little information on, and it was because of that situation that the Department of Trade and Industry undertook to conduct this voluntary survey. It was not done on a random basis, it was not done merely sampling one area as opposed to another, it was an all-Island survey, and I think this is important. This is the difference here in relation to what we are being asked to consider today. That was an all-Island situation. The date for the return of the forms was extended and has now closed and very soon I would hope to have in the hands of all hon. members and all of those who partook within the survey a copy of the summary of the report which is being produced by an independent evaluator and I think what we will glean from that will be some very interesting statistical information.

Now, based on the findings of that the department which has responsibility for this sector, not the Department of Transport, will then consider policy in relation to the industry, and as I said at second reading, I felt that coming forward with this Statistics Bill at this time, hot on the heels of the initiative undertaken by the DTI, was regretful, because we on the one hand in the department were trying to instil confidence within the industry and we have had to work hard in that respect, we have had to work very hard, but we have gained the confidence of that

particular industry and it will show, I am sure, when members see the report in the findings and it certainly shows in the number of returns, which are usually, I have to say, in some circumstances quite poorly responded to, but in this case they have been exceptional.

Now of course we are being asked to approve legislation which is going to make it a mandatory requirement upon anybody who happens to receive a request from the Treasury department, irrespective of where they are, what their business is, how big the business is, how large it is or anything else, and that gives me concern, because I think it has come too quickly on the heels of the voluntary situation.

Now, we have heard a lot about the Isle of Man Earnings Survey, and again I am repeating myself but sometimes one has to repeat oneself to be heard. That is probably the very best part of this Bill and in my view it is probably the only part that is exceptionally good here, because that needs to be on a mandatory basis in order to get a proper picture of the income in relation to the people of the Isle of Man and also to establish what truly is the average level of earnings here.

But the rest of it - I think probably Treasury, the mover, has been quite clever really in putting the rest of it together along with the earnings survey aspect, because one cannot really vote against one without supporting the other, and that puts me in a difficult situation.

I would, however, like to know from the mover, in relation to clause 2 here, whether or not he considers it an appropriate move to make someone who shall be guilty of an offence liable on summary conviction to custody for a term not exceeding six months or a fine, whether he feels that is appropriate in the situation that we find ourselves in where we have an overcrowded prison, we have yet the political decision to be taken to improve or renew or rebuild a prison, and here we are passing, to me, what I consider minor legislation and imposing such a draconian measure within it. (**Mr Houghton:** Hear, hear.)

Now, I would have thought a fine is probably more appropriate if someone does not comply, and I am pleased to see that in this particular section it is a defence for the person to show that he or she took all reasonable steps and exercised all due diligence to avoid committing the so-called offence referred to in the Bill. That is reasonable and I welcome that, but I think it is a little bit heavy-handed to impose a sentence in prison for six months. A fine, yes, a sentence no. After all, if we go back to why in the first instance politicians, governments, put together a prison regime and ordered people to be removed from the streets because they had committed offences against other human beings, it was in the first instance to provide safety for the public out on the streets, that is to say that those who were a danger to others were removed and put into prison. These days we are finding all sorts of people finding themselves in difficult positions, perhaps owing money, in this case not having filled in a necessary form on time and maybe regarded as reckless under this particular clause. To have an imposition of being found guilty and having to go into prison and serving anything from one, two weeks, three months, up to a maximum period of six months I think is getting a little bit ridiculous, and so I am happy to support the amendment which has been moved by my hon. colleague for North Douglas in excluding the six months' custody term and lessening the fine from £5,000 to £500. Thank you, sir.

**Mr Shimmin:** Mr Speaker, when the mover of this clause reported as to the reasons for the terms of conviction and the fines or appropriate sentence he referred to a Bill of 1996 that

was replicated here as being the most recent, up-to-date piece of legislation which would be similar and has been matched up to. I hope we have gone past that stage. I think we have got an opportunity here of beginning to put some common sense into our legislation and to actually make the crime or the appropriate offence have a suitable type of penalty.

I think most hon. members in this House would consider the mover of the amendment, Mr Houghton, is known to be quite firm and strong when it comes to matters of criminal offence. That is not what we are talking about here and I think his amendment is quite right.

But it goes beyond that, because I think it is important at this stage that we make a statement, as the previous speaker, Mrs Cannell, has pointed out, that we have difficulties with the prison and the new build. Do we want to maintain unsuitable offences so that the judiciary, over which we have no control, can still imprison totally inappropriate persons?

We have to look at this, but we are now left in a dilemma where the Council of Ministers, having approved this Bill, are in a cleft stick. Do they once again support the clause as written, although I am sure instinctively some of them would prefer to go along with the amendment? (**Mr Houghton:** Hear, hear.) I would therefore call upon the Chief Minister in order to make his views known so that those members of Council, on an issue which is quite straightforward on principle, are given the freedom to vote according to their conscience rather than to mindlessly have to support a clause as originally written, and indeed I would ask the mover of the actual clause himself to consider whether he would accept this amendment.

Some time we have got to draw a line under stupid sentencing policies. (**Mr Houghton:** Hear, hear.) Something like this is the first step so that the next time a piece of legislation comes forward we use this as the base-line, not something replicating mistakes made years ago. Please, let us have some common sense, let us have the freedom for the Council of Ministers to vote according to their own conscience and let us have the mover of the motion accepting this sensible amendment. Thank you, Mr Speaker.

**Mr Karran:** Vainstyr Loayreyder, I would like to see moved that we vote on the two amendments separately, if that is possible, on the amendment on line 11 and the amendment on line 27. I think that is important, that we want to vote on them separately.

I am somewhat disappointed today that we hear people and all of a sudden we are talking about we want to stop people being turned into criminals. Well, I am delighted to hear that we are starting to look at this. It is just a shame that it happens to be a lobby of self-interest who is pushing this today as far as this is concerned.

So as far as I am concerned I have no problem with the second part of this amendment. I do totally agree with the hon. member for Douglas North, that he is quite right that we should not be putting people into prison as far as lots of these offences are concerned. I just hope that he will have the same rationale when he is dealing with other sections of the community as far as this issue is concerned, because there are far too many people going to prison for the wrong reasons at the present time (**A Member:** Hear, hear.) and almost turning prison into a situation where it is almost legitimising it in our society that there are honest decent people going there. So I welcome the move as far as that is concerned on the second part and I have no problem as far as that is concerned.

But on the first part of it, I cannot support the first part of it, because at the end of the day why should we put it down to £500? To a large employer it is nothing: not that. So consequently I cannot support that because I do not believe that we should in this House be trying to protect the abusers of the weak, uneducated in our society who are forced to work for appalling rates of pay (**Mrs Hannan:** Hear, hear.) and try and cover up the scandal that we repeatedly had to humiliate ourselves in the past with these stupid amounts that the average earnings are. This hopefully, this piece of legislation, is important as far as that is concerned and I think that we must not support the first part of the piece of legislation.

I believe that it is important that we leave the status quo on the first part of the amendment from the hon. member, but on the second part of the amendment I am happy to support the amendment as far as not putting people in prison on this offence. I do hope that it will be supported, that.

**Mr Brown:** Mr Speaker, first I would just like to respond to a couple of the points made in relation that I am delighted that the Department of Trade and Industry's survey has been successful, but I am sure the member who spoke about that earlier would be quite happy to confirm that in fact forms had to be reissued at considerable cost to government because so many did not respond. And the member shakes her head. I can tell you that is true because I am one of them who got one. Also can I say that individual traders and business people had to go out knocking on doors of businesses to get people to fill in the forms at no cost to government but at a cost to themselves. So this Bill will stop that nonsense because this Bill will mean there is a statutory basis for ensuring that you get the information and that it is furnished properly. Now, it has also been considerably delayed, as the hon. member advised us, in terms of getting the results in for the survey.

Mr Speaker, I am speaking here not only as Minister for Transport but also as a Member of the House of Keys and quite honestly I do not care what the member says about my views. I am here to put my views forward and people can take what they want of them. Whether they like it or not is for them to judge, not for me to judge.

Can I move on now to the amendment that is before us and just really throw in another point of view to members which I think they should consider before they accept the amendment. For a start off I think it is important that you realise the importance of this clause to the survey being successful.

