

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 8th February 2000
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 (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Leave of Absence

The Speaker: Hon. members, leave of absence has been granted this morning to the hon. member for Rushen, Sir Miles Walker, who is off the Island on government business, and the hon. member for Douglas West, Mr Downie, who, as you will appreciate, will be representing the Island at the funerals to be held very shortly this week.

National Lottery Scratch Cards – Question by Mr Houghton

The Speaker: Can we therefore, hon. members, move straight on to our order paper and to item 1 and I call upon the hon. member for Douglas North, Mr Houghton.

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

- (1) *Does Camelot sell National Lottery scratch cards through agencies on the Island; and*
- (2) *if so, on what authority?*

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

Mr Gelling: Mr Speaker, in answer to the first part, yes, Camelot does sell National Lottery scratch cards through agencies on the Island, and the second part of the question: the National Lottery Act of 1999 allowed the Treasury to designate lotteries promoted under the United Kingdom National Lottery Etc. Act 1993 as lawful on the Island. Now, the National Lottery Legislation (Designation) Order 1999 was approved by Tynwald on 16th November last and this order designated all lotteries that form part of the United Kingdom National Lottery to be lawful, thus allowing Camelot, the lottery operator, to sell National Lottery tickets, including scratch cards, on the Island, sir.

Mr Houghton: Mr Speaker, I thank the hon. Chief Minister for his comprehensive answer. Can he now confirm then, does this mean that other agencies such as Littlewoods Pools may be permitted in due course to sell scratch cards on the Island, sir?

Mr Gelling: No, I do not think that is the case, Mr Speaker. This was really Treasury following through the National Lottery, so what I would suggest is that the gaming and betting and lotteries legislation that perhaps is coming through the pipeline might be a vehicle in which this could be considered, but certainly under our present legislation it is not possible, sir.

Mr Singer: Mr Speaker, could the Chief Minister tell me what checks are taken to ensure that lottery tickets, but particularly scratch cards, which are a great temptation to children and I mentioned this at the clauses stage, are not sold to under-age children?

Mr Gelling: I would assume that they would be checked under the same legislation, either by the gaming and lotteries or the trading standards, but I only assume that, sir, I am not qualified to answer.

Statutory Minimum Wage – Rate – Question by Mr Karran

The Speaker: Item 2, hon. members. We go on to the hon. member for Onchan, Mr Karran.

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

Will the Council of Ministers support £5 per hour as a statutory minimum wage?

The Speaker: Again the Chief Minister to reply.

Mr Gelling: Mr Speaker, the Council of Ministers presented a report to the October 1999 sitting of Tynwald on the subject of a statutory minimum wage and legislation on this subject is in the process of being drafted and it will be proposed that the actual rate of minimum wage be determined by an order of Tynwald.

So therefore the Council of Ministers has not yet considered what rate should be recommended and the legislation needs to be put in place and we need to see whether Tynwald is content with the legislative proposals and the mechanism for recommending the minimum wage. Only then will we consider the question of the rate, so what I would say to the hon. member for Onchan is that perhaps his question is just a little premature, sir.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that when we are dealing with social legislation it is always a little bit premature, and can the hon. Chief Minister inform this hon. House of some sort of time period as far as this is concerned?

Mr Gelling: Yes, I am sorry the hon. member for Onchan thinks that that is the case because basically I would say that the legislation comes through in the normal manner, whether it be social legislation or otherwise. Now, I have given a progress report, Mr Speaker, that the legislation needs to be in place and therefore it will be for Tynwald to decide the actual amount, sir.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that £5 is even an embarrassment as far as a minimum wage is concerned, when we are talking about a 40-hour week, to expect people to be able to live decently, especially with the fact of our poor record as far as housing is concerned? How do you expect them to live in this country?

Mr Gelling: Once again, Mr Speaker, of course the amount of £5 is offered up. I do not know, sir. We have not considered it. The question quite clearly asks would the Council of

Ministers support £5 an hour. All I can say to the hon. member is we have not considered it yet, sir.

Mr Karran: Vainstyr Loayreyder, what assurances can the Chief Minister give on this piece of legislation that it will be pushed further and further behind, especially allowing for his statement in the House last week about doing legislation on constitutional issues? Can we have an assurance that this issue will get more priority than dealing with the Legislative Council or other things, which is more important to our people?

Mr Gelling: Mr Speaker, I know how important this legislation is to the hon. member and no doubt to other members of this House and all I can say to the hon. member is that it will be progressed through in the normal way, it will not be put on the back burner, I can assure the hon. member of that, but certainly we will progress it and I still say to the hon. member that his question is premature in as much as the amount has not been considered, sir.

Housing – Public Sector Rents – Question by Mr Henderson

The Speaker: We go on to item 3, hon. members, and I call on the hon. member for Douglas North, Mr Henderson.

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

- (1) *Does your department intend to raise public sector housing rents in accordance with the analysis at paragraph 5.9 of the Housing Policy Review Report 1999;*
- (2) *in particular, do you endorse the view expressed in the paragraph that 'until rent levels are adjusted to reflect housing costs and the rents charged reflect the ability of tenants to pay, there is unlikely to be a reduction in demand for public sector units'; and*
- (3) *is it the policy of your department to avoid increasing the social rented sector housing stock?*

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

Mr Gilbey: Mr Speaker, the hon. member has included three parts to his question and I will respond in the same order.

Firstly, as I indicated in the recent Tynwald debate on housing, the issue of rent levels in the public sector, analysed in paragraph 5.9 of the report, will be the subject of further consideration by the department and the committee on housing once additional data referred to in the report has been gathered. There is no proposal to raise public sector housing rents in accordance with the various alternative provisions in paragraph 5.9. However, public sector rents are increased across the whole stock on an annual basis. This year's increase has been set at five per cent. This still represents an average weekly rent of less than £40 for a three-bedroomed property.

Regarding the second part of the question, I will confirm my view that the statement highlighted by the hon. member is a true statement of economic fact. However, that does not mean that there is any intention to adjust public sector rents in the way suggested.

Regarding the third part of the question, as the hon. member will observe from the Housing Policy Review Report, the department's policy is to continue to meet the provision of public sector housing for those who cannot afford the cost in the private sector. The report highlights the programme of some 80 public sector units per year, including replacement properties, which is required to meet the objective. The department is therefore committed to continuing adjustment to the public sector housing stock to meet this objective, and a good example of more public sector houses being built is in my own constituency at St John's where 12 retirement homes are being built.

Mr Henderson: Mr Speaker, I am very pleased to hear the minister's reassurances to people who are less well off and his commitment to ensure that it remains his department's policy to ensure housing for that section of our community, but could the hon. minister confirm that if his department raised public sector housing rent in accordance with the analysis in his housing report it would drive tenants out, as they would be unable to afford the rent and could not possibly cope with private sector rates, which are in the region of £700 a month for a family house or a mortgage for the same kind of house would be in the region of £100,000, which would mean forking out somewhere in the region of £500 a month or so? I accept fair rent rises are one thing and I would ask the hon. minister could he agree that fair rents are one thing but bringing things in line with everything else is an absolute outrage?

Mr Gilbey: Mr Speaker, I have, I hope, made it clear, and I would like to re-emphasise, that there is absolutely no intention of following all the suggestions in section 5.9 and there is certainly even less of bringing the rate of public sector rents up to the rents in the private sector, and I would have thought that the hon. member would be satisfied about this considering the leader of the APG group is the hon. member of the department in charge of housing and considering also in the department there is his very good colleague and co-member for his constituency, so I would hope that he would be absolutely assured there is no intention of doing any of the horrible things that he is postulating.

Mrs Cannell: Mr Speaker, can the hon. minister confirm that his department still meets annually with the Housing Advisory Committee which is made up of representatives of all the Island's local authorities and if that is still the case will he also confirm that nine times out of 10 it is the members of the local authorities who are pushing the department to increase rents and not the department?

Mr Gilbey: Certainly there are annual meetings, since it is a result of those annual meetings that the annual increase is suggested, but it is a matter for the department to finally decide and a matter for the Council of Ministers to approve, and I think one can understand that some local authorities may be pressing for more because they want to spend more on the houses, and of course this is the dichotomy between having more money to spend on houses and also not putting up rents by an unreasonable level, but the intention of the department is to strike a balance between both those points.

Mr Henderson: Mr Speaker, could the hon. minister confirm that the horrible things I am actually postulating, as he puts it, are actually contained within the green covers of the housing report which I am holding up for him now and in all fairness could he confirm that the analysis contained within is representing about putting people out and not providing more resources or how to use present stock more effectively, and could he further confirm or whatever that there is now a growing section of our community who can be described as middle earners, entitled

to no help, but are increasingly finding themselves caught in this housing trap, as prices and rents are so high, especially if they find themselves as single parents and it is impossible on the local authority housing lists, and is he aware that his housing policy has missed off this important area?

Mr Gilbey: Regarding private sector rents, unless it is decided first by the Council of Ministers and then by Tynwald to put in rent controls, there is nothing the department can do and I would point out that although rent controls sound very nice, in the adjacent isles they have proved an absolute disaster, because they have cut down the number of houses that were available for rent at any price whatsoever, and that is an economic fact.

Regarding what is suggested in the report, the report makes it quite clear that these were suggestions from other bodies and I do not think one should be afraid to put forward and let people read about any suggestions that are made. I agree with those even in the Labour government across the water who say one should be prepared to think the unthinkable. It does not mean one is going to do the unthinkable, but one should look at all the possibilities and that is what I think one should always do and that is why one should not be afraid of putting in a report ideas, even if one is not going to support them.

Mrs Hannan: Vainstyr Loayreyder, with regard to thinking the unthinkable, could I ask the Minister for Local Government and the Environment, with inflation at two per cent are rents then to be increased by five per cent and is that reasonable considering the reply that we have had on question 2 that £5 an hour has not as yet been considered by the Council of Ministers as a reasonable amount as a minimum wage, and does he think that people on low earning incomes can afford to pay above inflation rents on local authority properties?

Mr Gilbey: First of all I do not think it would be right for me to refer to a previous question which is quite a separate matter, Mr Speaker, but regarding the increase, although there is absolutely no intention to bring public sector rents up to the level of private sector rents and that is absolutely for sure, there is no doubt that many public sector rents have been extremely low and it has been agreed as a matter of policy to bring them up somewhat and although the increase is more than inflation, this increase is needed so that even more money can be spent on improving the houses, and if you look round a lot of the estates, particularly the Department of Local Government estates, enormous improvements have been made to them and quite rightly so and I think we have every reason to be proud of a lot of our public sector housing estates and the condition they are in.

Mrs Hannan: Vainstyr Loayreyder, is the minister saying that someone paying a sixth of their income or even more is acceptable with regard to rents charged under this sector?

Mr Gilbey: Sorry, I do not understand the point about a sixth, but what I do know is that there is considerable help under social security for anyone who cannot, for various reasons pay the rental. That is specifically provided for in various forms.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that not only his department gerrymanders the whole housing situation, but also local authorities do by hiding the real need as far as housing requirements are concerned, and would he give this hon. House a breakdown of the different subsidy between the housing requirements for local authority housing and the subsidy on sheltered accommodation which are two different issues, and would he not agree with the hon. member for Peel's question that it is unreasonable to

expect people at the bottom end to be paying over the inflation rate for a basic commodity of life, and could he also inform this hon. House, is it not a fact that the reason we have got such unreasonable rent demands is because of his department's refusal to recognise there is a housing crisis and the fact is it is about supply and demand and that is why you have got these ridiculous prices in the private sector which are only being paid for by the finance sector?

Mr Gilbey: I cannot give the breakdown that the hon. member has asked for offhand, I am afraid.

Regarding the question of those on low incomes, I have mentioned support under social security. Again we should remember the family income supplement as well, and frankly I do not think that the increase that has been agreed for the coming year is unreasonable and it is a totally different matter to have an increase of that level, which, as I have said, brings a rental of a three-bedroomed house up to £40 a week, to some of the suggestions were made in the report which, as I said quite clearly, there is no intention of putting into effect.

The Speaker: I think we will return to the original questioner for the final supplementary on this question. The hon. member Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I would just like to ask the hon. minister to confirm that the people of this Island do not mind a fair rent increase and what is seen as fair, but also could he confirm that the Department of Health and Social Security have recently withdrawn their single parent allowance, which places additional hardship on trying to secure accommodation, especially with increased rents?

Mr Gilbey: Well, I do not know myself whether that is correct or not, but I am told by another hon. member that it is not correct, but in any case there is certainly provision under the supplementary benefit for a housing factor.

Public Sector Housing – Impact of Report Recommendations – Question by Mr Henderson

The Speaker: We turn to item 4, 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 Minister for Local Government and the Environment:

What would be the impact on public sector housing of implementing the recommendations at paragraphs 7.7 and 7.8 of the Housing Policy Report 1999?

The Speaker: Again I call upon the Minister for Local Government and the Environment to reply.

Mr Gilbey: Mr Speaker, the recommendations referred to in the Housing Policy Review Report 1999 by the hon. member are linked to a number of aims and objectives described or implied in the body of the report and these include ensuring that standards of service and provision of housing in the public sector are constant, consistent and of acceptable quality, ensuring the provision of housing in the public sector is targeted at those who need it most, maximising the use of the available housing stock, both existing and planned.

These objectives will be assisted by the action proposed in the recommendations by providing guidance and setting standards to which public housing authorities can aspire;

identifying those who need public sector housing on the basis of agreed common criteria and measurements so as to generate meaningful waiting-lists which can be used to plan future provision of housing; making better use of housing by matching tenants' household size to properties in which they are living and, where appropriate, giving tenants opportunities to move into other forms of tenure, e.g. first-time buyers or housing associations where financial circumstances permit, probably with incentives of a financial nature from the government.

In answer to the hon. member's question, therefore, in general, implementation of the recommendations will ensure improved use of public sector housing stock, which I would hope all hon. members would agree is desirable. We want to get the very best use out of the stock we have got and the increasing stock that we are building.

The Speaker: Now, hon. member, I think I gave certain leeway on the previous question. I do not think question time is the place for a housing debate. Succinct questions, please, hon. member for Douglas North.

