

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 7th December 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); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon 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); Mr J P Shimmin and Hon 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.

Welcome to Visitor

The Speaker: Hon. members, before we turn to our order paper this morning it is my pleasure to be able to welcome to the public gallery this morning on your behalf Mrs Altaa Surenhorloo from Mongolia. Altaa has recently completed her diploma in child care and education, a course which she was sitting at the Hertford Regional College, and I understand that congratulations are in order, as she has been successful.

Members: Hear, hear. Welcome this morning.

Housing for First-Time Buyers – Ballasalla Area – Question by Mr Karran

The Speaker: We turn then, hon. members to our order paper. Item 1 on our order paper, I call upon the hon. member for Onchan, Mr Karran.

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

- (1) *Can you confirm that for several years the government has owned approximately 30 acres of land zoned for housing in the Ballasalla area; and,*
- (2) *if so, for what reasons has no part of this land been used to build housing for first-time buyers?*

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, Mr Speaker. There is an area of approximately 30 acres of land zoned for housing in the Ballasalla area which is owned by government and the reason it is not capable of being developed at the present time is the absence of foul drainage capacity to serve the land. Now, this problem will only be permanently and satisfactorily resolved when the area can be linked into the IRIS programme.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that we could have a stand-alone sewerage plant there which developers would be happy to provide? (**Mr Houghton:** Hear, hear.) Would he also not agree that the reason why we are not seeing development in this area, and to ease the present housing crisis for our local young people,

first-time buyers, is the fact that vanity is more important than sanity and the fact that you have got to justify your IRIS project instead of getting on and trying to solve a social need within our society at this present time?

Mr Gelling: No, Mr Speaker, that is not the case at all. It is a practical reason that the sewerage system in Ballasalla cannot cope. It is full to capacity and I do not wish to say too much more on that because there is a court case pending, but the situation is quite clear, that a stand-alone unit which was proposed was going to cost £1¹/₂ million to span a period of some 12 to 18 months before IRIS came on stream and therefore it was not deemed that that expense could be justified to decommission it again for connection to the IRIS system. However, I would like to inform the hon. member that a meeting is taking place tomorrow with the local commissioners when the situation is going to be discussed and I would suggest that after those discussions we will have a clearer view of perhaps what can be done in that area.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that there are developers that were willing to put in such a sewerage plant as part of a deal in order to provide first-time buyers' houses in that area and is it not a smokescreen for purely constituency reasons that we are not seeing the development of this land at the present time?

Mr Gelling: Mr Speaker, the hon. member appears to have the advantage over me of having inside information about a developer willing to do this, that and the next thing. The only information I have available to me is local government as the developer. They are the developer who has come forward with a scheme and that scheme, as I say, has been discussed and the meeting tomorrow, I would have felt, might very well be fruitful, but I would again suggest to the hon. member that the situation of Ballasalla as being government-owned is fine, but the sewerage system is such that, as I have already said, there is already private development on that land of somewhere in the vicinity of 70 houses which have gone on over and above the capacity level and only that they in turn had actually improved the Balthane system, that would not have been possible. But of course we are now in a situation where these houses are connected to the old campsite with all the drainage underneath the Clagh Vane estate and there are actually bungalows on top of drainage pipes. It is not just as easy as putting in a system that will take the capacity once it gets to the sewerage plant.

Could I also say that the situation of building houses is one thing, but I would suggest to the hon. member that to put yet another sewerage plant in the middle of the village of Ballasalla where there are already two is something that is rather sensitive and something that has to be handled in a way that the people of the village can have a say into the situation with regard to that development.

The Speaker: A final supplementary, hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that we pay a lot of money to professionals to develop government projects and he should be able to get them to actually run a sewerage plant right so that that could be stand-alone, and would the Chief Minister not agree that what we are seeing here is us being forced into a situation where members in this House are going to get a bum's rush, have to support IRIS because you are blocking land that is desperately needed for development for first-time buyers?

Mr Gelling: No, sir.

The Speaker: Thank you, Chief Minister.

Isle of Man Bank – Acquisition by Treasury – Question by Mr Karran

The Speaker: We go on then on our order paper to item 2 and I call again on the hon. member for Onchan, Mr Karran.

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

- (1) *Has the Treasury evaluated the possibility of acquiring the Isle of Man Bank from the National Westminster Group; and*
- (2) *if not, why not?*

The Speaker: I call upon his colleague, the member for Onchan, the Minister for the Treasury, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. The answer to part (1) of the question is, no, the Treasury has no interest in acquiring this bank or any other.

With regard to part (2) I must point out that there are currently 66 licensed banks in the Island. Apart from its name the Isle of Man Bank is not unique. It has not been in Manx ownership for nearly 40 years. Isle of Man Bank is in fact a trading name of NatWest Offshore Limited which is of course a wholly owned subsidiary of National Westminster Bank plc. For the record, it would be my estimation that it would cost several hundreds of millions of pounds to buy NatWest Offshore if the NatWest themselves were in the mood to sell. It is of course one of the jewels in the NatWest crown and they are therefore unlikely to part company with it unless they become involved in a particularly difficult conflict over their ultimate ownership.

NatWest Offshore is in itself a very diversified group involving the operations of Jersey, Guernsey and Gibraltar besides those activities that are already conducted here in the Isle of Man. In addition, the Coutts subsidiaries operating in Jersey, Guernsey, Cayman and Bermuda were acquired this year and all of these activities represent an extremely complex corporate structure.

The Treasury does of course have a relationship with NatWest Offshore in that the bank is agent for the Isle of Man Government notes issue and is also its main banker.

Clearly, government is not in the business of commercial banking or indeed any of the other ancillary activities undertaken by NatWest Offshore. At the present time there would be an expectation that the parent, NatWest plc, would stand behind the NatWest Offshore operation and clearly beyond them the lender of last resort would of course be the Bank of England. Neither of these situations would exist were Isle of Man Bank and/or NatWest Offshore to fall into the ownership of the Isle of Man Government.

In summary, I would suggest that the whole scenario is without any realistic basis and indeed I would suggest that, given the currently extremely sensitive nature of the position of NatWest plc, the question being asked is insensitive.

Messrs Gilbey and Cannan: Hear, hear.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that I am not here to worry about the shareholders of any commercial bank I am here to look after the interests of the Isle of Man?

Would the minister also not agree that the issue of the way that the Isle of Man Bank plays a major role as far as the government is concerned is something where we should be keeping an eye on the situation, allowing for the fact of branches and the fact of the redundancies that could be possibly going to happen with any merger as far as the Isle of Man Bank is concerned?

Mr Corkill: Mr Speaker, I do not see that the supplementary questions with regard to the operations of the bank bear much relevance to the initial question which was to purchase the bank. However, I understand the concerns of the hon. member in terms of the importance to the Island of that name, Isle of Man Bank, and in terms of the service it gives to people on the Island.

The Isle of Man Government, as I have already said, has a working relationship with the bank in a number of areas and I do not anticipate any change in that relationship.

Mr Singer: Would the hon. Minister for the Treasury confirm that the government rejects any form of nationalisation?

The Speaker: Again very loosely connected, Treasury minister, if you wish to reply.

Mr Corkill: I would not go as far as saying that the Isle of Man Government rejects all forms of nationalisation but it is certainly not in my culture, Mr Speaker.

The Speaker: I think the final supplementary, hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, would the hon. minister inform this hon. House, has he actually done the sums for actually acquiring the Isle of Man part of the operation of the NatWest part? Is he also aware that it was proposed by a Douglas member many years ago in the 1960s, the purchase of the Isle of Man Bank, and will he keep a watching brief as far as the importance of the Isle of Man Bank as far as the operation of this government and within the Island itself?

The Speaker: The first part of the supplementary was answered previously but, Treasury minister.

Mr Corkill: Mr Speaker, there is no indication that the Isle of Man Bank is for sale and there is no desire by the Isle of Man Treasury to pursue that line.