Now, if I take the first part, the hon. member who has moved the amendment states, 'Page 2, line 11; for "£5,000" substitute "£500".' Now, that sounds very good, but of course what he may not be taking into account is how the courts operate. The courts tend to operate, on first offenders, approximately, subject to all the conditions, 10 per cent of what is the maximum fine. So therefore they would be in a position to only fine them £50 if that is the case. They might fine them £80. What the 'not exceeding' does is give the courts a range and the flexibility to impose a fine for people who have, for different degrees, broken the law. If you bring it down to £500, as I say, that fine would be £50. Now, that may well not be enough where somebody has committed an offence, as it says under there, which is where they have failed to provide the information. If you take some of the larger businesses a £50 fine would not be much to them if they did not want to provide the information, and even for small businesses, I would suggest, a £50 fine for not bothering would be seen as not being that important anyway.

Now, when we get to the second part the hon. member and a few other members have expressed concern about the custodial side of it. Now, unlike some members in here, I am not one to say, 'Lock 'em up!', but I do think it is appropriate on occasions to have the provision in the offences for the courts, if they have continuing offenders who repeatedly ignore the law, to have the ability, if necessary, to sentence them to prison, and that is what this clause is about. What you have here in clause 2(3), which is the second part of the hon. member's amendment, is where a person intentionally or recklessly or knows information is false or recklessly furnishes information, in other words they have deliberately tried to undermine the survey. Now, wouldn't it be ridiculous if the Isle of Man Government had this going on for some time and somebody was intentionally providing false information, or a number of them, for whatever reason, and that in itself created a problem in terms of government looking where to invest, trying to find out what people are being paid so they can get a proper earnings survey and all that we could do is say, 'Well, a £500 fine for the first offence, maybe a £1,000 fine for the second, maybe £1500 for the third' and it just goes on?

At the end of the day, whether we like it or not, not to give the courts the ability to give a custodial sentence because a firm - and it could be a big firm; it is unlikely to be, but it could be - continually ignores and provides false information, I do not see a problem.

Regarding sentencing policy the hon. member for West Douglas, Mr Shimmin, said we should draw a line under stupid sentencing policies. But we do not make them, the sentencing policies, we make the law to give the range in which the courts can make a sentence. They will take into account individual circumstances, they will take into account re-offenders, they will take into account abuse, and make a determination. We as legislators do not have any direct influence in terms of what actual case will end up with a sentence. What we have to do, though, is provide legislation that gives the tools to the courts to be able to work within a range of offences and to be able to deal with the situation as it is.

So when we take it in that context I do not think that it is too onerous because I think where somebody fails to furnish information, then if necessary the Treasury can go to court. Let us not forget: if somebody has failed to give the information they are likely to get a reminder anyway, as they would do now under VAT, as they would now under income tax, so court is some way down the line. And as far as somebody providing false information deliberately, I think that is a serious offence, because if, for example they falsely provide the information relating to their salaries paid, then the whole survey is again thrown into discredit.

So I would hope members, while understanding part of what the hon. member for North Douglas is saying, should keep a view on the flexibility of what that clause is providing, in other words the tool it is giving to the court. It does not mean that a person on a first offence, who knowingly did something, is going to be locked up. That is a matter for the courts, but I am sure it does not mean that, and we can see that in many offences.

So I hope members will support the Bill as printed, and I would say to the hon. member for West Douglas that, yes, the legislation has been before the Council of Ministers and has been approved by the Council of Ministers, but I can say, as with all legislation, ever since I have been in the Council of Ministers, where an amendment has been seen to be appropriate and information has been provided that has been clearly demonstrating that something is slightly wrong, then the Council of Ministers' history if you go right back to 1987, contrary to what you might have heard from different politicians, has been in fact on many occasions to

support amendments moved by members which have improved legislation. I think in this case this is not the case. I think that the flexibility for the courts and the wide range of ability for offences should be retained.

**The Speaker:** Now, hon. members, three further members - Mr Duggan, Mrs Hannan and Mrs Crowe - have already caught my eye in relation to clause 2 and the amendment, so I think it is an appropriate time at which to adjourn. The House will stand adjourned until 2.30 this afternoon. We will return at 2.30. The first to speak at 2.30 will be the hon. member for Douglas South, Mr Duggan. Thank you, hon. members.

*The House adjourned at 1.02 p.m.*

### **Statistics Bill – Consideration of Clauses Concluded**

**The Speaker:** Hon. members, we resume our deliberations on the Statistics Bill 1998, dealing with clause 2, and the first member to speak this afternoon is the hon. member for Douglas South, Mr Duggan.

**Mr Duggan:** Thank you very much, Mr Speaker. I will be supporting the amendment of Mr Houghton. I think it is a good amendment, because it is okay members saying they will not put people in prison for not filling in forms; I actually had a constituent at one time, hon. members, put in jail for a week for not filling in a census form, so it was a silly thing, I thought at the time, and I thought it was ridiculous. So I support that amendment. What I did ask the mover of the Bill originally was, do we have similar legislation in the United Kingdom as what is being proposed here today? I wish he would kindly answer that.

**Mrs Hannan:** Vainstyr Loayreyder, I shall be supporting the legislation as printed. I think there are a number of reasons for this. The first part of it - we are bringing forward legislation which will be the law of the land, and this particular clause deals with offences, and it says 'If any person required to furnish information, estimates or returns fails to furnish such information or those estimates or returns. . . he shall be guilty of an offence'. Now, I think the member for Castletown covered this when he said this is a sum that could be used by the court, and the court will consider whether it is serious enough to fine someone £5,000, and I would suggest that that is not the case. I would suggest that the court would look at a much lesser amount, but if we change it to £500 then it would really be, as I think the member for Onchan mentioned, a slap on the wrist by saying to a firm that they have to supply this information for the reasons in this particular sub-clause. When we look at clause 2 and clause 3, clause 2, it is an offence under sub-clause (1) . . . Sorry, that deals with due diligence and defence. So there is a defence that someone can put forward so that they can defend sub-clause (1). But sub-clause (3) deals with a person who sends returns intentionally or recklessly, makes a statement which is false, and a false statement under any legislation - I believe that there should be something which will be put in place that will make the person that is putting forward this information such that they will comply with the law as it stands.

Now, (b) looks at furnishing or sending to the Treasury a document which he or she knows to be false in a material particular, and that to my mind then should be of concern to us all when we are passing legislation. It is all very well to say that someone should not be sent to prison, but if you make a false statement anywhere else, and knowing it to be a false statement because it is a material particular, then I believe that is an offence. If someone says something in a court of law which is known to be false, then the court would take action

against that person. And again sub-clause 2(3) deals with 'recklessly furnishes or sends to the Treasury for any purpose under this Act a document which is false. . .'. It is all very well at this late stage to say we should be keeping people out of prison. We are not saying that someone would have to go to prison for this, but it is a possibility that if somebody offends on a regular basis or if it is a serious offence, that can be taken into account and that the court has that to act as a deterrent when looking at this particular piece of legislation. If we were saying that we should not be sending people to prison for minor issues, then I think that really is a bit late at this stage when we are looking at some of the draconian legislation that we have passed before this House even during this session, some of it government legislation and some of it private members' legislation.

So I really do think that before we pass legislation, yes, we should think about this, but suddenly it is because it is a Statistics Bill where people have to fill in forms, there is a defence and therefore I believe that when somebody furnishes intentionally or recklessly false information, then action should be taken against that person and I would hope that members of this hon. House will support the legislation as printed.

**Mrs Crowe:** Mr Speaker, I would like some direction from you, really. I support the hon. member for Onchan, Mr Karran, and I would like to ask, could we vote on the amendment put forward by Mr Houghton on clause 2 in two separate sections? I too agree that the £5,000 fine is correct, but I do feel that prison really is not the place for debtors. I cannot see any solution. I know it is the ultimate sanction, I do realise that, but I really do think that prisons on the whole throughout the adjacent isle and in the Isle of Man are full of people who have not paid their debt and they would be far better being in some form of employment where they could actually pay off the debt that they owe. So I would like some direction from you, Mr Speaker, as to whether we could vote on Mr Houghton's amendment in two separate ways. Thank you.

**Mr Houghton:** Mr Speaker, perhaps if I could just answer to say that I would be quite agreeable to that.

**The Speaker:** Hon. members, it was my intention to ask the House if they did require to have it divided. I am quite happy to take it in the two parts provided it is the wish of the House that that should so happen. Does any other member wish to speak? In that case I call upon the hon. member for Douglas North to reply on behalf of the amendment.

**Mr Houghton:** Thank you, Mr Speaker. I would like to begin by thanking the hon. member for North Douglas, Mr Henderson, for seconding this amendment and also to Mrs Cannell for her valuable remarks and her support.