Mr Henderson: Thank you, Mr Speaker, I take cognisance of your comments, sir, but even so, I thank the hon. minister for the department for his assurances, but are we still not in a situation where this report is more about pushing people out than actually addressing the issue more effectively and its failure to recognise rocketing house and rent prices?

Mr Gilbey: Mr Speaker, it certainly recognises increasing rent and house prices and there is no question of pushing people out. As I have said previously in this hon. House, I have a number of constituents who live in Department of Local Government houses. There is no intention of pushing them out and I am sure that the hon. member would not think that the leader of his own group, Mr Quine, who is in charge of housing, or his colleague, would want to do that either. None of us does and there is absolutely no intention of pushing anyone out.

Mr Henderson: Hear, hear.

Housing – Unoccupied Public Sector Units – Question by Mr Henderson

The Speaker: We turn then to item 5, 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 Minister for Local Government and the Environment:

- (1) *How many Department of Local government and the Environment and local authority public sector housing units are currently unoccupied;*
- (2) *how many of these unoccupied units have been unoccupied for more than six months;*
- (3) *what is the longest period that one of these unoccupied units has remained unoccupied; and*
- (4) *what procedures are adopted to ensure that public sector housing units remain unoccupied for the shortest feasible period?*

The Speaker: Again it is for the Minister of Local Government and the Environment, the hon. member Mr Gilbey, to reply.

Mr Gilbey: Mr Speaker, following receipt of the question from the hon. member I have sought information from the functional housing authorities. At 1st February 2000 18 housing units administered by the department were unoccupied out of a total stock of 1,166. This equates in percentage terms to 1.5 per cent of the department's stock. Excluding the department's own figures, to which I have just referred, I am advised that out of the total public sector housing stock of 4,127 units, 51 housing units were unoccupied at 1st February 2000. This equates to 1.2 per cent of the stock.

The answer to the second part of the question is that 18 properties administered by the department are currently unoccupied. However, only one has been empty for longer than six months and the reason for that was that that property was undergoing a major refurbishment. Of the remaining public sector housing units, i.e. those not owned by the department, 14 have been empty for longer than six months.

In answer to part (3) of the hon. member's question, the longest period one of the department's housing units has remained untenanted is eight months. However, this is a one-off case where the property was specifically adapted for use by a person with disabilities and further refurbishment had to be carried out more recently to house a larger than average family. The longest period one of the remaining public sector housing units has been untenanted is 17 months and I can advise that the property concerned had to have the eradication of dry-rot.

Turning to part (4) of the hon. member's question, the position is that where works are required to be effected to an empty property such works are carried out either by the direct labour force or, where necessary, outside contractors. The department employs a housing maintenance manager and two housing maintenance foremen. A primary function of these posts is to ensure remedial works of a revenue nature are executed within the shortest possible timescale.

However, I must stress that the department does not have the resources to monitor the performance of local housing authorities, but does call for the provision of information as and when the need arises, for example to answer the hon. member's question. In that situation the department relies entirely on the authority to supply the appropriate information, hopefully completely accurately.

Mr Henderson: Mr Speaker, I thank the hon. minister for that very comprehensive reply, but even so will he not agree that 70 empty housing units at this present time, in the present climate of extreme housing shortages and all the other problems, is still not acceptable, especially when some of them have been empty for the inordinate amount of time that he has indicated, and further would he not agree that the most appropriate and immediate way to solve the public sector housing problem is to have some backbone, grasp this nettle once and for all and instead of running away let us implement the Local Government Act to provide better supervision to local authorities, more resources so that this scandal stops and that there are no empty houses and the stock -

The Speaker: Hon. member, if you would, please. That is not a supplementary question, it is a matter of opinion. Hon. member for Douglas South, Mr Cretney.

Mr Cretney: Could I ask the minister if he shares my concern at the unsatisfactory time that a large number of properties have been historically and are continuing to be empty and

would he agree with me that the most efficient remedy to react to this situation was that which was described by the hon. member of the Council yesterday: the employment of more tradesmen to be applied to the problem?

Mr Gilbey: Well, I certainly agree with the hon. member that the situation of having houses any longer than necessary is totally unsatisfactory for two reasons. First is the economic one: it is absurd for any owner of an estate of houses to have them empty when they can be filled. Secondly, and even more important socially, of course it is quite wrong to have houses empty when people are wanting to occupy them and therefore I totally agree that everything possible should be done to turn them round as quickly as possible between tenants and certainly that is the aim of the Department of Local Government. We would certainly like to do it even faster.

As to whether the answer is getting more tradesmen, I would not like to say. I think that is up to the department and each local authority because having their own tradesmen is not necessarily the answer. They also, as I mentioned, can hire in tradesmen to do the work.

But I certainly agree that we should essentially have a greater control over how local authorities do operate their housing estates (**Mr Henderson:** Hear, hear.) and indeed I think that this report makes it very clear that that is what we are aiming at, not only to get faster repairs and turn-arounds of houses between tenants, but also to get, as I said in answer to an earlier question, consistency in the criteria for accepting tenants et cetera.

Mr Duggan: Mr Speaker, would the minister not agree that the local government department, which he is the minister of, meets all the deficiency on local authority housing, and also and this question has been asked many times before in this House by myself and Mr Cretney and other members regarding empty houses - would he endeavour, the minister, to look into the Douglas Corporation who cannot get the repairs carried out due to the paying off of tradesmen, as Mr Cretney, my colleague, said? This is the whole crux of the matter and then on the other hand they are meeting the deficiency because of their inaction?

The Speaker: A similar question. The hon. minister to reply.

Mr Gilbey: Well, as I said before, I feel very strongly about this and, as the report says, we are going to look at the whole matter.

Regarding the particular investigation of Douglas Corporation, as I have said, we can ask questions. The answers we get depend on what they give us. Some hon. members, I know, feel we should have a special investigation or inquiry into Douglas Corporation's housing, but as has been said by the learned Attorney and other people, this is really a very major step to take to demand a complete investigation into their housing and housing policies. But I would have hoped that they are aware of what is said in this hon. House, they are also aware of the opinions of hon. members of this House who represent Douglas constituencies, and that they, like any sensible body, would be taking some action about it.

Mr Duggan: They don't.

Procedural

The Speaker: Hon. members, I am aware that the clock has turned half past ten. I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, may I move:

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

Mr Houghton: I beg to second, sir.

The Speaker: Agreed, hon. members?

Members: Agreed.

Motorised Wheelchairs – Question by Mr Cannan

The Speaker: In that case, hon. members, we turn to item 6 on the order paper and I turn to the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask a member of the Department of Health and Social Security:

- (1) *What is the policy of your department on the provision of motorised wheelchairs; and*
- (2) *why are persons in need of motorised wheelchairs advised by your department to seek assistance from charitable organisations?*

The Speaker: I call upon a member for the Department of Health and Social Security, the hon. member for Onchan, Mr Karran, to reply.

Mr Karran: Vainstyr Loayreyder, I can confirm that the general rule is that powered wheelchairs are not provided within the hospital service. However, in responding to part (2) of the question I can advise the hon. member that the hospital service has for many years enjoyed the support of various charitable bodies in funding powered chairs for individual patients where clinical need has been identified.

If persons who have been identified because of clinical need are not receiving a powered wheelchair, then I would like to know from the hon. member.

Mr Cannan: Mr Speaker, will the hon. member in charge of the health services division, Mr Peter Karran, agree that the health service division was allocated in the current financial year £63 million, it is able to employ an army of administrators and managers, yet is unable to provide a powered wheelchair for stroke victims but instead goes round charities begging them to supply patients? Is he satisfied that this is the best his department can do: begging from charities for powered wheelchairs for patients who have had strokes?

Mr Karran: Vainstyr Loayreyder, would the hon. member tell me, does he want the money for powered wheelchairs, does he want the money for health centres out in his area, which obviously would be very low on the priority list anyways? I can give him a thousand other things that I would like to spend the money on.

What I would like from the hon. member, which is important, is if there are people who have got clinical need that need to have a powered wheelchair and are not getting one, then I want to know and if he provides me with that information I shall go back to my division and find out why that individual is not being provided with such a facility. If the hon. member provides

me with people who have been told that clinically it is the only way for them, then I am happy to see what I can do because I think it would be wrong of this hon. House to have the impression that people who need a powered wheelchair because it is the only way for them are being refused them. I want to know who they are.

Mr Cannan: Is the member fully informed by the civil service administrators of his department that there are these cases, and is he not aware that a lady in Kirk Michael not only had a full article in the *Isle of Man Examiner* two weeks ago about her need but has been sent a letter from an administrator in his department, a Mrs Myrtle Hodgson, giving reasons why they are unable to supply a powered wheelchair but recommending she goes begging to a charity?

Mr Karran: Vainstyr Loayreyder, I have one case here of a constituent of his but it seems to be a different name. In that case it was decided on clinical grounds that there was no requirement for a powered wheelchair.

If the individual comes to my department and asks me, then I shall look into it. I just do think it is rather sad that he has to come to Tynwald and broadcast people's names over the airwaves, but if he wants to see me after the sitting we will arrange to discuss the point and if he is right that there is no wheelchair because there is no money available, on clinical grounds, then I shall resolve that issue.

Mr Cannell: Mr Speaker, a supplementary if I may. May I ask my hon. colleague from Onchan, would he not agree that the support of charities to very many services of government is appreciated and that it is no stigma whatever for them to be relied upon to provide supplementary and ancillary services to the main government works?

Mr Karran: Vainstyr Loayreyder, in an ideal world we would like everything to be provided by the state, but at the end of the day the issue that needs to be addressed with this important question is whether people who have been recognised clinically to need a powered wheelchair are not getting one. If there is a case where people who clinically need a powered wheelchair are not getting one, something needs to be done, but at the present time, so far as I am aware from my division, there is nobody in that circumstance at the present time.

Obviously we welcome support from wherever it comes for the health services because at the end of the day I can spend it if you give me it.

Mr Cannan: Is the hon. member not reading the local newspapers and is he not aware that the lady concerned gave a full interview on the front page of the *Isle of Man Examiner* two weeks ago, the *Manx Independent* gave a leader column in support of her case and yet still no action from his department? Is he not aware that these things are already in the public arena?

Mr Karran: Vainstyr Loayreyder, firstly, no, I am not run by strings by the media. My political career has never been on that basis. I do what I think is right. Maybe not many in this hon. House think on those lines, but I do.

But further to that, as far as my officials are concerned there is nobody at the present time being refused a powered wheelchair who should have one on clinical grounds and until he proves otherwise I think that the question is superfluous.

Homoeopathic Medical Services – Question by Mrs Cannell

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

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

- (1) *Is there any financial support for patients seeking homoeopathic medical services; and*
- (2) *if not, why not?*

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

Mr Karran: Vainstyr Loayreyder, I should first explain that homoeopathy is classed as a complementary therapy and is not generally available within the health services. The only way by which patients can avail themselves of homoeopathic treatment under the National Health Service is through referral to a hospital where it is practised or if it is recommended on clinical grounds by registering with a general practitioner that is trained in this form of medicine.

Turning to the second part of the question, the hon. member will be aware that costs of treatment provided under the National Health Service are met in full. The department is not empowered to assist patients with expenditure incurred in obtaining private healthcare.

But I must say to the hon. member that this issue was raised some time ago and I have asked the medical officer for health for a paper on this subject because I do feel that we do need to look at this form of medicine because I think there is a lot to commend it at the present time.

Mrs Cannell: Mr Speaker, I welcome the hon. member's last remarks in being supportive personally of this type of medicine. Is he aware, though, that a registered homoeopathic practitioner actually approached his department in February of 1997 and has subsequently been in touch and had correspondence dated 15th October 1998 but is still awaiting a formal response from the department in relation to the services offered, and further, is he aware that at that time this particular practitioner, who is on the Island, and I might add is Manx-born and bred, also submitted a financial audit which was based on an English, a British health authority which proved that incorporating homoeopathic medicine and medical practitioners within the health service actually helps to save money?

Mr Karran: Vainstyr Loayreyder, I must say that, as I said in the second part of the question, at the present time I would be unable to pay for private treatment on this front, but the information that the hon. member has made available to this hon. House, which I am not aware of, I shall raise at the divisional meetings.

But at the present time, as a person who has seen some of the actions as far as this form of medicine is concerned, I am very sympathetic towards it, but at the end of the day it has a cost implication and it means prioritising where the resources go as far as this issue is concerned. But at the present time there is a paper that is supposed to be getting drawn up in the near future.

Criminal Justice Bill – Introduction – Question by Mrs Cannell

The Speaker: We turn then to item 8 on the order paper, hon. members. I call on the hon. member for Douglas East, Mrs Cannell.

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

When do you expect the Criminal Justice Bill to be introduced into the Keys?

The Speaker: I call on the Minister for Home Affairs, the hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: Mr Speaker, the Criminal Justice Bill 2000 has been some three years in the making and it includes a large array of very different measures, some of which are extremely complex and technical in nature.

We have now completed our consultations on this Bill and the final draft of the Bill and I hope that it will be before the House of Keys for consideration within the next few weeks.

Mrs Cannell: Mr Speaker, does the hon. minister not recall that he actually did an interview on the local radio some time last year where he gave assurances that this particular Bill would be introduced in January of this year? Given that we are in February, can he inform us as to why there has been such a delay?

Mr Bell: Mr Speaker, I have answered this question before. The Bill is a very complex Bill. Over the period new issues have been raised with me for consideration which we have then included in the Bill, which has caused delays we have had extensive consultation throughout the Island and with the Home Office on a number of sensitive issues on this Bill and it has taken longer than I had hoped to bring it before this hon. House for consideration.

I am sure by now the hon. member understands the working of the development of legislation and is aware that it is not always possible to meet strict timetables when drafting legislation, certainly not in the way that the promoters of the various Bills would like.

All I can give an assurance on is that my department has had an extremely difficult job to do. We have now completed virtually all the work. We are just finalising the final draft of the Bill and it will be going to the Council of Ministers very shortly.