Public Service Vehicle Licence Requirements – Compliance – Question by Mr Houghton

The Speaker: Item 3, hon. members. I call on the hon. member for Douglas North, Mr Houghton.

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

What procedures do the Road Traffic Commissioners adopt to ensure compliance with public service vehicle licence requirements?

The Speaker: I call upon the Minister for Transport, the hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. Public service vehicles and their drivers are tested to the appropriate standard by vehicle and driving test examiners at the vehicle test centre in accordance with the provisions of the Road Traffic (Public Services Vehicles) Act of 1964.

Applications to operate road services are heard in public by the Road Traffic Commissioners and are subject to the provisions of the road service licensing regulations which are contained in the same Act. If any person acts in contravention of or fails to comply with any of the requirements of the regulations, then that person would be subject to the appropriate action and penalties as defined in the regulations.

Any reports or concerns expressed regarding compliance with the public service vehicle licence requirements are administered by the clerk to the Road Traffic Commissioners. Thank you.

Mr Houghton: Mr Speaker, may I ask the hon. minister do the Road Traffic Commissioners issue public service vehicle licences to vehicles of eight seats and moreover what is done to ensure that they are operating within the terms and conditions of their licence and their insurance policy?

Mr Brown: Mr Speaker, any licence that is issued to anyone by the Road Traffic Commissioners contains specific requirements and it is a responsibility on those who operate such licences to comply with the legislation.

Mrs Cannell: Mr Speaker, under this particular Road Traffic (Public Services Vehicle) Act of 1964 would the minister not agree with me that it is incumbent upon the commissioners to actually advertise when considering an application for a stage carriage or express carriage licence and to publicise the application in order to receive the comments from the public? He did intimate before that such applications are heard in public. How can we be assured that they are properly heard in public and advertised to the public that they are going to be considered and can he advise when was the last time the commissioners advertised such an application and it was heard properly in public?

Mr Brown: Mr Speaker, I am not sure whether or not there is an actual requirement on the Road Traffic Commissioners to advertise an application for a licence. However, what I am advised is that the Road Traffic Commissioners, who are appointed by the department and are persons from within the community, undertake such applications by a public hearing.

Mr Houghton: Mr Speaker, is the minister aware that many public service vehicles have taxi meters fitted in them, and can you confirm today, please, whether these vehicles would therefore be classed as hackney carriages?

Mr Brown: Mr Speaker, whatever they have inside is irrelevant. The licence would be for a PSV and not hackney.

Mr Henderson: Mr Speaker, could the hon. minister confirm that licensed public service vehicles are at present, or some of them are at present, operating as hackney carriages and how is it that this situation is being allowed to continue without supervision?

The Speaker: I think the same question, hon. minister.

Mr Brown: Yes, Mr Speaker. First and foremost I am not aware and if the hon. member or any other member is aware, then I would be pleased to have the number of the unit concerned and that will be passed on to the traffic commissioners for any suitable action.

Mr Cannell: Mr Speaker, a supplementary, if I may. Would not the hon. minister agree with me that the entire subject of public service vehicles is the item which his department is

currently addressing? A number of members have made a considerable input to it and the day when deregulation is coming along is eagerly anticipated.

Mr Brown: Mr Speaker, there are certainly very many mixed views on this issue. All I can say is with regard to PSV, anybody who operates a licence for a PSV, or for that matter for any other type of system where they are picking up passengers and are licensed for a certain category, should comply with that category. Anybody who does not is liable to prosecution and my view is whether it be my department or whether it be a local authority, if the information provided can be confirmed and on the advice of the legal advisers a case should be taken, then I would hope a case would be taken.

Mr Quine: How many public service vehicle licences have been issued during the last 12 months?

The Speaker: The minister to reply if you know the figure.

Mr Brown: I do not know the figure, Mr Speaker. What I can say is of course all the buses are PSVs and therefore I think the question relates to the latest trend, which is mini-buses, and I understand that it is only in the last six months there have been applications for mini-buses to be operated as PSVs.

Mr Cannell: Mr Speaker, a further supplementary, if I may. Would the hon. minister not agree with me that what is required in the Isle of Man is a return to the days of inspectors in the Isle of Man monitoring the standards throughout?

Mr Houghton: Hear, hear.

Mr Brown: Mr Speaker, we should not mix up, which we are in danger of doing, the difference between hackney carriages and the PSV. PSV comes under the Road Traffic Commissioners, hackney carriages come under local authorities. They have the responsibility to appoint inspectors. My understanding is that I think it is only Douglas Corporation who actually employ an inspector and the issue of my department, through the Road Traffic Commissioners, and the requirement now, because of the change of style for PSVs, that is, utilising mini-buses, is something that I will certainly ask the commissioners to consider whether or not an inspector should be appointed on a part-time basis or on irregular hours to ensure there is some policing of the situation (**Mr Houghton:** Hear, hear.) but this is a relatively new situation which has arisen because somebody has seen a gap in the market. (*Mr Cannell interjecting*)

Traffic on Strang Road, Union Mills – Question by Mr Houghton

The Speaker: We go on to item 4, hon. members, and I call on the hon. member for Douglas North, Mr Houghton.

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

What are (a) the short-term and (b) the medium-term plans of your department to ease congestion and to control the speed of traffic on Strang Road, Union Mills?

The Speaker: Again I call on the Minister for Transport to reply.

Mr Brown: Mr Speaker, I thank the hon. member for his question and in the first part advise that my department, whilst the works are ongoing with regard to widening Braddan School Road, have introduced clearway orders on Strang Road.

The initial order which was introduced for the period when Braddan School Road was closed to traffic was a clearway which operated 24 hours a day, seven days a week. This was to assist in the free flow of heavy traffic along Strang Road which formed part of the diversion route and for emergency access.

The second clearway order has been adjusted to be effective from Monday to Friday inclusive and over the working day 8 a.m. to 6 p.m. This order, which was introduced on 29th November, will be in place until the works are completed next summer, but suspended for the period of 20th December to 3rd January inclusive of this year and January next year.

The department has also introduced a 20 mile-an-hour speed limit on the Strang Road and suspended the weight limit for the period of the Braddan School Road works.

In the medium term my department proposes to introduce measures which will have the effect of deterring through traffic and reduce overall vehicle speeds on the Strang Road. These measures will be subject to the procedures, including public consultation, in accordance with the proposed traffic restraint regulations. Thank you.

Mr Houghton: Mr Speaker, can the minister advise whether residents living along Strang Road were actually consulted before the imposition of this clearway and why is the clearway imposed on a Saturday, causing unnecessary inconvenience to residents, when the traffic density obviously is much less?

Mr Brown: Mr Speaker, as far as I am aware, the highways division undertook the proper procedures required under law to implement a clearway, which would give public notice. Also can I make it clear, as I did in my initial answer, that the clearway order that is now in place applies only from Monday to Friday inclusive and not Saturday.

Mr Henderson: Mr Speaker, I was wondering what the hon. minister intends to do about the residents living in the said clearway which is obviously at the minute a bit of a racetrack, if he would not agree to that, but what is going to happen to the residents that do not have their own driveways to have off-road parking?

Mr Brown: Mr Speaker, whilst it is unfortunate, it is not a unique position for residents not to be able to park off the highway, especially where there are roadworks happening, and we see that in a number of places throughout Douglas.

As far as the situation with regard to what are we going to do about those who have a problem, my department has liaised with the Braddan Parish Commissioners on this issue, we have liaised with the member for the area on this issue and the simple answer is there is not a simple solution to the problem.

Mr North: Mr Speaker, I thank the hon. members for North Douglas for their interventions on this on my behalf but would the hon. minister agree with me that the correspondence and the discussions and the meetings with the Department of Transport that I have already had are ongoing?

Mr Brown: Yes, that is my understanding, Mr Speaker.

The Speaker: I think a final supplementary, hon. member for Onchan, Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. Would the hon. minister not agree with me that if there is a problem with this area now, it is going to be considerably exacerbated when the new hospital gets running and that the first priority is to actually put some kind of decent surface on the road, which resembles a motocross track at present?