Turning to Mr Shimmin, I note the comment he made that these are stupid punishment policies. I think that really has gained an awful lot of support, not from everyone but from many in the hon. House today and I thank him for that. I also thank Mr Karran for his input into this debate. He sees it absolutely ridiculous for anyone to go to prison and would be supportive of the second part of my amendment but not the first part, so I do note that.

Mr Brown gave many explanations as to how one should be dealt with for repeated false information and basically how the court system works, which is of interest and it is a moot point, but what I would say here is that the courts are already grossly over-crowded. The prison also is over-crowded with much more serious offenders and that is what I would ask the hon. House to take into consideration there.

I also thank Mr Duggan for his support; he gave an excellent example of bureaucracy gone mad where one of his constituents was thrown in prison for a minor offence. It is quite unbelievable.

I also thank Mrs Hannan for her input. She gave a number of points but in my opinion has failed to convince me, and I am sure the House, of her example.

I would finally thank Mrs Crowe for her proposal which I would quite happily go along with where we could, if possible, vote separately on both these lines of this amendment. Thank you.

**The Speaker:** I call upon Sir Miles Walker to reply.

**Sir Miles Walker:** Mr Speaker, can I once again thank members for contributing to this debate. I have to say I have found it an interesting one even though many of the contributions were not directly relevant to the clause which we are considering. Again, the debate that was relevant has come down to this matter of what is the correct sentence for the sort of offences that are outlined in the clause.

Now, could I just say that Mrs Cannell mentioned the retail survey, and again, I know that that is not directly relevant to this clause but I would be interested to hear from her at some stage what the response was like to that voluntary survey. How many people responded on the first time, were needed to be reminded for a second or third time? I would just say I would find that interesting.

So we have an amendment in front of us which reduces the sentences available to the courts for the offences outlined in clause 2, and that amendment has been moved by Mr Houghton. I have no further explanation to give to this House on the sentences that are in the Bill except to repeat that they are sentences which were accepted by this House the last time they considered a Bill similar to this, which was the Livestock (Import and Export Statistics) Act of 1996. I did say that members have called out in the past for some similarity of available sentences in legislation of a similar sort for a long period. The legislative draftsmen thought, and Treasury went along with their view, that this was appropriate in this case.

I think a lot of attention has been given to whether or not there should be available to the courts the sentence of imprisonment, and I have to say on this particular matter I do not have a firm view. I would, though, say that it is not the case, as suggested by Mr Duggan when he made his contribution, that a person should not be able to be put in jail for not filling in a form. That is not what the legislation says, hon. members. The legislation in that case says that a person can be fined up to £5,000. It is only when they intentionally or recklessly make an untrue statement, if they furnish or send to the Treasury a document that they know to be false or recklessly furnish or send to the Treasury for any purpose a document which is false in a material particular - quite serious offences, I would suggest, and quite different to the view that was given that just for not filling in a form you could be put in jail. So there is a difference.

Mr Duggan went on to ask me what was the situation in the United Kingdom, and I can tell him that as far as the decennial test is concerned, of course, that is particular to the Isle of Man and is not relevant in the UK, but people are statutorily required by the authorities to give the information such as the information we request in the earnings survey in the Isle of Man

and other information. So there is a statute over there which I would not suggest is the same but it is similar in purport to the one we are considering today.

Now, as far as the amendment that has been moved, the first part of it I have to say I find completely unacceptable, and that is the reduction of a maximum fine down to £500. I say that on the basis that, under the legislation we have at the moment dealing with this issue, the Revenue Returns Act of 1894 has been amended on a number of occasions, as I suppose is not surprising, but in 1985 was amended to put in a penalty of £2,500. Now, that is some 14 years ago. There is not a penalty of imprisonment included in the legislation at the present time. So that is a new provision. So I would ask members not to vote for the first part of the amendment which suggests a reduction in penalty from £5,000 to £500. At the moment it is £2,500 and it seems over the past 14 years that perhaps a maximum of £5,000 is not out of the way.

As far as the imprisonment sentence is made, I think I have made my views clear on that one: it really is a matter for the court. But we are talking about serious offences, and it is not only to do with an earnings survey, the information from which is interesting; it is also to do with the decennial test. The information which we gather from that is of great importance to the income of this Island and, just as an aside, it is becoming much more difficult to collect that information. A few years ago there was a small number of importers of goods which have duties payable on them. With the open market and with the levelling of import duties on beer in the Isle of Man to that which happens in the UK a great many people are importing wines and spirits, dutiable goods, for their own purposes. So the decennial test in future is going to be much more difficult to bring to a conclusion, and I suppose there is much more scope for abuse because of that.

The only other point I would make is that I think it is wrong to mix up the principles of the penalties available under an Act of Tynwald to the courts and the broad issue of sentencing policy, which is an interesting issue and one which was brought forward by Mr Shimmin, and I thank him for that because I think it did set our minds working. It seems to me that sentencing policy, the policy which our judiciary are going to accept when they determine what a sentence should be, is something that has to evolve, has to be determined by the judiciary, and I do not think they should be stopped from speaking with the relevant boards and departments and Chief Minister's office and Council of Ministers to give them some opinions with which they can form their own sentencing policy. So I think we are talking about different things and I just make that point.

I hope the members will accept clause 2, that they will not accept the first part of the amendment which is proposed. If they want to accept the second part, that is a matter entirely for the Court. I am going to stick with the Bill as printed because it seems to me that that is relevant. Thank you.

**The Speaker:** Thank you, hon. member. Now, hon. members, we have the position where the hon. member for Onchan invited us to divide the amendment into two parts, supported by the hon. member for Rushen, Mrs Crowe. We are aware that the hon. mover of the amendment is happy for it to be divided. Are you content that we take it as in effect two separate amendments?

**Members:** Agreed.

**The Speaker:** In that case, hon. members, I will first put the amendment to clause 2, page 2, line 11, for '£5,000' substitute '£500'. Will those in favour please say aye; against, no. The noes have it. The noes have it.

Then for the second part of that clause, circulated to you on the white paper in the name of Mr Houghton, for line 27, for 'custody for a term not exceeding six months or a fine not exceeding £5,000 or to both' substitute 'a fine not exceeding £5,000'. Will those in favour of that amendment 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, Mrs Crowe, Messrs Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 20*

*Against: Mr Gilbey, Sir Miles Walker, Mr Brown and Mrs Hannan - 4*

**The Speaker:** That part, hon. members, carries with 20 votes cast for, 4 votes cast against. So now I will put the clause - that is, clause 2 - as amended on line 27, the second part of the amendment. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Sir Miles, clause 3, sir.

**Sir Miles Walker:** Thank you, Mr Speaker. Clause 3 makes it an offence to disclose information obtained by the Treasury other than in the circumstances permitted by the Bill. This clause protects both the individual and individual undertakings from disclosure. More detail is given in clause 4. If data on an individual or individual undertaking is released without written permission from that individual, then the Bill will provide for an offence liable to a fine not exceeding £2,500. I beg to move

clause 3.

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

**Mr Brown:** Mr Speaker, at second reading members will recall that I raised a concern about what I see as a little bit of an imbalance in the fine under sub-clause (2) on page 3, line 4, where, if somebody discloses any information, that fine is only £2,500. My view on that is that it is again quite a serious offence. Clearly somebody could do insurmountable commercial damage to a business if they were to give out information in terms of sensitive information that has been obtained by Treasury under confidentiality, and when you look at the offences under clause 2 which have just been approved where it is £5,000 just for not furnishing the information, it seems somewhat strange to me that it is only £2,500 if you abuse your position, whether it be as a member of the legislature or whether it be as a civil servant or a person who happens to have been able to see some information. So I believe that this one should be increased. I have raised it, as I say, at second reading, I have discussed it with the Treasury minister and I think Treasury are content that it should be increased and therefore I beg to move an amendment:

*Page 3, line 4; for '£2,500' substitute '£5,000'.*

**Mrs Crowe:** I wish to second and I think it is a very valid point that the same penalty should apply indeed.

**The Speaker:** Does any other hon. member wish to speak? In that case I call upon Sir Miles to reply to the debate.

**Sir Miles Walker:** Thank you, Mr Speaker. The hon. member for Castletown did raise this matter during the second reading of the Bill and I am sure that I indicated that the reason it was £2,500 is because that is what it was in the last piece of legislation we considered here, and I really have nothing to add to that particular point. It is a matter that is entirely in the hands of hon. members. If they wish to put this one up to £5,000 as a matter of parity - if that is the right expression - then that is a matter for them. I have to say, hon. members, that it is highly unlikely we will ever have a court which is considering matters under this sort of legislation, where they will think in terms of fines of £2,500 or £5,000. It is a matter - and that point has been made - entirely with members.