Mrs Cannell: Mr Speaker, can the hon. minister advise as to whether or not the Criminal Justice Bill will include provision for DNA testing on-Island and can he also reassure me that there is definitely provision within this particular Bill for the establishment of a paedophile register?

The Speaker: I do not want to widen the question too far but the minister to reply, please.

Mr Bell: Yes, Mr Speaker. DNA testing provision has already been approved by this hon. House under the Police Powers and Procedures Act which went through last year, and as I have said on no end of occasions before, the sex offenders register provision is included in this Bill.

British Beef – Importation Embargo – Question by Mrs Cannell

The Speaker: We turn to item 9 on the order paper. Again I call on the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, finally I would like leave to ask the Minister for Agriculture, Fisheries and Forestry:

- (1) *Is your department seeking to extend the embargo on the importation of British beef into the Island; and*
- (2) *if not, when is the embargo likely to be lifted?*

The Speaker: Yes, and in the absence of the Minister for Agriculture and Fisheries, I call on the hon. member for Ramsey, Mr Singer, to reply.

Mr Singer: Thank you, Mr Speaker. I would like to thank the hon. member for East Douglas for asking this question, as it gives me the opportunity to dispel various rumours that are circulating and to clearly set out the department's policy on meat derogation.

The hon. member is referring to the derogation from the European Union which permits the department to operate a licensing regime to regulate imports of beef into the Isle of Man. This derogation was originally granted in 1981 and has subsequently been renewed at regular intervals, usually five years, the current such period expiring at the end of this year on 31st December.

The department considers the derogation to be invaluable in helping to regulate the market in meat in the Island and it provides a measure of income protection to fatstock producers in the Island by preventing the market from being destabilised by meat producing countries which have lower production costs due to poorer welfare and animal health standards.

The operation of the licensing regime has been relatively friction-free, although pressure has come from time to time for its removal, generally from retail outlets. To the department's knowledge there has been no organised consumer resistance to the system and I would say that by and large consumers in the Isle of Man are supportive of the domestic agricultural industry.

As hon. members will be well aware, Tynwald has a policy, last reaffirmed in 1995, of providing similar levels of financial support to farmers in the Isle of Man as that received by farmers in the United Kingdom. The department sees a derogation in respect of controlling imports of beef as being an essential element in its policy to ensure a successful farming industry in the Isle of Man.

The department believes that the removal of the derogation would be disastrous for the Island's agricultural industry and in these circumstances the department is seeking the continuation of the derogation, which is, after all, granted by the European authorities after taking into account the Island's fragile agricultural infrastructure. There is no question of the department supporting the lifting of the embargo or not seeking its continuation. Thank you, Mr Speaker.

Mrs Cannell: Mr Speaker, I thank the hon. member of the department for his reply this morning, but can he advise, given that the department is in support of continuing the derogation, how the department will go about securing this particular derogation? Is the department planning on going to Europe directly or does the department have to go through the Home Office to secure such a derogation?

Mr Singer: Mr Speaker, at the present time we have to go via the Home Office, then to MAFF and then to Europe in order to receive an EU directive approving the derogation.

I went on a recent delegation to Brussels with the hon. Ministers for Home Affairs and Transport and the hon. member for Douglas West, Mr Shimmin, and there we did meet members of the European Parliament and senior officers of the EU. My view is that both the elected members' and the officers' opinion was that direct contact was clearly the best approach. For example, I had a meeting with Mr Nordmann, who is a senior officer of fisheries, regarding quotas after 2002, and I am certainly convinced that direct contact with Europe will bring us greater advantages than the present regime of having to communicate through third or even fourth parties.

We actually have had a recent visit from Mr Martin Newman of the European directorate to see how our derogation is operating and he himself will be putting forward a report to the European Parliament. Now, Mr Newman is our first real direct contact with Europe and I think that does stress the importance of direct contact.

Mr Houghton: Mr Speaker, may I ask the member with responsibilities in this area, does his department intend to look into any other derogations?

Mr Singer: Mr Speaker, the answer is yes to that. We are looking into seeking derogations on fresh milk and also on bread, though the terms of each of these applications would be discussed and decided on the merits of the case, taking into account the views and the needs of the producer, the retailer and the consumer.

Mr Braidwood: Mr Speaker, can the hon. member for Ramsey, Mr Singer, the member for Agriculture, Fisheries and Forestry, confirm that the derogation only applies to beef carcasses and does not apply to joints of meat under a certain weight which might be brought into the Island by certain retailers?

Mr Singer: There is a limited percentage of the home market which can be filled by imports and that limit is a figure of 20 per cent of domestic consumption and that is on all meat, as I understand it, and it is calculated on an annual basis and split into 12 monthly allocations according to the prevailing pattern of trade. So, as I understand it, it covers all imported fresh meat.

Mrs Cannell: Mr Speaker, my final supplementary to the hon. member of the department. Can he advise when his department and when the industry will know whether or not they have been successful in continuing the derogation on beef?

Mr Singer: I understand that the decision will be made in July. That I will have to confirm to the member but I understand it is July when the application goes to the European Union and so we will know by then and hopefully, having had this visit by Mr Newman and having had the derogation since 1981, it will be continued, but if the information is any different to what I have given to the hon. member I will let her know.

Mr Cannan: Finally, Mr Speaker, will the member for the Department of Agriculture reiterate once again his department's determination to protect the agricultural industry in the Isle of Man from unfair competition and flooding of the market for agricultural goods in the Isle of Man by imports?

Mr Singer: I can confirm that, Mr Speaker. As I said, Tynwald itself has given approval of the fact that we will give equal support to our farmers as that supplied to those in the UK. It is important that we support our industry. We are looking, though, of course, for an efficient

farming industry and that the money we are putting into the industry is not a prop for inefficiency. But taking that into account, farming is in a difficult situation at the moment and I can give the assurance that the department wishes to ensure that all our farming industry has a viable future.

The Speaker: Thank you, hon. members, that concludes the oral answers on the order paper. Item 10 on your order paper is for written answer and I understand that the answer has now been circulated and is on members' desks.

Prisoners – Early Release – Question by Mr Singer for Written Answer

Question 10

The hon. member for Ramsey, Mr Singer, to ask the Minister for Home Affairs:

- (1)
 - (a) *What are the criteria for the early release of prisoners on executive authority;*
 - (b) *what offences do not fall within this early release scheme; and*
 - (c) *who makes the decision that a prisoner is to be released early under the scheme;*
- (2) *in 1999, under the scheme -*
 - (a) *how many prisoners were released early; and*
 - (b) *in each case,*
 - (i) *for what offence had the person been convicted;*
 - (ii) *what length of custodial sentence was imposed; and*
 - (iii) *what period of the sentence was served before release; and*
- (3) *when do you expect the new prison to be operational?*

Answer

- (1) (a) The criteria applied when considering a detainee for executive release are:
 - * nature of offence
 - * risk to the public
 - * probability of compliance with probation service compliance
 - * probability of compliance with the terms of release licence
 - * length of sentence served
 - * length of sentence remaining to be served
 - * previous criminal history
 - * custodial behaviour
 - * home circumstances
- (b) Detainees convicted of sexual offences are not eligible for executive release.

(c) The decision that a prisoner is to be released early is taken by the prison governor, usually in consultation with the police and probation services, but there are occasional times when such consultation is not practicable due to the urgency of the situation.

(2) In 1999 13 prisoners were released early and the other information requested is given in the attached table.

(3) It is not possible at the present time to say when the new prison will be operational. It is a project of national importance which has the highest priority for my department, but I am not in a position to prejudge the outcome of the planning and all other due processes which are required to achieve the operational opening of a new prison.

Detainee	Offence	Sentence	Release date	Release date	Number of days (b) is in advance of (a)	
			under sections 6 and 23 of Custody Act 1995	by executive release		
			(a)	(b)		
1	theft	84 days	15.10.99	14.10.99	1	
2	driving whilst unfit	30 days	18.10.99	15.10.99	3	
3	driving whilst unfit	30 days	21.10.99	15.10.99	6	
4	Road Traffic Act	50 days	21.10.99	15.10.99	6	
5	driving whilst unfit	21 days	21.10.99	15.10.99	6	
6	assault	326 days	22.10.99	20.10.99	2	
7	criminal damage	30 days	27.10.99	22.10.99	5	
8	driving whilst unfit	42 days	29.10.99	22.10.99	7	
9	theft	90 days	10.11.99	29.10.99	12	
10	theft	4 months	12.11.99	29.10.99	14	
11	handling stolen goods	10 months	13.12.99	10.12.99	3	
12	driving whilst unfit	100 days	13.12.99	10.12.99	3	
13	theft	16 months	17.12.99	10.12.99	7	

Income Tax Bill – Third Reading Approved

The Speaker: We turn therefore to item 11 on your order paper, the Income Tax Bill for third reading, and I call on the hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. At this third reading stage of the Income Tax Bill there are a few issues which were raised at the clauses stage and I did say that I would respond to hon. members. I would like to comment on one of those first of all and then cover the others included in my general comments about the particular or relevant clause.

The first issue in question was that raised by my hon. colleague from Onchan, Mr Karran. I did indeed agree to meet Mr Karran, so myself, along with the Assessor Income Tax, think we have been able to assure the hon. member that the legislation which is in place in both the Income Tax Acts and the Social Security Act 1986 is adequate. As to how that information may then, as a consequence, be used to determine entitlement to a benefit is really another matter and does not impinge on any of the existing clauses within the Bill. So I hope we have gone some way to help with the hon. member's issue and perhaps he can reflect on the information we have now provided for him.

Returning to the actual Bill, its purpose is quite straightforward in that it contains a number of measures which are designed to reduce liabilities to income tax, provide fairness and consistency within our income tax system and improve the competitiveness of our businesses.

Chapter I seeks to take the first step in dealing with the difficult problem of companies that incorporate in the Island but then are managed and controlled from outside the Island. I am aware of the strong feelings of some hon. members that this may not go far enough, but it would be, I think, a little shortsighted to simply look at this Bill as the single solution. Other measures in the form of the corporate service provider proposals and reform of some of our company law will bring about the real changes which are needed. Equally, it should not be overlooked that a lot of the existing non-resident company duty companies are held by highly reputable international companies who have set up structures which cannot be unravelled overnight. We need time to find an alternative home for that business within our taxation system but in such a way that it neither threatens the good name of this Island nor falls foul of international standards.

The three clauses in chapter II seek to ensure that our trading companies remain competitive tax-wise with other jurisdictions. There is a general downward pressure on corporate tax rates which has to be recognised and catered for whilst we have the resources to do so.

Chapter III contains two clauses which bring about an important element of consistency by recognising the needs of other disabled persons, and part 2, clause 10, is perhaps the most difficult of the new measures, certainly it was from the viewpoint of seeking to extend the additional allowance for children to other groups but in such a way that it maintained fairness for married couples and consistency within the tax system.

At this point I wish to deal with another of the issues raised at the clauses stage on which I promised to comment. This came from my other colleague from Onchan, Mr Cannell, and this was also mentioned by the hon. member for Peel, Mrs Hannan. It concerned the new

section 39D(3) relating to qualifying children which is being inserted into the Income Tax Act 1970. The point in question was why that subsection contained an upper age limit of 18 years for a child receiving full-time instruction at an educational establishment. After further research I am able to inform hon. members that the wording of the legislation has its origins in section 259(5) of the UK Income and Corporation Taxes Act 1988 which was a consolidation of earlier longstanding United Kingdom legislation. That particular UK legislation also provides for additional relief for children but does not extend it to cohabiting couples.

Also hon. members may recall at the second reading that I explained that at one time this relief in a more restricted form was linked into the granting of one-parent benefit by the DHSS which itself was linked to the granting of child benefit. The age limits being adopted in section 39D(3) simply reflect that history. The upper age of 18 years is consistent with legislation relevant to a claim for child benefit and with the age of majority.

If a single parent has a child undergoing full-time education past the age of 18 years and that parent continues to support that child, the relief provided by the educational covenant scheme takes over from the additional relief for children. The maximum relief under that scheme is currently £4,500 but is reviewed annually. Hon. members should also bear in mind that if the income of that single parent does not exceed £21,000, assuming it is a local, non-degree course, assistance is available under the student grants scheme. For a degree course in the UK the income limit is even higher.

I believe that clause 10 is an important addition to our range of reliefs which support families and is consistent with other legislation which seeks to do the same.

Finally there is clause 11 which amends the existing benefits-in-kind provisions and this ensures consistency of treatment between two fundamentally similar sources of remuneration.

This Bill introduces a number of important amendments and new sections into our income tax system. It has also demonstrated, albeit with certain time constraints, the effectiveness of the fast-track system for bringing in legislation by way of temporary taxation orders.

Mr Speaker, I commend the Bill and ask for the third reading to be approved. I beg to move.

Mr Braidwood: I beg to second, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I am happy to support the third reading of this Bill and I am happy to see that there is now a clear recognition that we can use tax levels instead of social security levels as far as certain benefits are concerned. I just air that point at this third reading stage so that the Chief Minister will bear this in mind, especially with the likes of heating allowances and TV allowances being at tax levels for pensioners instead of at social security levels. Now the facility is there and the legislation is there for that to happen. I just hope so.

I have got no problems with the Bill. The other thing that I am quietly pleased about is, whilst we have not seen the total done away with of non-resident companies, we have come some way from motions in the other place as far as that is concerned, but I think the minister should be applauded as far as that is concerned.

The Speaker: I call on the minister to reply.

Mr Corkill: Yes, Mr Speaker, just on the issue of tax levels, it was the flow of information that I was talking about in my presentation, that that flow of information is available between the two departments for policy decisions to be taken on the back of that information and that there is no hindrance to that process occurring should the political process take it that way. I am pleased the hon. member is supportive and I beg to move.

The Speaker: Hon. members, the motion is that printed at item 11 on your order paper, that the Income Tax Bill be now read for a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Electronic Transactions Bill – Third Reading Approved

The Speaker: We turn then, hon. members, to item 12 on your order paper, the Electronic Transactions Bill, again for third reading, and I call on the hon. member for Middle, Mr North.

Mr North: Thank you, Mr Speaker. First may I say how pleased I am with the progress of the Electronic Transactions Bill so far and I would like to thank hon. members for their support at the second reading and clauses stage of the Bill.