Mr Houghton: Hear, hear.

The Speaker: A long way away from the question on the order paper but, minister, you may reply.

Mr Brown: Mr Speaker, the pressure on the Strang Road at the moment is purely because of the major, and I emphasise, major roadworks going on on the Braddan School Road area. The Braddan School Road area is an area that has required substantial works to be undertaken to get the road up to a proper standard since certainly, my understanding is, the eighties, mid-eighties. What it will do by enhancing that of course will improve access to and from the new hospital and it has been made clear previously, and I made it in my answer, that we are to undertake certain measures to hopefully reduce the amount of traffic flowing up that road, and as far as speed is concerned, again that is a matter for the Isle of Man Constabulary and my department does liaise with them on these issues.

Residential Development Land – Question by Mr Singer

The Speaker: We turn to item 5, hon. members, and I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Minister for Local Government and the Environment:

- (1) *How many acres of land zoned for residential development is presently within the ownership of your department; and*
- (2) *what are the principal factors which inhibit building development of first-time buyer and social housing on some of this land?*

The Speaker: I call on the Minister for Local Government and the Environment, the hon. member Mr Gilbey.

Mr Gilbey: Mr Speaker, of the land vested in the Department of Local Government and the Environment approximately 45 acres or, using metric units, 18 hectares, is zoned for residential development on the development plan or on the various local plans which have been approved by Tynwald since 1982. This acreage includes land at Bride, Andreas, Ramsey, Douglas, Ballasalla and Port St Mary.

Before new residential development is permitted on any of these sites or indeed on any sites anywhere, it is proper to ensure that there are satisfactory arrangements for access and drainage and that other public services such as schooling and transport can be provided. The land should also be contiguous with existing built development.

The design of residential development is constrained by various site-specific factors such as local topography, existing trees and landscape impact.

First-time buyer and social housing needs to be affordable and must therefore be designed and constructed such as to reduce the costs of servicing and constructing the buildings. This generally means building at a higher than average density.

Not all of the land which is zoned for residential development is suitable for high-density housing but a substantial proportion of the department's land is suitable. Indeed the department has recently sought and obtained from prospective developers detailed proposals for the residential development of the department's land at Harcroft in Douglas. This will include a large proportion of first-time buyers' housing. Members will also be aware that planning permission has now been granted for the sheltered housing complex at Creggan Beg in Port St Mary.

The development of some land which is zoned for residential development, including some of the department's land, cannot proceed at present because it is not possible to dispose of the foul drainage in a satisfactory manner. This department is of course in liaison with the appropriate drainage authorities and will assist those authorities in concluding satisfactory arrangements as soon as this is possible.

Mr Singer: May I thank the hon. minister for his detailed reply and can I pick up on one point where he said, I think, that probably the main inhibition is a lack of facilities for getting rid of foul drainage. Could he tell me how many units could be built on these 45 acres if planning permitted the stand-alone sewage treatment units and are we being held back in these areas, probably for many years, if we have to wait for the IRIS scheme to be fully operational?

Mr Gilbey: Mr Speaker, I do not think I said it was the main problem. It is one of the various problems. I said that access, drainage and other public services were all problems in various places and the situation in no one place is the same.

I could not say exactly how many houses could go on the 45 acres because, as I have said before, each site has various site-specific factors which control the number of houses that can be built and the densities et cetera, but certainly a very considerable number of houses could be built on this total area of land.

Drainage is a problem but the department is doing everything in its power to have this problem and other problems overcome, and there are a number of sites in the total area where drainage is not a problem. I can think of one at Archallagan Terrace, Higher Foxdale where there is now very good drainage running right down the Foxdale valley to the St John's sewerage works. So drainage is not a problem everywhere, although it is in some places.

Mr Singer: I thank the minister. Could the minister perhaps detail a little bit more what he means when he says the department is doing everything in its power to sort out the drainage problem? Perhaps he could enlarge on that. Could I also ask him, are private developers being prevented from building on land suitable for housing by the same problems that he is talking about, particularly sewage, and if so, how can the minister explain the private development that was permitted at Mount Murray and are there two sets of rules?

Mr Gilbey: Well, certainly Mr Speaker, there are cases where private development is constrained by all kinds of things, by access, by lack of schools, by drainage et cetera.

When he talks about Mount Murray, that was a considerable time ago. I should think planning permission for that was given about 10 or 12 years ago and frankly I cannot remember the details: I was not in the department then.

When the hon. member says what is the department doing to overcome these difficulties, it is negotiating with parties concerned to try and overcome them in the most effective possible way, but one has to remember the department is not a dictator who could force other departments and other people to do things.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that basically his department has lost the plot as far as housing is concerned within the Island and would he also not agree that he needs to come up with some firm policies to try and ease the present situation for first-time buyers?

Can he also confirm to this hon. House that private developers have offered to put in stand-alone sewerage plants in order to get some movement to ease the present housing crisis?

Mr Gilbey: First of all I can certainly say we have not lost the plot at all. Our plot is perfectly clearly set out in the policy document which I hope the hon. member will have read and that makes it quite clear what we are intending to do. I could also bore this hon. House by reading out all the areas covered by the 40-odd acres, where they are in detail and so on. We have plans to develop these as fast as we can and the speed at the different sites depends on the circumstances. They are not all the same. Each is an individual site. But we certainly have not lost any plot or any plan as to what we are doing and this is our number two priority after refuse disposal.

Regarding private developers, yes of course in some cases independent sewerage works could be put in, but what you have to remember is the cost of this and the fact that if the area is eventually going to be served by IRIS, that cost is an additional cost which has to be borne by someone. It has to be either borne by the developer, which they are very unlikely to do, or it has to be borne by the higher cost of the houses, which does not make them very suitable for first-time buyers, or it has to be a further subsidy by the government.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that having land at Bride and Andreas and Ramsey is not the areas where we have the housing crisis at the present time, and would he not agree that we need to be looking for a more forthright decision-making policy from his department and maybe calling in land to be rezoned for high-density development with cost controls that are in the ownership of private individuals at the present time in order to get something done in order to help these people who are at the moment at the mercy of Rachmanism in this Island?

Mr Gilbey: Well, I again say that it is quite wrong to suggest nothing is being done, a great deal is being done, and frankly I do not see why young people who want a first-time house in Bride or Ramsey are not as entitled to have one available as those in other areas, (**Several Members:** Hear, hear.) although I think we all agree -

Mr Karran: You have lost the plot in other words.

Mr Gilbey: I think we would all agree that the main pressure is round the Douglas area -

Mrs Crowe: No, the south.

Mr Gilbey: - but that is not very surprising, as the largest proportion of the population lives there, but that does not mean that all the other areas should be forgotten, and what is more, I would say that we hope that there will be more economic growth in Bride and the Ramsey area, and that is just why the hon. member will have no doubt read in his Tynwald agenda a motion regarding the further development of Ramsey harbour to bring more prosperity and economic growth to that part of the Island. (*Interjections*)

Mrs Crowe: What about Port St Mary?

Mr Singer: If I can 'Hear, hear' that last comment on Ramsey, Mr Speaker. Can I ask then finally of the minister, is it your department's policy therefore or would it be your department's policy to support building by a private developer on land if the private developer at his own expense will put in a stand-alone treatment unit, and on public land will your department support stand-alone treatment plants if it is going to be several years before IRIS comes on stream, so that at least people will be able to have their own houses?

Mr Gilbey: My personal views on this, as someone who has been served by a septic tank for 35 years, is I cannot see anything wrong in individual small-scale sewage works et cetera, but there are other departments of government which do and we will have to work together on these matters. I cannot actually see if a private developer is prepared to put in an individual sewage works, knowing that eventually IRIS would come and replace it, they should be stopped, but I do not think this helps first-time buyers very much because it will put up the cost of the development because someone has to pay for that sewage works, so therefore unless the government subsidises it, it will not provide houses for first-time buyers. I think a far better plan is to find a site where we can develop first-time buyers' houses without the need for special sewage works.