**The Speaker:** Hon. members, clause 3 and to that we have the amendment which I have in my hand which says, 'In clause 3(2), page 3, line 4, for "£2,500" substitute "£5,000."' Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

The clause as amended then, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

**Sir Miles Walker:** Clause 4, Mr Speaker, specifies the manner in which information may be released by the Treasury. The disclosures must be in the form of summary statistics presented in such a way that identification of the individual person or undertaking supplying the information is unlikely. This is standard statistical practice and has long since been adopted by the Treasury. I beg to move clause 4 stand part of the Bill.

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

**Mr Singer:** Mr Speaker, if I could just make a quick comment about the difference between clause 3, which we have just approved, and clause 4. In clause 3 there is a heavy fine for an individual who discloses information received by the Treasury and which can cause damage to businesses or individuals, whilst in clause 4 here we are talking about Treasury revealing information and they should not publish any individual estimates or returns but the wording there is 'as far as is possible.' Now, that leaves them open to excuses more than anything and they are not being as closely monitored as an individual, and I would have been more happy if it had read 'in the form of statistics or in a summary of collection of information framed in such a way' because I think Treasury can and should do it in such a way that they are absolutely sure that they are not doing any damage to individuals or to businesses. I think that this is not tight enough and I would welcome the mover's comments on that.

**The Speaker:** Does any other hon. member wish to speak to clause 4? Sir Miles.

**Sir Miles Walker:** I would simply say, Mr Speaker, I think - I understand the point that has been made - that clause 4 is supplementary to clause 3, and if Treasury or any other member makes public any data that have been received that can be identified with a company then clause 3 will apply. The point that the hon. member makes as far as possible, I guess, is the defence of due diligence which would be put forward by the Treasury or an officer if they found themselves in court, and it would be up to the court to make a decision. I beg to move clause 4.

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

Clause 5.

**Sir Miles Walker:** Clause 5, Mr Speaker, provides for the prosecution of officers of bodies corporate in relation to offences committed by those bodies. I beg to move clause 5.

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

**Mr Bell:** Just a small point, Mr Speaker. Could the hon. mover just clarify whether, when an offence under this clause takes place, the individual representative of the company can be fined as well as the company itself? Is it a dual prosecution or is it simply the officer of the company who will fall foul of the law in this case?

**Mr Brown:** Mr Speaker, I think that the comment I would like to make really relating to this is here we have a situation in clause 5 which covers bodies corporate, as can be seen by members, and of course in those cases we could be talking of quite substantial businesses in the Isle of Man, and again I think this is where the tying up of clause 2 and clause 5 is important, and now we have a situation where a body corporate, which could be a multi-million pound organisation, will now only be subject to a fine of £5,000. and I think that that is where the Act now has been somewhat weakened. That is a decision of the House but I do think this is where we are not just dealing with small businesses, we are dealing with substantial businesses and, as I say, they could be businesses with turnovers of many millions of pounds on the Island and now subject to what really is a relatively small fine. I support the clause but I think that is the point.

**The Speaker:** May I call upon the hon. member Sir Miles to reply to the debate?

**Sir Miles Walker:** Thank you, Mr Speaker. I think the response to the hon. member for Ramsey, Mr Bell, is in sub-clause 5(1) next to the last line of that sub-clause, where it says 'he' - that is, the manager, secretary or other similar officer or director as well as the body corporate, so it is certainly inclusive of the body corporate, and I would just say to the hon. member for Castletown that just because it is a body corporate, of course, it could be quite a small body corporate, it could be a small limited company, or, as he says, a very large company and this makes it clear that officers of those companies can be liable if they commit the offence as set out in this clause. I would also make the point that we did not reduce the fines that were in the Bill.

**The Speaker:** The motion is, hon. members, that clause 5 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Perhaps we could take clauses 6 and 7, sir.

**Sir Miles Walker:** Thank you, Mr Speaker. Clause 6 requires the expense of the Bill to be paid out of money provided by Tynwald.

Clause 7 provides for the interpretation of expressions used in the Bill. The definitions of 'export' and 'import' include trade with the United Kingdom. I found that quite interesting because it is not very long ago that the movement of goods between the Isle of Man and the UK were not allowed to be called imports and exports, they were 'moved' or 'removed' and I

find it interesting that these expressions now have been updated. Clearly it is important to be able to record movements of dutiable items between the Island and the United Kingdom for the purpose of the decennial test. The definition of 'undertaking' includes any undertaking by way of trade or business, whether or not the trade or business is carried on for profit, and it also includes statutory bodies and local authorities. I beg to move that clauses 6 and 7 stand part of the Bill.

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

**The Speaker:** Hon. members, the motion is that clause 6 and clause 7 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Then we have clause 8, schedule 2 and clause 9, sir?

**Sir Miles Walker:** Thank you, Mr Speaker. Clause 8 repeals the Revenue Returns Act of 1894 and associate legislation as set out in schedule 2.

Clause 9 provides a short title and enables the Bill to be brought into force by an appointed day order.

So, Mr Speaker, I beg to move clause 8 and its associated schedule number 2 and clause 9 stand part of the Bill.

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

**The Speaker:** Hon. members, the motion is that clause 8, the relevant schedule 2 and clause 9 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. That concludes the Statistics Bill for today and the consideration of clauses.

### **Council of Ministers – Vote of Confidence in Ministers – Motion to Adjourn Carried**

**The Speaker:** We turn then to item 20 on our order paper. I call upon the hon. member for Michael, Mr Cannan.

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

*That standing orders 64 to 66 be suspended to enable this hon. House to vote by secret ballot on the motions at items 21 to 29 inclusive.*

With your permission I would like to give a brief background to this and the following nine motions.

As long ago as last March there was discontent with the membership of the Council of Ministers. This was evidenced when the Minister for Health and Social Security had exceptional difficulty in being re-elected to the Legislative Council. The minister was only re-elected after three attempts of the House and then with a majority of only one vote. Throughout the summer months there was increasing discontent among members that the Chief Minister, although having invited members to make recommendations to him, was not making changes to his ministerial team. There were questions in this House and in Tynwald to the Chief Minister asking when he intended to make such changes. The Chief Minister took no notice of this discontent. In July, at the by-election in North Douglas, the preferred candidate of the Council of Ministers was not elected. *(Laughter)* The drumbeats of discontent amongst members increased and still the Chief Minister took no notice. And then this discontent

reached a crescendo at the end of November when a government minister placed a confidence motion on the whole of the Council of Ministers for the December sitting of Tynwald.

The implication of this motion was that if it had been lost, the whole Council of Ministers would have had to resign. The Isle of Man would in effect have been without a government, a very, very serious matter. In the debate the Chief Minister was told clearly and without equivocation that he had to change his ministerial team. During the debate I made it abundantly clear that whilst I would not vote for the dismissal of the whole of the Council of Ministers, it was conditional upon there being changes in the ministerial team. Two other members of this House, if I recall their speeches, made it clear that whilst not voting against the Council of Ministers they expected ministerial change. At the end of the debate 10 members of this House - Mr Quine, Mr Rodan, Mr Braidwood, Mrs Cannell, Mr Duggan, Mr Houghton, Mr Henderson, Mr Downie, Mr Singer and Mr Karran - voted no confidence in the Council of Ministers. Taking into account my own conditional vote and possibly two others, the Chief Minister did not receive an unconditional vote of confidence for his team. Following this debacle in Tynwald it was assumed by many that the Chief Minister would quickly assert his authority and make the necessary ministerial changes. Instead, I regret the Chief Minister adopted his usual sit-tight-and-do-nothing policy, so inevitably the discontent continues.

The Chief Minister cannot say this motion was unexpected because I wrote to him on 21st December advising that I was putting down nine separate motions. I have placed the confidence motions on this agenda so that the matter can be brought to a conclusion once and for all. The outcome of the confidence motions does not matter to me personally. I am not in the frame for any ministerial appointment. If all the government ministers receive a vote of confidence, good, well done, and then the matter is closed, I hope, and the Chief Minister and his ministers have received a vote of confidence and they can devote their energy to the good governance of the Isle of Man and, as I say, I hope the discontent comes to an end. However, if one or two ministers fail to receive a vote of confidence, then the rules of democracy require they resign. The Chief Minister makes new appointments and then again the Council of Ministers can settle down to the good governance of the Isle of Man and the discontent amongst members can come to an end.