Yesterday the department held a briefing seminar for hon. members who felt that they would like a little more information about the Bill and e-commerce in general, and I would like to thank again those hon. members that attended yesterday and trust they found the briefing both informative and helpful and that any questions they have had, now have been satisfactorily answered.

As I have said previously, the Bill is an extremely important item of legislation which is designed to encourage and facilitate the use of information technology in daily life and as such it is essential to the future economic wellbeing of our Island. It represents a practical and straightforward approach to e-commerce legislation but one that will help to put confidence and trust in the use of e-commerce in the Isle of Man.

Before closing I would remind hon. members of the comments I made at a previous reading regarding the speed at which technology and the new developments are taking place in this area. The point I should like to reiterate is that this is likely to mean that further proposals for legislation in this area will be forthcoming in the future as and when it is appropriate.

Mr Speaker, I have nothing further to add at this stage but beg to move that the Electronic Transactions Bill be read for a third time.

Mr Shimmin: I am pleased to second and reserve my comments, sir.

The Speaker: With no hon. member wishing to speak, I will put the motion then printed at item 12 on your order paper that the Electronic Transactions Bill be now read for a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Retirement Benefits Schemes Bill – Consideration of Clauses Commenced

The Speaker: In that case, hon. members, we turn then to item 13, the Retirement Benefits Schemes Bill, for consideration of clauses. I call upon the hon. member for Onchan, Mr Corkill, to move clause 1.

Mr Corkill: Thank you, Mr Speaker. Clause 1, restrictions on promotion, represents the principal method for the control of retirement benefits schemes. Promotion of a retirement benefits scheme is prohibited unless the scheme is registered as either authorised or recognised. Please note that the definition of authorised schemes is outlined in part 2 of the Bill, whilst the definition of recognised schemes is outlined in part 3. For this purpose, promotion means the selling of schemes, advising individuals to become members of a scheme or inviting individuals to join a scheme.

Clause 54 clarifies the meaning of advertising. Promotion applies via all types of media including electronic media. Furthermore this clause prohibits any person from acting as either a trustee or administrator or from taking or receiving contributions for a scheme fund unless the scheme is either authorised or recognised. Contravention of this clause constitutes a criminal offence in consequence of the importance attached to these provisions.

The imposition of a prohibition upon promotion, unless the promoted scheme meets the minimum standards required by this Bill, is perhaps the ultimate deterrent for a product provider or indeed an employer. Inability to offer a product or to issue an invitation of membership carries significant commercial penalties. This provision is therefore likely to be very effective in raising standards.

Mr Speaker, I beg to move that clause 1 stand part of the Bill.

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

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

Mr Corkill: Mr Speaker, clause 2, applications for authorisation, requires that applications for registration as an authorised scheme are to be made by the scheme trustees. The clause requires applications to be in such form and be accompanied by such documents and information as the supervisor may require. Please note that paragraph 3 of schedule 1 confers the status of supervisor upon the chief executive officer of the Insurance and Pensions Authority. This is consistent with the approach adopted in the Insurance Act of 1986. Fees to accompany such applications will be prescribed in regulations.

The Tynwald procedure for regulations subordinate to this Bill is that they shall be laid before and subject to the approval of Tynwald.

Clause 3, authorisation, lays down the criteria for the registration of a retirement benefits scheme as an authorised scheme. Authorised status may only be achieved once all constitutional documentation has been submitted to the supervisor and any conditions imposed by the supervisor have been satisfied. Contravention of any applied conditions constitutes a criminal offence.

It is a requirement that each scheme appoints a registered scheme administrator and that the name of the scheme is not undesirable or misleading. The registration of and conditions attached to the status of registered schemes administrators are contained in part 6, clause 36.

All schemes must be established under a revocable trust and the trustees must be fit and proper. In circumstances where the Insurance and Pensions Authority - for the sake of brevity

in future, I will refer to the Insurance and Pensions Authority as 'the authority' - rules that a trustee is not fit and proper, the aggrieved party may appeal against this decision. Procedures for appeal are detailed in clause 38.

All schemes will be required to have a minimum of three trustees other than in circumstances when a corporate trustee is appointed. In all circumstances at least one trustee must be wholly independent of the employer. These provisions go to the heart of the need to segregate the scheme funds from the assets of the employer and to sustain this by the adoption of the criteria of independence. Trustees need not necessarily be resident in the Isle of Man provided a registered scheme administrator is responsible for the administration of the scheme. This clause has further specific application for occupational arrangements.

Hon. members should note that the definition of an occupational scheme is given in clause 53. In principle, there are two types of schemes: occupational schemes established by employers for the provision of pension benefits for their employees; and personal schemes, being any scheme that is not an occupational scheme and usually established independently by individuals for the accrual of future personal benefits.

Also, Mr Speaker, may I ask you and the hon. members to note that the following requirements have been imported from the Income Tax (Retirement Benefits Schemes) Act 1978. These requirements are primarily regulatory rather than fiscal in nature and therefore are better located in the regulatory environment. This will assist the authority to fulfil its objective with regard to the creation of a one-stop shop for pensions.

These requirements for occupational arrangements are that the employer is a contributor to the scheme, that the scheme is being established for the bona fide purpose of providing relevant benefits for employees and their dependants and that employees must have been given written particulars of the essential features of the scheme.

Employees are not permitted to receive a return of their contributions other than in circumstances to be prescribed in regulations. This particular requirement confirms the singular purpose of pension schemes.

The clause compels the supervisor, in circumstances where an application for registration as an authorised scheme is declined, to provide a full written explanation for that decision.

I beg to move clauses 2 and 3 stand part of the Bill.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clauses 2 and 3 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 4 and 5, hon. member.

Mr Corkill: Mr Speaker, clause 4, revocation, enables the supervisor, with the consent of the authority, to revoke the authorisation of a scheme if, for example, the trustee or administrator has contravened any of the provisions of this Bill or other financial legislation.

Sub-clause (5) states the provisions of clauses 6 to 20 shall continue to apply in such circumstances. In effect revocations impress a prohibition upon promotion.

Clauses 6 to 20 constitute part 2 of the Bill and contain the conditions that apply to all authorised schemes.

Removal of authorised status will reintroduce the restrictions on promotion contained in part 1, clause 1. This will disable the future collection of contributions and promotion of the scheme for new members, at least until such time as the scheme again conforms with the requirements for authorisation. All other conditions attaching to the status of the scheme as an authorised scheme will continue in operation. This continuation will ensure that existing members remain fully protected by the regulatory environment. It is envisaged that the removal of authorised status will be a final action taken by the authority.

Clause 5, which is representation against the revocation, clarifies that in circumstances where the supervisor, with the consent of the authority, proposes to revoke the authorisation of a scheme the supervisor must provide written notice of this intention and the reasons for revocation. The recipient of such a notice has 21 days to make representation against that proposal.

I beg to move clauses 4 and 5 stand part of the Bill.

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

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

Mr Corkill: Mr Speaker, clause 6, constitution and management, is an enabling clause. Various enabling provisions grant the Treasury power to make detailed regulations relating to the constitution, management, offices, assets, actuaries, auditors, investment managers, borrowing powers, records, funds, accounts, payments and other miscellaneous matters relating to schemes.

The template for the regulations is the large body of current social security and taxation legislation in force in the Island.

In due course it is anticipated that regulations subordinate to this Bill will replace current legislation. This will help to satisfy the objectives of the one-stop shop for pensions.

I beg to move clause 6 stand part of the Bill.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 6 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We turn to clause 7, hon. member.

Mr Corkill: Clause 7 applies to defined benefit occupational schemes, the technical funding requirement. There are in practice two types of pension schemes: defined benefit schemes and money purchase schemes.

A defined benefit scheme is an occupational pension scheme under which the sponsoring employer has defined the level of benefits to be paid to the member on retirement. Such schemes are often referred to as final salary schemes and usually offer members a pension equivalent to a percentage or a fraction of the member's salary at the time of

retirement, calculated according to length of service. The employer is effectively underwriting the value of the scheme funds to meet this promise. Subject to suitable funding provisions this promise is, however, only as good as the liquidity of the sponsoring employer.

Money purchase schemes, often referred to as defined contribution schemes, make no such pension promise. The benefits provided from these schemes are dependent totally on the value of the members' scheme funds at the time of retirement.

Clause 7 introduces a funding formula for the purpose of measuring the value of the assets and liabilities of defined benefit schemes. Subordinate regulations will prescribe the necessary actuarial assumptions to be used for the upper and lower limits of funding acceptability.

The technical funding requirement combines both underfunding and overfunding within one formula, with the resulting simplification and subsequent cost savings. This is particularly so when compared to other funding alternative requirements such as those used in the adjacent islands. Underfunding is concerned with member protection, whilst overfunding is concerned with the abuse of tax advantages. This formula therefore combines two measurements into one.

I beg to move that clause 7 stand part of the Bill.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: Hon. member, perhaps you could give me some indication as to what level the prescribed person would be. In 7(3), sir, it says 'shall be determined, calculated and verified by a prescribed person'. Are we talking of an accountant?

Mr Corkill: I think the issue you relate to, Mr Speaker, refers to an actuary. So it would be an actuary that would be the prescribed person.

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

Mr Corkill: Mr Speaker, clause 8, valuation and certification of assets and liabilities, requires that the trustee of an authorised scheme to which clause 7 applies - basically all occupational defined benefit schemes - must obtain periodic actuarial valuations from the scheme actuary.

In addition, this clause requires the trustee to obtain a certificate periodically from the scheme actuary. The purpose of such certification is to establish whether contributions to the scheme are adequate for the purpose of maintaining acceptable funding of the scheme in accordance with the technical funding requirement and associated valuations. In circumstances where the certificate specifies the contributions are not adequate, then a further actuarial valuation must be obtained in order to clarify the extent of the variance unless the trustee obtains a revised contribution schedule certified by the scheme actuary as meeting the minimum requirements of the funding requirement.

The requirement for a contribution schedule to be maintained in relation to the technical funding requirement is outlined in clause 9. A trustee who fails to comply is guilty of a criminal offence.

The purpose of this actuarial valuation and contribution certification is to add a degree of transparency to actuarial methodology and ultimately to create a benchmark measurement to ensure the protection of the rights of scheme members. The use of one standard formula will, in addition, enable the authority to be effective and keep costs down to a minimum.

I beg to move clause 8 stand part of the Bill.

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

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

Mr Corkill: Mr Speaker, clause 9, schedules of contributions, requires the trustees and the administrator of all schemes to which clause 7 applies - basically all occupational defined benefit schemes - to prepare and maintain a contribution schedule which must specify the amounts and the timing of contributions due to the scheme. The rates of contribution shown in the schedule must be certified by the scheme actuary in accordance with the technical funding requirement valuation for the scheme.

In circumstances of non-compliance this clause empowers the supervisor to remove trustees and administrators and to impose civil penalties.

I beg to move clause 9 stand part of the Bill.

Mrs Crowe: I beg to second, Mr Speaker.

Mr Braidwood: Mr Speaker, this amendment is to just correct an administrative omission during the drafting process, sir. There are no policy issues to consider. I beg to move:

Page 12, line 32; after 'trustee' insert 'and administrator'.

Mr Shimmin: I beg to second, Mr Speaker.

The Speaker: With no other hon. member wishing to speak, hon. members, the motion is that clause 9 stand part of the Bill. To that we have the amendment printed on your white paper and circulated: after 'trustee' insert 'administrator' on page 12, line 32. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

The clause as amended, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We turn then, hon. member for Onchan, to clause 10.

Mr Corkill: Thank you, Mr Speaker. Just before I move this clause, hon. members will see the list of amendments before them which inserts the same technical insertion into the Bill in clauses 10, 11, 13 and 14 as well as the one we have just passed at 9. I apologise to the House for this drafting omission. It is to an extent a tidying-up exercise but I am aware that we should obviously make sure that the legislation before us is as perfect as we can before we let go of it. So in that attempt that is why these amendments are before you. So I am indebted to the hon. member Mr Braidwood, the member for Douglas East, for moving these amendments.

Clause 10, determination of contributions: supplementary, requires the trustee or administrator of a scheme to which clause 9 applies to give notice to the supervisor and scheme members of late or non-payment of any contributions. The clause also specifies that

any such unpaid amounts will be treated as a debt due from the employer to the scheme. The clause empowers the supervisor to remove trustees and administrators and to impose civil penalties in circumstances of non-compliance.

I beg to move that clause 10 stand part of the Bill.

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

Mr Braidwood: Mr Speaker, again the proposed amendment is the same criterion as in the previous clause, sir. I beg to move:

Page 13, line 15; after 'trustee' insert 'and administrator'.

Mr Shimmin: I beg to second, Mr Speaker.

The Speaker: Thank you. Hon. members, the motion is that clause 10 stand part of the Bill. To that we have the amendment circulated in the name of Mr Braidwood. 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. Hon. member Mr Corkill, perhaps we could take clauses 11 and 12, sir.

Mr Corkill: Thank you, Mr Speaker. Clause 11, schedule of payments to certain schemes, applies to all money purchase occupational schemes and all personal schemes to which an employer contributes. By their very nature all personal schemes must be money purchase schemes but it is intended that this provision should only apply to personal pension schemes to which an individual's employer makes contributions to the scheme, either additional to those of the member or by the collection and redirection of contributions deducted from the member's pay. The subordinate regulations will clarify this.

A money purchase scheme, often also referred to as a defined contribution scheme, is one in which the benefits provided are dependent totally on the value of a member's fund at the time of retirement, with the level of the pension being subject to various external influencing factors such as the economic environment and the age and state of health of the member at that time.

The clause requires that scheme trustees and the administrator must prepare and maintain a payment schedule which must specify the rates of contribution payable and the timing of payments.

This clause also empowers the supervisor to remove trustees and administrators and to impose civil penalties in circumstances of non-compliance.

Clause 12, the schedules of payments: supplementary, is supplemental to the previous clause and requires that the trustee or administrator of a scheme to which that clause applies must give notice of late or non-payment of contributions to the supervisor and schemes members. Failure to do so constitutes a criminal offence. Any amounts unpaid will be treated as a debt due from the employer to the scheme.