A Bill to Provide that the President of Tynwald Cease to Preside at Meetings, and to be a Member, of the Legislative Council – Leave to Introduce Given

The Speaker: Hon. members, we turn then to item 6 on our order paper, leave to introduce, and I call upon the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. I beg to move:

That leave be given to introduce a Bill to provide that the President of Tynwald cease to preside at meetings, and to be a member, of the Legislative Council.

The Bill which I seek leave to introduce would provide that the President of Tynwald shall cease to preside at meetings of the Legislative Council and cease to be a Member of the Legislative Council. Hon. members will be aware that the President of Tynwald is ex officio a member and presiding officer of the Legislative Council. In Tynwald when the Court is voting as one body he has a casting vote. When the Legislative Council vote as a branch in Tynwald he has a casting vote, as he does when the Legislative Council sits alone. This has not always been the case. The Lieutenant-Governor presided over the Legislative Council until I think it was 1980. From 1980 until 1990 the Legislative Council elected their own president. In 1990 the President of Tynwald, ex officio, became President, or Chairman, if you wish, of the Legislative Council.

To my mind there are two problems with the position that the President of Tynwald is ex officio the President of the Legislative Council. Firstly, there is the possible conflict of interest

arising by the incumbent holding the two positions, that is, as President of Tynwald and President of Legislative Council, and this is demonstrated by the fact that he has a casting vote where Tynwald votes as one body and where the Legislative Council in Tynwald vote separately.

My second concern arises where there is an impasse between the Keys and the Council in approving legislation. A Bill passed by the Keys on two occasions in successive sessions can go forward for Royal Assent without Legislative Council approval if signed by 13 members of the Keys or 16 members if we are talking of a constitution Bill, if, and this is the important part, then signed by the President of Tynwald who of course, as I have explained, is the Chairman or the President of the Legislative Council. This is surely illogical and contradictory.

It is not for me to formally make the case in detail for this change at this time and I do not think hon. members would thank me were I to seek to do so. However, as the future of the Legislative Council is currently under scrutiny in the branches, consideration of these issues, and there could be other issues, would be timely. We should also bear in mind that the next election for the office of President of Tynwald is scheduled in 18 months' time.

Mr Speaker, I would ask that leave be granted to me by the House to introduce a Bill as outlined. Thank you, sir.

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

Mr Rodan: Mr Speaker, could I just clarify with the hon. mover the select committee report on the Legislative Council, which came before this House and which the hon. member of course chaired, was not silent altogether on this question of presiding officers and it was in the context of an overall reform on a wide front that the matter was considered by that select committee, and therefore would the hon. member not agree that to progress in parts of the whole in this piecemeal fashion is perhaps not the best way of proceeding with constitutional reform and therefore it would be better if the recommendations in the select committee report were progressed in their totality when of course the questions of presiding officers would take their proper place in the context of an overall reform?

Mr Karran: Vainstyr Loayreyder, I will be supporting the introduction. I have to be honest with you, I do not see it as the great priority as far as this House is concerned, like the situation as far as the Legislative Council is concerned. I do not see that as a great priority at the present time as far as our government use of the development of our constitutional position internally; it is externally we need to be worried about. In my opinion, whilst I will support the principle of this Bill, I think that this House seriously has to look at the way some in this House try to legitimise the bastardy of the constitutional position between this government and the United Kingdom Government that has no mandate, and I would have preferred to see in this House us dealing with the issue of Royal Assent and issues that are of far greater threat to this House than the issue of the President of Tynwald.

I will support the issue of this Bill because I think, on the idea that the hon. member for Garff is saying about jam tomorrow and somehow if we leave this we will get something from the government, if the hon. member wants to go ahead with this private member's Bill I think it should be supported.

Whilst I would not put it high on my hit list of priorities for changing, I would say that I am concerned about the fact of the duplication so that we are going to have more presidents and presiding officers than we are going to have Indians around here, the way things are going at the present time, but I am happy to see how he pursues this Bill.

I would hope that there would be some flexibility within this Bill not just to deal with the issue of the President of Tynwald and the presiding over meetings but also the membership of the Legislative Council because I would like to see a few things that maybe this Bill could be used for, but I do think it is wrong to say, right, we will not vote for this simply because there is a Bill maybe coming in the offing from government. The government Bill should come along and we will listen to the government Bill and I think we should allow the hon. member for Ayre to proceed with his Bill, let us see what he comes up with.

But I do worry in this hon. House that we talk about the Legislative Council, we talk about the President of Tynwald and the real issue that we have to develop is our constitutional armour as far as the Isle of Man and the United Kingdom Government are concerned. That is the issue that should be worrying this House more as a priority than the President of Tynwald in my opinion, but I will support leave to introduce and see how we get on.

Mr North: Mr Speaker, I would support this leave to introduce this Bill. About two years ago I approached Mr President with a view to introducing a private member's Bill and he was not against this constitutional development and the select committee was sitting and I agreed to put it in because I tend to agree with the hon. member for Garff that it should be included in an overall move forward, but that is not happening, so I am quite happy to support this, to bring this forward at this time.

Mr Cannell: Mr Speaker, the subject of constitutional development is of course something that occupies us from time to time and I must say in my manifesto for my standing for this hon. House in Onchan I undertook not to go on any other subject but this one, but I could not possibly do anything other than support leave to introduce this Bill, and that is all it is. I think we are in danger of having the debate before we get the leave to introduce. That is all that is being asked for. The terms of any proposed Bill which might or might not be countenanced by this House will be for everybody to scrutinise, but people are a little bit nervous of course because of the recent developments where an attempt to progress a motion in another place was thwarted by a move in the Legislative Council.

Now, subject to the provisions of the standing orders of course, everything was quite in order. There is no suggestion of any impropriety, but at the end of the day this hon. House decamped from Tynwald to its own chamber where it overwhelmingly backed a move to try to have suspension of standing orders to enable the motion before Tynwald Court to proceed, and that was thwarted by the President of the Legislative Council, as I say, quite properly and quite within the standing orders and everything else, but nevertheless that and other matters do lead to a suspicion, that is all it is, a suspicion that the impartiality of the President might be questioned. I am not saying that it would come up too often but nevertheless it is a position which I do not think is tolerable and therefore I am quite happy to be a supporter of the move to introduce a Bill to cater for that anomaly.

Sir Miles Walker: Mr Speaker, I would be interested in the response of the mover of the resolution to the question posed by the hon. member Mr Rodan. I think that is something where we ought to know his view on that.

I understand that the suggestion is perhaps a comprehensive approach to the problem or the issues with the Legislative Council might be the best way, and yet we know from experience that comprehensive approaches very often run into the sand because there are so many different issues that can be raised and debated and changed and amended and so on. So although the idea of a comprehensive approach is one that I think is interesting, it certainly has its downside.

For my side on this particular motion, I am not persuaded by the arguments that have been put forward by the hon. member for change at this stage, but I do think the issues are important enough to allow the debate to progress and to allow the hon. member to exercise his mind and other people's minds, no doubt, about how a future presidency would be construed. Where would the individual come from? Would he come from the Keys or would he come from the Council? Would he come from outside? What about our own presiding officers: is there any change needed there? I think all these issues are important ones and it seems to me that the only way that we will really get to the bottom of it and get to grips with this subject is to allow a Bill of some sort to come forward and then that thorough debate can take place, but I have to say quite clearly at this stage I am not persuaded by the two issues the hon. member has raised as reasons to change the presidency of Tynwald.