Mr Speaker, thank you for allowing me to outline my case. The motion before you is that this House vote by secret ballot on items 21 to 29 inclusive. Mr Speaker, you and six other members of this House, which include myself, will recall that prior to November 1986 all nominations as chairman of boards, today the equivalent of today's ministers, were voted upon by secret ballot. It did not cause any problems. We were in Tynwald and they were voted upon. One or two perhaps did not make it - so be it; there were fresh nominations. This worked very satisfactorily. The Chief Minister is voted by secret ballot, as is Mr Speaker and the Deputy Speaker. Members of select committees and committees of this House are chosen by secret ballot. All of us, members of this House, are elected by secret ballot, we are here by secret ballot, and that is the rule and custom of democracy.

So I recommend that the motions are voted in secret but in reality it makes no difference to me personally. I know who I am going to vote for or against, and it matters not that it be either in public or in private, and I assume it makes no difference to members of this House.

After all, 10 of them voted publicly to dismiss the whole Council of Ministers only five weeks ago.

So, as I say, I want to bring this matter to a final conclusion. I hope that it is done in secret. It does not matter if it is not done, but at least let us have one conclusion to it and bring the matter to a halt once and for all. Thank you very much.

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

**Mr Downie:** Mr Speaker, hon. members, I wish to formally move:

*That debate be adjourned to the 27th April 1999 sitting.*

The reason why I am doing this is really to try and take what I see is the sting out of this situation at the moment. I would ask members of this House to bear in mind the very strong message that I hope and, I am sure, the nine other members who voted with me in Tynwald last month made to the Chief Minister that we felt that it was his prerogative and his prerogative alone to heed the message from us that there needed to be some change in the make-up within his Council of Ministers.

Now, saying that, the Chief Minister responded, and he is on record as saying that he is reviewing his team, and those of us who have been here a number of years like myself know that it is the budget next month. There is absolutely no way he could possibly review his team and expect a brand new minister to pick up another minister's budget. He is also on record as saying that he is waiting to hear about the two committees which have a bearing on this matter, the committee that has been set up to look at the Council of Ministers and also the long-term future of the Legislative Council.

Also, I think that by adjourning this debate today it will give the Chief Minister and other members a period in which to reflect. There has been a lot of high profile media attention drawn to the Isle of Man over the last three to four months, and I must say that in all fairness the Chief Minister has my vote of confidence. I think his behaviour over the last two months in particular and dealing with the Edwards report and all the other issues that have been thrown in the Isle of Man he has done exceptionally well.

I think, members, that the right thing is to adjourn this debate. It will also give time for the Easter recess to come in. The date, 27th April, is the only meeting that we do have in April, and I hope by then the Chief Minister will be able to issue some sort of a bulletin or a release to members as exactly what he is going to do with regard to his review and, if the situation which currently exists is still in place, no doubt the hon. member for Michael will have the opportunity to revisit this particular issue and it can appear before this hon. Court at some time towards the end of April.

As far as I am concerned, I think without question the Chief Minister has the confidence of Tynwald and at the end of the day it is up to him to put his team forward. I would urge hon. members to support this adjournment and leave the issue very firmly and squarely in the hands of the Chief Minister for the next two to three months.

**Mr Braidwood:** Mr Speaker, I have no problem in seconding Mr Downie's motion to adjourn. I believe the motion put down by Mr Cannan is premature coming so soon after the debate we had in another place last month. It has not given the Chief Minister time to evaluate his options. As Mr Downie said, the budget is next month. He has to have a look at that; he

has had the Christmas period; he has had his meeting down at the Home Office concerning the Edwards report and, as far as I am concerned, it would give the time, the three months, it would give the Chief Minister time to reflect and come back to this Court and hopefully before then bring forward a different team or say that he is quite satisfied with the team he has got. Thank you, Mr Speaker.

**Mr Rodan:** Mr Speaker, I too had risen to second the motion of Mr Downie for the reason that, as far as I am concerned, we had the debate a matter of six weeks ago. I said what I wanted to say six weeks ago and I do have to say that I have no particular wish to be manipulated into another debate this afternoon. I do not believe, for the very good reasons Mr Downie has advanced, that a particularly good purpose would be served by a vote today. I think certain things have changed over the last six weeks and I think the spotlight is more on the Isle of Man now than it was then. I think a period of stability therefore would be in order and, as far as I am concerned, an adjournment of this debate with a period of silence on the part of all concerned until April would be very appropriate.

**Mr Cannell:** Mr Speaker, in Tynwald last month we came very close to the overthrow of the entire Council of Ministers, a coup which would have left the Chief Minister in virtually an impossible position and the necessity for a replacement Council of Ministers to have been formed. As I said at that time, that would have been acceptable providing that other than those attempting to bring about the coup were confident their replacement was readily forthcoming, but the position we had at that moment failed to convince me, which is why I voted in favour of confidence in the present Council of Ministers. As I said, that was not to say I would have backed every individual minister had the occasion arisen, but it was said at that time it was sending out the wrong message to Athol Street and everything I have heard since has completely endorsed that. (**Several Members:** Hear, hear.)

Of course, the Tynwald movement by the hon. member for Michael sought a very different outcome to what was being attempted by the hon. member for Ayre, but what do we now have here today? Yet another blast; individual votes of confidence being sought in all ministers except the Chief Minister. Are we really in such conflict in the Isle of Man? Are we genuinely so dissatisfied with the senior government of the Isle of Man that we are saying it is in tatters? I think not, hon. members.

What I can say is that if we accept this adjournment motion today, we shall again be fudging this issue. (**Several Members:** Hear, hear.) Athol Street that Tynwald voted to back the present Council of Ministers, but not much more than a month later the Keys, which of course are a part of Tynwald, are now being asked to do likewise not as a conglomerate but individually. So Council of Ministers members who were considered five weeks ago good enough to survive the Tynwald vote are now facing the proposition of being no longer good enough for office. That is fine; the Keys is where it is at and it is a free vote. But we may throw up something different. Mr Cannan tried this one in Tynwald and it was rejected. He tries it again here, as we say, but outsiders will see it as a very real threat to the stability of the Isle of Man Government. They will say, 'What on earth is going on?'

The situation is that Tynwald agreed that the Chief Minister appoint his own team. He did that only just over two years ago. We are not at the half-way point of this House yet until May. That team was endorsed by the Tynwald vote last month. The Chief Minister has indicated he

will review the position at that point. That is for him. He is not obliged to do it but he says he will and I believe him.

So what is the problem? It is that certain members are committed to an overthrow of the Chief Minister (**Members:** Hear, hear.) and/or one or two individual ministers as well. That is the truth of what is happening. Deny it ye may, but do not try to kid me that it is all aimed at the betterment of the performance of the cabinet as a whole. Even if every individual minister was to be turned down on the resolution on the paper, it would not necessarily result in any change. I agree that in such a situation a Chief Minister would therefore be in an untenable position. He would have a Tynwald vote for and a Keys vote against. Of course we would then have an individual mandate rather than one as a whole. There would then be what a mid-way position would assume: some ministers would be backed, some would be given the thumbs down. So presumably then it would be down to the Chief Minister to consider whether he wanted to stay under those circumstances. One thing it would do would be to point the Chief Minister to those ministers who are thought unacceptable by the House, particularly those that the Chief Minister may not replace if he was left to do it by himself. So to that end at least it would be beneficial, because I am sure that is most of the trouble.

Apart from the obvious difficulties between the outcome of a private or public vote, what are we facing today? In effect, we are saying the man from Del Santon is not saying 'Yes'; either yes to individual aspirations to join the Council of Ministers or not yes to rejecting those they do not care for, but one thing we must not do today is drag this on. If we defer it, it will appear again for certain with all the attendant bad publicity. As our representatives travel to important meetings at the Home Office and elsewhere they will be going with the disquieting background that they are thought by their colleagues and therefore the population that they are not fit for office.

What sort of stability will that give out? What are we doing here, hon. members? Certainly I would not like to be a Chief Minister - little chance of that! - faced with this regrettable situation. He has a Tynwald vote backing him but his ground troops are threatening to pull the rug on him. Worse of all, though, is to defer this and bring it all back another time, as is proposed on the adjournment. When that happens it is a long way from certain that the vote for a secret ballot would succeed in any case. A public vote would undoubtedly yield only the status quo, which is what we have anyway, with the promise that the Chief Minister will look at a shuffle by May anyway. All right, his shuffle might be a soft-shoe shuffle compared with a full-blooded coup which seems to be wanted by some, but it will be a shuffle carried out with the benefit of balanced views, and I am sure Mr Gelling is now not unaware of members' opinions and will act, knowing if he fails it will simply stack up again for him.