Failure by the employer to pay contributions in accordance with time limits constitutes a criminal offence. This reflects the gravity attached to late payment and the loss due to delayed investment of money of purchase scheme funds. The time limit for payment will be prescribed in forthcoming regulations.

The scheme administrator is also required to keep the latest version of the payment schedule at his principal place of business in the Isle of Man. Failure to do so carries a civil penalty.

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

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

Mr Braidwood: Mr Speaker, again the proposed amendment only alludes to clause 11, sir, and the same criterion applies. I beg to move:

Page 14, line 20; after 'trustee' insert 'and administrator'.

Mr Shimmin: I beg to second, sir.

The Speaker: Hon. members, the motion is that clauses 11 and 12 stand part of the Bill. To that we have an amendment to clause 11, an administrative amendment. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

I therefore, hon. members, will put to the House clause 11 as amended and clause 12. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 13.

Mr Corkill: Mr Speaker, clause 13, serious underprovision, makes provision for cases where defined benefit schemes are seriously underfunded when actuarially measured by the technical funding requirement which is in clause 7. Clause 13 provides that in such circumstances the employer must make good any shortfall in the scheme funding within a prescribed period. Failure to do so will result in the shortfall being classified as a debt due from the employer to the trustees of the scheme.

Sub-clause (8) permits the supervisor to impose civil penalties and remove a trustee from office in circumstances where the trustee fails to take reasonable action to secure compliance. This clause and clause 7 are the key to the security of members' rights.

Subordinate regulations will lay down the timescales and methodology for rectifying any shortfall.

I beg to move clause 13 stand part of the Bill.

Mrs Crowe: Mr Speaker, I beg to second.

Mr Braidwood: Mr Speaker, again, sir, the proposed amendment to clause 13 is the same as the previous clauses, to amend an administrative omission. I beg to move:

Page 16, line 16; after 'trustee' insert 'and administrator'.

Mr Shimmin: I beg to second, sir.

The Speaker: Now, hon. member, perhaps you could, for my benefit if nobody else's, inform the House whether or not the employer has an appeal against the actuarial valuation in the amount which he would have to make up in the fund if it was in effect found to be wanting.

Mr Corkill: Mr Speaker, it is my opinion that in fact there is an appeal situation built into this Bill which will cover that point.

The Speaker: Hon. members, the motion is that clause 13 stand part of the Bill and to that we have the amendment in the name of Mr Braidwood. 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. We turn then to clause 14, hon. member for Onchan, Mr Corkill.

Mr Corkill: Mr Speaker, clause 14, serious overprovision, makes provision for cases in which defined benefit schemes are overfunded when measured by the technical funding requirements of clause 7. This clause is in effect a mirror image of clause 13 but rather than applying in circumstances of underfunding it applies with regard to overfunding. In these circumstances the supervisor may require that the surplus be reduced by an appropriate amount within a particular period. This provision is discretionary in nature and permits the supervisor to take specific circumstances into consideration, for example where extraordinary investment performance or unexpected alterations to the population of scheme membership have occurred.

It should be remembered that retirement benefits schemes need to be funded appropriately for the eventual realisation of the benefits promised to the scheme members and should not therefore be available as vehicles that may be utilised to harbour funds from taxation. Currently surplus provisions are managed at the discretion of the income tax division. Relocation of these provisions to the Bill is a further example of co-operation between the various government departments involved in pensions and a further manifestation of the desired one-stop shop.

I do indeed beg to move clause 14, Mr Speaker.

Mrs Crowe: Mr Speaker, I beg to second.

Mr Braidwood: Mr Speaker, this is the final proposed amendment to correct the administrative omission during the drafting process. I beg to move:

Page 17, line 6; after 'trustee' insert 'and administrator'.

Mr Shimmin: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 14 stand part of the Bill and to that we have the amendment in the name of Mr Braidwood. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

The clause as amended, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 15, hon. member Mr Corkill.

Mr Corkill: Mr Speaker, clause 15, accounts, requires that the trustees of an authorised scheme must prepare and submit a copy of the scheme's annual accounts, together with supporting information, to the supervisor no later than six months after the end of the scheme year. Trustees who fail to comply with this requirement shall be guilty of an offence.

The majority of schemes already prepare accounts but it is anticipated that the submission requirement will create a focus and a culture of compliance.

The time limit has been set at six months to create a consistent approach. Insurance companies are required to submit their company accounts to the authority within the same timeframe.

I beg to move clause 15, Mr Speaker.

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

The Speaker: Hon. members, the motion is that clause 15 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 16, hon. member.

Mr Corkill: Clause 16, publication of scheme particulars, enables the Treasury to make regulations concerning the publication and availability of scheme information. This is principally for the benefit of scheme members and prospective members. Education of scheme members is of paramount importance in order to enable informed decisions to be made.

Disclosure of information is currently incorporated within social security legislation. In due course it is anticipated that these provisions will be consolidated in regulations subordinate to this Bill. This is another example of the one-stop shop.

Trustees who fail to provide prescribed particulars in a timely manner may be removed from office and incur civil penalties.

I beg to move clause 16.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 16 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 17.

Mr Corkill: Clause 17, professional advisers, requires the appointment of an auditor, actuary and investment manager to each authorised scheme. It is the trustees responsibility to make these appointments and failure to do so constitutes a criminal offence.

This formal appointment of professional advisers will bring a degree of transparency and accountability to the management of schemes.

I beg to move clause 17.

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

The Speaker: The motion, hon. members, is that clause 17 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 18, hon. member for Onchan, Mr Corkill.

Mr Corkill: Clause 18, alteration of schemes and changes of trustees, administrator and professional advisers. This clause requires the trustees of an authorised scheme to give written notice of any proposal to alter the scheme to the supervisor. This requirement includes any changes to professional advisers appointed by virtue of clause 17 as well as a proposed change of administrator.

In circumstances where changes of trustee are proposed it is the administrator who shall provide the information. Any notice given shall include a full explanation. Failure to provide the

appropriate notices by any party constitutes a criminal offence. Alterations will not have effect unless the supervisor has given his approval or one month has elapsed since the notice was given.

Compliance with this clause will preserve the validity of scheme authorisation and it will preserve the accuracy of data maintained by the authority.

I beg to move clause 18 stand part of the Bill.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 18 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 19.

Mr Corkill: Mr Speaker, clause 19, directors, controllers et cetera, enables the authority, in circumstances where the trustee or administrator is a body corporate, to prevent the appointment or continued appointment of an officer of that body corporate who appears not to be a fit and proper person. The supervisor is required to provide the officer with a written explanation 28 days prior to the effect of the prohibition direction. Any officer who disregards such a prohibition is guilty of a criminal offence. This clause is an extension of the authorisation requirement expressed in clause 3(7)(b). I beg to move clause 19.

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

Mr Cannell: Mr Speaker, more by way of a general observation really, but I certainly welcome this particular clause of this Bill. Only those who have been involved in a pension organisation run by unscrupulous persons will know the effect of having some form of regulation. Perhaps really it is shooting at the moon to expect people to always be responsible and also to act with propriety but certainly it is a development. Only, as I say, those who have been involved and seen the methods used by some people to promise employees the benefits that they were entitled to and then to wriggle out of them will know that this protection is in place and is worthwhile.

I am a little bit disturbed that all the marvellous intentions of the Bill seem to cater for just about everything. I hope in fact that it will be justified when it goes into practice because people who do this sort of thing unscrupulously do have somehow a knack of getting round just about every possible regulation that ever there is or was, and I have seen employees - I do not include myself particularly, though I was the victim of it to a certain degree - but many others in the company in which I was involved were bigger victims and it was solely because of the ability of the persons running the scheme to transfer the funds onwards, upwards, sideways to the point where no-one knew what they were, no-one ever got anything out of it and it was a lamentable position for everybody to be in. So I do welcome this.

I am just a bit concerned with one of the preceding clauses, and forgive me, because I was waiting for this one really to try to couple all the information, I cannot see really if you are unable to pay your contributions into the fund at one point, you are going to be fined for doing that and still will have to pay it. It is like the old saga of paying rent: if you cannot pay it one week, why should you then be expected to pay two weeks the following week except in irregular circumstances? The debt piles up and it is really a case of making sure. I would prefer the other clause that ensures that constant vigilance is given to making sure that the

fund is maintained all along the way rather than occasional check-ups made where it is found it is wanting.

The Speaker: The hon. member for Onchan, Mr Corkill, to reply.

Mr Corkill: Mr Speaker, I thank the hon. member for his comments, my hon. colleague from Onchan, Mr Cannell, and I am certainly aware of the situation which he alludes to without me being specific about it and I think it was very much a sad day in the history of the Isle of Man, that whole scenario.

Now, basically the hon. member's point is regulation of the unscrupulous, and I am sure we are all very aware from the legislation that we pass in this House that most citizens of this Island probably need less than one per cent of the legislation that we actually pass. It appears that the 99 per cent of legislation that we do pass is there to control unscrupulous scenarios. I guess this Bill is not much different in that respect. It is a vehicle of regulation to prohibit and prevent the very situation which the hon. member Mr Cannell has alluded to and so I am thankful for his support for the general basis of this Bill.

I think the other point he made was that the unscrupulous will always find a way round the rules, and I guess that is a situation we face not just in this legislation but in a number of areas.

This Bill has received a great deal of consultation, a lot of scrutiny, the scrutiny continues and I hope at the end of it that this Bill will provide the framework which the hon. member is expecting in terms of security for pension provision for those who participate in whichever level of scheme, whichever type of scheme they are included in.

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

The Speaker: Hon. members, the motion is that clause 19 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We turn then to clause 20, hon. member.

Mr Corkill: Mr Speaker, clause 20, avoidance of exclusion clauses, provides that any provisions of the constitutional documents of any authorised scheme excluding a trustee or administrator from liability for negligence shall be void.

The importance of pensions is growing all the time and it is inequitable that those persons who manage such important and valuable investments are able to take advantage of get-out clauses. Stewardship of pension schemes, in consequence of this provision, is likely to become more professional and this surely is a positive step forward.

I beg to move clause 20, Mr Speaker.

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

The Speaker: The motion, hon. members, is that clause 20 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 21, hon. member for Onchan, Mr Corkill.

Mr Corkill: Clause 21 introduces the concept of the recognised scheme. In the Isle of Man there are a number of United Kingdom schemes which offer membership to Manx residents. These UK schemes are subject to the regulatory framework in the UK. Therefore if

these schemes were compelled to register as authorised schemes this would create an unnecessary duplication of regulatory effort. The concern of the authority is that the regulatory framework in the jurisdiction of constitution is of an equivalent standard to the regulatory framework proposed by this Bill. Where it can be ascertained that the alternative regulatory standard is sufficient for the adequate protection of local members, then this clause enables the scheme to be recognised by order of the Treasury.

Schemes which are constituted in a jurisdiction with a regulatory framework of an inadequate standard will require to be authorised in order to invite membership in the Isle of Man. Each recognised scheme will be required to appoint a registered scheme administrator to act as the point of contact with the authority.

Members may like to note that the European Union Commission is currently embarked upon initiatives concerning mutual recognition of regulatory provisions for pensions prevailing in member states. It is fair to state that the Isle of Man is once again ahead of the game.

I beg to move clause 21, Mr Speaker.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 21 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 22.

Mr Corkill: Mr Speaker, clause 22, revocation of recognised status, enables the supervisor, with the consent of the authority, to revoke recognised status if deemed necessary. In these circumstances notice of revocation must be issued by the supervisor together with a full explanation for such revocation.

Clause 22(5) permits a person served such a notice to make representations to the supervisor within 21 days. The effect of this revocation would be that the scheme in question would be unable to invite new members to join and future contributions would be prohibited. This would in effect crystallise the problem, prevent new members from being detrimentally affected, whilst ensuring the security of existing members' accrued rights.

I beg to move clause 22.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 22 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 23.

Mr Corkill: Mr Speaker, clause 23, facilities, information and assets in the Island, enables the Treasury to make regulations requiring recognised schemes to maintain appropriate facilities, information and assets in the Island. I beg to move clause 23.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 23 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 24.

Mr Corkill: Clause 24, registration of retirement benefits schemes, will enable the creation of a general register of schemes. The register will be set up under regulations made by the Treasury.

The Department of Health and Social Security maintains a simple register of pension schemes for tracing purposes. It is anticipated that the department's register will be incorporated in due course into the comprehensive register to be maintained under this clause by the authority.

This is another aspect of the creation of the one-stop shop for pensions and I beg to move clause 24.

Mr Braidwood: Mr Speaker, I beg to second.

Mr Karran: Vainstyr Loayreyder, I just wondered whether the hon. mover can give us some sort of timescale as far as state retirement pension schemes are concerned, to be included within this legislation? I feel it would be of benefit to allow independent eyes to look at our own scheme because this is going to be the scheme that is going to affect the majority of people. Is there any timescale as far as that is concerned?

Could the hon. mover tell me, if we were to provide schemes that are basically to do with retirement but are schemes primarily for the ability for someone to go into nursing and residential homes when they are deemed not fit to be able to stay in their own home, will that scheme be also included in this legislation? Because I do think it is important that if we do look at these other schemes that might come out that affect fringe issues of retirement they can be included as far as that is concerned.

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

Mr Corkill: Mr Speaker, the issues the hon. member raises have taxation implications really and I would suggest for this stage of the debate with regard to pensions it is really outside the remit of this particular piece of legislation which we are scrutinising.

I appreciate the hon. member's interest in these areas. This particular clause facilitates this register of the DHSS being incorporated at some time. The idea really is to simplify the processes within this new regulatory framework which is being created so that people know where to go, where they are headed with regard to pension provision.

There is a taxation bill, as I mentioned at the second reading, heading towards this chamber in a few months' time when these policy issues effectively, I am sure, will receive a lot of scrutiny because that is where the real incentives for people to go in any particular direction will occur, not so much the framework of this legislation, but in fact the taxation framework which will be out to consultation this summer. I beg to move the clause, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 24 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 25.