Mrs Hannan: Like the previous speaker to some extent, I am not persuaded either and I shall be voting against leave to introduce and the reason I will be doing that is because we have not long had a President of Tynwald. We have only just got rid of the Governor presiding over Tynwald, and the reason that the mover is giving for getting rid of the presiding officer of Tynwald to be the same person as the presiding officer of Legislative Council has not yet been tested. This is assuming that we pass something and we pass it on two occasions, it goes to the Legislative Council. Well, after we have passed it the first time it goes to the Legislative Council, they do not approve it, we pass it again and then it goes to the President of Tynwald who also presides over the Legislative Council and we are assuming that the President of Tynwald will not sign that legislation. It has never been tested, and I think we should look further than the personality that is holding this particular post and we should look at the position of the President of Tynwald and we should be saying it has not been tested. This has not been tested. We are assuming that this person doing this particular job at this particular time would not sign the legislation, and I do not think we should be assuming anything.

I think we should be looking at getting on with the job of passing legislation and there are many other important issues that have been talked about in this hon. House and that have not been progressed. Voting is one that I am particularly concerned about. I know no other place that gives general election three votes in one place, (**Mr Cannan:** Hear, hear.) one vote in one place, one vote somewhere else and two votes in another place depending on where you live. That is the ridiculousness of it, and I think before we start trying to have three presiding officers - Tynwald, House of Keys and Legislative Council - we should be getting on with some of the fundamental issues that actually affect members in this House instead of assuming that in the future this particular person holding this particular post or the next person holding this particular post is going to stand up to the House of Keys directly elected by the people of the

Isle of Man, but I do think that the people of the Isle of Man should have one person, one vote, (**Mr Cannan:** Hear, hear.) to be a proper, fully mature democracy, which is something we are not at the moment.

Mr Cannan: Mr President, I will be reasonably brief. I think that we are being slightly sidetracked in other directions, though I do agree with what the previous speaker has said and I have campaigned for years for that one man, one vote, one member.

Mr Cretney: One person.

Mr Cannan: However, what we are talking about is the President of Tynwald. If we are now going down the road of an elected Legislative Council, the Legislative Council will be elected, the House of Keys will be elected personnel, the President of Tynwald will then be elected not by public franchise but by the Legislative Council and the House of Keys and will seem to be independent and holding no brief for either House but for the good order of Tynwald and the whole of the parliamentary process. The Legislative Council will elect amongst themselves who are elected. Presumably we will have this election in very soon and they will have their chairman. The House of Keys who are elected will elect amongst themselves from elected members a person to be the presiding officer. It is important that the President of Tynwald will neither be beholden to the Legislative Council or to the House of Keys and I see no reason therefore not to support this application for permission to bring in a private member's Bill.

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

Mr Quine: Thank you, Mr Speaker. First of all, sir, may I thank the hon. member for Onchan, Mr Cannell, for seconding the motion. I thank him for that. May I also thank Mr Houghton and Mr North for their support and indeed I thank all members who contributed to this very short debate on this leave to introduce.

If I just could revert to one or two of the points, Mr Rodan quite legitimately points to the fact that, at least as far as this branch is concerned, there is another exercise: we have had a select committee of this House which has reported and whether or not it would be preferable to leave this matter to be swept up within that report. In respect of that matter I take the same view as the hon. member for Rushen, Sir Miles Walker. I feel that if we look to a comprehensive exercise to have an opportunity to address these issues we are in danger of two things: it will not progress at all or it will get absorbed and in some way lost within the other issues which will come forward.

But also there is the issue of timing and whether it is timely. At this point in time this hon. House does not know when or indeed if a Bill is going to come forward from government in relation to the changes that are proposed in the Keys exercise, and when it comes forward, what it will embrace and what it will not embrace. We are waiting and hoping that it will come forward very soon, but at this point in time we do not know what that is going to embrace. But the second issue is one of timing. The one primary concern I have overshadowing this current exercise in this branch and in another to look at the matter of the reform of the Legislative Council is timing. I have this fear, based on some past experience, that there will be an attempt to run this issue out of time as far as this House is concerned and therefore I believe it would be prudent for us to take on board these issues, this issue, and deal with them now.

The issues are clear. We all know what flows from them and we can take a decision on those separately and in a calculated fashion, concentrating on these particular problems.

So with respect to the hon. member for Garff, I would ask him to support the leave to introduce because I believe that we are better looking at this one matter of whether or not we should have one incumbent looking after both offices separately.

Mr Karran - I thank him for his support. He quite rightly of course, absolutely, there is no doubt about it, has pointed to other issues which he might perfectly well, and indeed I might on another occasion, say have a higher priority than these, other matters that we need to address within this broad context of constitutional development.

I think the hon. member was pointing towards this issue of good government within the context of constitutional development. Those issues, Royal Assent issues, I agree with him, are all important, but I am not proposing to run with those at this time and I suppose, like others, I am hoping that we will get a lead on those matters in the near future from another quarter because there is another body within the legislature looking at that at this time.

Again, the point raised by Sir Miles Walker - I thank him for his support and I think I have responded to the same issue that he raised in common with Mr Rodan. I agree with him that comprehensive approaches tend to have a number of potholes along the way and I would rather myself deal with something that we can clearly identify and clearly process, and therefore I would ask hon. members to let me bring forward a Bill after I have consulted and hopefully we can address these particular problems.

I thank Mr Cannan for his support and I understand where he is coming from. There is a degree of speculation there because we do not know what is going to happen yet in relation to the Legislative Council, but I would make the point that whether we are talking about what another place is suggesting or whether we are talking about what our own select committee has suggested, there is nothing incompatible in terms of the proposition in the Bill which I am proposing with either of those positions because this question of the presidency is coming up in both and the same approach will be required to address those issues.

I note that the hon. member for Peel is not inclined to vote to give me leave to introduce. With the greatest respect to the hon. member, I think she is seeking to use quite a different issue to push this issue aside. There are, I am aware, within this hon. House concerns over the voting system and we have had long debates and made several efforts to resolve that and I have no doubt they will reappear at another time in another Bill of some sort, but the fact that any hon. member has not brought forward a Bill to deal with that is not to be laid at my doorstep and it should not, I would suggest, be a reason why you should not support the leave to introduce that I am putting forward. That is another issue and if any member wishes to make the running on that it is open to that member to do so but it is hardly a reason for to deny me leave to introduce a Bill related to these matters.

I think, Mr Speaker, I have covered all the principal points and with that I would ask members once again to give me leave to introduce a Bill to address the matters which I have outlined to them. Thank you, sir.

The Speaker: Hon. members, the motion is that printed at item 6 on your order paper that leave be given to introduce a Bill to provide that the President of Tynwald cease to

preside at meetings, and to be a member, of the Legislative Council. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Houghton, Henderson, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Singer, Karran, Cannell and the Speaker - 16

Against: Messrs Gilbey, Brown, Cretney, Downie, Mrs Hannan, Messrs Bell, Corkill and Gelling - 8

The Speaker: Hon. members, the motion carries with 16 votes cast for, 8 votes cast against.

Bills for First Reading

The Speaker: We turn then, hon. member, to items 7 and 8 on our order paper. I call upon the learned Secretary.

The Secretary: The Income Tax Bill, Mr Corkill; the Electronic Transactions Bill, Mr North.

Villa Marina Bill – Council Amendments Considered

The Speaker: Turning then, hon. members, to item 9 on your order paper, the Villa Marina Bill for consideration of the Council amendments. I call upon the hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Thank you, Mr Speaker. I should first explain the reason why, as I understand it, this amendment is before us and that is because of stories that had reached members of the other place to the effect that Douglas Corporation were planning or thinking of, or even doing more with a view to removing equipment, furnishings et cetera from the Villa Marina. Now, this was also, I know, heard by members of this hon. House and I was told the same myself on very good authority, though I cannot obviously disclose my source of this information. But if any of these stories were correct, and I am not saying they definitely are, but I am saying if they were, it would clearly be a most serious situation because on taking over the Villa Marina building you could find there was nothing but a building, no fixtures, no fittings, no furniture, no crockery, no glasses, no curtains the whole place would be totally inoperable and this would mean that even functions that had been booked could not be honoured. It also would have serious repercussions for the staff who, having heard these rumours, were extremely concerned as to their position, as I understand it, and whilst speaking about the staff, I think, as there has undoubtedly been some concern by them, it should be made absolutely clear, and I hope that the media will take note of this point, that the position of the staff is secured on the government obtaining ownership of the premises under schedule 2, 'Transfer of Staff', which says, 'Any person who was immediately before 18th May 1999 and immediately before the appointed day employed by Douglas Corporation wholly or mainly for or in connection with the management, operation or maintenance of the Villa Marina shall on the appointed day become employed by the Department without further appointment on and subject to the like terms and conditions as those on and subject to which he was employed immediately before 18th May 1999', and their superannuation position is then also very clearly protected. So I do hope that they will not have any further concerns as to their future position.