Tynwald gave him the job; let us let him get on with it. He knows what he is up against. Certainly he has been told often enough recently. Let us not appoint a judge then set up the gallows. Let us say, 'Athol Street, the Manx Government is stable.' Reject the adjournment motion, suspend standing orders and let us clear the decks on this once and for all.

**Mr Bell:** Mr Speaker, can I first of all congratulate the previous speaker on the common sense which is included in his very apposite comments. (**A Member:** Hear, hear.)

I have said in the past on one or two occasions that there are times in this hon. House where we can all have good knockabout fun, score points off each other, try to undermine

each other's policies, perhaps, from time to time. That is part and parcel of the life-blood of politics and it is something we all accept when we are elected to a body such as this. There are other times, though, when we have to adopt a mantle of maturity and we have to recognise that we need to, at least for a period of time, stop this continuous studying of our own navels and start taking cognisance of the big picture, because it is a big picture which is vitally important to the well-being and future stability of this Island that we need to be concerned with today, not with the petty point-scoring which has been going on for the last 12 months.

The hon. member for Michael quite rightly said when he moved his resolution that discontent has been swelling since last March; nearly 12 months we have had to live with this. We are the national government of the Isle of Man. For half the term of this House we have had this underground, undermining fermenting of discontent for whatever the individual's personal ambitions might be. We seem to have totally lost the plot as far as the main reason why we are in power today. The constant impression, and growing impression, which we have sent out from this chamber to the outside world, to the business world in particular, is one of growing instability and inability to govern effectively, and this at a time when in all other senses the Isle of Man has never had it so good: we have virtually no unemployment; we have a booming economy; we have higher incomes than we have had before; we have a welfare service to be proud of. And yet we are sending a message to the outside world that we wish to scrap this government and start all over again. And make no mistake about it, hon. members, whilst in the early days it was treated in the outside world in a light-hearted manner, the seeds of doubt have been well and truly sown, and I am sure I am not the only member now who gets feedback from the business community outside of real concerns starting to build up about our stability, and I would remind hon. members, particularly perhaps hon. members who are new in this hon. House, that by far the major plank of our success over a great many generations has been the stability of the Isle of Man Government and its ability to deliver consistent policies to its people and to its business community. We are in grave danger, if we continue what we are doing at the moment, of throwing that legacy away. It is a legacy which has been very hard earned. A tremendous amount of work and sacrifice has been put in over the years to achieve the situation we have today and we, it would appear, are prepared to throw it away simply on the back of scoring individual points.

As I said, the day has come, and we cannot avoid it any longer, where we have to raise our eyes to the big picture, to broader horizons. There are serious threats now developing which will surround us for a great many years to come on the international business scene. We have heard all about the various problems with the OECD, with the EU tax initiative, with political attitudes in the United Kingdom. From this could well come other threats which we are not aware of at the moment. If we are going to be able to effectively respond to these threats we have to have a united government working together for the good development of the Isle of Man, and the clear message we are sending out at the moment is we do not have that unity of purpose, unity of vision and unity of willingness to unite to defeat the threats which are being imposed on us at the moment.

I put my own position aside on this particular issue; if members wish to vote me out of office that is entirely up to them. It is not something I am going to argue one way or the other -

**The Speaker:** Hon. member, can I ask you to draw to your conclusion, please, because it is five minutes.

**Mr Bell:** Sorry, yes. The individual position of myself does not count, Mr Speaker, but I do believe voting for the adjournment today is going to do no good at all; it is simply going to perpetuate this felling of instability and concern which is growing out on the street. It is not going to help the image of this government, it is not going to help the performance of this government and it is going to potentially in the medium term, damage the long-term economic prospects of the Island.

I would urge hon. members to reject this adjournment move, to grasp the nettle now once and for all. Let us clear this issue of the decks. I have no strong concerns as to whether this vote is taken in private or public, although I do believe our constituents want to know how we vote on these issues. (**Mr Gilbey:** Hear, hear.) I believe at least we should take this vote in public, support the hon. member for Michael's further resolutions and get this issue off the agenda once and for all. (**A Member:** Hear, hear.) We have a very important and very serious job to do now which is going to get more and more difficult if these internal divisions are allowed to fester, and to allow them and encourage them to fester for another three months, I think, is going to be totally destructive for the well-being of the Isle of Man.

**The Speaker:** The hon. member for Onchan, Mr Karran, and can I remind hon. members, in an adjournment debate you are on a five-minute rule.

**Mr Karran:** Vainstyr Loayreyder, I think the hon. member that has resumed his seat answered the input when he said it will not make any difference whether it is private or public. It will make all the difference if it is private or public: there will be a different outlook as far as the vote is concerned. So this idea that this adjournment debate should not go ahead and we should not vote today I think is wrong, because I think that actually when I saw this motion in front of us today I thought obviously he must have gone from the APG to the government camp, because this is a gift-horse in the mouth for the Council of Ministers, this motion before us today. I think it is the worst timed piece of motion (*Laughter*) - a motion that we could have put in at any time, in my opinion. I cannot understand; I might poke fun at the hon. member about the gravitation of the moon having an effect but as far as this motion and subsequent motions are concerned, I cannot see. . . If we allow this to go ahead today, it will actually cause more division; it will cause more bitterness. I believe that the Chief Minister has got to be allowed to do his job. (**Members:** Hear, hear.) Any of us that were in this House when we did the legislation said, 'He is to pick his own team' and I voted against him in another place and was happy to do so (*Laughter*), but if we support this ill-thought-out proposal today. . . and I do take on board what the hon. member for Ramsey said about what is happening outside and the excellent speech from my colleague in Onchan, but I think we need to have our finger on the pulse, (**Mrs Crowe:** Yes.) and the fact of what will happen if we allow this to go ahead today, we know what is going to happen today: there is not going to be a secret ballot; all it is going to do is bury more prejudice, more ill-feeling (**Mrs Crowe:** That is right.) into the chambers of this government. So I hope common sense will prevail today. I totally agree with the hon. member, we could do with getting it out of the way, but he is in the driving seat, he has got to make the decision (**Mr Gilbey:** Hear, hear.) as far as his movement.

I hope hon. members will support the adjournment debate today because, if you do not, I believe you are going to do even more harm than having a situation where people are asking

in three months' time. This issue will resolve itself in the hands of the Chief Minister and he will resolve this issue. I am sure within three months it will be long gone, it will be a passing thing, but if we do not support the adjournment debate today I tell you we will do so much damage and we will cause so many troubles. I think the hon. member for Ramsey knows that that would be the case because he knows there is not going to be a private vote; it is impossible. There is more chance of me becoming the Pope than there being a private vote in this hon. Court (**Mr Cannell:** Thank you, Monsignor!) and it will completely distort the reality of what is the position within this hon. House.

I hope that we will support the adjournment debate. I take on board what the hon. member for Onchan, my colleague, says, but I think we will be doing ourselves a tremendous disservice and I hope that common sense will prevail and the debate will go ahead. It must be supported.

**Mrs Crowe:** Hear, hear.

**Sir Miles Walker:** Mr Speaker, if I believed that this debate would go away by carrying through and voting on the resolutions on the agenda paper, then that is the course of action that I would follow. I have to say I cannot believe that that will be the case. Now, it has been said during the debate so far that this issue started six weeks ago. Somebody else said it started a year ago. Somebody else said it started when the Legislative Council elections were about last March. It is my believe this debate started the day the Chief Minister was elected (**Mr Brown:** Hear, hear.) and I do not believe members have moved their ground one iota since that day, and I do not believe, if we carry on through the issues on this agenda, whichever way people vote, that the issue will be put to bed. I wish I could believe that, but I do not. I agree with the hon. member for Ramsey, Mr Bell, and the hon. member for Onchan, Mr Cannell, that there is damage being done out there (**Messrs Brown and Gilbey:** Hear, hear.) and I think that that is terribly sad because, as the hon. member for Ramsey said again, this Island has never been as strong economically. I do not believe it has ever been so strong politically either (**Mrs Crowe:** No.) but I do think that we have to be adult in the way that we think about politics now and I have to say I do not believe that the public arguments that have been taking place, particularly over the last six months, are very adult at all.