Mr Corkill: Mr Speaker, clause 25, the request for information, enables the supervisor to request information from trustees, administrators or professional advisers of any scheme. The supervisor may issue a direction to secure the effect of such a request. Failure to comply with such a direction constitutes a criminal offence, and sub-clause (4) provides a protection for persons making statements to the supervisor under this clause. This is in accord with recent European Court of Human Rights decisions. I beg to move clause 25.

Mr Braidwood: I beg to second, Mr Speaker.

The Speaker: The motion, hon. members, is that clause 25 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 26.

Mr Corkill: Mr Speaker, clause 26 provides that the supervisor or any other person authorised by the authority shall have powers to investigate the affairs of a scheme or former scheme or any person who is acting or has acted as trustee, administrator or adviser to a scheme.

The clause empowers the supervisor to enter premises and take possession of documents, books and accounts. Any person who obstructs the supervisor in exercising his or her functions under this clause is guilty of an offence under sub-clause (4).

I beg to move clause 26.

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

Mr Karran: Vainstyr Loayreyder, can the hon. minister just clarify would this provision have an effect as far as the DHSS is concerned if they wanted to look at our books or whatever? Would that be the case?

The Speaker: The hon. member Mr Corkill, to reply.

Mr Corkill: I think that probably would be the case, Mr Speaker, but I hardly can picture the situation where the DHSS would not comply with the law, so I beg to move the clause, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 26 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We move on to clause 27.

Mr Corkill: Just in order to clarify the previous clause if I may, Mr Speaker, that clause actually relates to schemes only, so I hope that further clarifies. Clause 27, the power of the supervisor to require information, enables the supervisor to apply to a justice of the peace for further investigative powers. Where the JP is satisfied that there is good reason for doing so he can authorise the supervisor to exercise the further powers contained in this clause.

The powers are twofold. Firstly, the supervisor can require persons under investigation and third parties, for example trustees, administrators and professional advisers, to attend before him to answer questions or otherwise furnish the information, and secondly, the supervisor can require persons to produce documents which appear to relate to matters under investigation. Failure to comply with these requirements will, by virtue of sub-clause (8), be a criminal offence.

Hon. members will note that sub-clause (6) provides the appropriate protection for persons making statements under this clause in accordance with recent judgments in the European Court of Human Rights, and I beg to move that clause 27 be part of the Bill.

Mr Braidwood: I beg to second, Mr Speaker.

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

Mr Corkill: Mr Speaker, clause 28, referred to as the deemster's search warrant, provides for further investigation powers which may only be exercised if a deemster is satisfied

that they are necessary. This clause enables the deemster to issue a warrant enabling named officers to enter and search premises. I beg to move clause 28.

Mr Braidwood: Mr Speaker, I beg to second.

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

Mr Corkill: Mr Speaker, clause 29 refers to injunctions and enables the high court to make orders to prevent or stop breaches of the proposed legislation. I beg to move clause 29.

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

The Speaker. Hon. members, the motion is that clause 29 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 30, hon. member Mr Corkill.

Mr Corkill: Mr Speaker, clause 30 permits the high court to make orders providing for restitution where any person is being prejudiced by payments, distributions, or acts or omissions contrary to the Bill or regulations made under it. Therefore I beg to move clause 30 stand part of the Bill.

Mr Braidwood: Mr Speaker, I beg to second.

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

Mr Corkill: Mr Speaker, clause 31, directions, enables the supervisor, with the consent of the authority, to issue directions to the trustee and administrator of a scheme in circumstances where it is in the interests of members to do so, or there have been breaches of this Bill, or on other specified grounds.

Directions may be issued to prevent the admission of new members to a scheme. The purpose behind such a direction is to protect the interests of prospective members until such time as the regulatory breach has been satisfactorily resolved.

In extreme circumstances a direction may be issued requiring that a particular scheme be wound up. The purpose behind such a direction is to prevent the perpetuation of an unacceptable situation with regard to existing members. However, it is anticipated that the supervisor will utilise this direction-making power as an effective day-to-day regulatory procedure which will allow for the straightforward resolution of problems.

Non-compliance with a direction issued by the supervisor will constitute a criminal offence, as specified in sub-clause (7).

I beg to move clause 31.

Mr Braidwood: Mr Speaker, I beg to second.

The Speaker: The motion, hon. members, is that clause 31 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 32.

Mr Corkill: Mr Speaker, clause 32, notice of directions, is an extension of clause 31 and stipulates that all directions issued under that clause must be in writing and served by the supervisor on the trustee or administrator.

This clause empowers the supervisor to issue a public notice of a direction and, where challenged, requires that the supervisor must give written reasons for the issue of the direction.

I beg to move clause 32.

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

The Speaker: The motion, hon. members, is that clause 32 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 33.

Mr Corkill: Mr Speaker, removal of trustee, administrator et cetera. This clause empowers the supervisor, with the consent of the authority, to direct the removal and replacement of a trustee and/or administrator. The supervisor must provide written notice of the removal and replacement and inform members of the scheme of the making of the order. Trustees and administrators are the centre of the regulatory environment and therefore in circumstances where they prove to be unsuitable it is necessary that the supervisor has the power to act in order to protect the interests of the scheme members. I beg to move clause 33 be part of the Bill.

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

The Speaker: The motion, hon. members, is that clause 33 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 34.

Mr Corkill: Mr Speaker, clause 34, appointment of inspector, enables the supervisor, with the approval of the authority, to appoint competent inspectors to investigate and report on the affairs of the scheme or on the trustee or administrator of a scheme in instances where it is in the interest of members and maybe the public.

The clause explains that inspectors so appointed will have powers equivalent to inspectors appointed under the Companies Act 1931.

I beg to move clause 34.

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

Mr Karran: Vainstyr Loayreyder, could the mover inform us of who actually has the final say as far as the appointment is concerned. Will it come back to the Treasury or will it be left with the authority that is within this Bill as far as that is concerned?

The Speaker: I call on the hon. member Mr Corkill to reply.

Mr Corkill: Mr Speaker, the purpose of this Bill and this clause is to give the power to the supervisor, but the supervisor has those powers in this respect with the support of the Insurance and Pensions Authority, referred to as 'the authority.' So they have the mandate in this respect. I beg to move the clause.

The Speaker: Hon. members, the motion is that clause 34 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 35, Mr Corkill.

Mr Corkill: Mr Speaker, clause 35, use of powers for the benefit of certain government departments, formally introduces the one-stop shop for pensions. Pension legislation is currently the responsibility of both the income tax division and the Department of Health and

Social Security. There are many disparate pieces of legislation covering a wide range of issues. Members have seen earlier how the authority has achieved one of the central government's objectives, namely this one-stop shop scenario.

One of the aims of this Bill is to pave the way for the consolidation of existing legislation. However, there are certain functions, for example the granting of tax approval and the issue of contracting-out certificates, which quite rightly remain with the respective departments. Notwithstanding this the authority and its officers may be in a position to act on behalf of the income tax division and on behalf of the Department of Health and Social Security in respect of pension matters. This clause permits the supervisor and the authority to act in that capacity.

Therefore I beg to move clause 35.

Mr Braidwood: I beg to second, sir.

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

Mr Corkill: Mr Speaker, clause 36 deals with the registration of retirement benefits schemes administrators and prevents persons acting as scheme administrators unless they are registered or exempted from registration.

The clause contains the necessary provisions for application for registration and the cancellation of registration. The supervisor is prohibited from registering any person unless that person satisfies the supervisor that he is fit and proper to be a scheme administrator, and the supervisor must give a written explanation for a refusal to register or for the removal of an administrator.

Clause 36(6) confers a criminal offence on anyone in contravention of this clause.

The role of the registered scheme administrator is crucial to the operation of the regulatory framework. All schemes are required to have a registered administrator in the Isle of Man in order to be authorised or recognised. The registered administrator will be the principal communication conduit with the authority.

This focus is appropriate, as in the majority of instances the administrator will be the person most intimately involved with the day-to-day running of a scheme. Research conducted by the authority has shown that existing administrator requirements are not adequate to ensure that each scheme appoints and retains an accountable administrator.

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

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

The Speaker: The motion, hon. members, is that clause 36 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 37 and schedule 1, hon. member for Onchan.

Mr Corkill: Mr Speaker, this clause, the constitution of the Insurance and Pensions Authority, does introduce schedule 1 to the Bill and this deals with the constitution of the authority.

The existing provisions relating to the authority are consolidated into the schedule. Any changes are minor and inconsequential in nature.

I beg to move clause 37 be part of the Bill.

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

Mr Quine: Mr Speaker, referring to schedule 1, paragraph 7, this is a very important paragraph of course because it deals with statutory indemnity and I think we have, I believe, a somewhat unusual position in that we are carrying forward statutory indemnity through a schedule, which is perhaps not the first place that people would look when they are looking for important provisions such as this, and I think that is the first point I would make.

But the substance of the point I would like to put to the hon. mover is that clause 7 provides statutory indemnity for the Treasury, the IPA and the Review Committee and states in effect that they shall not be liable in damages unless it can be shown that they have acted in bad faith. So this means of course if you do something incompetently, in good faith, you have no recourse at all, in other words the statutory indemnity ensures that you have no recourse at all, and I am just wondering whether this is right. I can understand that certainly if a person acts in bad faith, yes, undoubtedly statutory indemnity should not apply there, but what is the position where you have a person who in good faith acts incompetently? Should a party be statutorily debarred from seeking a remedy for that situation?

Now, I do recollect that in recent discussions in relation to the corporate service providers Bill this was a matter that was discussed in the briefings and has been a matter of discussion in documentation and to the best of my recollection this does not represent the last position which I saw mooted in relation to the corporate service providers, so I believe I am uneasy and unhappy with this and I would like the minister firstly to speak to the substantive issue, but also can he assure us that there is a direct relationship with the approach which has been adopted in the corporate service providers Bill with that which is contained in this Bill, because if not, then clearly something is wrong and something needs to be further addressed.

Mrs Crowe: Mr Speaker, we have previously heard from the hon. member for Onchan, Mr Cannell, about the importance of the protection of pensions for consumers and those affected can be disastrously damaged. Now, I would like the mover to confirm that the removal of statutory indemnity would not hinder the officers of the authority from making careful provision and checking that people that have pensions, the general consumers, are well protected and there is no hindrance to investigation by the removal of this. Thank you.

Mr Cannan: Mr Speaker, having listened to the last speaker I think either she is right or I am wrong, one or the other, but I thought that this statutory indemnity was for the officials -

Mrs Crowe: Yes.

Mr Cannan: - if they did something wrong, not the people doing the pensioners, but if the officials did something wrong they have indemnity. So in other words they can make a mistake and it can be in good faith, but it is a mistake and it can damage somebody's pension, but they are not liable to damages because they made the mistake in good faith. Now, that, to me, is giving an all-embracing let-out. Let me give you an example, if bank A makes a mistake with your bank account and its officials say, 'Ah, well, the mistake was in good faith and we can't rectify it, there's no liability', you would be outraged. That is what it is, because the official

could say the mistake was in good faith. Here it is shown to have been in bad faith. If it is in good faith, then there is no recourse. If it is bad faith, where is the recourse? This is querying the whole issue: shall not be liable to damages in respect of any matter unless it is shown to be in bad faith.

This is a matter that clearly needs clarifying in respect of the whole of this Bill and I hope that the minister can give us some reassurances or else make some certain amendments.

The Speaker: The hon. member for Onchan, Mr Corkill, to reply.

Mr Corkill: Mr Speaker, I think I am somewhat caught unprepared, to be honest, with this issue. My understanding was that when drafting this legislation it was agreed that the authority should not be protected by a statutory indemnity and it would appear that that is not the way it is worded in the Bill.

Now, with regard to the hon. member for Ayre's initial comments that an issue of this importance should be a clause rather than a schedule, what I would point out is that in fact it is a very short clause and it is a drafting style in order to address the detail of the issue.

Mr Cannan: That is waffling, minister.

Mr Corkill: What I think would not be constructive would be for me to get into a debate about another Bill, the corporate service providers Bill, which is not before this House at this time, although I am aware that there is this substantial debate in the background about the issue of statutory indemnity.

I think the issue really at this time, Mr Speaker, can only be addressed at the third reading stage of this Bill, which I apologise for, but I think amendment will be required to this area and in fact I will be seeking the leave of the House to suspend standing orders to consider this particular clause again prior to the third reading if that has the approval of Mr Speaker.

The Speaker: Hon. members, we have reached a position where the member in charge is suggesting that we continue with this and probably suspend standing orders prior to the third reading. I would have to say that my indication to the House would be that I would prefer to adjourn at this stage so that we could return to this particular measure and continue with the discussion at a later time, if that would be the wish of the House. I think it would be far more satisfactory to come back and start again on that particular measure, if the hon. mover is indicating that it might be necessary to have an amendment to it.

Mr Corkill: I am happy to be guided by your help there, Mr Speaker.

The Speaker: In that case, hon. members, would you be acceptable to adjourning discussion at clause 37?

Mr Brown: Mr Speaker, do you not need a formal proposal to adjourn -

The Speaker: Yes.

Mr Brown: - and if so, I would be happy to do that, sir. I beg to move:

That debate be adjourned to the 22nd February 2000 sitting.

The Speaker: Thank you, hon. member for Castletown.

Mr Shimmin: I beg to second, sir.

The Speaker: Thank you, hon. member. Hon. members, the motion is that we adjourn discussion at clause 37 to the Retirement Benefits Schemes Bill. Will those in favour please say aye; against, no. Hon. members, in that case we will adjourn the discussion on clause 37 at this stage. Thank you, hon. members.

European Communities (Amendment) Bill – Second Reading Approved

The Speaker: We therefore will continue to item 14 on our order paper which is the European Communities (Amendment) Bill for second reading and I call upon the hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. This is a short but important Bill which makes quite a number of substantial changes, and the Bill is promoted by the Council of Ministers and amends section 2A of the European Communities (Isle of Man) Act 1973.

Section 2A of the European Communities (Isle of Man) Act 1973 enables the Governor in Council to apply European Communities instruments as part of the law of the Island. The Bill before the House transfers the power of the Governor in Council - that means the Governor acting with the Council of Ministers - to make orders under section 2A of the 1973 Act to the Council of Ministers. That means the Council of Ministers acting without the Governor.