However, returning to these amendments, they were made by another place to deal with possible asset-stripping by the corporation, and the amendments to clause 1 and schedule 1 include in the property which will vest in the department the chattels listed in the new part 2 of schedule 1. Chattels means personal moveable property as distinct from land. The Bill already vests in the department not only the land forming the site of the Villa Marina but also the building standing on it and any fixtures and fittings, i.e. chattels, which are permanently attached to the land or buildings and therefore in law form part of the land. The vesting, however, only applies to the buildings, fixtures and fittings existing at the appointed day - see clause 1(3) - and any fixtures and fittings removed before the appointed day will not vest in the department. Therefore the fixtures and fittings could be removed before the appointed day. The equipment, machinery, tools and furnishings are not covered by the vesting and under the Bill would continue to belong to the corporation. Although the government would not lose if the fixtures, fittings and furnishings were removed in that the valuation would reflect their loss, their removal would prevent the department taking over the Villa Marina as a going concern, and this is terribly important because of course bookings are taking place both from people on this Island and from people further afield, and also, as I have mentioned, what would the staff do, even if employed by government, if everything was stripped out? It is obviously an untenable position which no-one had ever dreamed could even be thought of and become a rumour.

Therefore the amendments before this House are intended to ensure two things, firstly that any fixtures and fittings in place on 18th May 1999, the date of the Tynwald resolution approving the proposal to acquire the Villa Marina, and removed before the appointed day will nevertheless vest in the department. Fixtures and fittings not removed are not mentioned, as they will vest in the department in any case. Secondly, any equipment, machinery, tools and furnishings wholly and mainly used in connection with the Villa Marina between 18th May 1999 and the appointed day will also vest in the department even if they have been removed from the premises. This even covers equipment et cetera disposed of before the appointed day provided it was wholly or mainly used in connection with the Villa Marina between 18th May 1999 and the date it was disposed of.

Now, the amendment to clause 3 makes it abundantly clear that the compensation to be paid by the government for the acquisition of the Villa Marina was to cover the fixtures, fittings, equipment et cetera which are transferred by virtue of the amendment. So there is no question of taking these assets for nothing. The thing is that they should be left there as part of a going concern and they should be properly paid for.

As I see it, these amendments are an insurance policy. No-one knows for certain what validity these stories, rumours or whatever you like to call them have. But if they have any at all, it prevents their becoming an actuality and I therefore feel this is an insurance policy and I hope that the amendments will be passed unanimously by this hon. House. If they are, this Bill will have passed all its stages in this hon. House and another place, and then I had hoped that with the co-operation of the Governor's Advisory Committee, which I understand consists, amongst others, of the Chief Minister and the Attorney-General, the Bill could be signed next week in Tynwald and given its Royal Assent because I am sure that everyone will agree, particularly in view of these unfortunate stories, the quicker the whole of this sorry saga comes to an end once in for all and can be forgotten and the quicker the Department of Tourism can

take over the buildings and assets in those buildings and operate them, the better for everyone in this Island. I think the less we drag this painful matter on the better. Let us get it over, get it decided and get it forgotten, and therefore I beg to move:

That the House agree with the Council amendments.

Mr Quine: I beg to second, sir.

Mr Cretney: Mr Speaker, I would just like, in supporting the amendments which have come to this House from another place, to again take the opportunity, if I could, like the hon. member who is moving the amendments, to again state that the legislation to which this amendment is being attached provides for there to be a properly agreed payment for taking over the Villa Marina. In the last couple of days I have heard comment externally to this place where one person suggested that the value of the Villa Marina was £20 million. This is a property which currently costs Douglas ratepayers £330,000-odd per year. (**Messrs Henderson and Gilbey:** Hear, hear.) It needs millions spending on it, and it has in the legislation that the premises are properly protected for a purpose for which they can be used in the future. They will not be built upon, there will not be a massive car park, it will not be a Dandara estate, it will be something which we all, hopefully, can be proud of after all these years of on and on and on discussion.

The other suggestion I heard, yesterday I think it was or maybe Sunday, was when are they going to get paid out? Well, the fact is we have not even finished moving the legislation yet.

Mr Corkill: That is all they ever wanted.

Mr Cretney: Well, it has been suggested. (*Interjection*) As soon as the legislation has completed its passage, and I agree with the hon. member again, Mr Gilbey, the sooner that can be the better, then the next stage will be the negotiation over the agreed price and that will be sorted out and then let us get on with the job for the good of Isle of Man residents and those who come to visit us.

Mr Henderson: Mr Speaker, I would just like to really support the hon. minister in moving this amendment, that is fine, but I was brought to my feet really by some of the comments made by my hon. colleague for Douglas South, Mr Cretney, and would just like to support him and really reiterate one or two of the main concepts he has been saying, and also I would just like to make a point to the press gallery that they do pick up from what Mr Cretney has been saying there: a cost of £300,000 or thereabouts to the ratepayers of Douglas every year. Now, that is something that is worth considering, because there are aspersions being cast around that there is burglary and theft of properties taking place, and it is no such thing. A rescue package has been mentioned in this hon. House before and a rescue package is what it is. There is no theft, there is no burglary, the building is going to be taken over, it is going to be refurbished and done out and the people of Douglas will still be able to enjoy it, and these aspersions where it is going to be stolen and made to disappear or suddenly gobbled up and moved off to the Calf of Man somewhere is -

Mrs Crowe: We do not want it.

Mr Henderson: - an absolute load of old rubbish. I am looking forward, as a Douglas ratepayer, in a couple of years' time to be able to go into the Villa Marina and enjoy it in its

new and finished style from the Department of Tourism. I can say, though, from being in there very recently, as on 25th November, I was shocked at the state of dilapidation the building is in, and there is no way that that suddenly happened overnight and there is no way that has happened in the last year or the last five years. So I think that needs to be reported as well really and that message needs to go out to the public, that we are talking a rescue package, and I fully support the amendment and the sentiments of the hon. members here this morning, sir.

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

Mr Gilbey: Mr Speaker, I should like to very much thank the hon. Minister for Tourism for his strong support. He is absolutely right to point out the true value of the building. I will not repeat the arguments again. The facts of the case are that I am sure, unfortunately, representatives of the government and the corporation will not themselves will agree and this will have to go to arbitration, as is allowed for, and both sides' advisers will then argue in front of an arbitrator who will come to a decision, but my own personal views are entirely in line with those of the hon. member for South Douglas, Mr Cretney, and those also expressed by the hon. member for North Douglas, Mr Henderson. They are absolutely right and I need not repeat them except to say there is no question of theft or anything of that kind. I would, like him, regard this as a rescue operation which is badly needed in the public interest, and I am glad that they, like me, feel that the quicker we can close this sorry chapter in the affairs of Douglas the better, and I do hope that the Chief Minister and the other advisers to the Governor will be able to agree that this Bill be in a position to be signed on Tuesday next week and then given the Royal Assent so that we can then leave it to the Department of Tourism to take it over and in due course start improving it, as I know they will. I beg to move.

The Speaker: Hon. members, the motion is that the House accept the amendment as made by the Legislative Council and circulated to hon. members on the white paper. Hon. members, will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Employment (Sex Discrimination) Bill – Consideration of Clauses Concluded

The Speaker: Hon. members, we then turn to item 10 on the order paper, the Employment (Sex Discrimination) Bill, for further consideration of clauses. At last week's sitting we had reached clause 44 and we start our deliberations this morning at clause 45. The hon. member for Rushen, Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. We now move on to part 4 of the Employment (Sex Discrimination) Bill which is mainly supplemental.