Now, reference was made to the Legislative Council elections last March. That was rather a miserable experience, or I thought it was, but let nobody think that it was to do with the personality that was in the individuals who were being elected. It all came back to this particular issue; it all came back to the Chief Minister; it all came back to who he should have on the Council of Ministers. In my view - and I am well on record - I believe that the decision of who should compose the Council of Ministers has to be that of the Chief Minister. (**Mr Gilbey:** Hear, hear,) That is the first reason I will support the adjournment, because I do not think it is in anybody's interest to have a vote by members on individual ministers.

I am sure that as far as ministers are concerned they would like this vote. From their point of view I can understand it clearing the air, and they will either be supported or not supported, but the downside of that, in my view, is that it fetters the approach of the Chief Minister when he is considering who he should have on his council and I think the Chief Minister should have an unfettered approach, and I do not think his views should be coloured by 'Ah, this minister got 16 votes in support (**Mrs Crowe:** Quite right.) but this one only got 11 or 12, and so perhaps I had better shift the one with 12 to keep that support.' I think those are

the wrong considerations for the Chief Minister, and that is the reason I really believe we would be doing ourselves a disservice if we went ahead with the resolution that is on the agenda paper.

I have to say that if the decision is to go ahead it causes me no particular discomfort because I will support the Chief Minister. That is not to say, sir, that I do not think he should make some changes; I think he should. I do not think, though, that he should wait for a Tynwald committee to report on the future of the Council of Ministers or the future of the Legislative Council. It seems to me he should be making his decisions on the situation that appertains today. If he is required to make further changes because of Tynwald decisions in the future, well so be it. They can be made in due course.

So I would urge the Chief Minister to get on with his job, and it is not a particularly pleasant one. I know that, but it is a responsibility that is his and, in my view, he should be left to get on with it. Any fettering of the situation that we put in, I believe, will not assist him. I would hope, if this adjournment motion is supported, that the matter will be adjourned, that we can be adult in our consideration of it over the next few months and that perhaps in due course it will be withdrawn, because I do not think it is in anybody's interest (**Mrs Crowe:** Quite right.), certainly not in the interests of the economic development of this Island. (**Mr Gilbey:** Hear, hear.), which is precarious.

Now, it has always been precarious. Earlier on today we were talking about the number of people in workplaces: 70 per cent of our employers employ less than five people, 30 per cent, I think it is, of them are single-person employees. It leaves very few workplaces that employ 88 per cent of our workforce. We should be considering their situation. Confidence is such an important ingredient, hon. members. We should not be going out to undermine it. (**Several Members:** Hear, hear.) Let us have our differences and, if we do not like the Chief Minister, let us get rid of him, but let us not do it this way. (**Members:** Hear, hear.) Let us not do it by drawing blood, by putting the leeches in and so on.

Mr Speaker, I am sorry, sir, I hope that members will vote for the adjournment for the reasons I have said and that we would become adult in our consideration of these so important issues.

**Mrs Crowe:** Well done, Sir Miles!

**Mr Cannan:** Speaking to the adjournment, Mr Speaker, we have had interesting comments. We have heard about stability, but the real stability was threatened by the December motion (**Mr Cretney:** Hear, hear.), and the amazing thing is that members who voted to drop the whole government are now busy talking about stability. Only five weeks ago they wanted to drop the whole government of the Isle of Man (**Mr Cretney:** Hear, hear.) and yet they suddenly say, 'Oh, we have got to have stability. The Chief Minister has got to evaluate his options.' They were not giving him much time to evaluate his options last December when they were going to drop him that evening, they certainly were not, and these hon. members supported the dismissal of the whole government and are now pulling back. Well, I presume that they are big enough and old enough to have thought when they made that decision in December it was a responsible decision.

As for the hon. member for Onchan, Mr Karran, well, of course he jumps from one side of the fence to the other. As I just said (*Mr Karran interjecting*) he just wanted to dismiss the

whole government because it suited his book last month, but now he talks about common sense and doing more harm than good and resolved by the Chief Minister - he was not giving the Chief Minister much chance last month.

But I was pleased to here the previous Chief Minister, the member for Rushen, say that the current Chief Minister should make changes. I was very interested, because whilst he and I and others did not vote to drop the whole government, we keep sending out the message to the Chief Minister, there should be changes, because no Chief Minister can govern without the consent of this House, and so, if it is the wish of this House that the matter be adjourned to 27th April, that is a matter for this House. As I have said, I have no real commitment either way, but what I want to make clear to this House is that it is about time the whole of this issue is cleared, as other members have said. (**Mr Karran:** Hear, hear.) If you have a vote today it is cleared. If you adjourn it, well, I hope the Chief Minister acts pretty soon and does not wait until 27th April and the whole matter raised again, because we are not putting it away, we are just adjourning it. So I hope that if the adjournment is carried, action will be taken and this debate will have served a useful purpose, because sooner rather than later I am hoping that we can close the issue and get on with the best interests of the Isle of Man.

**Mrs Hannan:** Vainstyr Loayreyder, I certainly did not put the motions down on the agenda but other people did, and therefore they have to be addressed. I notice the member for Michael is virtually saying that he had to do this because of the motion that was put in Tynwald some six weeks ago. I am not sure that anybody has to do anything. I think now what has happened is that the member for Douglas West is suggesting it be adjourned. I am very uncomfortable with the threats, and it is more or less blackmail to the Chief Minister (**A Member:** Hear, hear.): 'We are voting for an adjournment today, but you have got to get changes, because if you do not make changes we are coming back here on 27th April and we will sort things out.'

I would suggest to this hon. House that if there were wholesale changes it still might not suit this House. If there were some changes it might not suit this House, and it might not suit the Chief Minister. The Chief Minister was elected by another place to do the job. The law of the land actually says that the Chief Minister can pick his own team, which he has done. He is working with that team. The place that elected him to do that job supported his team, and now the member for Michael is saying, 'Well, I will adjourn it because he is going to make changes anyway,' but that still leaves the threats, it still leaves the sword of Damocles hanging not only over the Council of Ministers but also the Chief Minister, and I am very uncomfortable with that. If members have got something against a minister, all this pussy-footing about and saying 'It is somebody else's fault' and 'somebody else has made me put down this resolution,' 'Somebody else made me vote this way' - I am uncomfortable with the adjournment and I am surprised that members are saying that they have been told or they have had to do this because of the resolution that was in Tynwald last time. And it concerns me that I have a feeling that there are members in this House that are saying, 'We have got the upper hand to hold the sword of Damocles over your heads, and you will do what we want and how I want you to jump,' and that, I think, is the wrong message that should go out from the House.

I am very concerned that this is on the agenda anyway after a vote had been taken (**Mr Gilbey:** Hear, hear.) in another place. It would seem by the comments made by the member

for Michael that he does not see a way out of it and nobody else has offered a way out this afternoon. An adjournment is not a way out and some members like the member for Rushen have said, 'If you get lots of votes for one minister it puts him in a stronger position than somebody that has not got any votes', but does it mean that there is going to be change? Therefore I am not in favour of an adjournment, but I do not either know the way forward on this. It is an extremely difficult situation and certainly people outside are concerned, genuinely concerned, at what is happening -

**Mr Cannell:** Have a public vote and leave it to the Chief Minister.

**Mrs Hannan:** - to the democratically responsible people in their country, and while we are looking at this motion that it should be in private, democracy should be operated in public, especially this sort of democracy when we are voting on the government, and therefore I would hope that members would reject the vote being taken in private and I think I have to support the vote going ahead, because I do not see any other way. You are going to have another three months of indecision, of instability and giving the wrong message to the people that we represent.

**Mr Cannell:** Absolutely.

**Mr Shimmin:** Mr Speaker, as the only member in the room today who was not present for the vote in December, I ought to probably nail my colours to the mast. I did in a speech on that day, but had I been able to stay in the chamber for the vote I would have voted in favour of the Council of Ministers at that time. However, on that occasion I believed that the motion which we see before us today, when placed by Mr Cannan at that stage, was the right way forward, because it had a purpose. The purpose was that we would move the debate forward. We would actually have a debate; we would have a vote in private and the Chief Minister then would have something meaningful to consider and deliberate to make his decision. For political reasons that did not find favour and therefore the vote did not take place as it should have done to give the Chief Minister information. I then regret that the mover of the motion has decided to come back here today, because still in an effort, how do we move forward? Tynwald in December did not.