The Bill also introduces a new Tynwald procedure. However, the Council of Ministers will continue to be required to seek the approval of Tynwald for orders.

I beg to move that the European Communities (Amendment) Bill 2000 be read a second time.

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

Mrs Cannell: Mr Speaker, just a point of clarification really. In essence this is providing the same measure, is it not, that we have recently voted for for the Department of Health and Social Security in that in order for to speed things along the Council of Ministers shall lay the order and if it is not approved at the sitting at which it is laid or the subsequent sitting, or equally if a member does not pick it up at the sitting at which it is laid or the subsequent sitting, then it will or will not go through. That is, as I understand it, very similar, as I say to, to legislation which was passed recently to enable the DHSS to do similar things.

Again I would just put it to the member that if something comes up during the summer recess, what will happen then, and does he not share concern with me that members may not pick up on particular orders? And as it is to do with the European Communities, of course it could have some very serious consequences for the Island because of course we will not know what is coming through until it arrives. I just wonder why, and we have been given an example in here as to why, the Bill is actually being proposed and that was in respect of the Yugoslav Republic situation, or the former, but other than that is there any other reason why we should be approving such a Bill today?

Mrs Hannan: I believe that this legislation, this Bill should be welcomed by the House because it is not up to each individual member, as I read it, to be responsible for picking up legislation. What this legislation is doing is making it available to members prior to it becoming before the House, in actual fact giving us more notice than just the fortnight before the sitting

and therefore we have it in our hands, we have knowledge of it and so does the public, and I think that is quite right before we either approve it or reject it when it comes before the House.

So I certainly welcome the removal of the Governor in Council and I also welcome the Council of Ministers taking more responsibility under European Communities legislation and also this provision of giving us more notice and also allowing issues to be made prior to them coming before Tynwald for approval, because while in certain areas people are suggesting that we should not have such long intervals between sittings, such as the summer recess or even Christmas and Easter, a certain amount of work needs to go on during that time and in cases of emergency government should be getting on and governing, and I believe that this legislation does just that.

The Speaker: The hon. member Mr Brown to reply to the debate.

Mr Brown: Yes, thank you, Mr Speaker. Interesting issues were made and points made. Can I just say that this is quite straightforward really in terms that the only change apart from the change from Governor in Council to Council of Ministers is to enable government to respond effectively when sanctions are being applied throughout the world by the EC and it is important that we are able to do that. At the moment under the present legislation as it is written all that the Council of Ministers or Governor in Council can do is actually make an order in draft form. That draft order is then laid before Tynwald and is then subsequently approved or not at Tynwald. The difficulty is that the draft order has no effect because it is purely an administrative procedure for Tynwald.

The fundamental change will be, and again I emphasise only in relation to sanctions, that an order will actually be made on the day the Council of Ministers make it. So if, for example, after the July sitting in Tynwald the next day there was an EC sanction brought in, the Council of Ministers would be able to make an order which would be effective from that day. It would then go to Tynwald at the first opportunity, which would be the October sitting, and Tynwald at either that sitting or the subsequent sitting would be asked to approve the order and if Tynwald refused to approve the order because of members' own views, then the order would fall, but the effectiveness of the order between July and October would remain without any detriment to anybody, but the order would actually just cease straightaway.

So it is purely procedural and I think the most important thing is to ensure the Isle of Man is not embarrassed in international affairs. It would be extremely unfortunate, if in fact sanctions were happening throughout the world, if the Isle of Man was not in a position, without recalling Tynwald, to make an order and we actually had a situation where the Isle of Man Government was criticised internationally for being an ineffective government, and I do not think any of us want that to happen. So I hope that has clarified it for the hon. member.

The other point I would just say is with regard to what is in the orders. I mean, the responsibility is on individual members to be vigilant, to look at the orders, seek advice, seek information and if they are not satisfied, then it is their decision which way they go and to criticise the minister, the Chief Minister or whoever, so that is a responsibility on all of us.

I would just thank the hon. member for Peel for her comment and I hope members will approve the second reading, Mr Speaker.

The Speaker: Hon. members, the motion is that printed at item 14 on your order paper, that the European Communities (Amendment) Bill be read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Electronic Voting – Introduction – Amended Motion Carried

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

Mr Cannan: Mr Speaker, I beg to move:

That this House is of the opinion that a system of electronic voting be introduced.

I have placed this motion on the order paper so that members have an opportunity to express an opinion about whether now is the time, as we enter the new millennium, to have and introduce electronic simultaneous voting in our debates.

The present system of voting by roll-call has been since time immemorial, but the world moves on. So many countries have now introduced simultaneous electronic voting and I can give you a few samples: Belgium, Denmark, Finland, Germany, Sweden, the United States, including several state legislatures, and in the European Parliament, in India. The new Scottish Parliament has an electronic voting system in operation and also Wales has an electronic voting system. In Guernsey they have a Bill - I have a copy here - a *billet d'etat*, issued last December, December 8th, for the introduction in Guernsey of electronic voting.

It is fair, it is simultaneous and it gives the views of the House, of members without them having recourse to watch how the roll-call is voting. It has always been a complaint that the only person who actually makes a positive vote is the member for Glenfaba because he has to vote without looking to see how the rest are voting and so it goes on and by the time the roll-call ends, members are able to see. That has been a complaint as long as I have been in the House. I remember when the hon. Mr Ian Anderson was member for Glenfaba. It was a perpetual complaint that he had that he was always there on the spot to vote first. *(Mrs Hannan interjecting)*

But Mr Speaker, as I say we have all moved on. Today we have had the third reading of the Electronic Transactions Bill. We are seeking, and I hear it all time, for the Isle of Man to be in the forefront, to be at the cutting edge of the new electronic world in which we are moving, and it is in a new electronic world we are moving in. We hear it all the time that the younger generation, some of us out there, are becoming fully electronically, technology qualified, if that is the best word. I saw on the television the other day, when Vodafone and Mannesmann had their amalgamation, that their information people were saying very soon with the mobile telephone you will dial a number to turn on the oven in your house as you are travelling home, you will dial a number to turn on the lights. This is the way forward. We cannot, hon. members, in my view, be promoting electronic legislation and at the same time be in here going back and voting by the old roll-call system.

I believe that this is the way forward. It is very easy, it is very simple. I am sure some of you have seen the programme 'Who Wants to Be a Millionaire?' They ask the audience, and they electronically vote, and after the vote, on the screen comes up the number. *(Interjections)* In the present system here we are asking a friend, because you ask a friend, 'Which way shall I vote when my name is called?' Here you will have two buttons on your desk, one for and one

against. It will come up on a screen, the total, and presumably the names of who voted for and who voted against.

So what I am saying, hon. members, is that this gives you the opportunity for this House to be seen to be progressive and moving with the modern world and the modern electronic world. I mean, after all, I heard this morning that Douglas Corporation, yes, Douglas Corporation, have got a website and all the councillors are going to have an e-mail address, and I read in *The Examiner* that the hon. member for Glenfaba, yes, Mr Gilbey, is way out in front: he has got a website and not only has he got a web site there but he tells us in the website, so it is reported, that he is the most informed and best prepared member in this hon. House.

Mr Brown: It depends who wrote it for him!

Mr North: Like the Manx Telecom press release!

Mr Cannan: Mr Speaker, sir, I believe the time has come when we want to show that not only do we preach but we practice what we preach. Guernsey can do it, all these countries I have listed can do it. It is time the Isle of Man moved forward as well. So I would ask hon. members to make their views known so that when the time comes, and I hope it will come, that the Standing Orders Committee look at the matter, they will have an idea of the number of members that want this change and introduction in the voting.

Mr Speaker, sir, I beg to move.

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

Mr Cannell: Mr Speaker, when I looked at the motion on the paper I was wondering what the hon. reader had in mind, because he certainly did not tell us. He did not say that it was voting in here, he did not say it was voting by the electorate, he did not say it was voting for anything. It was an ill-hatched motion in my opinion that gave members no opportunity to consider what was really intended, though we have heard this fatuous claim before that the entire existence of his hon. House depends on the vote being taken without one individual having to lead the way. Are we so without endeavour that we cannot make our own minds up? (**Mr Gilbey:** Hear, hear.) As an individual I of course listen to how other people vote, but I can honestly say that very, very rarely have I altered how I was intending to vote by listening to the votes which preceded my call.

Mr Corkill: Rarely.

Mr Cannell: Exceptionally rarely. If we have one thing about us, I hope it is the opportunity to make up our own minds.

Electronic voting is the last thing that we need in here. It is a luxury. Surely this has a tradition of being voted upon in the same way as we do now. There are many other things we could spend time on and money on without that.

Mr Gelling: Mr Speaker, I rise to move an amendment to this motion and I am very conscious, as other members, I am sure, are also, of what you said, Mr Speaker, as we adjourned our House on 25th January, which was only a fortnight ago, and you, sir, said, 'Before we depart I would tell the hon. House that I have noted the comments made by the hon. member Mr Cannan and the hon. member for Douglas North in relation to the procedures

in front of this House. The relevant committee has, in the past, looked at electronic voting. I will make sure that they again look at that procedure.' Now, that is what was said a fortnight ago, sir, and I would suggest that if you said that, you will indeed do so, and I think it would also be relevant to look at the report that was asked for on 21st October 1980, and they reported actually, that committee within two months and they came forward with a recommendation at that time that the simplest form of electronic voting would cost something in the region of £8000 and 'your committee cannot then justify expending this sum'. I would like to know what perhaps that sum might be now. But also the other area in that report said, 'Moreover your committee considers that the vote of each member of Tynwald should be readily apparent to the public, and to achieve that with an electronic system would be even more expensive.'

So the sole purpose of the amendment is indeed to move that after 'House' substitute 'requests that the Standing Orders Committee investigate and report on the issue of electronic voting', which is what you said indeed, Mr Speaker, that you would do. It is not a simple task, rather complicated, and I think the simplistic view that it would be like 'Who Wants to Be a Millionaire?' perhaps is not a good example, but I would move that the amendment in my name be put to this particular motion, sir:

For the words after 'House' substitute -

'requests that the Standing Orders Committee investigate and report on the issue of electronic voting'.

Mr Corkill: Mr Speaker, I would like to second the amendment in the name of the Chief Minister and add just a few comments that I would hope that the Standing Orders Committee, if this amendment is successful, do indeed have a fresh look at the issue and perhaps not just look at the situation as it was a few years ago and the issue of cost not be predetermined, because other moneys have been expended within this hon. chamber for the benefit of us all and hopefully for the benefit of the public, microphones being one issue and refurbishment of the chambers, so I think that we should accept that there will be cost and money spent on our chamber from time to time in the public interest.

I certainly have seen electronic voting working in the European Parliament, which did not give me a great deal of confidence in the situation, (**A Member:** Hear, hear.) but that was involving well over 600 parliamentarians and 600 people. Having said that, I still think the principle that the hon. mover of the motion is trying to ascertain, which is the fact that one has the knowledge of other people's votes before votes are cast, is a valid point in terms of actually casting an accurate assessment of what each individual member's vote would be if they were voting in a vacuum, as it were.

So I am conscious of the fact that I think probably the Standing Orders Committee is the best vehicle to examine this scenario and that is why I support the amendment, but I think really I would hope that perhaps in this electronic age it perhaps receives a full scrutiny and that we do not just - excuse the expression - rehash old reports. I think it does require a fresh look.

Mr North: Mr Speaker, I rise to support the amendment and I hope that the mover of this motion will actually, which apparently he is going to, support this because it will actually speed up the whole process, and I am certainly a supporter of this. I am not a supporter of some

massive expensive scheme, and it does not need to be a massive expensive scheme at all, to look at it. The technology has changed dramatically since the last time we looked at it and some of the wireless schemes that are around now certainly would work very well in here, and I certainly hope that the Standing Orders Committee will look at it afresh.

Mr Shimmin: Mr Speaker, following on from the comments from the Chief Minister, I can make an assumption that the Standing Orders Committee will already be tasked with investigating this and therefore the amendment offers very little.

The mover of the original motion - and I am in unfamiliar territory here where I actually agree with the hon. member for Michael, Mr Cannan - asked for the views of the members, and my view is that his motion, albeit not as detailed or accurate as some might like, requests a view from the members as to whether they are in favour of electronic voting. Whether that be restricted to this House or another chamber or whether that indeed be to open up the issue of electronic voting for elections, I am in favour of all of those. I believe that now is an opportunity where the Isle of Man Government should start to show itself a little bit more realistic and modernised in its attitude towards not only our voting but also the public's attitude towards voting and therefore, assuming that the amendment already is up and running following your comments, sir, I shall be supporting the original motion, and I would like other members to consider they register their view that electronic voting is a necessary step forward both for this House and also for the people of the Isle of Man, and we should not be frightened of it and we should therefore say, 'It is going to happen. Why be at the back? We should be leading in this.'

Mr Brown: Mr Speaker, I am very much somebody who likes gadgets, I like computers, I like all sorts of things and then we come down to what is being mentioned here today. All I can say is that I think we need to keep the whole issue in context. There are 24 of us in this hon. House. It takes about one minute, if that, to have a vote. So if you are going to have electronic voting the question has to be what are you going to do and what type of electronic voting have you got?

Certainly where I stand at the moment I am opposed to the introduction of it because I really do think it is an unnecessary procedure when we in fact have a voice, so then why not use it? Because that is what we were elected to do.

The other thing is of course the one thing the people would want to know is who has voted which way. So if you go to the situation where you then have the names of members listed, that is fine, that is not a problem.

There are dangers, of course, I would suggest, in a small parliament, of actually having electronic voting, but that is a matter for members.

I have to say I do take a little bit of umbrage to the comments from the hon. member for Michael where he said that the only person with a positive vote is the member for Glenfaba and then the rest of us run scared and decide which way we should vote, depending on how we feel, and I find that quite an insult to members. We are all elected here to do a job and we all have responsibilities and it does not matter whether or not you have to make decisions, the thing is you are elected here to make them, and within that one of the basics of any parliamentary structure, whether it be here or elsewhere, is actually also to listen to the points put forward and see whether or not anything has been put forward which means that you can

change the decision that you were going to make before you came into this hon. House or, for that matter, in Tynwald Court.