Clause 45 deals with the provision of the appointment of a discrimination officer, to be based with the Department of Trade and Industry, whose main functions will be to promote equal opportunities and to educate both employers and employees. The post is necessary, as the full implications of the concepts in this Bill, such as indirect discrimination, can be quite difficult to grasp and some potential applications of the provisions, particularly regarding pregnancy and sexual harassment are not obvious. The department considers that it would be unjust for the Bill's provisions to take effect without an increase in the employers' awareness and opportunity for them to adopt appropriate practices and to this end it is planned to recruit a discrimination officer next year.

Mr Speaker, I beg to move that clause 45 stand part of the Bill.

Mr Henderson: Mr Speaker, I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 45 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 46, hon. member.

Mrs Crowe: Thank you, Mr Speaker. Clause 46 invalidates contracts and contract terms so far as they relate to discrimination which is prohibited in part 2.

Sub-clause (1) provides that certain contract terms are void and unenforceable.

Sub-clause (2) excludes the operation of sub-clause (1) in the case of discrimination against an actual party to the contract.

Sub-clause (3) provides that a contract term which precludes a party taking any action under this Bill is unenforceable by the other party.

Sub-clause (4) excludes from sub-clause (3) an agreement to settle a discrimination claim provided that it is either negotiated with the help of the discrimination officer or the industrial relations officer.

Sub-clause (5) defines 'independent' in relation to legal advice.

Sub-clause (6) gives the Employment Tribunal power to make an order exempting a contract from the requirements of sub-clause (2).

Sub-clause (7) enables a tribunal order under sub-clause (6) to be back-dated.

Mr Speaker, I beg to move that clause 46 stand part of the Bill.

Mr North: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 46 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 47, hon. member for Rushen.

Mrs Crowe: Thank you, Mr Speaker. This clause extends the operation of the preceding clause to cover collective agreements, employers' rules and the rule book of trade unions, employers' associations, trade or professional associations or qualifying bodies.

Sub-clause (1) provides that clause 46 applies to the collective agreements.

Sub-clause (2) defines these other bodies as trade unions and employers' associations et cetera.

Sub-clause (3) provides that a discriminatory term or a rule falls within the scope of clause 46.

Sub-clause(4) excludes discriminatory terms or rules where the discrimination in question is the subject of an exemption.

Sub-clause (5) enables a person to bring a term or rule before the Employment Tribunal for a ruling as to its validity.

Sub-clause (6) provides that in the case of collective agreement or an employer's rule an employee or applicant for employment can bring Employment Tribunal proceedings.

Sub-clause (7) provides that in the case of a rule of a trade union, employers' association or professional or trade association, a member or applicant for membership of the body or a holder or applicant for the authorisation or qualification conferred by that body can bring Employment Tribunal proceedings.

Sub-clause (8) requires the tribunal, if it finds that the term or rule is invalid, to make a declaration accordingly.

Sub-clause (9) saves the effect of any term or rule in so far as it confers rights on a person who would have been discriminated against or anyone else, except a right to require someone else to be treated less favourably than oneself.

Sub-clause (10) defines 'collective agreement'.

Mr Speaker, I beg to move that clause 47 stand part of the Bill.

Mr North: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 47 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 48, interpretation, hon. member for Rushen.

Mrs Crowe: Thank you, Mr Speaker. The interpretation clause, clause 48, has sub-clause (1) which defines various expressions.

Sub-clause (2) provides a broad definition of dismissal.

Sub-clause (3) defines the time when a finding becomes final. This is when all possibility of appeal has been exhausted.

Mr Speaker, I beg to move that clause 48 stand part of the Bill.

Mr North: Mr Speaker, I beg to second.

The Speaker: Hon. members, the motion is that clause 48 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 49, hon. member.

Mrs Crowe: Thank you, Mr Speaker. This clause defines 'employment at an establishment in the Island' as excluding work which is wholly or mainly outside the Isle of Man.

Sub-clause (1) provides that generally employment at an establishment in the Island excludes work which is wholly or mainly outside the Isle of Man.

Sub-clause (2) excludes sub-clause (1) from any employment on a Manx-registered ship or a UK-registered aircraft which is operated from the Isle of Man. Such employment is regarded as an establishment in the Island except where the work is wholly outside the Island.

Sub-clause (3) provides that in the case of employment on board ship the establishment is to be taken as the ship itself and not the ship owner's premises.

Sub-clause (4) provides that where the work is not done as an establishment, for example in the case of, say, a travelling salesman, the establishment is to be taken as the place where the employee works from or with which he is most closely connected.

Mr Speaker, I beg to move that clause 49 stand part of the Bill.

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

Mr Singer: Mr Speaker, could I just ask the hon. member as a point of explanation? If, for example, we have an aircraft company based on the Island, is it then possible for the company to apply for a steward rather than a stewardess or a male pilot rather than a female pilot? Is this the sort of exemption that will be allowed by this Bill?

Mrs Hannan: Vainstyr Loayreyder, could I ask the member why we have this in this legislation? I can understand a ship registered here but working out of different ports around the world maybe not being covered because it would be difficult for us to apply that legislation, but why should not a vessel operating out of a Manx port be covered by this legislation, and in the same way we are talking about aircraft and hovercraft registered in the United Kingdom where we know the law is basically the same, and why should we have this omission here, and why should it not be that any aircraft or hovercraft operating in and out of the Isle of Man should also be covered by this legislation? It seems that we have got an anomaly here that because they are aircraft and ships they can be exempted from the purposes of this legislation, and all the way through this legislation I have been against exemptions for whatever reason, including the Church of England.

The Speaker: The hon. member for Rushen, Mrs Crowe, to reply.

Mrs Crowe: Thank you, Mr Speaker. I think if I answer both Mr Singer and Mrs Hannan together, the points are very closely related. The exclusion is for employment on a Manx-registered ship that is not operated from the Isle of Man. So those operated from the Isle of Man and regarded as working wholly outside the Isle of Man would not be included within our legislation but would be included in the legislation of presumably the area that they were working in, albeit the UK or whatever area they were working in. So the answer to Mr Singer is, no, there would be no exclusion and, no, you could not advertise for a male steward or a stewardess. In fact we would be looking for the discrimination in advertising rules to be upheld. Thank you, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 49 stand part of the Bill. Will those in favour please aye; against, no. The ayes have it. The ayes have it. Clause 50, hon. member for Rushen.

Mrs Crowe: Mr Speaker, clause 50 provides that civilians working for the Crown are treated in the same way in relation to discrimination as employees in the private sector.

Sub-clause (1) provides that an act of an official of the Isle of Man Government or the UK Government is to be treated in the same way as an act by a private person.

Sub-clause (2) provides that work in the civil service is treated for the purpose of equal pay and other anti-discrimination practices.

Sub-clause (3) saves the special provisions for the police which are in sub-clause (17). If you recall, police are deemed to be employed by the Chief Constable or the Department of Home Affairs for the purposes of this Bill.

Sub-clause (4) exempts the armed forces from this Bill, as they can enforce rights under the European Community.

Sub-clause (5) exempts ships belonging to the UK Government.

Sub-clause (6) deals with the case where a person is appointed to a government post which is a statutory office.

Sub-clause (7) defines the terms used in this clause.

Mr Speaker, I beg to move that clause 50 stand part of the Bill.

Mr North: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 50 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 51, hon. member for Rushen.

Mrs Crowe: Mr Speaker, this clause provides for the Bill to come into force three years after it is passed except for the provisions relating to the discrimination officer and the codes of practice, which will come into force on the passing of this legislation. It also makes transitional provisions and consequential amendments.