Today will not move us forward, but we have to resolve what to do. Two choices: the former Chief Minister, Sir Miles Walker says that even if we determine it today the issue will not go away; it will fester and rumble on. That might be true. If we leave it for three months it is also likely true. People in this chamber - we know ourselves well enough and the issues and agendas that we work to.

The member for Garff, Mr Rodan, said three months adjournment and let us have silence from all. One could make the same comments regarding the calls for independence (**A Member:** Hear, hear.) which are far better seriously debated by persons within government in a sensible forum rather than splashed over newspapers and ad lib comments on the radio (**Members:** Hear, hear.) We are not going to have peace in our day, but we have got to move forward somehow. Today, on balance, I believe the best way forward will be to vote in public; vote supporting the ministers, giving the clear message to the external world on and off the Isle of Man that we are generally supportive of the Chief Minister and the Council of Ministers. The message has been received loud and clear back in December. It will be received every time one of us knocks on the door of the Chief Minister to tell him what we think, but by

actually having the vote today, offering the support to the Chief Minister, he then has the three months to make his changes. No vote of confidence in each minister today would guarantee any of them a life expectancy beyond three months, but it would give a message of stability, and that does not mean acquiescence; this appears to be the problem whereby stability or instability, if we are trying to destabilise things, it is more to do with adult debate, what is the way forward? The Chief Minister was elected by us; I supported him then. I supported him again in my absence in December. He has to make the decision. (**Mr Cretney:** Hear, hear.) Leaving another three months for this festering sore I do not believe is a way forward. I am not convinced that by making the vote today it will move it forward.

On balance we all must make a decision, I hope it will be the right decision for all of us whichever way it goes. I will vote to vote now in public and get it lanced.

**Mrs Crowe:** Mr Speaker, I do have to disagree with the previous speaker, but I did pick up on a point that the hon. member for Peel, Mrs Hannan, made and she was looking for a way out. A solution to this unhappy situation that we appear to be in at the moment.

Now, I would like to suggest a way forward. If the hon. member for Cannan, Mr Michael. . . no, the hon. member for Michael - (*Laughter*)

**Mr Duggan:** The old blaster!

**Mrs Crowe:** - Mr Cannan, yes, is not unhappy with the idea of the adjournment, could I suggest to the hon. member for Michael, Mr Cannan, that he adopts a statesmanlike gesture and withdraws this motion today.

**Mr Cretney:** No, no.

**Members:** Hear, hear.

**A Member:** Absolutely.

**Mrs Crowe:** That, I think, would be a way forward. The Chief Minister is then left to make the decisions that he has to make. If there is no reason that you feel that an adjournment would be a problem, I think you should make the gesture to withdraw the motion today. Thank you, Mr Speaker.

**Mr Gilbey:** Mr Speaker, one hon. member said 'What is the way out?' I think the hon. member for Peel, Mrs Hannan, and she said there was not one. I think there is a way out and it needs various steps. First, as the hon. member for West Douglas has so rightly said, to adjourn the resolutions to a future date, and he has put down the 29th, I think it is, of April; secondly, for the Chief Minister to say quite unambiguously today that before that date - which actually I see is the 27th, not the 29th - he will make such changes in the Council of Ministers as he, and he alone, thinks appropriate, and when I say 'make such changes' I mean also, if he feels it appropriate, not make any changes, because I do not believe he should be forced to make changes or not to make changes while he is the Chief Minister, and I believe this applies not just to him but to any person who is the Chief Minister. But I believe that he should give a clear understanding today that if there is an adjournment he will decide well before the agenda goes out for Tynwald, for the meeting on 27th April, that he will have made such changes, if any, as he decides on. I must point out that if we go ahead with these motions today, it will not be he who decides anything at all, because his hands will have been effectively tied, because if you take each minister in turn, if we vote 'no confidence' in them he

is in an almost impossible position to keep them, particularly if it was a heavy vote against them. Alternatively, each one that gets a substantial vote of confidence - he again cannot get rid of them because they will go to him and say, 'Look, Chief Minister, you cannot remove me because the Keys have voted 18 to 24 in favour of me. Now, this is perfectly obvious and one cannot help suspecting this is why some of the ministers might want to have a vote of confidence today.

**Mr Brown:** Nonsense.

**Mr Gilbey:** It is all right for the hon. member for Castletown to say 'nonsense', but it is quite obvious -

**Mr Brown:** I never said a word!

**Mr Gilbey:** - that this could be the case, and I believe, therefore, that the steps we should take are that we should adjourn, that the Chief Minister should give the kind of undertaking I have suggested and people should leave this and give him a chance to do what is his job as Chief Minister without having been pressured into various courses by votes having taken place.

**Mr Duggan:** Vote!

**Mr Gelling:** Mr Speaker, I have many, many, sheets here of information that I was prepared had we perhaps not gone into an adjournment, so I appreciate I have only five minutes, but basically all I want to say is I wish this had not arrived here. I want to also just rectify the statement made by the hon. mover of the motion that I knew it was coming to Keys. His letter distinctly told me it was going to Tynwald and of course, under the six-month rule, it was not possible to be on Tynwald. So I question why this actually is before us today, and I have to say that although the hon. member was shouting across another place less than a month ago that he does not in any shape or form support me, I accept that, I know that, I know that is the case, and of course he responds to correspondence in the same way when he says the blame for the present political unrest and instability must be laid at the door of the Chief Minister.

Now, that is exactly where I come from, sir. As far as I am concerned. . . I nearly lost my wording - I was to going to say I have not really a preference, because if I have not made a statement before next April 27th you will be going into an election for a new Chief Minister. That is it, straight, plain, because I cannot operate in this incessant niggling and stress that comes about. You are trying to concentrate on international situations that are coming before us and it is like a bluebottle buzzing round your ear all the time. These things are done in a mischievous way because it causes hassle. No ifs or buts about it. I know what the position is. I will tell you now, Mr Speaker, and I will tell hon. members, I know the situation. I am not going to repeat it. I do not know how many times I have got to say it. I said it in Tynwald: the window of opportunity is after the budget, before the policy debate, not just ministers; I am looking at the situation of members in departments also and their contribution to those particular departments, because I know we have got some square pegs in round holes.

**Mrs Crowe:** Quite right.

**Mr Gelling:** I would like to say here and now, if you go for the adjournment, if the hon. member withdraws it, I am putting my position absolutely straight that I am certainly not going

to continue with this unrest all the time and this niggling, so you will have a statement before Tynwald sits in April, which is a week before this adjournment is coming back. That is the position I am in. You just cannot operate in this isolation with this niggling going on all the time. We have got to work together. The economy of the Island is absolutely superb at the moment and I have to say that the comment I get from outside in the industry is that this is causing more difficulties than the EU harmonisation, the OECD, the devolution or all the other issues. It is the disharmony and the problems in our own domestic backyard which is the problem.

So all I say to hon. members is, 'Whatever you do, please just let this rest and come back if you want in April with whatever resolution you like, because certainly it will be a Chief Minister you will be voting upon, it will not be on the cabinet.

**Mr Cannell:** Well said!

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

**Mr Downie:** I think the previous speaker, the Chief Minister, summed it up. (**Mr Houghton:** Hear, hear.) I think he is prepared to support the adjournment and give him the opportunity of addressing the issues that have been very well debated and for him to put his own house in order and I will support him in that, Mr Speaker.

**Mr Gilbey:** Hear, hear.

**A Member:** Well said.

**The Speaker:** So the motion then, hon. members, has been circulated to you on your white paper. The motion to be moved to item 20 by Mr Downie that the debate be adjourned to 27th April 1999 sitting. Will those in favour please say aye; against, no. The ayes have it. A division called.

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

*For: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Houghton, Henderson, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Karran, Corkill, Gelling and the Speaker - 18*

*Against: Messrs Brown, Cretney, Duggan, Mrs Hannan, Messrs Bell and Cannell - 6*

**The Speaker:** Hon. members, the motion for adjournment carries, with 18 votes being cast for and 6 votes being cast against.

## **Procedural**

**The Speaker:** Hon. members, I suggest it takes us to the conclusion of our order paper. Hon. members, we were interrupted on two occasions this morning by a mobile phone. The hon. member has sincerely apologised, which I totally and unreservedly accept, but I would ask that in future hon. members do not carry mobile phones into the chamber. (**Members:** Hear, hear.) The House will stand adjourned until Tuesday next, 2nd February, at 10 a.m.

*The House adjourned at 4.02 p.m.*