Now, I can hear the rumbles coming on from the core policy-makers that in fact, ah yes, but you have the block vote from the Council of Ministers and so on, but again the reality is that on many occasions there are amendments moved after debate has been taken or amendments supported by the Council of Ministers where in fact a valid point has been put forward that has been seen to be worthy of support. So I do not think there is any doubt on that.

The other thing of course would be security, and certainly the only thing I saw was the European Parliament. The only thing you know there is the numbers of votes, not who voted which way, but also they had to have security cards, and I have to say, and whilst I accept it is a slightly larger parliament (*Laughter*), in fact the hon. member for Michael, who is now laughing, of course quoted to us most of the big parliaments when he first put his case forward and then he got to Jersey or Guernsey, wherever it was. So in fact he is using the argument of the larger parliaments, but in fact they have to have security cards, and it was quite amazing, and I could imagine it even happening here, where a member forgets their card, if you are going to have security, and they have to then not vote. Now, the hon. member of course is saying, oh you do not need that, but, with respect, you have to have some way of ensuring that the vote that is taken is the actual vote. At the moment it is straightforward: you hear the member say yes or no, you know where they are voting, you know exactly what is what.

Fine, we have modern technology. I suspect it might even be cheaper nowadays to put a system in than the figure quoted by the Chief Minister out of the report, because costs have come down, but what matters is whether or not it is a procedure that we actually need to introduce into the House of Keys and another place.

I believe - and especially if and when, because I do believe it is when the proceedings of here and another place are broadcast - in fact the people out there will want to hear how we vote, and I do not think it is a problem.

So I would just say I am happy to support the amendment. I believe, though, we must keep our feet on the ground in terms that we are a small legislature and any vote takes about a minute to do and therefore do you really need electronic voting, except for those, and we know there are those, who want everybody to vote together so there is no influence? Well, that is even conning the public, because influences happen outside the chamber.

Mrs Cannell: Mr Speaker, they were very interesting comments made by the former member and also by the hon. member for West Douglas, Mr Shimmin. I have to say, though, I see much merit in electronic voting, if only for to speed up the process of voting and also to get a true vote -

Mr Brown: Shame on you!

Mrs Cannell: - because very often because of the way in which votes are called on particular issues - and it does not happen every time, it does not happen every week or every month, but here and in another place - you can almost predict that there will be those who are undecided or, if you like, sitting on the fence and they will wait to see which way the vote is swinging before they decide which way they are going to vote. Whether we like it or not, that is

the way of things. Mr Speaker, having sat in the public gallery both in here on the odd occasion and in another place for nigh on 10 years before I entered this Hon. House I have witnessed, as a member of the public, the type of situation that arises when votes are called, particularly on controversial subjects where the parliament is divided, and how frustrating it was in those days to actually sit there and witness the very subject matter or the essence which the hon. member for Michael is seeking to correct.

Now then, we have heard that it is better for members to use their voice. Well, I agree with that, that is why we here: this is a debating chamber and we use our voice, we use the power of argument and persuasion to try and persuade others to believe and to come with us in our views and our beliefs. That is why we are here: this is a chamber for debate. That is the nature of politics: it is the power of the argument and the power of persuasion. That has nothing at all to do with the vote that is recorded at the end of the debate.

Now, the hon. member for Castletown said that the members of the public like to know which way we have voted, they like to hear which way we have voted, but I have to say, unless I know of other meetings which are recorded, Mr Speaker, there are only two debates in a year that the public get to hear and that is the budget and the other is the policy. Both of those are broadcast by our local radio and if there is a vote at the end and there is a divide or the members call for a divide and members are called on to say which way they are going, those are the only two occasions, to my knowledge, when members of the public actually get to hear how we vote. Other than that, of course, members of the public can read, if the newspapers choose to write on a particular subject matter. Very often they will record who voted against and who voted for or they may just write in the article who voted against and will not say who was for and very often omit to say who was absent from the chamber during the vote, and so there is not really a true record for members of the public unless they come and they sit and they listen and they follow the debate and they sit through until it is concluded.

Electronic voting is nothing new and technology in this area is moving all the time. Indeed we heard earlier this morning and also last week about the Electronic Transactions Bill which is going to attract new business to the Isle of Man, hopefully, in relation to e-commerce. So electronic voting is not something new. There are all types of different systems available. I have seen quite a number in action. They need not be big and expensive. It depends on whether or not in principle, following consideration by the Standing Orders Committee or this hon. House today, we agree that it should be examined. That is the first stage, surely. If we agree in principle that it should be examined, then it will be examined and then we can see what type of system we require, if indeed we agree in principle that we want one, but I can see the benefits.

I still see that at the end of a debate a vote can be called. Whether that is an oral call or whether it is an electronic call really does not make much difference. We could have the oral call at that stage. If there is a divide, then perhaps that is when the divide can be recorded electronically. You do not have to have electronic voting to cover all stages of a vote, or you can, as the case may be. It depends what you want. But we have to decide we want it and then we can decide what we would like.

The only other comment I would make is that other parliaments to which the hon. member to Michael has referred not only have electronic voting but they also have in their

parliaments laptop computers on their desks. They do not have a system like we have. I mean, they can actually send each other e-mails during debate.

Mr Brown: Edgar could do that and tell you how to vote! *(Laughter)*

Mrs Cannell: Nobody tells me how to vote, Mr Brown.

Mr Brown: Sorry, you told Edgar what to do! Sorry.

Mrs Cannell: Mr Speaker, I would not have thought I would have to reiterate I was elected as an Independent (**Members:** Oh!) in support of APG core policies.

Mr Brown: I saw your last manifesto. I have still got it.

Mrs Cannell: Mr Speaker, I am delighted the hon. member for Castletown took pleasure in reading my manifesto -

Mr Cretney: And your newsletter!

Mrs Cannell: - and I would be happy to circulate him with any subsequent material that I bring forward.

Mr Brown: Phil's got a thousand!

The Speaker: Hon. members.

Mr Cretney: How many questions have you asked now? *(Laughter)*

The Speaker: Hon. members, come on. The hon. member for Douglas East has the floor.

Mrs Cannell: Thank you, Mr Speaker. If we had electronic voting and laptop computers perhaps the message could be further hammered home to the hon. member for Castletown that I do have the floor. Yes, they have laptop computers, they can send each other e-mails. A very, very funny situation resulted in quite some confusion, I have to say - this is not necessarily going to help members make up their minds but I think it is interesting to throw it in - in the New Zealand Parliament where they had new laptop computers installed, and one particular hon. member was on his feet in the middle of debate on a very important subject matter, and his colleagues, who were getting sick and tired of hearing him because he went on and on and on and on and on and on *(Laughter)* for the best part of two hours, Mr Speaker, I am mindful of the clock -

Mr Duggan: You're getting as bad!

Mr Quine: That's seven minutes, Brenda!

Mrs Cannell: - and his colleagues sent him rather rude e-mail messages which he was able to receive and look at whilst he was in the middle flow, as it were, of his speech-making. He did rather get confused with what he was saying and what he was reading and the one he was reading turned out to be the one he actually used in debate and caused great embarrassment to the parliament of the day but also broke the ice and he soon finished his debate and the parliament concluded.

Mr Brown: We just shout across the chamber.

Mrs Cannell: I think we should look at this, Mr Speaker, I do think that we should look at it. I am prepared to support both the original motion as submitted, but also, if that fails, I am quite happy to support the amendment moved by the hon. Chief Minister. It is a good job I have got thick skin, Mr Speaker, (**A Member:** Hear, hear.) three layers, actually. I grew the second in the first week in this hon. House. I think it should be looked at. I cannot imagine why members would not support it unless they have something to hide in the method in which they choose to vote, and that is if they can use their own choice; sometimes they cannot.

The Speaker: Hon. members, I am conscious of the clock and if members wish to finish, it is up to them. Hon. member for Douglas East.

Mr Braidwood: Thank you, Mr Speaker. As a person who is not au fait with computers I classify myself as more of a stick-in-the-mud, you can say, traditionalist.

I am quite happy to support the amendment in the name of the Chief Minister, but I do honestly believe and, I have to agree with the hon. member for Castletown, we are a very small legislature. I can understand in larger legislatures that they have electronic voting, but we only need to look across the adjacent isle to the Houses of Parliament, with over 600 members, where they divide into lobbies. We can look on the other adjacent isle at the Dail: they again, separate, they do not have electronic voting systems.

I can understand some of the concerns that have been expressed by some of the hon. members in this House who say that the people at the end of the vote look to see how the vote is going and they may alter, depending on the circumstances. I do not believe that. I believe everybody has been voted here independently, they vote independently, they speak for themselves, they vote the way they feel, how they feel their constituents would wish them to vote, and as far as I am concerned, if the Standing Orders Committee come back and say, 'No, we will keep to the traditional method', it is one which has been in this House since we were constituted in 979, and I hope that we do not change, and people may call me a stick-in-the-mud, and I am thick-skinned as well and I can withstand it.

Mr Quine: Mr Speaker, it has been looked at already. We have just heard that and we are all aware it has been looked at and the merits of it have already been evaluated. We stepped back from it because of this phenomenal cost of £8,000, when certain members shoot off to the CPA and spend that on one trip, so let us forget that.

It has been evaluated. All we need to do is as the hon. member for West Douglas, Mr Shimmin, said. You have got a substantive motion there, if you are for it, support that motion, if you are against it, vote against it and let us get on with implementing it. We will spend more of this £8,000 whilst a select committee look at it for a second time. Get on with it!

Members: Hear, hear.

Mrs Crowe: Mr Speaker, the reason I am supporting the amendment is not to delay the introduction -

Mr Quine: It is.

Mrs Crowe: No, not at all, Mr Quine. I decide how I vote. I am not a member of your party. (*Interjections*) I think the Standing Orders Committee should be giving due consideration to the issues involved: on which times will we vote electronically, will it take place in this House and in the other place? All these issues need to be considered. The correct place for the

consideration of the implementation of electronic voting is with the Standing Orders Committee and I would ask the House to support the amendment, and it is not a case of those not wishing to be shown voting. There are plenty of people who will hide behind their laptops when they vote.

It does not say when you vote unless it is a simultaneous vote with no delaying tactics at all.

Mr Speaker, I urge the House to support the amendment and get on with it.

Mr Karran: Vainstyr Loayreyder, I am just amazed at this House, how it has got its finger on some pulse, but I am not sure it is alive. *(Laughter)* People are banging on my door about electronic voting in the House of Keys. *(Laughter)* I have got a housing crisis, we have a law and order problem, we have got problems with education, and here we have a motion on electronic voting.

Now, as far as I am concerned I am happy to allow for the amendment. I am concerned about the fact that there has always been a tradition of Ihiam-Ihiat-ism in this House, with voting one way and talking another way, and I do not see how electronic voting will make any difference as far as that is concerned.

I will support the amendment, but I would hope the Chief Minister does not think that that is support for electronic voting. I am prepared to have the issue discussed, but I am amazed that it is here on the floor of this hon. House. **(Members:** Hear, hear.) People outside would be mortified when we look at the real social issues that we should be addressing.

The Speaker: Can I call upon the hon. member Mr Gelling to reply to his amendment, if he wishes.

Mr Gelling: Yes, Mr Speaker, very quickly. I think even in the contributions we have had it is quite obvious that there are many, many different ways and thoughts about it, but certainly, regarding electronics as such, everything, I think, that has been stated could be accomplished electronically. So therefore I think that is why, and I say again, it is the Standing Orders Committee which you suggested, which I have got on the amendment, Mr Speaker, and it is not a select committee. I so move the amendment, Mr Speaker.

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

Mr Cannan: Mr Speaker, I will be brief. I wanted to emphasise that, yes, it has always got to go to the Standing Orders Committee, but it is important that the Standing Orders Committee know the views of the House. There is no point in the Standing Orders Committee discussing it, bringing a report at cost and then finding that it is not acceptable to the House. At least this debate has given members the opportunity.

Now, making a note of the members who have spoken, the majority are in favour of a full fresh look and are positive that we do not remain in the dinosaur age but move forward, and I am delighted with that. Of course there are a few members, including the Chairman of the Financial Supervision Commission who on the one hand in his executive authority is expecting the whole industry to move forward and yet he stands up here and says he is a dinosaur. God bless my soul.

I say to this House I will support the amendment (**A Member:** Hear, hear.) but I emphasise that I hope that committee will progress this matter in a positive manner and not, repeat, not in a manner of masterly inactivity in which some reports have not either been done or looked at that have been put to committees of this House in particular. We had one the other day. This is important. I call upon the House to support the amendment in the hope that they will give a message, a positive commitment to that committee to get on with it, take a fresh look at it and not go back to what happened in 1980 -

Mrs Hannan: Vote!

Mr Cannan: - because there are not many members here that will know about what happened in 1980 -

Mrs Hannan: Vote!

Mr Cannan: - and electronic technology, I have to tell members, has advanced since 1980. Thank you, Mr Speaker.

The Speaker: Hon. members, the motion is that printed at item 15 on your order paper, that this House is of the opinion that a system of electronic voting be introduced and to that you have the amendment circulated on the white paper in the name of the Chief Minister. Will those in favour of the amendment please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Cannan, Rodan, North, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Mrs Hannan, Messrs Bell, Karran, Corkill, Gelling and the Speaker - 18

Against: Messrs Quine, Shimmin, Singer and Cannell - 4

The Speaker: Hon. members, the amendment carries with 18 votes cast for and 4 votes cast against. I therefore, hon. members, put the motion as amended. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Cannan, Quine, Rodan, North, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Gelling and the Speaker - 21

Against: Mr Cannell - 1

The Speaker: Twenty-one votes are cast for, hon. members, the one vote being cast against.

Hon. members, that concludes our order paper for today. The House will now stand adjourned until Tuesday next, 15th, in Tynwald Court. Thank you, hon. members.

The House adjourned at 1.07 p.m.