The reason for the three-year gap is that equal pay claims can be back-dated two years and without a deferral the legislation would have been retrospective in effect. The three-year period will give employers the opportunity to resolve any issues by allowing them one year to bring their pay structures into line should this be necessary and then a further two years before any award can be made for backpay. It is to be noted that in the UK the gap between equal pay and the coming into force of the UK Act was actually five years.

Sub-clause (1) provides for the Bill to come into force three years after it has been passed except for the provisions relating to the discrimination officer.

Sub-clause (2) excludes the operation of clause 13 for three years from the date it comes into operation in respect of differential union subscriptions and benefits.

Sub-clauses (3) and (4) enable the Department of Trade and Industry to make further transitional provisions by order which would require Tynwald's approval.

Sub-clause (4) makes consequential amendments to the Employment Act of 1991, including the repeal of section 51 which makes a dismissal on grounds of sex or marital status an unfair dismissal.

Mr Speaker, I beg to move that clause 51 stand part of the Bill.

Mr North: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 51 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. The hon. member for Middle.

Mr North: Mr Speaker, with the leave of the House I propose:

That the notice requirement of standing order 154(1) be suspended to enable a new clause to the Employment (Sex Discrimination) Bill to be moved at this sitting.

I apologise to hon. members for the communications gap that was left with this matter.

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

The Speaker: Hon. members, the motion is that the notice requirement for standing order 154(1) be suspended to enable a new clause to the Employment (Sex Discrimination) Bill to be moved at this time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. I therefore call upon the hon. member for Middle, Mr North.

Mr North: Thank you, Mr Speaker. The purpose of this new clause is to extend the insolvency provision within the Employment Act 1991 to provide additional protection to employees. The present position is that the Employment Act provides for certain debts owed by insolvent employers to employees to be protected, that is, paid out of the Manx National Insurance Fund as a last resort. These debts include arrears of pay up to a maximum eight weeks' pay for the statutory period of minimum notice and up to six weeks' holiday pay. However, the department has become aware of some recent cases whereby some very small employers have ceased trading but not actually gone into liquidation and in these circumstances the debts owing to employees are not protected. Obviously this situation is highly unsatisfactory for the individual employee concerned.

The new clause is intended to remedy this situation by providing the Department of Health and Social Security with discriminatory powers to pay from the Manx National Insurance Fund specified debts owed to employees in cases where the employer is not technically insolvent. This new clause would mean that where an employee is owed a specific debt he would be able to apply to the DHSS providing that his employment has been terminated, that the employer has ceased trading in the Isle of Man and the employee has taken all reasonable steps other than legal proceedings to recover the debt from the employer.

Both the DHSS and my own department have co-operated in producing this amendment and the Treasury has given its concurrence to the proposal. It is estimated that the total additional cost will not exceed £5,000 per year.

Mr Speaker, I beg to move that the new clause be agreed in principle:

NEW CLAUSE

Power to make additional payments out of Manx National Insurance Fund

(1) After section 67 of the Employment Act 1991 there is inserted the following section -

"67A Additional power to make payments

(1) If on an application made to it in writing by an employee the Department is satisfied -

- (a) that the employment of the employee has been terminated;*
- (b) that the employer has ceased to carry on business in the Island;*
- (c) that at the date of the application the employee was entitled to be paid the whole or part of any debt to which section 67 applies; and*
- (d) that the employee has taken all reasonable steps (other than legal proceedings) to recover the debt from the employer, and the employer has refused or failed to pay it, or has paid part of it and has refused or failed to pay the balance;*

the Department may pay to the employee out of the Manx National Insurance Fund the amount to which in the opinion of the Department the employee is entitled in respect of that debt.

(2) The Department shall not make any payment under this section unless an application under subsection (1) is made before the end of the period of 12 months beginning with the date of the termination of the employee's employment,"

(2) Part VI of that Act is further amended as follows -

(a) in sections 70 and 73(1), for "67 or 68" substitute "67, 67A or 68";

(b) in section 72(1) and (2), for "67" substitute "67 or 67A";

(c) in section 72(1), for "that section" substitute "section 67".

Mrs Cannell: Mr Speaker, I am happy to second. This is a particularly important new clause that is being introduced today because it does provide additional protection for employees, particularly those who are engaged in smaller businesses and I do hope that hon. members will give their wholehearted support to this amendment.

Mr Henderson: Mr Speaker, this is quite a good amendment, something which I am supportive of, but it does raise one or two queries. We are talking about the Employment (Sex Discrimination) Bill this morning, yet, pardon me if I am confused, and some would say that is probably half the time, but anyway, the point of it is that this amendment is alluding to the Employment Act 1991 as well. So are we to understand that the amendment is applicable only to the Employment (Sex Discrimination) Bill and, if so, can the hon. minister give this hon. House a firm assurance that this very important principle is going to be the subject of review for introduction or possible introduction as an amendment into the Employment Act 1991 to cover that side of things as well? As I say, this is quite an important principle and it is one I am delighted that his department has recognised. Thank you.

Mrs Crowe: Mr Speaker, I am delighted to be able to support this new clause. It was identified and I suppose it could be one of the benefits, few that there are, of having two departments, DTI and DHSS, but it was with co-operation between the two units that I work in that this social problem was identified. Now, employees and employers pay into the national insurance fund with the expectation of receiving benefit and for a very few people each year that benefit is denied, so I am delighted to be able to welcome this legislation and to find that we have got a slot in appropriate employment legislation in which to place it. Thank you, Mr Speaker.

The Speaker: I call upon the hon. member for Middle, to reply to the debate.

Mr North: Thank you, Mr Speaker, and thank you, hon. members, the hon. member for North Douglas in particular for his support.

If I could just point out, this is all employment legislation and it amends, this new clause, the insolvency provision of the Employment Act and the matters that have arisen, as I say, I think will correct something which has been wrong for quite some time, so I beg to move that the new clause be agreed in principle, Mr Speaker.

The Speaker: Hon. members, the motion is that the new clause be accepted, as moved by the hon. member for Middle, Mr North, and circulated to you on your white paper. Will those in favour of the new clause please say aye; against, no. The noes have it. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Quine, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Karran, Corkill, Cannell and Gelling - 20

Against: The Speaker - 1

The Speaker: Hon members, the motion carries in the House with 1 vote being cast against, 20 votes cast for. We turn then to clause 52 and I call on the hon. member for Rushen.

Mr North: Sorry, Mr Speaker, don't I need to move?

The Speaker: Sorry, yes.

Mr North: Mr Speaker, hon. members have had the details of this new clause and I beg to move that the new clause stand part of the Bill.

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

The Speaker: If no other member wishes to speak upon it, the motion is that the new clause do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member for Rushen, clause 52.

Mrs Crowe: Thank you, Mr Speaker. This clause, the final clause of the Employment (Sex Discrimination) Bill, is the short title and provides a composite title for this Bill and the series of Acts relating to employment which have been passed since 1989.

Sub-clause (1) gives the Bill its short title.

Sub-clause (2) provides a composite title for the Acts of 1990, 1991 and 1996 and this Bill, all of which deal with employment rights. Together they are to be known as the Employment Acts 1990 to 2000, and could I express how delighted I am to have been able to progress this Bill in our final sitting of 1999 and thank the officers who have helped me for the past three years, mainly, Mr Jonathan Clague, at the Department of Trade and Industry. (**Several Members:** Hear, hear.) Thank you, Mr Speaker.

Mr North: I beg to second, Mr Speaker.

Mrs Crowe: Mr Speaker, I do beg to move that clause 52 formally stand part of the Bill. Thank you.

The Speaker: And I will put it to the House, hon. members, that clause 52 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that concludes our order paper for this morning. The House will now stand adjourned until Tuesday next, 14th December, in Tynwald Court at 10.30 a.m.

Hon. members, I understand also that it may be practical at this particular stage if we continue with the Chief Minister's business in the Millennium Room. I understand that is right, Chief Minister?

Mr Gelling: Yes, Mr Speaker.

The Speaker: Thank you, hon. members.

The House adjourned at 11.45 a.m.